

CHAPTER 45

MENTAL HEALTH

1980-57

This Act came into operation on 15th February, 1989 by Proclamation (S.I. 1989 No. 10).

Amended by:

1989-11

1998-24

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

1991

1998

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 45

MENTAL HEALTH 1980-57

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SCHEDULE

MENTAL HEALTH REVIEW BOARD

**BARBADOS****MENTAL HEALTH
1980-57**

An Act to provide for the care and treatment of persons of unsound mind and for related matters.

[Commencement: 15th February, 1989]

**PART I
PRELIMINARY****Citation**

1. This Act may be cited as the *Mental Health Act*.

Definitions

- 2.(1) For the purposes of this Act,

“approved home” means any institution or place designated as an approved home under section 34;

[1989-11]

“Board” means the Mental Health Review Board constituted by section 11(1);

“discharge” means unconditional release from any hospital or approved home;

“general hospital” means any institution, other than a mental hospital or an approved home, that provides medical or surgical treatment for in-patients and out-patients;

“guardian” means

- (a) a person who has attained the age of 18 years and has custody of a person under that age; or
- (b) a person who is acting as guardian ad litem in relation to a person suffering from mental disorder;

“Hospital Director” means a Mental Hospital Director appointed under section 14;

“medical practitioner” means a person registered under the *Medical Registration Act*, Cap. 371;

“mental disorder” means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind;

“mental hospital” means any institution or place designated as a mental hospital under section 34;

[1989-11]

“mental health officer” means any person designated as a mental health officer under section 34;

[1989-11]

“patient”, except in the definition “general hospital” contained in this section and in Part IV, means a person suffering or appearing to be suffering from mental disorder;

“property” means property of every description;

“psychopathic disorder” means a persistent disorder or disability of mind that results in abnormally aggressive or seriously irresponsible conduct on the part of a patient and requires, or is susceptible to, medical treatment;

“relative” means husband, wife, son, daughter, parent, brother or sister of the whole blood, uncle or aunt of the whole blood, nephew or niece of the whole blood, grand-parent or grand-child;

“senior consultant psychiatrist”, in relation to a mental hospital, means the senior member of the medical staff responsible for the medical care of the patients of that hospital;

“voluntary patient”, “medically recommended patient” and “hospital order patient” mean a person admitted to a mental hospital under section 5, 6 or 7, as the case may be;

“will” includes a codicil.

(2) The word “parent” shall be construed within the context of the *Succession Act*, Cap. 249.

PART II

ADMISSION TO MENTAL HOSPITAL

Powers of senior consultant psychiatrist

3. The senior psychiatrist of a mental hospital may
- (a) examine, admit to and detain in that hospital and therein medically treat any patient;
 - (b) transfer any patient under section 8; and
 - (c) subject to section 7(2), discharge any patient who is no longer in need of medical treatment.

Categories of patients

4. A person may be admitted to a mental hospital as
- (a) a voluntary patient;
 - (b) a medically recommended patient; or

(c) a hospital order patient.

Voluntary patients

5.(1) The senior consultant psychiatrist of a mental hospital may admit to that hospital any person who

- (a) requests admission or on whose behalf admission is requested; and
- (b) in the opinion of that consultant psychiatrist, is or appears to be suffering from mental disorder.

(2) Where a person who is in need of medical treatment for mental disorder is under the age of 18 years, a request under subsection (1) may be made on his behalf by his parent or guardian.

(3) A person admitted to a mental hospital under this section shall be deemed to be a voluntary patient.

(4) A request for admission as a voluntary patient must be made in writing in such form as the Minister approves.

(5) A person who is admitted to a mental hospital as a voluntary patient is

- (a) on his written application; or
- (b) if admitted at the request of a parent or guardian made under subsection (2), on the written application of such parent or guardian,

entitled to be discharged within 24 hours of such application.

(6) Notwithstanding subsection (5), the senior consultant psychiatrist of a mental hospital or a medical practitioner employed at that hospital authorised by him for the purpose may issue a certificate to the effect that a patient admitted under this section is in need of further medical treatment and on receipt of another medical certificate also to that effect signed by a medical practitioner who is not employed at that hospital, the senior consultant psychiatrist or the medical practitioner authorised by him, as the case may be, may then re-admit the patient as a medically recommended patient.

Medically recommended patients

6.(1) The senior consultant psychiatrist of a mental hospital may admit a patient to that hospital on receipt of

- (a) an application signed by a parent or guardian of that patient; and
- (b) a medical certificate in a form approved by the Minister signed by 2 other medical practitioners, 1 of whom may be employed at that hospital,

but the medical practitioners signing the certificate must not bear any affinity to the patient or to each other.

(2) A person admitted to a mental hospital under subsection (1) shall be deemed to be a medically recommended patient.

(3) A medical certificate issued under subsection (1) must

- (a) contain the history of the patient;
- (b) contain a statement to the effect that the medical practitioner has personally examined the patient;
- (c) contain the facts on which the medical practitioner has based his opinion separately from the facts communicated to him by others;
- (d) contain a statement to the effect that, after examination, the patient was found to be suffering from mental disorder;
- (e) contain a statement to the effect that the patient is recommended for admission; and
- (f) bear the date on which the patient was examined.

(4) Notwithstanding subsection (1), 2 certificates may be submitted but each must satisfy the requirements of paragraphs (a) to (e) of subsection (3) and bear the date of the examination and the signature of the medical practitioner.

(5) A medical certificate must be completed within 24 hours of the examination and if 2 medical certificates are submitted they must be completed within 7 days of each other.

(6) A person recommended for admission to a mental hospital under this section must not be admitted thereto if more than 7 days have elapsed since he was last examined.

(7) The case of a medically recommended patient must be reviewed at least once in every 6 months after which he may be detained for a further period of 6 months.

(8) Notwithstanding subsection (7), a medical certificate issued under this section is valid for a period of 12 months and the discharge of a patient before the expiration of such period does not operate to prevent that patient from being re-admitted to the mental hospital during such period without the issue of a fresh medical certificate.

(9) The senior consultant psychiatrist of a mental hospital may, by certificate in writing, change the status of a medically recommended patient to that of a voluntary patient.

Hospital order patients

7.(1) Where, in the opinion of a court, an accused person charged before it is, or appears to be suffering from mental disorder, the court may order that person to be admitted to a mental hospital for a period not exceeding 8 weeks.

(2) A person admitted to a mental hospital under subsection (1) may be discharged only after the approval of the court that ordered his admission and the court may specify conditions as to his discharge.

(3) A person who, by reason of his general appearance or by his conduct in conversation, causes a member of the Police Force who has been so notified by a mental health officer, reasonably to believe that such person is suffering from mental disorder may be taken into custody without a warrant by a member of the Police Force not below the rank of sergeant or by a member of the Police Force

of lower rank acting under the authority of a sergeant or officer of higher rank and conveyed directly to a mental hospital.

(4) Where a member of the Police Force is informed by a mental health officer that a person suspected of being of unsound mind is in any building or on any premises, whether private or not, that member of the Police Force may, if necessary, obtain a warrant and enter such building or premises and take that person into custody.

(5) A member of the Police Force who takes a person into custody under subsection (3) or (4) may elect not to prefer a charge against him; but may instead convey him directly to a mental hospital and shall in any case, do so within 24 hours from the time of the taking of him into custody and as soon as possible thereafter

(a) inform the relatives and next-of-kin of the person taken into custody of the fact of his having been taken into custody and the reasons therefor; and

(b) make arrangements for the relatives and next-of-kin to communicate with him.

(6) A person conveyed to a mental hospital may be examined and admitted to that hospital for a period not exceeding 72 hours unless on examination he is found to be in need of further treatment in which case the senior consultant psychiatrist may authorise the change of his status to that of a medically recommended patient.

(7) No liability attaches to any person for any act done pursuant to this section if such act is done in good faith and on reasonable grounds.

(8) A person admitted to a mental hospital under this section or removed thereto under section 45 of the *Prisons Act*, Cap. 168 shall be deemed to be a hospital order patient.

Transfer of patients from one institution to another

8.(1) The senior consultant psychiatrist of a mental hospital may transfer a patient other than a hospital order patient to any other hospital or to an approved home.

(2) Subject to subsection (3), where a patient admitted to a mental hospital or an approved home is in need of special medical treatment that is not available at that hospital or approved home, the senior consultant psychiatrist of that hospital or home may authorise the transfer of that patient to a general hospital.

(3) Where a person charged before a court as referred to in section 7(1) is transferred under subsection (2), arrangements approved by the court shall be made for his security.

Special leave granted patients

9.(1) Subject to subsection (2), the senior consultant psychiatrist of a mental hospital may permit any patient, other than a hospital order patient or a patient detained under section 13, to be absent from the hospital for a period of such time, subject to section 6(8), as he thinks fit.

(2) A patient may not be granted leave of absence under subsection (1) unless a relative of his or such other person as the senior consultant psychiatrist of the hospital approves, undertakes in writing

- (a) to be responsible for the patient's welfare;
- (b) to allow the patient to be seen at any time by a person authorised by the senior consultant psychiatrist; and
- (c) to report immediately to the senior consultant psychiatrist any visible signs of deterioration in the patient's condition.

(3) Where a report has been made under paragraph (c) of subsection (2) that the condition of a patient to whom that subsection relates has deteriorated, the senior consultant psychiatrist of the hospital shall demand the return of that

patient to the hospital and may invoke the provisions of subsections (3) and (4) of section 7 for the purpose if necessary.

(4) A patient who has been allowed leave under this section is, until he is discharged, subject to the same control as if he were still in hospital.

Patient leaving hospital without permission

10. A patient admitted to a mental hospital under section 6 or 7, who leaves that hospital without the permission required by this Act or the regulations may at any time or place be apprehended without a warrant by a person authorised by the senior consultant psychiatrist of the hospital in writing in the prescribed form, or by a member of the Police Force, and returned to the hospital.

Applications to Mental Health Review Board

11.(1) There is constituted a Board to be known as the Mental Health Review Board, for the purpose of dealing with applications by and in respect of patients under this section.

(2) The provisions of the Schedule have effect with respect to the constitution of the Board and otherwise in relation thereto.

(3) Subject to the provisions of the Schedule, the powers of the Board under this section may be exercised by any 3 of its members and a reference in this Act to the Board shall be construed accordingly.

(4) A person acting on behalf of a patient detained under section 5, 6 or 7 who believes that such detention is unreasonable may apply in writing to the Board for its review of the matter.

(5) The Board shall, within 28 days of the receipt of the application

- (a) have the patient brought before it to be questioned;
- (b) ascertain the reasons for the detention of the patient and examine the grounds in support of the application;

- (c) if it considers it necessary, cause the patient to be further medically examined; and
 - (d) hear such further evidence as may be relevant to the application.
- (6) The Board may
 - (a) dismiss the application; or
 - (b) order the immediate discharge of the patient,and make such order as to costs as it considers just.
- (7) A person who is aggrieved by a decision of the Board may appeal against such decision to the High Court.
- (8) An appeal under subsection (7) must be brought by way of originating summons within 14 days of the decision of the Board.

Immunity from actions

- 12.** No liability attaches to any person who, in good faith,
- (a) procures the admission to or discharge from a mental hospital of any patient; or
 - (b) carries out the instructions of any person authorised by this Act to procure the admission of any patient to a mental hospital.

Detention during Her Majesty's pleasure

- 13.(1)** Notwithstanding section 7(1), where a person on trial before the High Court
- (a) is found unfit to plead; or
 - (b) is found not guilty by reason of insanity; or
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 - (c) is found guilty but is suffering from diminished responsibility,

that court shall order him to be detained in a mental hospital until Her Majesty's pleasure is known and thereupon the Governor-General may give an order for the safe custody of that person during such detention.

(2) The Governor-General may be warrant either absolutely or conditionally discharge any person detained under subsection (1).

PART III

HOSPITAL ADMINISTRATION

Appointment of Hospital Director

14. There must be appointed a Director for every mental hospital to be known as the Hospital Director.

Duties of Hospital Director

15. Subject to section 14, it is the duty of every Hospital Director to supervise and manage the affairs of the mental hospital to which he is attached and he shall perform such other duties in connection with the supervision and management of such hospital as the Chief Medical Officer may require.

Staff to be subject to general superintendence of Chief Medical Officer

16. The Hospital Director and all other officers, servants and agents of a mental hospital are, in the performance of their duties pursuant to this Act, under the general superintendence and direction of the Chief Medical Officer.

PART IV

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

Persons within jurisdiction of court

17.(1) Where the High Court, after considering medical evidence, is satisfied that a person is incapable, by reason of mental disorder, of managing and administering his property and affairs, the court may exercise the powers conferred on it by this Part.

(2) For the purposes of this Part, “patient” means a person as to whom the court is satisfied as is mentioned in subsection (1).

General functions of court

18.(1) The court may, with respect to the property and affairs of a patient, do or secure the doing of all such things as appear to be necessary or expedient

(a) for the maintenance or other benefit

(i) of the patient, or

(ii) of members of the patient’s family;

(b) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from mental disorder; or

(c) otherwise for administering the patient’s affairs.

(2) Subject to subsection (3), in the exercise of powers conferred on it by section (1) the court shall have regard to the requirements of the patient.

(3) The rules of law that, immediately before the commencement of this Act, restricted the enforcement by a creditor of rights against the property, under the control of the court, of a person found to be of unsound mind continue to apply to property under the control of the court by virtue of this Part.

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- (4) Subject to subsections (2) and (3), the court shall, in administering the affairs of a patient, have regard to
- (a) the interests of creditors; and
 - (b) the desirability of making provision for obligations of the patient, notwithstanding that they may not be legally enforceable.
- (5) For the purpose of this Part “family” includes “child”, “spouse” and “dependant” within the meaning of the *Succession Act*, Cap. 249.

Special powers of court

19.(1) Without prejudice to the generality of section 18 the court may, at the instance of the Attorney General, make such orders and give such directions and authorities as it thinks fit for the purposes of that section and, in particular, may, for those purposes, make orders and give directions and authorities for

- (a) the control (with or without the transfer or vesting of property or the payment into or lodgement in court of money or securities) and management of any property of the patient;
- (b) the sale, exchange, charging or other disposition of or dealing with any property of the patient;
- (c) the acquisition of any property in the name or on behalf of the patient;
- (d) the settlement of any property of the patient or, the gift of any property of the patient to any persons or for any purposes mentioned in paragraphs (a)(ii) and (b) of section 18(1);
- (e) the execution for the patient of a will making any provision (whether by way of disposing of property or exercising a power or otherwise) which could be made by a will executed by the patient if he were not suffering from mental disorder;
- (f) the carrying on by a suitable person of any profession, trade or business of the patient;

- (g) the dissolution of a partnership of which the patient is a member;
 - (h) the carrying out of any contract entered into by the patient;
 - (i) the conduct of legal proceedings in the name of the patient or on his behalf including any order, direction or authority to present a petition in the name or on behalf of the patient for
 - (i) divorce or nullity of marriage,
 - (ii) presumption of death or dissolution of marriage, or
 - (iii) judicial separation;
 - (j) the reimbursement out of the property of the patient with or without interest, of money applied by any person
 - (i) in payment of the debts of the patient (whether or not legally enforceable),
 - (ii) for the maintenance or other benefit of the patient or members of his family, or
 - (iii) in making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from mental disorder; or
 - (k) the exercise of any power (including a power to consent) vested in the patient, whether beneficially or as guardian or trustee, or otherwise.
- (2) If, under subsection (1), provision is made for
- (a) the settlement of any property of a patient; or
 - (b) the exercise of a power vested in a patient of
 - (i) appointing trustees, or
 - (ii) retiring from a trust,

the court may also make as respects the property settled or trust property, as the case may be, such consequential vesting or other orders as the case requires.

- (3) The power of the court under subsection (1)
- (a) to provide for the settlement of the property of a patient is not exercisable at any time when the patient is a minor; and
 - (b) to make or give an order, direction or authority for the execution of a will for a patient
 - (i) is not exercisable at any time when the patient is a minor, and
 - (ii) shall not be exercised unless the court has reason to believe that the patient is incapable of making a valid will for himself.
- (4) Where under this section a settlement has been made of any property of a patient and the court is satisfied, at any time before the death of the patient, that
- (a) any material fact was not disclosed when the settlement was made; or
 - (b) there has been any substantial change in circumstances,
- the court may make an order varying the settlement as it thinks fit and give any consequential directions.

Supplementary provisions as to wills executed under section 19(1)(e)

- 20.(1)** Where under paragraph (e) of section 19(1) the court makes or gives an order, direction or authority requiring or authorising a person (in this section referred to as “the authorised person”) to execute a will for a patient, any will executed pursuant to that order, direction or authority shall be
- (a) expressed to be signed by the patient acting by the authorised person;
 - (b) signed by the authorised person with the name of the patient and with his own name in the presence of 2 or more persons present at the same time;
 - (c) attested and subscribed by those witnesses in the presence of the authorised person; and
 - (d) sealed with the official seal of the court.

(2) The *Succession Act*, Cap. 249 has effect in relation to a will made on behalf of a patient under this section as if it were signed by the patient with his own hand, and, in relation to any such will, section 61 of that Act does not apply.

(3) Subject to subsection (4), a will executed in the manner required by subsection (1) has the like effect for all purposes as if

- (a) the patient were capable of making a valid will; and
- (b) the will had been executed by the patient in the manner required by the *Succession Act*.

(4) Subsection (3)(a) does not apply

- (a) in relation to a will to which that subsection refers in so far as it disposes of immovable property outside Barbados; or
- (b) where, at the time of execution of such a will, the patient is domiciled in a country or territory outside Barbados, in relation to that will, in so far as it relates to any other property or matter in respect of which, under the law of his domicile, any question of his testamentary capacity would not fall to be determined in accordance with the law of Barbados.

Powers of court in cases of emergency

21. Where it is represented to the court and the court is of the view that

- (a) a person may be incapable, by reason of mental disorder, of managing and administering his property and affairs; and
- (b) it is necessary to make immediate provision for any of the matters referred to in section 19,

then, pending the determination of the question whether that person is so incapable, the court may exercise in relation to the property and affairs of that person any of the powers conferred on it in relation to the property and affairs of a patient by this Part so far as is requisite for enabling that provision to be made.

Power to appoint receiver

22.(1) The court may make an order appointing as receiver for a patient a person specified in the order or the holder for the time being of an office so specified.

(2) A receiver appointed under subsection (1) shall do all such things in relation to the property and affairs of the patient as the court, in the exercise of the powers conferred on it by sections 18 and 19, orders or directs him to do and may do any such thing in relation thereto as the court, in the exercise of those powers, authorises him to do.

Vesting of stock in curator appointed outside Barbados

23.(1) Where the court is satisfied

- (a) that under the law in force in a place outside Barbados a person has been appointed to exercise powers with respect to the property or affairs of any other person on the ground (however formulated) that that other person is incapable, by reason of mental disorder, of managing and administering his property and affairs; and
- (b) that having regard to the nature of the appointment and to the circumstances of the case it is expedient that the court should exercise its powers under this section,

the court may direct any stock standing in the name of that other person or the right to receive the dividends thereof to be transferred into the name of the person so appointed or otherwise dealt with as requested by that person and may give such directions as the court thinks fit for dealing with accrued dividends thereof.

(2) For the purposes of this section the expression “stock” includes shares and any fund, annuity or security transferable in the books kept by any body corporate or unincorporated company or society, or by an instrument of transfer either alone

or accompanied by other formalities and “dividends” are to be construed accordingly.

Preservation of interests in patient’s property

24.(1) Where

- (a) property of a person has been disposed of under this Part; and
- (b) under his will or intestacy or by any gift perfected or nomination taking effect on his death any other person would have taken an interest in such property but for such disposal,

that other person is entitled to the like interest, if and so far as the circumstances allow, in any property belonging to the estate of the deceased that represents the property disposed of; and if the property disposed of were real property, any property representing it is so long as it remains part of such estate, to be treated as if it were personal property.

(2) The court, in ordering, directing or authorising under this Part any disposal of property that apart from this section would result in the conversion of personal property into real property, may direct that the property representing the property disposed of, so long as it remains the property of the patient or forms part of his estate, be treated as if it were personal property.

(3) For the purposes of subsections (1) and (2), references to the disposal of property are references to the sale, exchange, charging or other dealing (otherwise than by will) with property other than money, the removal of property from one place to another, the application of money in acquiring property or the transfer of money from one account to another and references to property representing property disposed of are to be construed accordingly and as including the result of successive disposals.

(4) The court may give such directions as appear to it to be necessary or expedient for the purpose of facilitating the operation of subsection (1) including the carrying of money to a separate account and the transfer of property other than money.

(5) Subject to subsection (6), where the court has ordered, directed or authorised the expenditure of money for the carrying out of permanent improvements on, or otherwise for the permanent benefit of, any property of a patient, it may order that the whole or any part of the money expended or to be expended be a charge upon the property, whether without interest or with interest at a specified rate, and

- (a) a charge under this subsection may be made in favour of such person as may be just and, in particular, where the money charged is paid out of the patient's general estate, may be made in favour of a person as trustee for the patient; and
- (b) an order under this subsection may provide for excluding or restricting the operation of subsection (1).

(6) A charge under subsection (5) does not confer any right of sale or foreclosure during the lifetime of the patient.

Medical and legal visitors

25.(1) For the purposes of investigating matters relating to the capacity of any patient to manage and administer his property and affairs or otherwise relating to the exercise in relation to him, of the functions of the court under this Part, the court may appoint

- (a) a medical practitioner who appears to it to have special knowledge and experience of cases of mental disorder to be a medical visitor; and
 - (b) an attorney-at-law of not less than 7 years standing to be a legal visitor.
- (2) A visitor appointed under subsection (1) shall
- (a) visit a patient in accordance with the directions of the court; and
 - (b) make such report to the court about his visit as the court may require.
- (3) A visitor may, while making a visit, interview a patient in private.

- (4) A medical visitor making a visit under this section may carry out in private a medical examination of a patient and may require the production of and examine any medical records relating to the patient.
- (5) The Registrar or a Deputy Registrar of the Supreme Court may on the directions of the court visit any patient and report his findings to the court and subsection (3) has effect for the purposes of this subsection.
- (6) A report made by a visitor under this section and information contained in such a report shall not be disclosed except to the court and any person authorised by the court to receive such disclosure.
- (7) Any person who discloses any report or information in contravention of subsection (6) is guilty of an offence and liable on summary conviction to a fine of \$500 or to imprisonment for a term of 3 months or both.
- (8) For the purposes of this section references to a patient include references to a person alleged to be incapable, by reason of mental disorder, of managing and administering his property and affairs.

Appeals

26. An appeal lies to the Court of Appeal from any decision of the High Court subject to and in accordance with rules of court relating to civil appeals from the High Court to the Court of Appeal.

Rules

27.(1) The Judicial Advisory Council may make rules of court providing generally for the conduct of proceedings before the High Court with respect to persons suffering or alleged to be suffering from mental disorder (in this section referred to as “proceedings”).

(2) Notwithstanding the generality of subsection (1), rules of court made thereunder may make provision

- (a) as to the carrying out of preliminary or incidental enquiries;

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- (b) as to the persons by whom and the manner in which proceedings may be instituted and carried on;
 - (c) as to the persons who are entitled to be notified of, to attend or to take part in, proceedings;
 - (d) as to the evidence that may be authorised or required to be given in proceedings (whether on oath or otherwise and whether orally or in writing) in which it is to be given;
 - (e) as to the administration of oaths and taking of affidavits for the purposes of proceedings;
 - (f) as to the enforcement of orders made and directions given in proceedings;
 - (g) for authorising or requiring the attendance and examination of persons suffering from mental disorder, the furnishing of information and the production of documents;
 - (h) as to the termination of proceedings, whether on the death or recovery of the person to whom the proceedings relate or otherwise and for the exercise, pending the termination of the proceedings, of powers exercisable under this Part in relation to the property and affairs of the patient;
 - (i) as to the scale of costs, fees and percentages payable in relation to proceedings and as to the manner in which and the funds out of which such costs, fees and percentages are to be paid; for charging any percentages upon the estate of the person to whom the proceedings relate and for the payment of costs, fees and percentages within such time after the death of the person to whom the proceedings relate or the termination of the proceedings as may be provided by the rules and for the remission of fees and percentages;
 - (j) for the making of orders for the payment of costs to or by persons attending or taking part in proceedings;

- (k) as to the giving of security by a receiver and the enforcement and discharge of the security;
 - (l) for the rendering of accounts by receivers or persons, not being receivers, ordered, directed or authorised under this Part to carry out any transactions.
- (3) A charge upon the estate of a person created by virtue of paragraph (i) of subsection (2) does not cause any interest of that person in any property to fail or determine or to be prevented from recommencing.

Accounts

28. A receiver appointed under section 22 shall during his receivership and after his discharge render accounts in accordance with the rules of court made under section 27.

PART V MISCELLANEOUS

Forgery, false statements, etc.

- 29.(1)** A person who, with intent to deceive, forges
- (a) an application under Part II;
 - (b) a medical certificate or report under that Part; or
 - (c) any other document required or authorised to be made for any of the purposes of this Act,

is guilty of an offence.

- (2) A person who
- (a) uses or allows any person to use; or
 - (b) makes or has in his possession,

any document mentioned in paragraphs (a) to (c) of subsection (1) that he knows to have been forged or any document so closely resembling any such document as to be calculated to deceive is guilty of an offence.

- (3) A person who
- (a) wilfully makes a false entry or statement in any application, certificate, report, record or other document required or authorised to be made for any of the purposes of this Act; or
 - (b) with intent to deceive, makes use of any such entry or statement knowing it to be false,

is guilty of an offence.

- (4) Any person guilty of an offence under this section is liable on summary conviction to a fine of \$5,000 or imprisonment for a term of 2 years or both.

Ill-treating of patients

30. Any person in charge of a mental hospital or an approved home or any other person employed in such hospital or home who

- (a) wilfully neglects;
- (b) wilfully ill-treats; or
- (c) except in self-defence or in the interest of a patient, strikes,

any patient of that hospital is guilty of an offence and liable on summary conviction to a fine of \$2,500 or to imprisonment for a term of 12 months or both.

Permitting escape of patients

31. Any person who wilfully permits or assists or connives at the escape or attempted escape of a patient while being conveyed to or while detained in a mental hospital under the authority of this Act is guilty of an offence and liable on summary conviction to a fine of \$1,500 or imprisonment for a term of 12 months.

Sexual offences against patients

32.(1) Any person who, being the person in charge of a mental hospital or an approved home or being a person otherwise employed in any such hospital or home, has carnal connection with another person who is, for the time being receiving treatment at that hospital or home (whether or not as a patient detained therein and whether the carnal connection takes place within or outside the premises of which that hospital or home forms a part) is guilty of an offence and liable on conviction on indictment to imprisonment for a term of 2 years.

(2) It is not an offence under this section for a person to have carnal connection with another person if he does not know and has no reason to suspect that other person to be a patient.

(3) The burden of proving lack of knowledge in subsection (2) lies on the accused.

(4) No proceedings may be instituted under this section except by or with the consent of the Director of Public Prosecutions.

Regulations

33.(1) The Minister may make regulations

- (a) providing for the care, treatment, maintenance, conduct, discipline, custody, transfer, leave, release, discharge and supervision of patients during their detention in or after discharge from mental hospitals;
- (b) prescribing the fees to be paid for certificates under this Act and the instances in which those fees are to be paid to the Crown;
- (c) providing for the handling of mail to and from patients detained in mental hospitals;
- (d) providing for the granting and withdrawal of certificates of approved homes;

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- (e) providing for the setting up and equipping of approved homes and prescribing the standards to be observed in those homes;
 - (f) applying any provision of Part II to an approved home;
 - (g) providing for the inspection of approved homes and prescribing the fees to be paid for such inspections;
 - (h) prescribing the fees to be paid for certificates of approved homes;
 - (i) providing for any matter relating to the management and conduct of mental hospitals or approved homes;
 - (j) prescribing anything that is by this Act authorised or required to be prescribed;
 - (k) generally for carrying out the objects and purposes of this Act;
 - (l) annexing to the contravention of any such regulation a punishment by way of a fine of \$2,500 or imprisonment for a term of 12 months or both.
- (2) Where by regulation made under paragraph (f) of subsection (1) any provision of Part II is applied to an approved home, a reference in such provision to a mental hospital shall be construed as including a reference to that approved home.

Designations

- 34.(1)** For the purposes of this Act, the Minister may by notice designate
- (a) any institution or place used or to be used for the care of persons suffering from any form of mental disorder, as an approved home;
 - (b) any institution or place used or to be used as a hospital for the care of persons suffering from mental disorder, as a mental hospital; and
 - (c) any person employed at a mental hospital, as a mental health officer.

(2) Notice of every designation under subsection (1) shall be published in the *Official Gazette*.

[1989-11]

SCHEDULE*(s.11(2))**MENTAL HEALTH REVIEW BOARD*

1. The Board consists of
 - (a) a number of persons chosen from the legal profession (hereinafter referred to as the “legal members”) appointed by the Minister;
 - (b) a number of persons chosen from the medical profession (hereinafter referred to as the “medical members”) appointed by the Minister; and
 - (c) a number of persons appointed by the Minister and having such knowledge of social services or such other qualifications or experience as the Minister considers suitable.
2. The members of the Board hold and vacate office under the terms of the instruments under which they are appointed, but may resign office by notice in writing to the Minister.
3. A member of the Board who ceases to hold office is eligible for reappointment.
4. One of the legal members of the Board must be appointed by the Minister to be chairman of the Board and another to be the deputy chairman.
5. The members who are to constitute the Board for the purpose of dealing with any application made to it under section 11 shall be selected by the chairman or if for any reason he is unable to act, by the deputy chairman, and of the members so selected,
 - (a) one must be selected from among the legal members;
 - (b) one must be selected from among the medical members; and

- (c) one must be selected from among the members who are neither legal nor medical members.

- 6.** Where the chairman of the Board is included among the persons referred to in paragraph (5), he shall preside; and in any other case, the deputy chairman shall preside.

- 7.** Subject to this Schedule, the Board may regulate its own procedure.

- 8.** The Minister may
 - (a) authorise payment to the members of the Board of such remuneration and allowances; and
 - (b) defray the expenses of the Board to such amount, as he determines, and
 - (c) provide for the Board such officers and such accommodation as the Board requires.