

PARLIAMENT OF CEYLON

4th Session 1955-56



Mental Diseases (Amendment) Act, No. 27 of 1956

Date of Assent : February 17, 1956

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*Mental Diseases (Amendment) Act,
No. 27 of 1956*

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L. D.—O. 43/55.

AN ACT TO AMEND THE LUNACY ORDINANCE AND TO PROVIDE FOR THE CONSTRUING OF THE EXPRESSION "LUNATIC" OCCURRING IN OTHER WRITTEN LAW.

Chapter 177,
Volume IV,
page 417.

[Date of Assent: February 17, 1956.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Mental Diseases (Amendment) Act, No. 27 of 1956.

Short title.

2. The long title of the Lunacy Ordinance, herein-after referred to as the "principal enactment", is hereby amended by the omission of the words "LUNATICS AND".

Amendment of
the long title
of Chapter 177.

3. Section 1 of the principal enactment is hereby amended by the substitution, for the word "Lunacy", of the words "Mental Diseases".

Amendment of
section 1 of the
principal
enactment.

4. Section 5A of the principal enactment, as amended by Ordinance No. 3 of 1940, is hereby amended by the repeal of sub-section (3) of that section and the substitution therefor of the following new sub-section:—

Amendment of
section 5A of
the principal
enactment.

(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."

Amendment of section 6 of the principal enactment.

5. Section 6 of the principal enactment is hereby amended, in sub-section (2) of that section, by the substitution, for all the words from "as shall be approved" to "purpose.", of the words "as shall be approved by the Superintendent of such hospital."

Insertion of new sections 19B to 19L of the principal enactment.

6. The following new sections are hereby inserted immediately after section 19A of the principal enactment, as amended by Ordinance No. 13 of 1940, and shall have effect as sections 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19J, 19K and 19L of the principal enactment:—

"Power to receive voluntary patients in mental hospitals.

19B. (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.

(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 sub-section (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.

19c. 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.

19D. (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.

19E. 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.

Discharge of
voluntary
patients
from mental
hospitals.

19F. (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—

(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.

Power to receive temporary patients in mental hospitals.

19G. (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 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 to this Ordinance;
- (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 to this Ordinance.

(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 later of those dates.

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

19H. (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.

(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.

Detention and discharge of temporary patients.

19J. (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.

(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 sub-section (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 sub-section (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.

19k. 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.

19L. The Minister may, by Order published in the *Gazette*, amend or replace any of the forms set out in the Schedule to this Ordinance.”.

Replacement of the Schedule to the principal enactment.

7. The Schedule to the principal enactment, as amended by Ordinance No. 3 of 1940, is hereby repealed and the following new Schedule substituted therefor:—

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,

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

or,

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 circum-
stances 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

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.

Construction
of other
written law.

8. (1) Every reference (except in the expression "criminal lunatic" or in any context relating to a criminal lunatic or to criminal lunatics) in any other written law to a lunatic or to lunatics shall, after the coming into operation of this Act, be construed as a reference to a person, or to persons, as the case may be, of unsound mind.

(2) Every reference in any other written law to the Lunacy Ordinance shall, after the coming into operation of this Act, be construed as a reference to the Mental Diseases Ordinance.