

Supplement No. 5 published with Gazette No. 3 of 3rd February, 1997.

THE MENTAL HEALTH LAW (22 OF 1979)
(1997 Revision)

Consolidated with Law 13 of 1994.

Revised under the authority of the Law Revision Law (19 of 1975).

Originally enacted-

Law 22 of 1979-11th June, 1979

Law 13 of 1994-23rd September, 1994.

Consolidated and revised this 7th day of January , 1997.

MENTAL HEALTH LAW

(1997 Revision)

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MENTAL HEALTH LAW

(1997 Revision)

1. This Law may be cited as the Mental Health Law (1997 Revision). Short title
2. In this Law- Definitions
 - “C.M.O.” has the meaning ascribed to it in the Health Practitioners Law (1995 Revision); 1995 Revisions
 - “Commissioner” has the meaning ascribed to it in the Police Law (1995 Revision);
 - “confinement” means, with relation to a patient, the detention of such patient in a hospital, place of safety or prison;
 - “court” means a court of the Islands having criminal and civil jurisdiction;
 - “Governor” means the Governor in Council;
 - “guardian” means a person appointed as such by an order of the Grand Court made under section 14 of the Grand Court Law (1995 Revision);
 - “hospital” means the government hospital or a hospital outside the Islands to which a patient may be transferred by the direction of the Governor upon the advice of the C.M.O.;
 - “medical practitioner” means a person lawfully practising medicine in the Islands;
 - “Minister” means the Member of Executive Council responsible for health;
 - “mentally defective” is descriptive of a person who -
 - (a) before reaching the age of eighteen years suffered from a condition of incomplete or arrested development of mind whether arising from inherent causes or induced by disease or injury;
 - (b) by reason of mental defect is unable to guard himself from common physical dangers;
 - (c) by reason of mental defect is incapable of managing his own affairs;
 - (d) by reason of mental defect requires care, supervision and control for his own protection and that of others; or

- (e) by reason of mental defect is of vicious or criminal propensities and requires to be kept under control for the physical protection of others;

“mentally disordered” includes “mentally ill and mentally defective”;

“mentally ill” means suffering from a disease of the mind responsive to medical treatment;

“nearest relative” of a person means a person, not under disability, resident in the Islands who is the-

- (a) spouse;
- (b) child;
- (c) parent;
- (d) brother or sister;
- (e) grand-parent;
- (f) uncle or aunt; or
- (g) nephew or niece,

in that order, of that person who is willing to act as such under this Law and, where there are two such persons of equal propinquity, the elder of the two;

“patient” means a person undergoing or ordered to undergo treatment for mental disorder; and

“treatment” includes remedial and other measures applied for the purposes of alleviating mental disorder and for the protection of patients and of those with whom such patients may come into contact.

Application

3. (1) This Law has no application to any person upon the sole ground that he has voluntarily sought or offered himself for treatment for mental disorder.

1995 Revision

(2) The authority of a guardian appointed under section 14 of the Grand Court Law (1995 Revision) shall, for the purposes of this Law, prevail over that of any other person in whom custody or control of the person subject to such order is vested.

Request for observation order

4. A guardian, the Commissioner or the nearest relative of any person who believes that person to be in need of treatment under this Law may make request to the C.M.O. that such person be detained for observation and the C.M.O. may, at his discretion, order and require that such person be so detained.

Apprehension of person suspected to be a danger

5. Where it appears to any constable that any person is, by reason of mental disorder, an immediate danger, or is likely to become a danger to himself or others, he may take such person into protective custody and with all reasonable

despatch bring him before a Government Medical Officer who shall examine such person, and if such Medical Officer considers that such person should be further detained he shall direct that he be detained in a hospital or in a prescribed place of safety able to receive and care for him, there to await the decision of the C.M.O. as to his further detention.

6. A person detained under section 4 or 5 may, at the discretion of the C.M.O. be kept in detention for a period not exceeding forty-eight hours from the time of his original detention or apprehension and, during the said period, be under the observation of the C.M.O. and of at least one other medical practitioner appointed by the C.M.O. for that purpose.

Observation period

7. At any time during an observation period of any person as provided by section 6 the C.M.O. jointly with one other medical practitioner, both having had such a person under observation, may issue a certificate addressed to the Minister in the prescribed form certifying such person to be a patient in need of treatment and stating the nature of the mental disorder suspected and ordering that the patient be kept in detention for a period not exceeding six months within which period the C.M.O. may issue a further certificate in the prescribed form recommending the patient's release or further detention and the Minister, upon perusal of such certificate, may make an order accordingly.

Certification and detention

8. (1) In appropriate cases the C.M.O. may recommend to the Governor that a patient be transferred to a hospital outside the Islands specialising in the treatment of mental disorder, there to continue undergoing treatment, subject to the laws of the country in which such hospital is situated, and the Governor may make an order accordingly in the prescribed form.

Treatment outside the Islands

(2) The Governor may provide for the reception outside the Islands of persons subject to an order made under subsection (1).

9. An order made under this Law is sufficient to the person or persons to whom it is directed to apprehend the person referred to therein and convey him to a hospital or other place as directed in such order and there detain him or cause him to be detained.

Enforcement of orders

10. (1) Postal packets addressed to a patient detained under this Law may be withheld if, in the opinion of a medical practitioner having care of him, the receipt thereof might have an adverse effect upon him and any such packet so withheld shall be returned to the sender if he can be identified and located.

Postal restrictions

(2) Postal packets addressed by a patient detained under this Law for despatch by the post office may be withheld therefrom -

- (a) if the addressee has given notice in writing to the C.M.O. requesting that communications addressed to him by the patient should be withheld; or
- (b) it appears to the C.M.O. that the packet would be unreasonably offensive to the addressee, is defamatory to other persons (other than persons having care of the patient) or would be likely to prejudice the interests of the patient:

Provided this subsection does not apply to any postal packets addressed to-

- (i) the Governor;
- (ii) the Minister;
- (iii) a member of the Legislative Assembly;
- (iv) a Judge of the Grand Court; or
- (v) his nearest relative.

Mental treatment of
prisoners

11. (1) When a person, while undergoing a sentence of imprisonment, has been made the subject of a request under section 4 and has been detained for observation under section 6 his period of sentence shall be treated as suspended from the time of his detention for observation and thereafter until the expiry of any further period of detention under this Law.

(2) Where a person detained for observation under subsection (1) is further detained for any further period under this Law, the C.M.O. shall make report to the Governor with a prognosis of the patient's mental disorder and the patient shall thereafter be dealt with at the Governor's pleasure.

Power of Juvenile Court
Law 8 of 1995

12. Before making an order under section 20 of the Youth Justice Law, 1995, the Juvenile Court, if it suspects that the juvenile subject to such order, is suffering from mental disorder, may order such juvenile to be held in detention for examination by the C.M.O. who may, after making such examination, detain such juvenile for a period of observation under section 5 and shall in any event report to the Juvenile Court his opinion of the juvenile's mental condition.

Jurisdiction of the Grand
Court over the property
of patients and persons
under guardianship
1995 Revision

13. In the case of-

- (a) a patient under this Law; or
- (b) a person in respect of whom the Grand Court has appointed a guardian under section 14 of the Grand Court Law (1995 Revision) and has thereafter found upon examination to be a person incapable of managing his own affairs,

the Grand Court may, with respect to the property and affairs of such person, do or secure the doing of all such things as appear desirable for the maintenance or benefit of such person, of his family, of those for whom he might be expected to provide if he were not mentally disordered and for otherwise administering his

affairs but shall, in so doing, have regard to the interests of creditors and obligees and to the making of provision for them, notwithstanding that the relevant debts and obligations may not be legally enforceable.

14. In the exercise of its jurisdiction under section 13, the Grand Court may on behalf of a patient or person under guardianship -

Powers of the Grand Court exercising jurisdiction under section 13

- (a) arrange for a person or persons to -
 - (i) manage, sell, acquire, charge or deal with property;
 - (ii) enter into any settlement;
 - (iii) provide for the management of a business;
 - (iv) dissolve a partnership;
 - (v) complete a contract;
 - (vi) conduct legal proceedings; and
 - (vii) act as trustee; or
- (b) appoint a Receiver.

15. (1) The Governor may, by regulations-

Regulations

- (a) prescribe any place which the C.M.O. certifies is appropriate (in all the circumstances) to receive and care for a mentally disordered person as a place of safety for the purposes of this Law; and
- (b) prescribe procedures to be used in the administration of this Law.

(2) The power to make regulations under this section includes power to make such supplementary, incidental, consequential or transitional provisions as the Governor considers necessary or expedient.

16. Without prejudice to the operation of any other law, whoever -

Penalties

- (a) for the purpose of procuring any person to be detained under this Law makes a statement in any form in the truth of which he does not believe; or
- (b) inter-meddles with or deals or offers to deal with any property falsely claiming authority so to do under this Law,

is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year and may be ordered to make restitution of any property involved and missing.

17. The forms referred to in this Law are prescribed in the Schedule.

Forms

18. Sections 46, 47, 48, 156 and 157 of the Criminal Procedure Code (1995 Revision) are to be read together with this Law as if they formed part thereof but where any provision of that Code is in conflict with any specific provision of this Law the Code shall prevail.

Effects of certain provisions of the Criminal Procedure Code (1995 Revision)

SCHEDULE

FORMS

Form M.H. 1

MENTAL HEALTH LAW

(Section 6)

(1997 Revision)

ORDER

To Whom It May Concern

I, ----- C.M.O. having examined ----- of
----- and having considered the report of -----
----- concerning him **hereby order** that the said----- be
kept in confinement at ----- until ----- hours on the
day of -----19 ----- or until I sooner order his release and
that during such confinement the said ----- shall be under the
observation of myself and -----, a medical practitioner.

Dated the-----day of -----19-----.

Chief Medical Officer

Form M.H. 2

MENTAL HEALTH LAW

(Section 7)

(1997 Revision)

To the Honourable Minister responsible for health

We, ----- C.M.O., and ----- of-----
-----, medical practitioner, **hereby certify** that we have had under observation-
----- of----- who was detained for that purpose at--- hours
on the---day of -----,19 ----- upon a report received from -----
-- of- -----being ----- and who has since been confined at -----
----- in care of ----- and that we are of opinion that he
is/has been suffering from-----

and that he is now in a condition when he may safely be released.

or

and that his condition is such that he should be further detained for a period not exceeding six months or until in the meantime his condition shows sufficient improvement to justify his sooner release from detention as a patient under the above Law.

Dated the-----day of-----, 19---.

Signed-----
Chief Medical Officer

Signed-----
Medical Practitioner

Form M.H.3

MENTAL HEALTH LAW

(Section 7)

(1997 Revision)

To the Honourable Minister responsible for health

We, ----- C.M.O. and-----of -----,
medical practitioner, having under our care ----- of-----
who by an order made on the -----day of -----, 19 -----
was ordered to be detained until the ----- day of-----, 19 -----
for treatment and care as a patient under the above Law, **hereby certify** that the
said -----, in our opinion,
is fit to be released,

or

ought to be detained for a further period ending the---- day of -----, 19----.
And we further report as follows:-----

Dated the-----day of-----, 19----.

Signed:-----
Chief Medical Officer

Signed :-----
Medical Practitioner

Form M.H.4

MENTAL HEALTH LAW

(Section 7)

(1997 Revision)

To Whom It May Concern

I, -----, Minister responsible for health, having perused the certificate dated the----- day of-----, 19 ---issued in respect of ----- of -----a patient detained under the above Law, **hereby order-**

(a) that the said ----- be released forthwith;

or

(b) that the said ----- be further detained until the ----- day of -----, 19-----.

Dated the -----day of -----, 19 ----.

Signed-----

Minister responsible for health

Form M.H.5

MENTAL HEALTH LAW

(Section 8)

(1997 Revision)

ORDER

To-----of-----.

This is to require you to take into your charge ----- of -----presently detained at -----, and to convey him to----- of ----- at ----- by -----and there deliver him into the care of ----- of ----- aforesaid together with the enclosed duplicate copy of this Order.

Dated the -----day of-----, 19-----.

Governor of the Cayman Islands

Publication in consolidated and revised form authorised by the Governor in Council this 7th day of January, 1997.

Carmena H. Parsons
Clerk of Executive Council