

- (f) the books and records to be kept in a centre;
 - (g) the manner in which appeals may be made to the Board;
 - (h) generally carrying into effect the provisions of this Ordinance.
- (2) Any such regulation may provide that the contravention thereof shall constitute an offence and may prescribe penalties for any offence not exceeding a fine of one thousand dollars and imprisonment for six months.

Passed the Legislative Council of Hong Kong, this 7th day of September, 1960.

A. CHAPMAN,
Deputy Clerk of Councils.

(Secretariat GR4/3231/60)

MENTAL HEALTH ORDINANCE, 1960.

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HONG KONG

No. 35 OF 1960.



I assent.

R. B. BLACK,
Governor.

8th September, 1960.

*Ordinance not
disallowed, see
G.N. 1664/60.*

An Ordinance to amend and consolidate the law relating to mental disorder and its treatment and to make provision for the reception, detention and treatment of persons of unsound mind.

[*19th January, 1962.*]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

PART I.

Preliminary.

*In operation by
Procl. N. 1/62.*
Short title
and com-
mencement.

1. This Ordinance may be cited as the Mental Health Ordinance, 1960, and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*.

Interpreta-
tion.

2. In this Ordinance, unless the context otherwise requires—
- “certified patient” means a person who is detained in a mental hospital in accordance with the provisions of section 36;
 - “Court” means the Supreme Court and any Judge of the Supreme Court;
 - “Director of Social Welfare” includes an assistant director of social welfare;
 - “guardian” in relation to a person under the age of sixteen years includes any person having charge of the person under the age of sixteen years and the Director of Social Welfare;
 - “hospital order” means an order made in accordance with the provisions of section 45 or of section 54;
 - “medical officer” means a registered medical practitioner in the full time employment of Government;
 - “medical superintendent” means the medical superintendent or an assistant medical superintendent of a mental hospital appointed in accordance with the provision of section 4;
 - “mental hospital” means any place declared to be a mental hospital in accordance with the provisions of section 3;
 - “mentally disordered person” means a person who is so far disabled in mind or who is so mentally ill or subnormal due to arrested or incomplete development of mind as to render it either necessary or

expedient that he, either for his own sake or in the public interest, should be placed and kept under control;

“mental hospital visitor” means a person appointed to be a mental hospital visitor in accordance with the provisions of section 5 while he is so appointed;

“patient” means a person received into a mental hospital in accordance with the provisions of this Ordinance;

“patient under observation” means a person who is detained in a mental hospital in accordance with the provisions of section 31 or section 32;

“prescribed form” means a form prescribed by regulations made under section 70;

“registered medical practitioner” means a person who is registered or who is deemed to be registered in accordance with the provisions of the Medical Registration Ordinance, 1957;

(25 of 1957).

“Registrar” means the Registrar of the Supreme Court;

“temporary patient” means a person who has been admitted into and is in a mental hospital in accordance with the provisions of section 33;

“transfer order” means an order issued in accordance with the provisions of section 52 or section 53;

“tribunal” means the Hospital Order Appeal Tribunal established in accordance with the provisions of section 49;

“voluntary patient” means a person who has been admitted into and is in a mental hospital in accordance with the provisions of section 30.

3. (1) The Governor may by order declare any place which is the property of the Government to be a mental hospital for the detention, custody, treatment and care of mentally disordered persons.

Declaration of mental hospitals.

(2) The Governor on the application of the owner thereof, may, by order, declare any place which is not the property of the Government to be a mental hospital for the detention, custody, treatment and care of mentally disordered persons.

(3) Notification of every such order shall be published in the *Gazette*.

4. (1) The Governor may appoint any medical officer to be the medical superintendent or an assistant medical superintendent of a mental hospital.

Appointment of medical superintendents and assistant medical superintendents.

(2) On the application of any registered medical practitioner not in the employment of Government, the Governor may appoint the registered medical practitioner to be the medical superintendent or an assistant medical superintendent of a mental hospital.

(3) Notification of every such appointment shall be published in the *Gazette*.

Appointment
and duties
of visitors.

5. (1) The Governor may appoint mental hospital visitors for every mental hospital.

(2) Two or more mental hospital visitors appointed in accordance with the provisions of subsection (1) shall once at least in every month, together inspect every part of the mental hospital of which they are mental hospital visitors and shall see and examine so far as circumstances permit, every patient therein and the application and recommendation for the admission of every temporary patient admitted since the last visitation of the mental hospital visitors and shall see, if they so require, the order and certificate for the admission of every other patient admitted during that period and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the mental hospital and the patients therein.

Delegation.

6. A medical superintendent may delegate any of his powers and functions under this Ordinance to any registered medical practitioner and may use and employ to carry out his functions under this Ordinance any employee in a mental hospital.

PART II.

Proceedings in Inquiries into Mental Disorders.

Court may
order inquiry.

7. (1) The Court may, on such application as is hereinafter mentioned, make an order directing an inquiry whether any person subject to the jurisdiction of the Court who is alleged to be a mentally disordered person is of unsound mind and incapable of managing himself and his affairs.

(2) Such order may also contain directions for inquiries concerning the nature of the property belonging to the person alleged to be mentally disordered, the persons who are his relative or next-of-kin, the time during which he has been of unsound mind or such other questions as to the Court shall seem proper.

(3) Application for such inquiry may be made by any person related by blood or marriage to the person alleged to be a mentally disordered person, or by any public officer nominated by the Colonial Secretary.

Provision as
to notice of
inquiry.

8. (1) Reasonable notice of the time and place appointed for the inquiry shall be given to the person alleged to be a mentally disordered person:

Provided that if it shall appear that the person alleged to be a mentally disordered person is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper.

(2) The Court may also, if it thinks fit, direct a copy of such notice to be served upon any person related by blood or marriage to the person alleged to be a mentally disordered person.

9. At any time after the application for the inquiry the Court may require the person alleged to be a mentally disordered person to attend at such convenient time and place within the Colony as the Court may appoint, for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of his mental capacity and condition, and the Court may also make an order authorizing any person or persons named therein to have access to the person alleged to be a mentally disordered person for the purpose of a personal examination.

Power to examine person alleged to be mentally disordered.

10. (1) At the inquiry, after receiving such reports and hearing such evidence and arguments as it may think fit, the Court shall decide whether the person who is alleged to be a mentally disordered person is or is not of unsound mind and incapable of managing himself and his affairs and shall also decide any other questions as to which an inquiry has been directed.

Questions to be decided by Court.

(2) The Court may make such order as may appear just respecting the costs of the inquiry and may include therein such remuneration to physicians and surgeons as the Court shall deem reasonable :

Provided that no order for the payment of costs shall be made against the Colonial Secretary or against any public officer nominated under the provisions of section 7.

11. (1) If the Court finds that the person who is alleged to be a mentally disordered person is of unsound mind and incapable of managing himself and his affairs, the Court may, if it shall think fit, appoint a committee of the person and estate of such person and may make such order, if any, as to the remuneration of the committee or committees out of such person's estate, and as to the giving of security by the committee or committees, as to the Court may seem fit.

Appointment of committees.

(2) If the Court finds that the person who is alleged to be a mentally disordered person is incapable of managing his affairs, but is not dangerous to himself or to others, the Court may appoint a committee of his estate, without appointing a committee of his person.

12. The Court may, on the appointment of a committee of the person or estate of a mentally disordered person, direct by the order of appointment or by any subsequent order that the person to whom the charge of the estate is committed shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether movable or immovable, of which the estate may consist :

Powers of management of estate of mentally disordered person.

Provided that such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof or to the letting of any immovable property, unless for a term not exceeding three years.

Powers of Registrar.

13. (1) The Registrar may, without an order of reference, receive any proposal and conduct any inquiry respecting the management of the estate of a mentally disordered person if such proposal relates to any matter which the committee of the estate has not been empowered by an order under section 12 to dispose of.

(2) The Registrar may likewise, without reference, receive and inquire into any proposal relating to the sale or charge by way of mortgage of the estate or of any part thereof or to the letting of any immovable property for a term exceeding three years.

(3) The Registrar shall report to the Court on the proposal, and the Court shall, subject to the provisions of this Ordinance, make such order upon the report and respecting the costs as shall under the circumstances seem just.

What relatives may attend proceedings.

14. The Court shall once in the matter of each inquiry, and may afterwards from time to time, determine whether any one or more, and, if any, how many and which of the relatives or next-of-kin shall attend before the Registrar at the cost of the estate in any proceeding connected with the management thereof, and, if any such relative or next-of-kin is an infant, may from time to time appoint a fit person to be his guardian for the purpose of such proceeding.

Orders may be made on petition.

15. The Court may, on application made to it by petition concerning any matter whatsoever connected with the inquiry, make such order, subject to the provisions of this Ordinance, respecting the application and the costs thereof and of the consequent proceedings as shall under the circumstances seem just.

Dealing with mentally disordered person's property for certain purposes.

16. The Court may, if it appears to be just or for the benefit of the mentally disordered person, order that any property, movable or immovable, and whether in possession, reversion, remainder, contingency or expectancy, be sold, charged by way of mortgage or otherwise disposed of as may seem most expedient for the purpose of raising money to be applied for any of the following purposes—

- (a) the payment of his debts, including any debt incurred for his maintenance or otherwise for his benefit;
- (b) the discharge of any incumbrance on his estate;
- (c) the payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to his country of origin or elsewhere, when he shall be so removed, and all expenses incidental thereto;

(d) the payment of the costs of any proceeding under this Ordinance and of any costs incurred by order or under the authority of the Court.

17. (1) The committee of the estate of the mentally disordered person shall, in his name and on his behalf, execute all such conveyances and instruments of transfer, relative to any sale, mortgage or other disposition of his estate as the Court shall order. Committee to execute instruments.

(2) In like manner such committee shall, under the order of the Court, exercise all powers whatsoever vested in a mentally disordered person whether the same are vested in him for his own benefit or in the character of trustee or guardian.

18. Where a person having contracted to sell or otherwise dispose of his estate or any part thereof afterwards becomes mentally disordered, the Court may, if the contract is such as the Court thinks ought to be performed, direct the committee of the estate to execute such conveyances and to do such acts in fulfilment of the contract as it shall think proper. Performance of contract.

19. If a member of a partnership firm be found to be mentally disordered, the Court may, on the application of the other partners or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the committee of the estate may, in the name and on behalf of the mentally disordered person, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper. Partner found to be mentally disordered.

20. Where a mentally disordered person has been engaged in business the Court may, if it appears to be for the benefit of his estate that the business premises should be disposed of, order the committee of the estate to sell and dispose of the same, and the moneys arising from such sale shall be applied in such manner as the Court shall direct. Disposal of business premises.

21. Where a mentally disordered person is entitled to a lease or under-lease, and it appears to be for the benefit of his estate that it should be disposed of, the committee of the estate may by order of the Court surrender, assign or otherwise dispose of the same to such person for such valuable or nominal consideration and upon such terms as the Court shall think fit. Committee may dispose of lease.

22. Where any stock or Government security or any share or debenture in a public company, transferable within the Colony or the dividends of which are payable there, are standing in the name of, or are vested in, a mentally disordered person beneficially entitled thereto or a committee of the estate of a mentally disordered person or a trustee Transfer of stock of mentally disordered person.

for him, and the committee or trustee dies intestate or himself becomes a mentally disordered person or is out of the jurisdiction of the Court, or it is uncertain whether the committee or trustee be living or dead or he neglects or refuses to transfer the stock, securities or shares or to receive and pay the dividends to a new committee or trustee, or as he directs, within fourteen days after being required by him to do so, the Court may order some fit person to make such transfer or to transfer the same and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

Transfer of property of mentally disordered person residing out of the Colony.

23. Where any property situate in the Colony is standing in the name of or vested in any person residing out of the Colony, the Court, upon being satisfied that such person has been declared of unsound mind and that his personal estate has been vested in a committee, curator or manager according to the laws of the place where he is residing, may order some fit person to make such transfer of the property, or of any part thereof, to such committee, curator or manager or otherwise, and also to receive and pay over any proceeds or profits thereof as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Power to order maintenance without appointing committee.

24. If it appears to the Court, having regard to the situation and condition in life of the mentally disordered person and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, the Court may, instead of appointing a committee of the estate, order that the property, if money, or, if of any other description, the produce thereof when realized, be paid to such person as the Court may think fit to be applied for the purpose aforesaid, and all payments so made shall be a good discharge to the person making the same.

Temporary provision for maintenance of mentally disordered person.

25. If it appears to the Court that the unsoundness of mind of a mentally disordered person is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or the maintenance of his family, the Court may in the manner provided by section 24 direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Order for detention of mentally disordered person.

26. When upon any inquiry under this Part any person has been found by the Court to be of unsound mind and incapable of managing himself and his affairs, the Court shall either make an order for such person to be received into a mental hospital and send him in suitable custody, together with the order for his reception, to the mental hospital named in such order, or, if any friend or relative of such person shall undertake in writing to the satisfaction of the Court that

such person shall be properly taken care of and shall be prevented from doing injury to himself or others, make him over to the care of such friend or relative.

27. (1) When any person has been found of unsound mind and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for inquiry whether such person is still of unsound mind and incapable of managing himself and his affairs. Annulling proceedings.

(2) The inquiry shall be conducted in the same manner subject to the same rules as are hereinbefore described for an inquiry into the unsoundness of mind of a person alleged to be mentally disordered.

(3) If it be found on such inquiry that the unsoundness of mind has ceased, the Court shall order all proceedings in such matter to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

28. When after inquiry into the unsoundness of mind of any person detained in a mental hospital, the Court has made an order under section 27 that the proceedings shall cease or be set aside, the medical superintendent of the mental hospital shall forthwith, on the production of a certified copy of such order, discharge from such mental hospital the person whose unsoundness of mind has ceased. Discharge of person found on inquiry not to be of unsound mind.

PART III.

Reception, Detention and Treatment of Mentally Disordered Persons.

29. Except as provided in any other enactment, no person shall be received into a mental hospital otherwise than on transfer from another mental hospital, on return from leave of absence or on recapture except— Reception of patients.

- (a) upon the order of Court made in accordance with the provisions of section 26; or
- (b) as a voluntary patient in accordance with the provisions of section 30; or
- (c) as a patient under observation in accordance with the provisions of section 31; or
- (d) as a temporary patient in accordance with the provisions of section 33; or
- (e) by virtue of a hospital order made in accordance with the provisions of section 45 or of section 54; or
- (f) by virtue of a transfer order made in accordance with the provisions of section 52 or section 54; or

- (g) upon the warrant of the Governor in accordance with the provisions of section 55.

Voluntary patients.

30. (1) If a person appears to require treatment in a mental hospital and if he, or in the case of a person under the age of sixteen years, his parent or guardian—

- (a) is desirous that such person should receive such treatment; and
 (b) completes an application in writing; and
 (c) lodges the application with a medical superintendent, the medical superintendent may admit such person as a voluntary patient.

(2) A voluntary patient—

- (a) shall be entitled to leave the mental hospital after the expiration of seven days from his, or if he is under the age of sixteen years, his parent or guardian, giving notice in writing; or, in the discretion of the medical superintendent, verbal notice, to the medical superintendent of the intention of the voluntary patient to leave the mental hospital:

Provided that a medical superintendent may in his absolute discretion discharge a voluntary patient at any time within such period of seven days; and

- (b) shall leave the mental hospital within seventy two hours after he, or if he is under the age of sixteen years his parent or guardian, has received from the medical superintendent notice in writing, signed by the medical superintendent, stating that the medical superintendent is satisfied that it is not necessary that the voluntary patient should remain in the mental hospital and that the voluntary patient is required to leave the mental hospital.

(3) A person who became a voluntary patient when he was under the age of sixteen years shall not remain in a mental hospital as a voluntary patient for more than twenty eight days after he has attained the age of sixteen years unless during such period of twenty eight days he shall have completed and lodged with the medical superintendent such application as is referred to in subsection (1).

(4) A medical superintendent may detain in a mental hospital, for observation and treatment, a person who has been admitted as a voluntary patient until the expiration of seven days from the time when such notice as is referred to in paragraph (a) of subsection (2) has been given or, in the case of a person who was admitted as a voluntary patient when he was less than sixteen years of age, until the expiration of twenty eight days after the voluntary patient has attained the age of sixteen years.

31. (1) Upon the application in the prescribed form of any person (in this section referred to as "the applicant") who has reason to believe that some other person is a mentally disordered person, any magistrate or justice of the peace may make an order, in the prescribed form, authorizing the removal to a mental hospital, for the purpose of detention and observation as a patient under observation during the period not exceeding seven days from and including the date of the order, of the person alleged to be a mentally disordered person.

Detention of a patient under observation.

(2) Every such order shall have the effect of authorizing the applicant and every public officer with such assistance in each case as may be necessary, to use such reasonable force as may be necessary in order to remove to a mental hospital the person alleged to be a mentally disordered person and if for any reason it is not practicable forthwith to remove such person to a mental hospital to detain him in a place of safety for a period not exceeding forty eight hours.

(3) No magistrate or justice of the peace shall make any such order unless he has satisfied himself that—

- (a) the applicant is a relative or the guardian of the person in question; or
- (b) the applicant has informed a relative or the guardian of the person of his intention to apply for such order; or
- (c) no relative or guardian of the person in question can be found in the Colony; or
- (d) it is impracticable to delay the making of the order until such relative or guardian can be found.

(4) A medical superintendent may detain in a mental hospital for observation, investigation and treatment any person who is the subject of an order under this section or under section 32.

32. (1) If a patient under observation in a mental hospital has been examined by two registered medical practitioners, either separately or together, and the two registered medical practitioners are of the opinion that it is necessary that the patient under observation should be detained in a mental hospital for a further period for the purpose of observation, investigation and treatment, they may complete a certificate in the prescribed form and forward it to a magistrate.

Extension of period of detention of a patient under observation

(2) If a magistrate who has received a certificate in accordance with the provisions of subsection (1) is of the opinion that it is necessary for the person named in the certificate to be detained in a mental hospital for a further period of observation, investigation and treatment he shall countersign the certificate and shall forward it to the medical superintendent of the mental hospital in which the person is detained.

(3) Not more than two extensions of not more than seven days each shall be made in accordance with the provisions of this section to any order made in accordance with the provisions of section 31.

(4) No person shall be detained in a mental hospital after the expiration of the period of any order made in accordance with the provisions of section 31 and of any extension thereto made in accordance with the provisions of this section unless he has become a temporary patient or a voluntary patient.

Admission of
a temporary
patient.

33. (1) Subject to the provisions of this section, a person who is suffering from mental disorder and is unfit on account of his mental state to be admitted as a voluntary patient, may on application in writing in the prescribed form, in accordance with the provisions of this section, be received into and detained in a mental hospital as a temporary patient.

(2) An application under this section may be lodged with a medical superintendent by either the spouse or a relative of the person to whom it relates or, at the request or in the absence or minority or other incapacity of the spouse or a relative, by the Director of Social Welfare:

Provided that if an application is made by the Director of Social Welfare, such application shall be accompanied by a statement in writing, signed by the Director of Social Welfare, setting out the reason why the application is made by him and the circumstances in which he makes it.

(3) The application shall be accompanied by a recommendation in the prescribed form signed by a registered medical practitioner who has examined the person to whom the application relates not more than twenty eight days before the date of the application and who, if practicable, should be the registered medical practitioner usually attending the person to whom the application relates.

(4) Not more than five clear days before a registered medical practitioner completes a recommendation in accordance with the provisions of subsection (3) he shall have examined the person to whom the recommendation relates and he shall specify in the recommendation the date on which he examined the person and the grounds on which he bases his recommendation.

(5) An application duly completed in accordance with the provisions of this section and lodged with a medical superintendent shall be sufficient authority—

(a) for the applicant or any person authorized by him to take the person to whom the application relates and to convey him to a mental hospital;

(b) for the medical superintendent with whom the application is lodged and the medical superintendent of any mental hospital to which the person may be transferred to detain the person and to take charge of and to provide treatment for him and to transfer him to any other mental hospital and if necessary to retake him.

34. (1) Subject to the provisions of this section, a person shall not receive treatment as a temporary patient in a mental hospital for more than twelve months :

Detention and discharge of a temporary patient.

Provided that where before the expiration of the period of twelve months the medical superintendent is of the opinion that the temporary patient will not recover within that period but that the early recovery of the patient appears reasonably probable, on the application of one of the persons mentioned in subsection (2) of section 33, the medical superintendent may extend the period of twelve months by further periods of not more than six months each so that the total period of treatment of a person as a temporary patient shall not in any case exceed two years from the date of his first admission as a temporary patient.

(2) A medical superintendent may discharge a temporary patient at any time, after giving not less than seventy two hours notice in writing to one of the persons mentioned in subsection (2) of section 33 if he is of the opinion that the temporary patient should be discharged.

35. (1) Within two months of the reception of a person in a mental hospital as a temporary patient in accordance with the provisions of section 33, the temporary patient shall be visited by not less than two mental hospital visitors appointed to the mental hospital.

Visitors to a temporary patient.

(2) If a mental hospital visitor is of the opinion that it is proper that the temporary patient should continue to be detained as such, he shall sign and leave with the medical superintendent a statement to that effect in the prescribed form but if a mental hospital visitor is of the opinion that it is not proper that the temporary patient should continue to be detained, he, within forty eight hours of his departure from the mental hospital, shall send to the Director of Medical and Health Services a report stating his opinion and the grounds on which it is based together with such other observations as he thinks fit.

36. (1) If a patient under observation or a voluntary patient or a temporary patient in a mental hospital has been examined by two registered medical practitioners, either separately or together and the two registered medical practitioners are of the opinion that the person is a mentally disordered person they may complete a certificate in the prescribed form and forward it to a magistrate and in the case of a temporary patient shall give notice of the signing of the certificate to

Detention of certified patients.

the person who completed the application in accordance with section 30 or to the Director of Social Welfare.

(2) If a magistrate who has received a certificate in accordance with the provisions of subsection (1) is of the opinion that the person named in the certificate is a mentally disordered person, he shall countersign the certificate and shall forward it to the medical superintendent of the mental hospital in which the person is detained:

Provided that a magistrate shall not countersign a certificate—

(a) in respect of a voluntary patient unless he is satisfied that the voluntary patient, or some person on his behalf in the case of a voluntary patient of less than sixteen years of age, has given notice of the intention of the voluntary patient to leave the mental hospital in accordance with the provisions of paragraph (a) of subsection (2) of section 30 and that it would be likely to be dangerous to the voluntary patient or to other persons if the voluntary patient were discharged from the mental hospital; or

(b) in respect of a temporary patient unless the temporary patient has been detained in the mental hospital for a period of not less than eighteen months.

(3) A medical superintendent may detain in a mental hospital for observation, investigation and treatment any person who is the subject of an order under this section and may transfer the patient to any other mental hospital.

Maximum numbers.

37. (1) The Governor from time to time by order published in the *Gazette* may prescribe the maximum number of persons who may at any given time be detained in a mental hospital in accordance with the provisions of section 36.

(2) When an order under subsection (1) is in force and such maximum has been reached, the following further provisions shall apply—

(a) the two medical practitioners who have signed the certificate referred to in subsection (1) of section 36 shall further endorse thereon in the prescribed form their opinion as to whether or not the person mentioned in the certificate is so far deranged in mind as to render it essential that he should be detained in a mental hospital notwithstanding that such maximum has been reached;

(b) within seventy two hours of the receipt of the certificate so endorsed the magistrate shall countersign such certificate if he is satisfied upon the opinion of the medical practitioners as endorsed on the certificate or upon such other evidence as he may consider necessary that it is essential that such person

should be detained and he shall forthwith return the countersigned certificate to the medical superintendent of the mental hospital in which such person is detained;

(c) if the magistrate does not countersign the certificate in accordance with the provisions of paragraph (b) within the prescribed time, he shall forthwith cause notice of such fact to be sent to the medical superintendent and the person named in the certificate shall be discharged within seven days of the receipt of such notice.

(3) Notwithstanding the provisions of sections 31 and 32, the detention of a person in pursuance of the provisions of subsection (2) shall be deemed to be lawful detention.

38. When it appears to a medical superintendent that it would be for the benefit of any certified patient or temporary patient receiving treatment or special care or that it is necessary for the purpose of obtaining special treatment for any patient, that he should be temporarily transferred to and maintained in another hospital, institution or place, the medical superintendent, if the person in charge of the other hospital, institution or place is willing to receive the patient, may arrange for such transfer.

Temporary transfer of patients.

39. (1) A medical superintendent may from time to time permit a certified patient, a temporary patient or a patient under observation to be absent from the mental hospital on trial for such periods as the medical superintendent may think proper.

Absence on trial.

(2) Any absence on trial under this section shall be subject to such conditions as the medical superintendent may prescribe.

(3) Any patient who has been permitted to be absent from a mental hospital in accordance with the provisions of this section and who does not return within the period of absence which has been prescribed may be retaken as if he had escaped from the mental hospital at any time within twenty eight days of the expiry of such period.

(4) If before the expiry of any period of absence which has been prescribed the medical superintendent certifies in the prescribed form that it is not necessary that the patient be detained in a mental hospital or if the patient does not return to the mental hospital within twenty eight days of the expiry of the period of absence he shall be deemed to have been lawfully discharged in accordance with the provisions of this Ordinance.

40. Subject to the provision of any other enactment, two mental hospital visitors may by writing under their hands order the discharge of any patient other than a patient received into the mental hospital in accordance with the provisions of section 45, 52 or 54.

Order of discharge by visitors.

Discharge of patient on recovery.

41. (1) A medical superintendent, as soon as is practicable after he becomes satisfied that a patient has sufficiently recovered to enable him to be discharged, shall inform the nearest relative of the patient, if known, the person who applied to have the patient admitted to the hospital, if practicable or the Director of Social Welfare that the patient has recovered and that if the patient is not removed from the mental hospital within three days, he may be discharged.

(2) If the patient is not removed within such period of three days, he may at any time thereafter be discharged.

(3) Nothing in this section shall prevent a medical superintendent from discharging a patient to the care and custody of any other person, whether the patient has recovered or not, if the medical superintendent considers it necessary so to do.

Discharge of patient before recovery.

42. (1) Where on behalf of a patient including a voluntary patient a relative or friend of the patient makes application in writing in the prescribed form to the medical superintendent—

- (a) stating the relationship or connexion of the applicant with the patient;
- (b) requesting that the patient may be delivered over to the applicant; and
- (c) undertaking that the patient will receive proper care and will be prevented from doing injury to himself or to others and, in the case of an application by a person other than the person on whose application the patient was admitted to a mental hospital, satisfies the medical superintendent that before he made the application he served on such person notice of his intention so to do,

the medical superintendent shall within forty-eight hours of the receipt of the application either—

- (i) discharge the patient to the applicant notwithstanding that the patient is still a mentally disordered person; or
- (ii) give to the applicant a certificate in the prescribed form stating that he refuses to discharge the patient on the ground that—
 - (a) he is satisfied that the patient is dangerous or otherwise unfit to be at large; or
 - (b) he is not satisfied that the patient will receive proper care.

(2) If an applicant is aggrieved by the refusal of a medical superintendent to discharge a patient in accordance with this section he may appeal to a magistrate, upon notice to the medical superintendent, against such refusal and on any such appeal, the magistrate may order that the patient shall be discharged under such terms and conditions as the magistrate shall consider necessary.

43. Every person received into a mental hospital under any such order as is required by this Ordinance accompanied, unless the order be under section 26, by the requisite medical certificate may be detained therein until he be removed or discharged in accordance with the provisions of this Ordinance, and in case of escape may, by virtue of such order, be retaken within twenty-eight days of such escape by the medical superintendent, or any officer or servant of such hospital or any other person authorized by the medical superintendent or any police officer, and conveyed to and received and detained in such hospital.

Detention and recapture.

44. (1) Where an alien or any person not domiciled in the Colony is detained as a mentally disordered person and it appears expedient that he should be removed to the country of which he is a national, the Colonial Secretary if satisfied that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the mentally disordered person to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a national, and every such warrant shall be obeyed by the person or authority having the charge of the person named therein.

Removal of patient from the Colony.

(2) A warrant under this section shall be sufficient authority for the master of any vessel or captain of any aircraft or the guard on any train to receive and detain the patient on board such vessel, aircraft or train for the purpose of conveying him to his destination.

(3) Any order of removal made under this section shall be addressed to the medical superintendent of the mental hospital in which the patient is at the time detained and shall direct him to deliver up the patient to the person mentioned in such order at such place and in such manner as may be specified in the said order for the purpose of such removal as aforesaid; and the patient shall be delivered up accordingly.

(4) Any patient removed from the Colony in accordance with the provisions of this section shall not return to the Colony except by permission of the Colonial Secretary.

PART IV.

Admission of Patients concerned in Criminal Proceedings and Transfer of Patients under Sentence.

45. (1) Where

(a) A person is—

(i) convicted by the Supreme Court or a District Court of an offence other than an offence the sentence for which is fixed by law;

Powers of Court or magistrate to make a hospital order.

- (ii) convicted by a magistrate of an offence punishable on summary conviction by imprisonment; or
 - (iii) charged before a magistrate with an act or omission as an offence punishable on summary conviction by imprisonment and the magistrate is satisfied that such person did the act or made the omission; and
- (b) the court or magistrate is satisfied on the written or oral evidence of two registered medical practitioners received in accordance with the provisions of section 46 that—
- (i) such person is a mentally disordered person; and
 - (ii) the nature or degree of the mental disorder from which the person is suffering warrants his detention in a mental hospital for treatment; and
- (c) the court or magistrate is of the opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of such person, and to the other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under this section,

the court or magistrate may by a hospital order authorize the admission of the person to and his detention in such mental hospital as is specified in the order, and may specify in the order the period during which such person should be so detained which shall not be greater than the sentence which the court or magistrate could have imposed in respect of the offence with which such person was charged.

(2) A hospital order shall not be made under this section unless the court or magistrate is satisfied that arrangements have been made for the admission of the person to that mental hospital within twenty-eight days after the date of the hospital order, in the event of the hospital order being made by the court or magistrate.

(3) Where a hospital order has been made, the court or magistrate shall not impose a sentence of imprisonment or a fine or make a probation order in respect of the offence but may make any other order which the court or magistrate has power to make apart from this section and for the purpose of this subsection "sentence of imprisonment" includes any sentence or order for detention in a remand home, a reformatory school, a house of detention or a training centre.

Requirement
as to medical
evidence.

46. (1) Of the registered medical practitioners whose evidence is received in accordance with the provision of paragraph (b) of subsection (1) of section 45 or of subsection (3) of section 54 at least one shall be a medical officer.

(2) For the purpose of paragraph (b) of subsection (1) of section 45 or of subsection (3) of section 54 a report in writing purporting to be signed by a registered medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the registered medical practitioner but the court or magistrate may require that the registered medical practitioner, by whom the report was signed, be called to give oral evidence.

(3) Where, in pursuance of the directions of a court or magistrate, a report of a registered medical practitioner is tendered in evidence in accordance with the provisions of paragraph (b) of subsection (1) of section 45 ~~or of subsection (3) of section 54~~ otherwise than by or on behalf of the accused—

Ord 40/62.

- (a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;
- (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, in the case of a child or young person, to his parent or guardian if present in court; and
- (c) in any case, the accused, or in the case of a child or young person, his parent or guardian may require that the registered medical practitioner who signed the report be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused.

47. (1) A hospital order shall be sufficient authority for—

Effect of hospital order.

- (a) the Commissioner of Prisons or any other person directed to do so by the court or magistrate to convey the person named in the order to the mental hospital specified in the order within a period of twenty-eight days from the date of the order; and
- (b) the medical superintendent to admit him to the mental hospital and to detain him therein in accordance with the provisions of this Ordinance.

(2) A person who is admitted to a mental hospital in pursuance of a hospital order shall be treated, for the purposes of Part III of this Ordinance, as if he had been admitted to the mental hospital in accordance with the provisions of section 36 except that within such period as may be specified in the hospital order during which the person shall be detained in the mental hospital or, if no such period is specified in the hospital order, while the hospital order is in force—

- (a) the power to order the discharge of the patient under section 40 or section 42 shall not be exercisable; and
- (b) the power to grant permission for absence on trial under section 39 or to discharge under section 41 shall be exercisable only with the prior consent of the Governor.

(3) Where a patient is admitted to a mental hospital in pursuance of a hospital order any previous order by which he was liable to be detained in a mental hospital shall cease to have effect.

Appeal
against
hospital
order.

48. Any person who is aggrieved by a hospital order made in respect of him or in respect of a child or young person of whom he is parent or guardian may appeal against the hospital order in the same manner as any other judgment or order of the court or magistrate and in any such appeal, the provisions of any other enactment relating to appeals against orders or judgments of the court or magistrate shall apply.

Hospital
Order
Appeal
Tribunal.

49. (1) For the purpose of considering petitions to the Governor in Council in accordance with the provisions of section 50, there shall be a tribunal to be known as the Hospital Order Appeal Tribunal which shall consist of a chairman and not more than five other members appointed by the Governor.

(2) Members of the tribunal shall hold office for three years from the dates of their respective appointment and may be reappointed or removed by the Governor at his pleasure.

(3) There shall be a secretary to the tribunal who shall be appointed by the Governor.

(4) The tribunal may make standing orders for its procedure in the transaction of its business and maintenance of good order at its meetings:

Provided that a copy of each such standing order shall be furnished to the Colonial Secretary and shall be subject to disallowance or amendment at any time by the Governor.

(5) The quorum necessary for the transaction of the business of the tribunal may be fixed by standing orders and, unless so fixed, three members shall form a quorum.

Appeal
against con-
tinuance of
hospital
order.

50. (1) Any person who is aggrieved by the continuance of a hospital order made against any person may appeal by petition to the Governor in Council against such continuance.

(2) Any petition lodged in accordance with the provisions of subsection (1) shall be forwarded to the tribunal for consideration before being submitted to the Governor in Council.

(3) The tribunal shall consider any such petition and, after consideration, shall forward the petition with the finding of the tribunal to the Governor in Council.

(4) For the purpose of considering any petition, the tribunal may receive and hear evidence on oath.

(5) When the Governor in Council receives a petition together with the finding thereon of the tribunal, the Governor in Council may reject the appeal or may allow the appeal upon such conditions as he shall consider necessary and may terminate the hospital order.

51. (1) If a court or magistrate is of the opinion that any person who is charged before the court or magistrate with an offence, including a person in respect of whom an information or charge for an indictable offence is being heard or has been heard by the magistrate in accordance with the provisions of Part III of the Magistrates Ordinance, may be or is alleged to be a mentally disordered person, the court or magistrate may remand such person to a mental hospital for observation, investigation and treatment for any period not exceeding fourteen days and on any such order shall adjourn the proceedings against such person for such period and may extend such period of fourteen days by further periods of seven days each so that the total period of remand does not in any case exceed forty-two days. Remand. (Cap. 227).

(2) If the Commissioner of Prisons or the Director of Social Welfare has reason to believe that any person who is in his custody by reason of an order made by a magistrate in accordance with the provisions of subsection (3) of section 84 of the Magistrates Ordinance, is a mentally disordered person, he may make application to a magistrate to have the person remanded to a mental hospital and on any such application the magistrate may remand such person to a mental hospital for observation, investigation and treatment for any period not exceeding fourteen days and for further periods of not more than seven days each so that the total period of such remand shall not exceed forty-two days and on such order, the person shall stand committed for trial at the Criminal Sessions of the Supreme Court for the next month after the expiry of such period or extension thereof.

(3) Any order made in accordance with the provisions of subsection (1) or subsection (2) may be made in the absence of the person if the court or magistrate is satisfied on such evidence as shall be placed before him that no useful purpose might be served by the personal appearance before the court or magistrate of such person.

52. (1) If the Governor is satisfied from the report of a medical officer that a person who is serving a sentence of imprisonment is a mentally disordered person and that the nature or degree of the mental disorder from which he is suffering warrants his detention in a mental hospital for treatment, the Governor may, by transfer order, direct that the person be removed to and detained in such mental hospital as is specified in the order. Removal to a mental hospital of a person serving a sentence of imprisonment.

(2) A transfer order shall cease to have effect at the expiration of a period of fourteen days from the date on which it was made unless within that period the person with respect to whom it was made has been received in the mental hospital specified in the transfer order.

(3) A person who is admitted to a mental hospital in pursuance of a transfer order shall be treated for the purposes of Part III of this Ordinance as if he had been admitted to the mental hospital in accord-

ance with the provisions of section 36 except that, until the sentence of imprisonment which the patient was serving when he was so admitted has expired—

- (a) the power to order the discharge of the patient under section 40 or 42 shall not be exercisable; and
- (b) the power to grant permission for absence on trial under section 39 or to discharge under section 41 shall be exercisable only with the prior consent of the Governor.

(4) If the Governor is satisfied from the report from a medical superintendent that a person, who was transferred to a mental hospital by a transfer order made under subsection (1) and whose sentence of imprisonment has not expired, no longer requires treatment for mental disorder the Governor may by order direct that the person be returned to the custody of the Commissioner of Prisons to serve the remainder of his sentence of imprisonment.

(5) In this section “sentence of imprisonment” includes any sentence or order for detention in a remand home, a reformatory school, a house of detention or a training centre.

Removal to
a mental
hospital of
other
prisoners.

53. (1) If the Governor is satisfied from the report of a medical officer that a person to whom this section applies is a mentally disordered person and that the nature or degree of the mental disorder from which he is suffering warrants his detention of the person in a mental hospital for medical treatment, the Governor may by transfer order direct that the person be removed to and detained in a mental hospital.

(2) This section shall apply to any person who is—

- (a) committed in custody for trial in accordance with the provisions of subsection (2) of section 84 of the Magistrates Ordinance;
- (b) remanded in custody in accordance with the provisions of section 87C of the Magistrates Ordinance, the magistrate having made an order of transfer in respect of such person in accordance with the provisions of section 87A of that Ordinance;
- (c) remanded in custody by a court or magistrate;
- (d) remanded in custody by the Supreme Court or by a District Court to await a judgment or sentence which has been respited;
- (e) a civil prisoner, that is to say, a person committed by a court to prison for a limited term, including a person committed to prison in pursuance of a writ of attachment, not being a person falling to be dealt with under section 51; or
- (f) an alien detained in a prison or other place in accordance with the provisions of section 13 of the Immigration (Control and Offences) Ordinance, 1958.

(Cap. 227).

(34 of 1958).

(3) The provisions of subsections (2), (3) and (4) of section 52 shall apply for the purposes of this section and to any transfer made in accordance with the provisions of this section.

54. (1) A transfer order given in accordance with the provisions of subsection (1) of section 53 shall cease to have effect when the case of the person named in the transfer order has been disposed of by the court or magistrate to which he was committed or by which he was remanded, as the case may be, but without prejudice to any power of that court or magistrate to make a hospital order under this Part in his case.

Further provisions as to persons committed for trial or sentence or on remand.

(2) Where a transfer order has been given in accordance with the provisions of subsection (1) of section 53—

(a) if the Governor is notified by a medical superintendent at any time before the person named in the transfer order is brought before the court or magistrate to which he was committed or by which he was remanded that the person no longer requires treatment for mental disorder, the Governor may by order direct that such person be remitted to any place where he might have been detained if he had not been removed to a mental hospital, there to be dealt with as if he had not been so removed, and on his arrival at the place to which he is so remitted the transfer order shall cease to have effect;

(b) if no order has been made in accordance with the provisions of paragraph (a) and if it appears to the Court or magistrate to which the person named in the transfer order was committed or by which he was remanded that it is impracticable or inappropriate to bring that person before the court or magistrate and the conditions set out in subsection (3) are satisfied, the court or magistrate may make a hospital order in respect of such person in his absence and, in the case of a person committed for trial, without convicting him.

(3) A hospital order may be made in respect of a person in accordance with the provisions of paragraph (b) of subsection (2) if the court or magistrate is satisfied, on the written or oral evidence of two registered medical practitioners received in accordance with the provisions of section 46 that—

(a) such person is a mentally disordered person; and

(b) the nature or degree of the mental disorder from which the person is suffering warrants his detention in a mental hospital for medical treatment,

and the court or magistrate is of the opinion after considering any depositions or other documents required to be sent to the proper officer of the court, that it is proper to make a hospital order.

(4) When a transfer order has been made in respect of a person remanded in custody by a magistrate, the power of further remanding such person under section 20 of the Magistrates Ordinance may be exercised by the magistrate without such person being brought before the magistrate.

(5) Any transfer order made in respect of a civil prisoner shall cease to have effect on the expiration of the period during which he would but for his removal to the mental hospital, be liable to be detained in prison.

Removal of prisoners for observation.

55. (1) If the Commissioner of Prisons or, in the case of a person who is detained in a remand home or a reformatory school, the Director of Social Welfare, has reason to believe that a person who is serving a sentence of imprisonment as defined by subsection (5) of section 52 or a person to whom section 53 applies is a mentally disordered person and that it is necessary or desirable that such person should be forthwith transferred to a mental hospital for observation or treatment, he may, by writing under his hand, order that such person be taken to a mental hospital for the purpose of detention, observation and treatment during the period of ~~seven~~ ^{fourteen} days from and including the date of the order.

(2) The provisions of sections 51, 52 and 53 may be applied to a person who is detained in a mental hospital in consequence of an order made under subsection (1) as if no such order had been made.

(3) A person who is detained in a mental hospital in consequence of an order made under subsection (1) shall be deemed to be in legal custody.

Medical reports on persons on remand.

(Cap. 227).

56. (1) If a person is committed in custody for trial in accordance with the provisions of subsection (2) of section 84 of the Magistrates Ordinance, the Commissioner of Prisons—

- (a) if the prisoner is charged with a capital offence, may; and
- (b) if the Attorney General makes application in writing to the Commissioner of Prisons in respect of the prisoner, whether the prisoner is charged with a capital offence or not, shall,

make an order in accordance with the provisions of subsection (1) of section 55, even if the Commissioner of Prisons has no reason to believe that the prisoner is a mentally disordered person.

(2) If the prisoner has been committed in custody for trial charged with a capital offence or if he is the subject of an application by the Attorney General in accordance with the provisions of paragraph (b) of subsection (1), the medical officer of the prison or the medical superintendent of the mental hospital, as the case may be, shall, not less than seven days before the date fixed for the trial of the prisoner, submit to the Registrar and to the Attorney General a report on the

mental condition of the prisoner, stating whether or not the prisoner has exhibited any indication of insanity and whether or not he is fit to plead.

(3) A report submitted in accordance with the provisions of subsection (2) shall not express any opinion as to the degree of responsibility of the prisoner at the time when the offence with which he is charged was committed but if, from symptoms exhibited while under observation in the prison or in the mental hospital, the medical officer of the prison or the medical superintendent of the mental hospital, as the case may be, is of the opinion that insanity exists and has done so for some time previous to the date when the offence was committed, or that there is any history of insanity, his report should embody this opinion.

57. (1) The Governor may by warrant direct that any person, who by virtue of subsection (1) of section 78 of the Criminal Procedure Ordinance is ordered to be detained in safe custody until Her Majesty's pleasure shall be known, shall be removed to and detained in such mental hospital as may be specified in the warrant.

Persons ordered to be kept in custody during Her Majesty's pleasure. (Cap. 221).

(2) A warrant under this section shall have a like effect as a hospital order and on the admission to the mental hospital of the person named in the warrant, the provisions of this Ordinance relating to hospital orders shall apply accordingly.

(3) If the Governor is satisfied by a report from a medical superintendent that a person detained in the mental hospital in accordance with a warrant under subsection (1) other than a person who was found guilty but insane in accordance with the provisions of section 77 of the Criminal Procedure Ordinance, no longer requires treatment for mental disorder, the Governor may by order remit that person to prison for trial before the court before which, but for the warrant, he would have been tried.

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57A.
PART V.

General Provisions.

58. Nothing in this Part of this Ordinance shall interfere with or derogate from the power vested in the Court by Part II of this Ordinance over any person found to be a mentally disordered person.

Saving of powers.

59. (1) If after the reception of any patient into a mental hospital it appears that the order or the medical certificate upon which he was received is defective or incorrect, the same may at any time afterwards be amended, with the sanction of the medical superintendent, by the person or persons signing the same.

Amendment of orders.

(2) An amendment made under this section shall be effective as from the date of the reception.

Application
of property
of a mentally
disordered
person found
wandering.

60. Any movable property which may be in the possession of a mentally disordered person found wandering at large may be sold by order of a magistrate, and the proceeds thereof, or such part of the same as may be necessary, applied towards the payment of the charge of the lodging and maintenance of such person and of any other expenses incurred on his behalf.

Enforcement
of cost of
maintenance.

(Cap. 221).

61. (1) The Court, on the application of the Attorney General and on being satisfied that a patient including a person who has been received into a mental hospital in accordance with the provisions of section 78 of the Criminal Procedure Ordinance has property which may be applied towards his maintenance or that any person is legally bound to maintain the patient and has sufficient means to enable him to do so, may make an order for the recovery of the cost of the maintenance of the patient, together with the costs of the application, out of the property of the patient or from such person.

(2) Any order made in accordance with the provisions of subsection (1) shall be of the same force and effect and subject to the same appeal as a judgment or order made by the Court in any proceedings in respect of the property or of the person therein mentioned.

Saving.

62. Nothing in this Ordinance shall effect or take away from the liability of any person to maintain a mentally disordered person.

Offences
against
patients

63. (1) Any attendant, nurse, servant or other person employed in a mental hospital who ill-treats or wilfully neglects any patient shall be guilty of an offence and on summary conviction shall be liable to a fine of one thousand dollars and imprisonment for two years.

(2) Any person who has unlawful sexual intercourse or attempts to have unlawful sexual intercourse with any female mentally disordered person under care or treatment in a mental hospital, while in such hospital or on leave from such hospital shall be guilty of an offence and on summary conviction shall be liable to a fine of five thousand dollars and to imprisonment for three years.

(3) Consent shall not be any defence in any proceedings for an offence under subsection (2) if the accused knew or had reason to suspect that the person in respect of whom the offence was committed was a mentally disordered person under care or treatment in a mental hospital or on leave from such hospital.

(4) If on the trial of any person for rape the Court or jury is satisfied that the accused is guilty of an offence under subsection (2) but are not satisfied that he is guilty of rape, the Court or jury shall acquit him of rape and shall find him guilty of an offence under subsection (2).

64. Whenever in any written law or other document whatsoever any reference to a lunatic or to lunacy or to a lunatic asylum or asylum or mental hospital is contained, that reference shall be read as a reference to a mentally disordered person or to a patient within the meaning of this Ordinance or, as the case may be, to mental disorder, or to a mental hospital.

Construction of laws.

65. Every order or certificate of a medical officer or a registered medical practitioner shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

Medical orders or certificates.

66. The Court making an order under section 26 or a magistrate or a justice of the peace making an order under section 31 shall forthwith send a certified copy of the order to the medical superintendent of the mental hospital into which any person is ordered to be received.

Copy of reception order to be sent to the person in charge of the mental hospital.

67. (1) Where a person has made application for the removal or detention of any person under the provisions of this Ordinance, or signed or carried out, or done any act with a view to signing or carrying out, an order purporting to be an order for removal or detention, or any report, application, recommendation, or certificate purporting to be a report, application, recommendation, or certificate under this Ordinance, or has done anything or given any advice in a professional capacity in pursuance of this Ordinance, he shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground unless he has acted in bad faith or without reasonable care.

Protection of persons carrying out the provisions of this Ordinance.

(2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such matter as is mentioned in subsection (1), without the leave of the Court, and leave shall not be given unless the Court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

(3) Notice of any application under subsection (2) shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application.

(4) Where on an application under this section leave is given to bring any proceedings and the proceedings are commenced within four weeks after the date on which leave was so given, the proceedings shall for the purposes of subsection (1) of section 17 of the Law Amendment (Miscellaneous Provisions) Ordinance, be deemed to have been commenced on the date on which notice of the application was given to the person against whom the proceedings are to be brought.

(Cap. 23).

Penalty for improper reception or detention.

- 68.** (1) Subject to the provisions of section 67 any person who—
- (a) otherwise than in accordance with the provisions of this Ordinance receives or detains in a mental hospital a person who is or is alleged to be a mentally disordered person; or
 - (b) for gain detains in any place not being a mental hospital two or more mentally disordered persons,

shall be guilty of an offence and on summary conviction shall be liable to a fine of one thousand dollars and to imprisonment for two years.

(2) No prosecution under this section shall be instituted except by or with the consent of the Attorney General.

(3) Nothing in this section shall prevent any general hospital or nursing home which has been recognized as such by the Director of Medical and Health Services from receiving and treating any person who is in need of and is desirous of receiving psychiatric treatment.

Powers of a magistrate and a justice of the peace. (Cap. 227).

69. For the purpose of the exercise of the powers conferred by sections 31, 32, 36, 37 and 42 a magistrate and a justice of the peace may exercise the powers conferred on a magistrate by the Magistrates Ordinance of requiring the attendance before him of any person who may be able to assist him in the exercise of such power and of receiving on oath the evidence of any person.

Power of Governor in Council to make regulations.

70. (1) The Governor in Council may by regulation prescribe or provide for—

- (a) the powers and duties of medical superintendents and other persons employed in mental hospitals;
- (b) the forms required for the carrying out of the provisions of this Ordinance and of any regulations made under this section;
- (c) the books and records to be kept in mental hospitals;
- (d) the conditions and circumstances under which mechanical means of restraint or seclusion may be applied to patient;
- (e) any fees to be charged under this Ordinance or such regulations;
- (f) the amounts which may be charged for the maintenance of patients; and
- (g) generally carrying into effect the provisions of this Ordinance.

(2) Such regulations may provide that the contravention of any regulation shall constitute an offence and may prescribe penalties for any offence not exceeding a fine of one thousand dollars and imprisonment for six months.

71. (1) The Mental Hospitals Ordinance is repealed.

(2) The Prisons Ordinance, 1954, is amended by the repeal of

Repeal and consequential amendments. (Cap. 136). (17 of 1954) (17 of 1954, Schedule).

(3) The Prison Rules, 1954, are amended by the revocation of rule

Passed the Legislative Council of Hong Kong, this 7th day of September, 1960.

A. CHAPMAN,
Deputy Clerk of Councils.

(Secretariat GR11/3231/52)

HONG KONG

No. 36 OF 1960.

L.S

I assent.

R. B. BLACK,
Governor.

8th September, 1960.

Ordinance not disallowed, see G.N. 1540/60

An Ordinance further to amend the Medical Registration Ordinance, 1957.

[9th September, 1960.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Medical Registration (Amendment) (No. 2) Ordinance, 1960. Short title.

2. Subsection (2) of section 3 of the Medical Registration Ordinance, 1957 is amended by the insertion in paragraph (e) after the word "five" of the following— Amendment of section 3. (25 of 1957).

"registered".

Passed the Legislative Council of Hong Kong, this 7th day of September, 1960.

A. CHAPMAN,
Deputy Clerk of Councils.

(Secretariat CR8/3231/55II)