

THE MENTAL HEALTH ACT

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THE MENTAL HEALTH ACT

[1st September, 1999.]

Acts
6 of 1997,
1 of 2006
7th Sch.,
12 of 2009
3rd Sch.,
7 of 2011
Sch.

PART I. *Preliminary*

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

Short title.

2. In this Act—

Interpreta-
tion.

“Community Mental Health Service” means the Service established under section 24;

“Director” means the Director of the Community Mental Health Service;

“duly authorized medical officer” means, in relation to a patient in a psychiatric facility, a registered medical practitioner authorized by the managers to treat the patient;

“emergency application” in relation to a patient means an application made under section 8;

“general hospital” means any clinic, rehabilitation centre or institution (other than a Public Psychiatric Hospital) where a person suffering from an illness may be treated;

“involuntary patient” means a person who is admitted to a psychiatric facility under section 6 or is treated as so admitted under any provision of this Act;

“managers” means—

(a) in relation to the Public Psychiatric Hospital, the Board of Management;

(b) in relation to a psychiatric facility that is a part of a public hospital (as defined in the Hospitals (Public) Act), the Hospital Board; and

MENTAL HEALTH

(c) in relation to—

- (i) a mental nursing home, the person or persons registered in respect of the operation of that home;
- (ii) a psychiatric facility other than that referred to in paragraph (b), the board of management of that facility;

“mental disorder” means—

- (a) a substantial disorder of thought, perception, orientation or memory which grossly impairs a person’s behaviour, judgment, capacity to recognize reality or ability to meet the demands of life which renders a person to be of unsound mind; or
- (b) mental retardation where such a condition is associated with abnormally aggressive or seriously irresponsible behaviour,

and “mentally disordered” shall be construed accordingly;

“Mental Health Appeal Tribunal” or “Appeal Tribunal” means the body established under section 31;

“mental health officer” means—

- (a) a person registered as a nurse pursuant to section 9 of the Nurses and Midwives Act; and
- (b) any other person,

who has successfully completed a course of study in mental health approved by the Minister responsible for health;

“Mental Health Review Board” or “Review Board” means the body established under section 26;

“mental nursing home” means a place designated as such under section 4 (1);

“patient” means a person who is suffering from or is suspected to be suffering from a mental disorder;

“psychiatric facility” or “facility” means any clinic, hospital ward, mental nursing home or rehabilitation centre designated as such under section 4 (1);

“psychiatric hospital” means any place designated as such under section 4 (1);

“psychiatric ward” means the part of a general hospital designated as such under section 4 (1);

“public psychiatric facility” means the Public Psychiatric Hospital and any other psychiatric facility maintained by the Government;

“registered medical practitioner” means a medical practitioner registered in accordance with any enactment for the time being in force in Jamaica in relation to the registration of medical practitioners;

“rehabilitation centre” means a place designated as such under section 30;

“voluntary patient” means a person in respect of whom an application for admission to a psychiatric facility is made under section 5.

3.—(1) In this Act “relative” means any of the following—

- (a) husband or wife;
- (b) son or daughter;
- (c) father;
- (d) mother;

Determining relationships in respect of a patient.

- (e) brother or sister;
- (f) grandparent;
- (g) grandchild;
- (h) uncle or aunt;
- (i) nephew or niece.

(2) In deducing relationships for the purposes of this Act—

- (a) an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person;
- (b) any relationship of the half-blood shall be treated as a relationship of the whole-blood.

(3) Subject to the provisions of this section, in this Act the “nearest relative” means a husband or wife, or if there is no husband or wife, any of the persons mentioned in subsection (1) (b) to (i) in order of precedence, who is for the time being surviving, relatives of the whole-blood being preferred to relatives of the same description of the half-blood, and the elder or eldest of two or more relatives described in any paragraph of subsection (1) being preferred to the other or others of those relatives, regardless of sex.

(4) Where the person who, under subsection (3), would be the nearest relative of a patient—

- (a) is not ordinarily resident in Jamaica; or
- (b) being the husband or wife of the patient, is permanently separated from the patient, or has been deserted by the patient; or
- (c) not being the husband, wife or mother of the patient, is for the time being under eighteen years of age; or

- (d) is a person against whom an order has been made under section 12 of the Sexual Offences Act (which relates to the encouragement of seduction or prostitution of a girl or boy under the age of sixteen years) divesting that person of authority over the patient and the order has not been rescinded,

12/2009
3rd Sch.

the nearest relative of the patient shall be ascertained as if that person were dead.

(5) In this section an “adopted person” means a person who was adopted pursuant to an order for adoption made under the Children (Adoption of) Act or any previous enactment relating to the adoption of children.

(6) In this section “husband” and “wife” include a person who is living with the patient as the patient’s husband or wife, as the case may be (or, if the patient is for the time being an in-patient in a psychiatric facility, was so living until the patient was admitted) and has been or had been so living for a period of not less than six months; but a person shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of paragraph (h) of subsection (4).

PART II. *Admission, Treatment and Discharge of Patients*

4.—(1) Subject to subsections (2) and (3), the Minister may by order designate as a psychiatric facility for the reception, care and treatment of mentally disordered persons—

Designation
of psychia-
tric facility.

- (a) the whole or any part of a building, house or other place, with any yard, garden, grounds or premises belonging thereto;

- (b) any part of a general hospital;
- (c) the whole or any part of a nursing home registered under the Nursing Homes Registration Act as a mental nursing home;
- (d) the whole or any part of a clinic; or
- (e) the whole or any part of a rehabilitation centre.

(2) Application for a designation under subsection (1) shall be made to the Minister in the prescribed form and shall be accompanied by—

- (a) the proposed rules governing the procedures for admission and treatment of mentally disordered persons; and
- (b) such other documents or information as may be prescribed.

(3) The Minister shall make a designation under subsection (1) only if he is satisfied as to the adequacy of the proposed rules, and for the purposes of this section—

- (a) the designation shall operate as a confirmation of the proposed rules; and
- (b) the rules as confirmed shall not be revoked or amended without the prior approval of the Minister.

Voluntary admission.

5.—(1) Subject to subsections (2) and (3), the managers of a psychiatric facility or a duly authorized medical officer may admit to the facility as a voluntary patient, any person who voluntarily makes a written application for admission, if it appears to the managers, or the duly authorized medical officer that—

- (a) the mental condition of the person is such that he is competent to make the application; and
- (b) the person should be admitted for care and treatment.

(2) A person may be admitted to a psychiatric facility as a voluntary patient on an application made on his behalf if it is established that the application is not made against his will.

(3) Where the person to be admitted is a person under the age of eighteen years, then—

- (a) if he has attained the age of sixteen years and is capable of expressing his own wishes, the application may be made by him; and
- (b) in any other case the application shall be made by a parent, guardian or person in *loco parentis*.

6.—(1) Subject to the following provisions of this section and section 7, a patient may be admitted to and detained in a psychiatric facility pursuant to an application for admission made on the grounds that the patient—

Compulsory admission.

- (a) is suffering from mental disorder of a nature of degree which warrants his detention in a psychiatric facility for observation or treatment or both; and
- (b) ought to be so detained in the interest of his own health or safety or of the protection of other persons.

(2) An application made under subsection (1) in respect of a patient may be made by—

- (a) the patient's nearest relative; or
- (b) subject to subsection (3) a mental health officer, public health nurse or approved social worker (hereinafter referred to as a prescribed person),

and shall be addressed to the managers of the psychiatric facility to which admission is sought and shall specify the qualification of the applicant to make the application.

(3) An application made under subsection (1) shall be supported by medical certificates in the prescribed form issued by two medical practitioners and each certificate shall contain—

- (a) a statement by the medical practitioner that in his opinion there is sufficient evidence of the grounds set out in paragraphs (a) and (b) of subsection (1);
- (b) such particulars as may be prescribed of the reasons for that opinion, so far as it relates to the ground set out in paragraph (a) of subsection (1);
- (c) a statement of the reasons for that opinion so far as it relates to the ground set out in paragraph (b) of that subsection, indicating whether other methods of dealing with the patient are available, and if so, why they are not appropriate.

(4) An application under subsection (1) shall not be made by a prescribed person—

- (a) if, when admission is sought, the nearest relative of the patient has notified the prescribed person that he objects to the application being made; or
- (b) unless the prescribed person has consulted with the person (if any) appearing to be the nearest relative of the patient so, however, that no such consultation is required if it appears that in the circumstances such consultation is not reasonably practicable or would involve unreasonable delay.

(5) An application for admission of a patient in a facility shall not be made by any person unless that person has personally seen the patient within the period of fourteen days ending with the date of the application.

Provisions
as to
medical
certificates.

7. The following provisions shall apply in relation to medical certificates required under section 6 (3)—

[The inclusion of this page is authorized by L.N. 3/2001]

- (a) there may be two separate certificates, each signed by a medical practitioner or a joint certificate signed by two such practitioners;
- (b) the certificate or certificates shall be signed on or before the date of the application and shall be given by medical practitioners who have personally examined the patient either together or at intervals of not more than seven days;
- (c) where two separate certificates are submitted, one of the certificates shall be given by a medical practitioner approved for the purposes of this section by the Chief Medical Officer as having special experience in the diagnosis or treatment of mental disorder; and, unless that practitioner has previous acquaintance with the patient, the other certificate shall, if practicable, be given by a medical practitioner who has such previous acquaintance;
- (d) where the application is for the admission of the patient to a hospital, one of the medical certificates may be given by a medical practitioner on the staff of that hospital;
- (e) a medical certificate shall not be given by—
 - (i) the applicant;
 - (ii) a partner of the applicant or of a medical practitioner by whom another medical certificate is given;
 - (iii) a person employed as an assistant by the applicant or by any such practitioner as aforesaid;
 - (iv) a person who receives or has an interest in the receipt of any payments made on account of the maintenance of the patient;

- (v) except as provided by paragraph (d), a medical practitioner on the staff of the hospital to which the patient is to be admitted; or
- (vi) a medical practitioner who is related by blood or marriage to the patient, or who has given another medical certificate for the purposes of the same application.

Emergency
application.

8.—(1) In any case of urgent necessity, an emergency application for the admission of a patient may be made by a relative of the patient, a prescribed person or constable and such application—

- (a) shall contain a statement that it is of urgent necessity for the patient to be admitted and detained under section 6 and that compliance with the provisions of this Part relating to applications for admission for observation and treatment would involve undesirable delay; and
- (b) shall be accompanied by a medical certificate as mentioned in subsection (2).

(2) It shall be sufficient if an emergency application is supported initially by only one of the medical certificates required under section 6 (3), issued, if practicable, by a medical practitioner who has previous acquaintance with the patient; and such certificate shall verify the statement referred to in subsection (1) (a) of this section and comply with the provisions of section 7 so far as applicable to one certificate.

(3) An emergency certificate shall cease to have effect on the expiration of a period of seventy-two hours from the time when the patient is admitted to the psychiatric facility unless—

- (a) the second medical certificate required under section 6 is issued and is received by the managers of the facility within that period; and
- (b) that second certificate and the medical certificate referred to in subsection (2) comply with all the requirements of section 7, except the requirement as to the time of signature of the second certificate.

(4) In relation to an emergency application, section 6 shall have effect as if in subsection (5) of that section there were substituted the words “three days” for the words “fourteen days”.

9. The managers of a public psychiatric hospital or a duly authorized medical officer shall, on an order issued by a court, admit and detain for treatment in that hospital persons who are—

Admission
on order of
a court.
1/2006
Seventh
Schedule.

- (a) found unfit to plead on trial; or
- (b) found by the Court to be guilty of an offence but are adjudged by the Court to be suffering from a mental disorder or diminished responsibility.

10.—(1) The managers of a psychiatric facility or a duly authorized medical officer shall—

Detention
of patient.

- (a) within seventy-two hours of the compulsory admission of a patient to the facility pursuant to an application made under section 6; or
- (b) within forty-eight hours of the admission of a voluntary patient to the facility pursuant to section 5,

make or cause to be made of the patient such examination as may be considered necessary for determining whether or not the patient is mentally disordered.

(2) On the expiration of the period mentioned in subsection (1), the patient shall be released from the

psychiatric facility unless the managers are or the duly authorized medical officer is satisfied that the mental condition of the patient is such that he should be detained for treatment in the facility for a further period.

Consent to treatment.

11.—(1) A patient shall not be given treatment in a psychiatric facility without his consent unless a duly authorized medical officer certifies that the patient's mental condition is such that he is not competent to give consent.

(2) Where a patient is unable to give consent to treatment, consent shall be given by the patient's nearest relative.

Referrals.

12. A patient may be transferred on referral from one psychiatric facility to another and the referral shall be done in accordance with such provisions as may be prescribed.

Application respecting patients already in facility.

13.—(1) An application may be made by a person referred to in section 6 (2) for the admission of a patient to a psychiatric facility on the grounds specified in section 6 (1) notwithstanding that the patient is already detained in the facility as a voluntary patient; and where an application is so made the patient shall be treated as if he were detained pursuant to section 6 (1) at the time when the application was received by the managers.

(2) If, in relation to a voluntary patient who is already detained in a psychiatric facility, it appears to the medical practitioner in charge of the treatment of the patient that an application ought to be made for the compulsory detention of the patient, he may furnish to the managers a report in writing to that effect; and the patient may be detained in the facility for a further period and the medical practitioner shall, for the purpose of that detention, obtain the medical certificate required under section 6 (3)

within seven days beginning with the day on which the report is so furnished.

14.—(1) An application for the admission of a patient to a psychiatric facility made in accordance with the provisions of this Part shall be sufficient authority for the applicant, or any person authorized by the applicant, to take the patient and convey him to the facility at any time within the following period, that is to say—

Effect of application for admission.

- (a) in the case of an application other than an emergency application, the period of fourteen days beginning with the date on which the patient was last examined by a medical practitioner before giving a medical certificate for the purposes of the application;
- (b) in the case of an emergency application, the period of three days beginning with the date on which the patient was examined by the practitioner who issued the medical certificate referred to in section 8 (2) or the date of the application, whichever is the earlier.

(2) Where—

- (a) a patient is admitted to a psychiatric facility within the period mentioned in subsection (1) (a) or (b); or
- (b) an application is made under section 13 in respect of a patient who is already detained in a facility as a voluntary patient,

the application shall be sufficient authority for the managers to detain the patient in the facility in accordance with the provisions of this Act.

(3) Any application for admission of a patient under this Part which appears to be duly made and to be founded on the necessary medical certificates may be acted

upon without further proof of the signature or qualification of the person by whom the application is made or any such certificate is given, or of any matter of fact or opinion stated therein.

(4) Where a patient is admitted to a hospital pursuant to an application for admission for treatment, any previous application under this Part by virtue of which he was liable to be detained in a facility shall cease to have effect.

Powers of
constable.

15.—(1) Where a constable finds any person in a public place or wandering at large, in such manner or under such circumstances as to indicate that he is mentally disordered, the constable may without warrant take such person in charge and forthwith accompany him to a psychiatric facility for treatment or forthwith arrange for him to be conveyed with all reasonable care and despatch to that facility; and the constable shall, within thirty days of accompanying such person to the psychiatric facility or arranging for him to be conveyed to such facility, make a report thereof in writing to the Review Board.

(2) Where an offence is committed by a person who appears to a constable on reasonable grounds to be mentally disordered, the constable—

- (a) may charge that person for the offence and bring him before a Resident Magistrate at the earliest opportunity, being not more than a period of five days after the date on which the offence is committed; and
- (b) may, where it is necessary to detain the person until he is brought before the Resident Magistrate, detain him in a lock-up, remand centre or a place suitable for the detention of mentally disordered persons; and

(c) shall, where the person is charged under paragraph (a) or detained under paragraph (b), make a report in writing to a prescribed person within twenty-four hours of such charge or detention.

(3) A Resident Magistrate before whom any person is brought under subsection (2) shall forthwith call to his assistance a medical practitioner employed to a public psychiatric facility and may summon witnesses; and if, on examination of such person and having regard to the opinion of the medical practitioner, it appears that the person is mentally disordered and that he should be detained in a psychiatric facility, the Resident Magistrate may, by order, direct such person to be conveyed to and detained in a public psychiatric facility.

(4) The examination of a person under subsection (3) may, if necessary, be adjourned from time to time for a period in the aggregate not exceeding ten days during which time he shall be detained in a lock-up, remand centre or a place suitable for the detention of mentally disordered persons.

16.—(1) A mental health officer may at any reasonable time enter and inspect any premises if he has reasonable cause to believe that any person who is mentally disordered and in need of proper care is on those premises; and where as a result of the inspection he finds any such person as aforesaid, the mental health officer may, with the assistance of a constable if necessary, cause that person to be admitted and detained in a public psychiatric facility for treatment.

Power of
mental
health
officer.

(2) The admission and detention of a person under subsection (1) shall be treated as an admission and detention under section 6 and the provisions of this Act shall apply accordingly.

(3) A mental health officer shall be furnished by the Minister with a certificate of designation and on entering any premises pursuant to subsection (1) shall, if required to do so, produce the certificate to the person in charge of the premises.

(4) The owner or person in charge of the premises entered by a mental health officer pursuant to subsection (1) shall give such officer all reasonable assistance and shall furnish him with such information as he may reasonably require; and any person who obstructs, hinders or prevents the mental health officer from entering or inspecting as aforesaid, shall be guilty of an offence and shall be liable to the penalty specified in section 37.

(5) Where a mental health officer has reason to believe that a person who appears to be living on the street or other public place is mentally disordered, he may, with or without the assistance of a constable, remove that person from the street or other public place to a psychiatric facility.

Discharge
of volun-
tary patient.

17.—(1) The managers of a facility or a duly authorized medical officer may at any time discharge a voluntary patient if satisfied that—

- (a) the discharge is in the interest of the patient; and
- (b) the patient is not in need of any further care and treatment in a facility.

(2) A voluntary patient may request his discharge by giving notice in writing to the managers of the facility in which he is a patient or to a duly authorized medical officer; and where the patient is under the age of eighteen years, such notice shall be given by a parent, guardian or other person in *loco parentis*.

(3) Subject to subsection (4), a voluntary patient who has requested his discharge in accordance with sub-

section (2) shall not be kept in a psychiatric facility for more than seven days from the date of the receipt of the notice.

(4) If satisfied that a voluntary patient who has given notice requesting his discharge is mentally disordered and in need of further care and treatment in a psychiatric facility, the managers of that facility or a duly authorized medical officer may, notwithstanding subsection (3), but subject to subsection (5), keep that patient in the facility as an involuntary patient.

(5) For the purpose of deciding whether to keep a voluntary patient as an involuntary patient in a psychiatric facility, the managers of the facility or a duly authorized medical officer shall obtain, in relation to that patient, the medical certificates required under section 6 (3).

18.—(1) An authorized person may, on receipt of a written undertaking in the prescribed form by a relative, friend or legal guardian of an involuntary patient, authorize the conditional discharge of that patient if he considers it conducive to the recovery of the patient that he should be under the care and in the custody of such relative, friend or legal guardian, as the case may be.

Conditional discharge of involuntary patient.

(2) A patient conditionally discharged under subsection (1) may be placed under the supervision of—

- (a) a medical practitioner whose name shall be specified in the document of discharge;
- (b) the Medical Officer of Health for the area in which the patient will reside; or
- (c) a mental health officer.

(3) If, within twelve months of the date of the conditional discharge of an involuntary patient under subsection (1), an authorized person is satisfied that the patient has become so mentally disordered that his return to the facility is considered necessary, the authorized person may in writing order that the patient be apprehended and brought back to the facility.

(4) In this section “authorized person” means—

- (a) a manager of the psychiatric facility concerned; or
- (b) a duly authorized medical officer.

(5) An order issued under subsection (3) is authority for anyone to whom it is addressed, whether specifically or in general terms, to comply with the directions therein contained.

(6) A patient who is conditionally discharged shall, for a period of twelve months from the date of his discharge, be deemed to continue to be a patient of the psychiatric facility from which he was discharged, in the same manner and to the same extent and shall be subject to the same authority and control, as if he were not conditionally discharged.

(7) Unless an order has been made under subsection (3), a patient who has been conditionally discharged shall be regarded as absolutely discharged on the expiration of twelve months from the date of his discharge.

19. [*Deleted by Act 1 of 2006, 7th Sch.*]

20.—(1) The managers of any public psychiatric facility may, at any time during the treatment or detention of a patient, require that the patient or any relative under a legal obligation to maintain him shall pay the cost and charges for the treatment or maintenance of the patient at such rate as may be prescribed from time to time.

Cost of treatment.

(2) The cost and charges referred to in subsection (1) shall be specified in a notice which shall be—

- (a) in writing signed, in the case of a public psychiatric hospital, by the Administrator or, in the case of any public psychiatric facility, by a duly authorized officer; and
- (b) served either personally or by post on the person legally bound to maintain the mentally disordered person.

(3) Where, on appropriate enquiry it is established that the person on whom a notice is served under subsection (2) is able, by work or other means, to maintain himself and his dependants (including the mentally disordered person) then if that person fails to pay the cost and charges specified in the notice, within the period specified therein or such further period as may be allowed by the Administrator or duly authorized officer, as the case may be, the amount owed is recoverable as a civil debt in a Resident Magistrate's Court without limit of amount.

PART III. *The Public Psychiatric Hospital*

21. The Minister shall cause to be prepared a scheme for the management of a Public Psychiatric Hospital and such scheme shall—

Management scheme for the Public Psychiatric Hospital.

- (a) establish a Board of Management for the Hospital and provide for its constitution, functions and operations;

- (b) authorize the Board, with the approval of the Minister, to make rules for the efficient and proper administration of the Hospital;
- (c) prescribe the functions of the Senior Medical Officer;
- (d) make provision for the payment of the whole or part of the cost of treating and maintaining patients in the Hospital;
- (e) make provision for the reception into the Hospital of mentally disordered persons;
- (f) contain such other provisions as are necessary or desirable to facilitate the delivery of psychiatric care at the Hospital.

Senior
Medical
Officer.

22. There shall be appointed in respect of the Public Psychiatric Hospital a Senior Medical Officer who shall be responsible for the delivery of psychiatric care at that Hospital.

PART IV. *Community Mental Health Service*

Health
regions.

23. The Minister may from time to time divide the Island into such health regions as he may think fit.

Establish-
ment of
Community
Mental
Health
Service.

24. For the purposes of this Act, there is hereby established the Community Mental Health Service which shall be responsible for the provision of mental health services in each health region, so, however, that the Community Mental Health Service shall not have responsibility for the provision of mental health services in a psychiatric facility or public psychiatric facility.

Matters to
be under-
taken by
the Com-
munity
Mental
Health
Service.

25.—(1) The Community Mental Health Service shall undertake the provision of—

- (a) services at outpatient psychiatric clinics in health centres and general hospitals;

- (b) rehabilitative services for persons after their discharge from a psychiatric facility;
- (c) supervised home care and support for persons with mental disorders; and
- (d) services for the promotion of mental health.

(2) The psychiatrists, medical practitioners, mental health officers and psychiatric aides shall, where necessary, consult and liaise with members of the other branches of the health service with a view to facilitating the provision of mental health care where such care is vital to the care being provided for other health problems.

PART V. Mental Health Review Board

26.—(1) For the purposes of this Act, there is hereby established a Mental Health Review Board for each health region.

Establishment of
Mental Health
Review Board.

(2) The Minister shall appoint as members of the Board—

- (a) a psychiatrist;
- (b) an attorney-at-law of at least five years experience;
- (c) a person who is knowledgeable and experienced in the provision of social services;
- (d) a person having training and experience in matters relating to mental health;
- (e) a member of the community in which the patient resides (not being a person referred to in paragraph (a), (b), (c) or (d)),

and the Minister shall appoint as chairman any of the persons described in paragraphs (b) to (d).

(3) The Minister may designate a public officer as secretary of the Review Board and such other public

officers as he may consider necessary for the proper performance of its functions.

(4) Whenever the psychiatrist is clinically involved in a case under consideration by the Review Board the Minister may appoint a person of similar qualification to act in place of the psychiatrist.

First
Schedule.

(5) The provisions of the First Schedule shall have effect in relation to the operation of the Board and otherwise in relation thereto.

Functions of
Review
Board.

27.—(1) Subject to subsection (2), the functions of a Review Board are—

- (a) to receive and investigate complaints from patients, relatives or next friends of patients on any matter connected with their care or treatment or their discharge from, or detention in, a psychiatric facility within the health region;
- (b) to undertake a periodic review at least once in every six months of all patients who have been undergoing treatment in a psychiatric facility within the health region.

(2) Subsection (1) does not apply to a person who is admitted to a psychiatric facility pursuant to an order of the Court or a warrant under section 9.

(3) A patient who is admitted to a psychiatric facility pursuant to an application for admission for treatment may apply to the Mental Health Review Board within a period of six months beginning with the day on which he is so admitted or, in the case of a patient who is under the age of sixteen years, with the day on which he attains that age.

(4) Where a Review Board undertakes a periodic review under subsection (1) (b), the Review Board shall, within sixty days thereafter, forward a written report of its

findings to the Senior Medical Officer of the psychiatric facility and a copy thereof to the patient and, if the patient is not able to understand the report, to the nearest relative or next friend of the patient.

(5) The Review Board shall cause to be made and transmit to the Minister a yearly report dealing generally with the activities of the Review Board during the preceding year.

(6) For the purpose of performing its functions under this Act a Review Board shall have power to—

- (a) summon the attendance of persons, including any member of staff of a psychiatric facility;
- (b) take evidence under oath;
- (c) require any person to produce such books, records or documents as it thinks appropriate;
- (d) make such order as it thinks appropriate in any case, including an order for the discharge of the patient concerned.

28. An appeal shall lie against the decision of the Review Board to the Mental Health Appeal Tribunal. Appeal.

PART VI. *Protection of Property of Patients*

29.—(1) The Supreme Court, or a Resident Magistrate's Court in the case of property the value of which is within the monetary jurisdiction of that Court, may, on the application of the nearest relative or the Attorney General, exercise jurisdiction over the management of the property and affairs of a patient if the Court is satisfied by evidence (medical and otherwise) on affidavit that the patient is incapable by reason of mental disorder of managing and administering his property and affairs.

Jurisdiction of Supreme Court and Resident Magistrate's Court.

(2) The Court, on an application being made to it under subsection (1), shall have the power to do all such things as appear to it to be necessary or expedient in the interest of and for the maintenance and benefit of the patient; and where it is deemed necessary also for a relative or dependant of the patient.

(3) The Court may, in giving effect to its power under subsection (2), give directions or make orders in respect of—

- (a) the transfer, vesting, sale, lease, rental or exchange of the patient's property;
- (b) the acquisition of property in the name of or on behalf of the patient;
- (c) the settlement of property by way of gift;
- (d) the execution of a will on behalf of the patient;
- (e) the carrying on of the patient's business, trade or profession;
- (f) the sale, lease or rental of the patient's business or trade;
- (g) the dissolution of a partnership of which the patient is a partner;
- (h) the fulfilling of any of the patient's contractual obligations;
- (i) the payment of any debts incurred by the patient;
- (j) the continuance or instituting of any legal proceeding on behalf of the patient;
- (k) the exercise of any power of attorney vested in the patient;
- (l) all financial affairs of the patient.

PART VII. *General*

Designation
of place of
safety and
rehabilita-
tion centre.

30.—(1) The Minister may designate any place, premises or building to be a place of safety for the temporary accommodation of persons awaiting admission to a public psychiatric facility.

(2) The Minister may designate the whole or any part of a building, house or other premises as a rehabilitation centre for the temporary accommodation of patients.

(3) The operation of a rehabilitation centre and the admission and discharge of persons therefrom shall be in accordance with such provisions as may be prescribed.

31.—(1) There is hereby established a Mental Health Appeal Tribunal for the purpose of hearing appeals from the decisions of the Review Board. Appeal Tribunal.

(2) The Appeal Tribunal may at the hearing of an appeal—

- (a) dismiss the appeal and confirm the decision of the Review Board;
- (b) allow the appeal and direct that the matter be re-examined by the Review Board;
- (c) set aside the decision and substitute therefor such other decision as it thinks fit.

(3) Regulations made under section 39, shall govern appeals to the Appeal Tribunal.

(4) The provisions of the Second Schedule shall have effect as to the constitution and procedure of the Tribunal and otherwise in relation thereto. Second Schedule.

32. A person is not liable to any suit or action in respect of any act done under lawful direction and authority pursuant to this Act or any regulations made thereunder unless it is shown to the satisfaction of the Court that the person acted without good faith or reasonable care. Immunity from suit.

33.—(1) A person commits an offence if being in charge of or employed in a psychiatric facility, he ill-treats or wilfully neglects a patient, any person awaiting admission as a patient or a person who is on the premises of the facility for the purpose of receiving care and treatment as an outpatient. Offence.

(2) A person commits an offence if he ill-treats or wilfully neglects a person who is suffering from a mental disorder and is under his custody or under his care and protection.

Penalty for offences under section 33.

34. A person who commits an offence under section 33 shall be liable—

- (a) on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

7/2011
Sch.

Offence of sexual intercourse with mentally disordered person.

35.—(1) A person commits an offence if—

- (a) being in charge of or employed in a psychiatric facility he has sexual intercourse with a patient, a person awaiting admission as a patient or a person who is on the premises of the facility for the purpose of receiving care and treatment as an out-patient; or
- (b) he has sexual intercourse with a person who is suffering from a mental disorder and who is in his custody or under his care and protection.

(2) It shall be a defence for a person who is charged under subsection (1)(b) to prove that he did not know or had no reason to believe or to suspect that the person was suffering from a mental disorder.

(3) No action shall be taken against a person under subsection (1) (b) in respect of any act of sexual intercourse between spouses.

(4) A person found guilty of an offence under subsection (1) is liable—

- (a) on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment;
- (b) on conviction before a Circuit Court to a fine or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

7/2011
Sch.

36. Any person who—

- (a) unlawfully aids, abets or assists a patient who has not been discharged to leave a psychiatric facility; or
- (b) harbours or assists a patient who has left such a facility without being discharged therefrom,

Offence to aid and abet patient to leave facility.

commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

7/2011 Sch.

37. A person who without lawful authority interferes with or obstructs any person in the execution of his duties under this Act or regulations made hereunder commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Offence to obstruct person in execution of duties.

7/2011 Sch.

38. A person who wilfully makes any false or misleading statement in any application required to be made under this Act commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Offence to make false statement in application.

7/2011 Sch.

39.—(1) The Minister may make regulations for the better carrying out of the objects and purposes of this Act and in particular (but without prejudice to the generality of the foregoing) may make regulations prescribing provisions relating to—

Regulations.

- (a) the operation of psychiatric facilities, places of safety and rehabilitation centres;
- (b) the protection and management of the property or estate of mentally disordered persons;
- (c) appeals to the Appeal Tribunal;
- (d) anything required by this Act to be prescribed.

(2) Notwithstanding section 29 (b) of the *Interpretation Act*, regulations made under subsection (1) may provide in

7/2011 Sch.

respect of a breach of the provisions thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months or both such fine and imprisonment.

Minister may
amend
monetary
penalties.
7/2011
Sch.

40. The Minister may, by order subject to affirmative resolution, amend the monetary penalties specified in this Act.

FIRST SCHEDULE

(Section 26)

Tenure of
office.

1.—(1) The members of a Review Board shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years as the Minister may determine and shall be eligible for reappointment.

(2) The Minister may appoint one of the members of the Review Board to be chairman thereof.

Acting
appointments.

2. The Minister may appoint any person to act in the place of the chairman or any other member of a Review Board in the case of the absence or inability to act of the chairman or other member.

Resignations.

3.—(1) Any member of a Review Board other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

4. The Minister may at any time revoke the appointment of any member of a Review Board if he thinks it expedient so to do. Revocation of appointments.
5. If any vacancy occurs in the membership of a Review Board it shall be filled by the appointment of a person in the same category as the previously appointed member. Filling of vacancies.
6. The names of the members of each Review Board as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.
- 7.—(1) Each Review Board shall meet at least once in each month and at such other times as may be necessary or expedient for the transaction of its business, and such meeting shall be held at such place and time and on such days as the Board shall determine. Meetings of Review Board.
- (2) The chairman shall preside at all meetings of a Review Board at which he is present and if he is absent from any meeting the members present and constituting a quorum shall elect one of their number, not being a psychiatrist, to preside at that meeting.
- (3) The quorum of each Review Board shall be three.
- (4) The decision of a Review Board shall be by a majority of votes of the members present and voting and, in addition to an original vote, the chairman or any other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.
- (5) Minutes in proper form shall be kept of the proceedings of a Review Board.
- (6) Subject to the provisions of this Schedule, each Review Board shall have power to regulate its own proceedings.
8. There shall be paid to the chairman and members of a Review Board such remuneration whether by way of honorarium, salary or fees and such allowances as the Minister may determine. Remuneration of members.
9. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of a Review Board in respect of any act done *bona fide* in the execution or intended execution of the provisions of this Act. Protection of members.
10. The office of the chairman or member of a Review Board shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Office of chairman or member not public office.

SECOND SCHEDULE (Section 31 (4))

- Constitution of Tribunal.** 1. The Appeal Tribunal shall consist of a chairman and two other members appointed by the Minister, sitting together.
- Tenure of office.** 2. The members of the Appeal Tribunal shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years as the Minister may determine, and each member shall be eligible for reappointment.
- Meetings.** 3.—(1) The Appeal Tribunal shall meet at such times as are necessary or expedient for the proper carrying out of its functions and such meetings shall be held at such place and time and on such days as the Appeal Tribunal shall determine.
- (2) The chairman shall preside at all meetings of the Appeal Tribunal.
- (3) The decision of the Appeal Tribunal shall be by a majority of votes of the members and in addition to an original vote the chairman shall have a casting vote in any case where the voting is equal.
- (4) Minutes in proper form shall be kept of the proceedings of the Appeal Tribunal.
- (5) Subject to the provisions of this Schedule, the Appeal Tribunal shall have power to regulate its own proceedings.
- Provisions of First Schedule to apply.** 4. The provisions of the First Schedule, except paragraphs 1 and 7, shall apply to the Appeal Tribunal with such modifications as may be necessary, as if references in that Schedule to a Review Board were references to the Appeal Tribunal.