

CHAPTER 559

MENTAL DISEASES

Ordinances AN ORDINANCE TO MAKE FURTHER AND BETTER PROVISION RELATING TO THE CARE AND
 Nos. 1 of 1873. CUSTODY OF PERSONS OF UNSOUND MIND AND THEIR ESTATES.
 3 of 1882,
 3 of 1883.
 2 of 1889.
 13 of 1905.
 16 of 1919,
 3 of 1940.
 13 of 1940.
 11 of 1943.

Acts
 Nos. 14 of 1952.
 22 of 1955.
 27 of 1956.

[9th January, 1873.]

Short title. **1.** This Ordinance may be cited as the Mental Diseases Ordinance,

of unsound mind, it shall adjudicate accordingly :

Application to District Court to inquire into the state of mind of persons suspected to be of unsound mind.

2. Any officer of the police force, or grama seva niladhari, or any private person having reason to believe that a person is of unsound mind, may apply in writing to the District Court having jurisdiction over the place in which such person so suspected is found, that his state of mind be inquired into. An application by a private person should be accompanied by a certificate from a medical practitioner that the person so suspected has been under his observation, and that he believes him to be of unsound mind.

Provided that it shall be lawful for the court, should it deem it necessary to subject the suspected person to further observation, to remand the suspected person once or oftener for such reasonable time as shall be specified in the order of remand to the custody of the Fiscal; and

Further observation.

Provided further, that it shall be the duty of the court so to remand such person in all cases where the court considers that the said person is of sound mind but two medical practitioners certify to the contrary.

Proceedings thereupon by the District Court.

3. (1) The District Court shall thereupon, with as little delay as possible, cause such person so suspected to be of unsound mind (hereafter called suspected person) to be brought before it, and, either then or at some other date for which the court may see reason to adjourn the inquiry, proceed to view and examine the said person, and, if need be, to hear evidence, to enable it to determine as to the state of mind of the said person.

(3) At the expiration of the time fixed for the remand the court shall hear evidence and find the said person of sound or of unsound mind as to it shall seem fit, and shall accordingly either discharge him or direct his further detention, as in section 5 provided.

(4) All persons so remanded shall be kept in such place as the Minister shall appoint, and shall be subject to the inspection of such persons as the Minister shall nominate.

Places of further observation.

(2) If upon such view and examination, or other proof, the District Court shall be satisfied that such person is or is not

4. (1) Where a District Court, holding an inquiry under section 3 into the state of mind of a suspected person, deems it necessary to subject such person to further observation, and no house of observation within the jurisdiction of the court has been

Continuation of inquiry after remand of a suspected person.

appointed by the Minister under that section, the court (hereinafter referred to as the original court) shall—

- (a) before remanding the suspected person for further observation, hear all such evidence as may at the time be available as to the state of mind of such person; and
- (b) after remanding the suspected person, transmit the record of the inquiry to the District Court (hereinafter referred to as the examining court) having jurisdiction over the place where the house of observation in which such person will be kept is situated.

(2) The examining court, on the expiration of the time fixed for the remand—

- (a) shall continue the inquiry and hear evidence relating to the further observation to which the suspected person was subjected, and may for the purposes of such inquiry further remand such person once or oftener for similar observation ; and
- (b) shall, after consideration of all the evidence recorded at all stages of the inquiry, adjudicate on the question whether the suspected person is of sound or of unsound mind.

(3) After the expiration of the time fixed for the remand, the inquiry into the state of mind of the suspected person shall not be continued, whether by the original court under section 3 or by the examining court under this section, except in the presence of such person:

Provided, however, that where the state of health or the behaviour of such person is such as to render either his presence or his participation in the proceedings in a court-house undesirable, the District Court by which the inquiry is continued may either dispense with the presence of such person at the inquiry or continue the inquiry at the house of observation where such person is kept.

(4) Where the examining court, after inquiry continued under this section, adjudges the suspected person to be of unsound mind, the court shall direct the further detention of such person until an order under section 5 is made in respect of that person by the original court, and shall forthwith return the record of the inquiry to the original court to enable that court to make such order.

(5) Where the examining court, after inquiry continued under this section, adjudges the suspected person to be of sound mind, that court shall make order discharging such person.

Where any person so discharged does not have the necessary means to enable him to return to his home or other place of residence, the court shall make order directing such person to be conveyed by Government to his home or other place of residence or allowed such reasonable batta or sum for his travelling expenses thereto as shall be approved by the Minister by any rule or order to be issued for that purpose. Any order made under this subsection may contain such further directions as the court may consider necessary to secure the safe return of the discharged person to his home or other place of residence, and the Fiscal shall give effect to such order.

(6) Any adjudication on the question whether the suspected person is of sound or unsound mind, and any order for the further detention or the discharge of the suspected person, made by the examining court under this section, shall be deemed for all purposes to be an adjudication or an order, as the case may be, made by the original court, and shall have effect accordingly.

5. (1) If any fit relative or friend is prepared to undertake to enter into sufficient security for the proper custody, care, and maintenance of the person adjudged to be of unsound mind, it shall be lawful for the court to order that the person so adjudged should be placed in his charge and under his control. But if no fit relative or friend will undertake as aforesaid, the District Court shall order that such person be kept in custody until the Minister's

If no relative or friend will undertake custody of such person, he shall be sent to a mental hospital.

pleasure shall be known; whereupon the Minister may issue his order to order the removal of such person to a mental hospital, and may give such further order for the safe custody of such person in such place or manner as to the Minister shall seem fit:

Provided that it shall be lawful for any relative or friend who shall have undertaken to enter into security as aforesaid, or who shall have entered into such security, to surrender such person to the court, whereupon it shall be the duty of the court to order that such person be kept in custody until the Minister's pleasure shall be known.

(2) Until the Minister's order shall be received it shall be the duty of the Fiscal to detain such person in the place appointed by the Minister for the reception of persons under remand for further observation.

Minister may, on petition of relatives, admit such persons (not being paupers) into mental hospital.

6. It shall be lawful for the Minister upon any petition being presented by any guardian or relative or friend of any person of unsound mind, requesting that such person may be admitted into a mental hospital, and offering to enter into security for the expenses of his care and maintenance, to issue his warrant to the Superintendent of such mental hospital to direct that such person shall, on being brought to such mental hospital, be examined by two medical practitioners named in such warrant, and upon their granting a certificate of such person being of unsound mind, that he shall be thereupon admitted into the mental hospital, to be therein taken care of and maintained until his recovery, or until application be made for his discharge by any relative or friend, as hereinafter provided, or failure of payment of the rate hereinafter required :

Bond to pay the daily allowance or rate, and contingent expense of such person.

Provided always that a bond with such security as the Minister shall require, previous to the admission of any such person, be given by his relative or friend for the due payment of such daily rate or allowance as may be fixed and declared payable by the general regulations of such mental hospital, on the reception therein of such person, together with all other expenses contingent upon the maintenance and care of such person during his continuance in such mental hospital, as well

as for the removal of such person within fourteen days after due notice given in writing by the Superintendent of such mental hospital to the said relative or friend of such person, or at his last place of abode ; and in default of any of the conditions of the said bond being duly performed, the amount due under such bond shall be deemed a debt to the State, and shall be recoverable as other debts due to the State.

7. (1) In any case where it appears to be necessary that a person suspected to be of unsound mind should, either for his own sake or that of the public, be forthwith placed under observation, an emergency order for the immediate removal of that person to a house of observation may be issued by any Justice of the Peace before whom he is produced. Emergency orders.

(2) The application for an emergency order shall—

- (a) in the case of a suspected person found wandering at large, be made by the police officer or grama seva niladhari by whom he is so found; and
- (b) in every other case, be made by the parent, guardian, spouse, brother, sister, or child, of the suspected person:

Provided, however, that where a suspected person has no parent, guardian, spouse, brother, sister, or child, able to make such application, it may be made by any other relative or by a friend or a person living with the suspected person.

(3) Every application for an emergency order shall be supported by the sworn testimony or affidavit of the applicant stating—

- (a) that the applicant has personally seen the suspected person within the forty-eight hours immediately preceding the time at which the application is made,
- (b) that such person appears to be of unsound mind, and is violent or uncontrollable, and

(c) that the immediate removal of such person to a house of observation is necessary either for his own sake or that of the public.

(4) The Justice of the Peace to whom an application for an emergency order is made, shall, before he issues the order, satisfy himself by questioning or observing the suspected person or by such other inquiry as he may deem necessary, and shall set out in the order that he is satisfied—

(a) that there is reasonable cause for suspecting that person to be of unsound mind,

(b) that that person is violent or uncontrollable, and

(c) that the immediate removal of that person to a house of observation is necessary either for his own sake or that of the public.

(5) Every emergency order issued under this section shall specify the house of observation to which the suspected person is to be removed, and shall be sufficient authority for the Superintendent of that house of observation to admit the suspected person to that house of observation and to detain him therein for a period not exceeding two weeks.

(6) The Superintendent of a house of observation shall, within twenty-four hours of the admission of a suspected person into that house of observation on an emergency order, give information of the admission to the District Court having jurisdiction over the place where the house of observation is situated, and apply for an inquiry into the state of mind of the suspected person.

(7) The provisions of sections 3 and 4 shall apply to all proceedings upon an application made under subsection (6), and the discharge or the further detention of the suspected person shall be in accordance with such order as may be made by the court under those sections.

(8) (i) Nothing in this section shall be deemed to prohibit the Superintendent of a house of observation from refusing to admit

into that house of observation on an emergency order any person whose admission or detention appears to him to be inadvisable or unnecessary, or from discharging at any time before the commencement of the inquiry under section 3 any person admitted on an emergency order.

(ii) Where any person admitted on an emergency order is discharged under paragraph (i) of this subsection, it shall be the duty of the Superintendent to give within twenty-four hours information of the discharge to the District Court mentioned in subsection (6).

8. (1) When application at any time by any guardian or relative or friend of a person of unsound mind confined in any mental hospital, or in the custody of the Fiscal for the purpose of being transferred to a mental hospital (not being under any criminal warrant) shall be made to the Minister, requesting that such person may be delivered over to the care and maintenance of such relative or friend, it shall be lawful for the Minister, if he shall see fit to do so, and upon such reasonable security as may be required being given by such guardian or relative or friend to take care of and maintain such person, to direct the immediate discharge of such person.

Relatives may take persons confined in mental hospital under their own care.

(2) Upon the recovery of any person confined in a mental hospital (not being under any criminal warrant) and such recovery being certified by the medical officer in charge of such mental hospital, he shall be discharged by order of the Superintendent of such hospital; and in all cases where any such person shall have been removed under the provisions of this Ordinance to any"mental hospital out of the district to which he belongs, such person shall, if he does not have the necessary means to enable him to return to his home or other place of residence upon being discharged from such mental hospital upon his recovery, be conveyed back by Government to his home or other place of residence, or be allowed such reasonable batta or sum for his travelling expenses thereto as shall be approved by the Superintendent of such hospital.

Discharge on recovery.

Any order of discharge made by the Superintendent under this subsection may contain such directions as the Superintendent may consider necessary to secure the safe return of the discharged person to his home or other place of residence, and the Fiscal shall give effect to such order.

hospital shall be situated. And if the said District Court shall, upon inquiry, be satisfied that such person is still of unsound mind, and that it is necessary to continue to keep him under control, the said District Court may order such person to be detained in the mental hospital until discharged therefrom by order of the Minister.

Prisoners under sentence in jail on becoming of unsound mind to be removed to mental hospital.

9. (1) If any person under imprisonment in any jail shall become of unsound mind, and a report shall be made to the Minister in charge of the subject of Justice by the Fiscal of the District Court within whose jurisdiction the said jail is situated, with a certificate of the medical officer thereof, that such person is of unsound mind, it shall be lawful for the Minister in charge of the subject of Justice to direct by warrant under his hand that such person shall be removed to the mental hospital named in such warrant, to be there detained until the expiration of the sentence under which such person may have been imprisoned.

11. (1) In all cases where a person of unsound mind is kept in custody and removed to a mental hospital under section 5, the Superintendent of that hospital shall forward forthwith the name of the person, and such other particulars as may be available, to the Government Agent of the administrative district or each of the administrative districts in which that person previously resided or was found wandering.

Inquiry as to property and circumstances in cases where no security is given.

(2) The Government Agent or Agents shall thereupon cause investigations to be made and shall report to the District Court, by which the person was ordered to be kept in custody, whether that person is possessed of any property which can be applied for his maintenance, or whether there is any relative or guardian who is able and legally bound to maintain that person.

If they recover before expiration of sentence, they shall be removed to jail.

(2) If any person shall become of sound mind before the expiration of his sentence, of which the period of his detention in such mental hospital shall be reckoned as part, the Minister in charge of the subject of Justice shall thereupon issue his warrant to the Superintendent of the mental hospital, directing that such person shall be removed back from thence to the jail or other place of confinement from whence he shall have been taken, or shall give such other orders thereon as to the Minister in charge of the subject of Justice shall seem fit. And the Fiscal from whose custody any person shall be removed to such mental hospital shall, at the time of delivering over such person, furnish the Superintendent of such mental hospital with a copy of the sentence under which such person shall have been imprisoned.

(3) On receipt of the report or reports made under subsection (2), the District Court shall hold an inquiry as to the property or such other circumstances of that person as may be referred to or set out in the report or reports.

Further proceeding at expiration of sentence, if the person shall not have recovered.

10. The Superintendent of any mental hospital to which any person shall have been removed under the provisions of the preceding clause, and who shall not have recovered, shall, at least fourteen days before the expiration of the sentence under which such person shall have been imprisoned, report the same to the District Court of the district in which such mental

12. (1) If at the inquiry held under section 11, the District Court is satisfied that the person kept in custody in the mental hospital is possessed of property sufficient in value and capable of being applied for his maintenance, the court shall—

Maintenance of persons in custody out of their own property,

(a) appoint a manager of the estate of such person or direct that the property be realized and dealt with, as provided in section 567 or section 577 of the Civil Procedure Code, as the case may be ; and

(b) order such portion of the property to be appropriated for the maintenance and care of that person, as may be necessary

according to the allowance or rate fixed and declared to be payable under the general regulations made by the Minister for that mental hospital;

and the manager so appointed or, as the case may be, the person to whom any money or the proceeds of any property realized under the order of the court has been paid, shall thereafter be responsible for the payment, at the rate specified in the order of the court, of the expenses of the maintenance and care of that person while he is kept in custody in the mental hospital.

or by persons able and legally bound to support them.

(2) Where the District Court is satisfied that the person kept in custody in the mental hospital is not possessed of any property but that there is a relative or guardian able and legally bound to maintain that person, the court shall call upon such relative or guardian to show cause why he should not be ordered to pay the whole or any reasonable part of the expenses of the maintenance and care of that person, and if sufficient cause is not shown, the court may make order accordingly ; and every order so made shall, upon the application of the Superintendent of the mental hospital, be enforced in accordance with the provisions of section 8 of the Maintenance Ordinance, by any Family Court* having jurisdiction over the place of residence for the time being of the relative or guardian bound by the order.

Proceedings exempt from stamp duty.

13. No stamp duty shall attach or be payable for any application, process, or other document filed in court under the provisions of this Ordinance.

Appointment of Visitors.

14. (1) It shall be lawful for the Minister to nominate and appoint one or more fit and proper persons to be Visitors of any mental hospital, and any Visitor so appointed to remove and to appoint another in his stead.

Duties of Visitors.

(2) Every Visitor so appointed shall be at liberty to enter at all times any such mental hospital and to make such inquiries or examination therein as to him shall appear necessary; and Visitors are hereby

required to visit such mental hospital at least once in every month, unless prevented by illness or other sufficient cause, and from time to time, to make such reports to the Director of Health Services as may be required by order of the Minister.

(3) Any Superintendent or keeper of such mental hospital or other person, who shall at any time refuse admittance to any such Visitor or offer to him any hindrance or obstruction, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees.

Penalty for refusing admittance to Visitors, or obstructing them.

15. It shall be lawful for the Minister, to make, from time to time, such regulations as to him shall seem expedient for the management and conduct of any mental hospital established in Sri Lanka, and of the officers and Visitors thereof.

Minister to make regulations for conduct and management of mental hospitals.

16. (1) If any person detained in a mental hospital under the provisions of this Ordinance, and not being an insane criminal, escapes, he may be retaken at any time within fourteen days of his escape by the Superintendent of the mental hospital, or by any officer or servant thereof, or by anyone authorized in writing by such Superintendent, and conveyed to, received, and detained in such mental hospital.

Person escaping from mental hospital may be retaken by Superintendent within fourteen days.

(2) In the case of the escape of an insane criminal, the provisions of the last preceding subsection shall apply without any limitation as to time.

17. In any case in which a person detained in a mental hospital, and not being an insane criminal, has escaped, and is not taken within the period of fourteen days prescribed by section 16, the Superintendent of such mental hospital may apply to the District Judge within the limits of whose jurisdiction such mental hospital is situated, for authority to retake such person. If the District Judge to whom such application is made shall, after making such inquiry, if any, as he may deem necessary, grant such authority, such Superintendent or anyone authorized in writing by him may retake such person, and such person may be conveyed to, received, and detained in the mental hospital.

Person escaping from mental hospital, not being an insane criminal, may be retaken after fourteen days with authority of District Judge.

* The jurisdiction of the Family Court in maintenance matters has since been removed from such Court by the Judicature (Amendment) Act, No. 71 of 1981, and revested in the Magistrates' Courts.

Absence on trial.

18. (1) The Minister in charge of the subject of Justice may, on the recommendation in writing of the Superintendent of a mental hospital, permit, by order, any person detained in a mental hospital, and not being an insane criminal, to be absent on trial for a period to be named in such order.

(2) If at any time within the period mentioned in such order it appears to such Superintendent that the further detention of such person in the mental hospital is necessary, such Superintendent, or any person authorized by him in writing, may take such person, and such person may thereupon be conveyed to, received, and detained in the mental hospital.

(3) (a) At the expiration of the period mentioned in any such order, such person shall, unless he has been received into the mental hospital under the provisions of the last preceding subsection, return to the mental hospital, and the Superintendent shall examine him, and may thereupon either direct his further detention in the mental hospital, or order him to be discharged.

(b) If such person does not return to the mental hospital at the expiration of the period for which he was allowed to be absent on trial, he may at any time within fourteen days of the expiration of the period of trial be retaken, as in the case of an escape.

Right of appeal from order of District Court.

19. Every order made by a District Court under the provisions of this Ordinance shall be subject to an appeal to the Court of Appeal.

Who may prosecute appeal.

20. Such appeal may be prosecuted by or at the instance—

- (a) of the person suspected or adjudged to be of unsound mind ; or
- (b) of any relative or friend of the person suspected or adjudged to be of unsound mind ; or
- (c) of the Attorney-General or of any State Counsel; or

- (d) of the Inspector-General of Police; or
- (e) of the Director of Health Services; or
- (f) of the Commissioner of Prisons; or
- (g) of any medical practitioner who shall have certified or testified to the state of mind of the person suspected or adjudged to be of unsound mind.

21. The time for, the rules of, and the practice relating to the filing and forwarding of an appeal from an interlocutory order of the District Court shall apply to appeals prosecuted under this Ordinance.

Appeal to follow rules for appeals from interlocutory orders.

22. The Court of Appeal shall take cognizance of such appeal and deal with the same as an appeal from an interlocutory order of the District Court, and make such order thereon as to the Court of Appeal shall seem fit. And it shall be the duty of the District Court to conform to and execute such order,

Duty of Court of Appeal and District Court in case of appeal.

23. (1) Any person of the age of not less than sixteen years who is desirous of voluntarily submitting himself to treatment for mental illness may, if he makes a written application for the purpose to the Superintendent of any mental hospital, be received as a voluntary patient in that hospital.

Power to receive voluntary patients in mental hospitals.

(2) Any person under the age of sixteen years whose parent or guardian is desirous of submitting him to treatment for mental illness may, if the parent or guardian makes a written application for the purpose accompanied by a medical recommendation to the Superintendent of any mental hospital, be received as a voluntary patient in that hospital.

(3) The medical recommendation referred to in subsection (2) shall—

- (a) be signed by a medical practitioner; and ,

(b) state the qualifications of such practitioner, the date or dates on which he examined the person to whom the recommendation relates, and that such person is likely to be benefited by being received as a voluntary patient for treatment in a mental hospital.

(4) A medical recommendation from a medical practitioner shall cease to have effect for the purposes of this section on the expiration of fourteen days after the last date on which the person to whom the recommendation relates was examined by such practitioner for the purpose of making the recommendation.

Voluntary patient may leave mental hospital upon giving notice of intention to do so.

24. Any person received as a voluntary patient in a mental hospital may leave that hospital upon giving to the Superintendent of that hospital seventy-two hours' notice in writing of his intention to do so, or, if he is under the age of sixteen years, upon such notice being given by his parent or guardian.

Notice to the Director of Health Services of the reception, death and departure of voluntary patients.

25. (1) Where any person is received as a voluntary patient in any mental hospital, notice of his reception shall, before the expiration of the second day after the day on which he was so received, be sent to the Director of Health Services by the Superintendent of that hospital.

(2) Where any person received as a voluntary patient in any mental hospital leaves that hospital or dies therein, notice of the departure or death shall, before the expiration of the second day after the date of the departure or death, be sent to the Director of Health Services by the Superintendent of that hospital.

Reports from the Superintendent of a mental hospital on voluntary patients under the age of sixteen years.

26. Where a person who is under the age of sixteen years and who has been received as a voluntary patient in any mental hospital ceases to have any parent or guardian, or if his parents or guardians are incapable of performing, or refuse or persistently neglect to perform, their duty as such, the Superintendent of that hospital shall send to the Director of Health Services a report as to the circumstances of the case and the condition of the patient, and the Director of Health Services shall forthwith consider the report and give such directions with respect to the case as he thinks fit.

27. (1) Where a person received as a voluntary patient in a mental hospital becomes at any time incapable of expressing himself as willing or unwilling to continue to receive treatment, such person—

Discharge of voluntary patients from mental hospitals.

(a) shall not thereafter be retained as a voluntary patient in that hospital for a longer period than twenty-eight days, and

(b) shall, if he has not been previously discharged, be discharged from that hospital upon the expiration of a period of twenty-eight days from the date on which he became incapable of so expressing himself unless in the meantime he has again become capable of so expressing himself, or steps have been taken to deal with such person under this Ordinance either as a person of unsound mind or as a person suffering from mental illness who is likely to benefit by temporary treatment in a mental hospital.

(2) Where the Superintendent of any mental hospital is of opinion that the mental state of a person received as a voluntary patient in that hospital is such as to render it unnecessary for that person to remain as a voluntary patient in that hospital, the Superintendent may discharge that person from that hospital.

(3) Where the Superintendent of any mental hospital is of the opinion that the mental state of a person received as a voluntary patient in that hospital is such as to render that person unfit to remain as a voluntary patient in that hospital, the Superintendent may either discharge that person from that hospital or take steps to deal with that person under this Ordinance either as a person of unsound mind or as a person suffering from mental illness who is likely to benefit by temporary treatment in a mental hospital.

28. (1) Subject to the other provisions of this section, a person who is suffering from mental illness and is likely to benefit by temporary treatment in a mental hospital but is for the time being incapable of expressing himself as willing or unwilling to

Power to receive temporary patients in mental hospitals.

receive such treatment may, on a written application made under this section, be received as a temporary patient in any mental hospital for the purpose of treatment.

(2) An application to receive a person as a temporary patient in any mental hospital for the purpose of treatment—

- (a) shall be in the form set out in the Schedule;
- (b) shall be made to the Superintendent of that hospital;
- (c) shall, if possible, be made by the spouse or a relative of such person, or, on the request of such spouse or relative, by any other person, and, if the application is not so made, shall contain a statement of the reasons why it is not so made. of the connection of the applicant with such person and of the circumstances in which the applicant makes the application; and
- (d) shall be accompanied by a recommendation by each of two medical practitioners in the form set out in the Schedule.

(3) Each of the medical practitioners by whom a recommendation under this section is to be made shall, before signing the recommendation, examine the person to whom the recommendation relates either separately or in conjunction with the other and shall specify in the recommendation the date on which he so examined such person and the grounds on which he bases his recommendation.

(4) A recommendation made by two medical practitioners under this section in respect of any person—

- (a) shall be of no effect for the purposes of this section if there is a greater interval than five days between the dates on which such person was examined by such practitioners respectively, and

(b) shall cease to have effect on the expiration of fourteen days after the date on which such person was examined by such practitioners, or if he was examined by such practitioners on two different dates, on the expiration of fourteen days after the latter of those dates.

29. (1) Where any person is received as a temporary patient in any mental hospital, notice of his reception shall, before the expiration of the second day after the date on which he was so received, be sent to the Director of Health Services by the Superintendent of that hospital.

Notice to the Director of Health Services of the reception, death and departure of temporary patients.

(2) Where any person received as a temporary patient in any mental hospital leaves that hospital or dies therein, notice of the departure or death shall, before the expiration of the second day after the date of the departure or death, be sent to the Director of Health Services by the Superintendent of that hospital.

30. (1) Subject to the other provisions of this section, a person received as a temporary patient in any mental hospital may be detained in that hospital for a period not exceeding one year but shall not be detained as such for any longer period.

Detention and discharge of temporary patients.

(2) Where any person received as a temporary patient in any mental hospital becomes capable of expressing himself as willing or unwilling to continue to receive treatment, he shall not thereafter be detained in that hospital as a temporary patient for more than twenty-eight days unless in the meantime he has again become incapable of so expressing himself.

(3) Where it is anticipated that a person who is undergoing treatment as a temporary patient in any mental hospital will not recover within a period of one year but his early recovery appears reasonably probable, he may, upon application made on his behalf in accordance with subsection (4), be detained in that hospital as a temporary patient beyond one year for such period not exceeding three months, or for such periods not exceeding six months in the aggregate, as may be determined by the Superintendent of that hospital.

(4) An application under subsection (3) in respect of any person shall, if possible, be made by the spouse or a relative of such person, or, on the request of such spouse or relative, by any other person, and, if the application is not so made, it shall contain a statement of the reason why it is not so made, of the connection of the applicant with such person and of the circumstances in which he makes the application.

(5) Where the Superintendent of any mental hospital is of opinion that the mental state of any person received as a temporary patient in that hospital is such as to render it unnecessary for such person to remain as a temporary patient in that hospital, the Superintendent may discharge such person from that hospital.

(6) Where the Superintendent of any mental hospital is of opinion that the mental state of any person received as a temporary patient in that hospital is such as to render that person unfit to remain as a temporary patient in that hospital, the Superintendent may either discharge that person from that hospital or take steps to deal with that person under this Ordinance as a person of unsound mind.

Power of the Director of Health Services to order discharge, &c., of voluntary and temporary patients.

31. The Director of Health Services may at any time order—

- (a) that any person received as a voluntary patient, or a temporary patient, in any mental hospital shall be discharged from that hospital, or
- (b) that steps shall be taken to deal with such patient under this Ordinance as a person of unsound mind,

and it shall be the duty of the Superintendent of that hospital to comply with that order.

Power to vary, &c. forms in the Schedule.

32. The Minister may, by Order published in the Gazette, amend or replace any of the forms set out in the Schedule.

33. For the purposes of this Interpretation. Ordinance—

(a) every person shall be deemed to be of unsound mind who is so far deranged in mind as to render it necessary that he, either for his own sake or that of the public, should be placed under control; and

(b) "house of observation" means a building or part of a building appointed by the Minister under section 3 as a place for the observation of the behaviour of persons suspected to be of unsound mind;

"medical officer" means a medical practitioner who is an officer of the Department of Health;

"medical practitioner" means a person registered as a medical practitioner under the Medical Ordinance.

(c) "insane criminal" means any of the following persons:—

(i) any person who is confined or continued in confinement in a mental hospital under the provisions of section 9 or section 10 of this Ordinance; and

(ii) any person who is ordered to be confined in a mental hospital under the provisions of section 376 (2) or section 381 of the Code of Criminal Procedure Act.

34. Every reference to a "criminal lunatic" in any written law or document relating to this Ordinance shall be read and construed as a reference to an "insane criminal" within the meaning of that expression as used in this Ordinance.

Substitution of the expression "insane criminal" for "criminal lunatic" in any written law.

MENTAL DISEASES

[Cap.559

[Section 28.]

SCHEDULE

FORM OF APPLICATION FOR THE RECEPTION OF A TEMPORARY PATIENT

1. I, hereby request you to receive as a temporary patient into

2. I am related to the said in the following manner :—

or,

make this application at the request of , who is related to the said in the following manner:—

I am not related to the said The reasons why this application is not made by a relative of the said and my connection with him. and the circumstances under which I make this application, are as follows ;

3. Annexed hereto is a recommendation for the temporary treatment of the said signed by

Signed

Date

To

[Section 28.]

FORM OF RECOMMENDATION FOR TEMPORARY TREATMENT

Recommendation for the temporary treatment of of

1. I, of hereby declare as follows :—

(a) I am a registered medical practitioner.

(b) I examined the said on the day of 19

(c) *I have formed the following conclusions on the following grounds :—

2. I further declare as follows :—

(a) The said —

(i) is suffering from mental illness;

(ii) is likely to benefit by temporary treatment;

(iii) is for the time being incapable of expressing himself as willing or unwilling to receive such treatment.

(b) It is expedient with a view to the said 's recovery that he should be received into for a period not exceeding one year.

Signed

Medical qualifications

Date

* A person, in specifying the grounds on which his conclusions are based, must carefully distinguish between statements of fact which are based upon his own observations and statements of fact which are based upon communications made to him by others.