

CHAPTER 98
THE MENTAL DISEASES ACT
[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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SCHEDULE

CHAPTER 98

THE MENTAL DISEASES ACT

An Act to provide for the custody of criminal lunatics and persons of unsound mind and for the management and administration of the estates of persons incapable of managing their affairs.

[29th October, 1937]

Ords. Nos.

13 of 1937

34 of 1941

7 of 1946

27 of 1948

62 of 1952

Acts Nos.

67 of 1962

55 of 1963

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh98s1]1. Short title

This Act may be cited as the Mental Diseases Act.

[PCh98s2]2. Interpretation Ords. Nos. 34 of 1941 Sch.; 62 of 1952 s. 2

In this Act, unless the context requires otherwise—

"court" means the court having jurisdiction in lunacy in the case;

"criminal lunatic" means—

(a) any person confined or detained, or ordered to be confined or detained, under any provision of the Criminal Procedure Act * at any time in force relating to procedure in the case of insanity or unsoundness of mind of accused persons; and

(b) any prisoner removed to a place for the custody and treatment of lunatics under section 78, or confined in a mental hospital or other place of custody under the Prisons Act *;

"medical officer" means a Government medical officer, and includes any registered medical practitioner duly authorised in pursuance of the provisions of section 16;

"mental hospital" means any mental hospital for the custody and treatment of lunatic and persons of unsound mind which is established by the Minister in pursuance of section 33;

"Minister" means the minister for the time being responsible for health affairs;

"reception order" means an order or authority made or given before or after the commencement of this Act under any of the provisions of Part II for the reception of any person in a mental hospital or similar institution for the care or treatment of persons suffering from mental illness;

"registered medical practitioner" and "licensed medical practitioner" mean respectively a person registered or licensed as a medical practitioner, as the case may be, under the Medical Practitioners and Dentists Act *;

"temporary patient" means a person received into a mental hospital under section 19 of this Act as a temporary patient for the purpose of treatment;

"visitors" means the visitors appointed for a mental hospital under section 34 of this Act;

"voluntary patient" means a person received into a mental hospital under section 16 of this Act as a voluntary patient for the purpose of treatment.

PART II

CUSTODY OF PERSONS OF UNSOUND MIND (ss 3-16)

[PCh98s3]3. Jurisdiction Ord. No. 34 of 1941 s. 2

The court having jurisdiction in lunacy under this Part shall be a district court:

Provided that the High Court may at any time before the determination of the proceedings upon application or otherwise direct any proceedings instituted in a district court under the provisions of this Part to be transferred to itself or to any other district court for hearing and determination.

[PCh98s4]4. Appeals

(1) An appeal shall lie from any order of the court made under the provisions of this part to the High Court in accordance with the procedure for the time being in force relating to appeals in civil suits.

(2) The court shall, upon making an order under this Part, inform any person who is present in court and who may be aggrieved by the order of his right to appeal under this section.

[PCh98s5]5. Application for reception order Ord. No. 34 of 1941 Sch.

(1) An application for the reception of a person of unsound mind into a mental hospital may be made to the court by a petition in the prescribed form supported by an affidavit.

(2) Every petition shall give full particulars of the person in respect of whom the application is made and shall state the reasons why it is presented and the connection of the petitioner with that person.

(3) Every petition shall be signed by the person making it.

(4) Upon receiving a petition for a reception order the court may cause the person to whom it relates to be brought before it.

[PCh98s6]6. Officers in charge of police to report cases of persons of unsound mind not under proper care and control

Every officer in charge of a police station who has reason to believe that any person within the district controlled from his station is of unsound mind, and is not under proper care and control or is cruelly treated or neglected by anyone having charge of him, shall immediately report the fact to the court and the court may cause that person to be brought before it.

[PCh98s7]7. Power to take under control certain persons of unsound mind Ord. No. 34 of 1941 s. 3

(1) Every officer in charge of a police station and every local government authority declared as such under the provisions of the Local Government (District Authorities) Act * or the Local Government (Urban Authorities) Act * may take under control, or cause to be so taken, any person—

(a) whom that officer or authority has reason to believe to be of unsound mind; and

(b) whom that officer or authority has reason to believe to be dangerous by reason of unsoundness of mind, or who is found wandering at large within the area policed from that station or to which his authority extends, as the case may be.

(2) Where a person is taken under control in the first instance by or under the directions of a local government authority that authority shall, without delay, deliver him or cause him to be delivered into the control of the officer in charge of the nearest police

station; and every officer under whose control a person to whom this section relates shall immediately take him before the court.

[PCh98s8]8. Procedure upon inquiry by court into unsoundness of mind Ord. No. 34 of 1941 s. 4 and Sch.

(1) Whenever any person is brought before the court under the provisions of sections 5, 6, or 7 the court shall examine that person, and if it thinks that there are grounds for proceeding further, shall cause him to be examined by a medical officer, and shall make any other inquiries which it thinks fit; and if the medical officer who has examined that person gives a medical certificate in the prescribed form with regard to that person and the court is satisfied that that person is of unsound mind and a proper person to be detained, it shall record a finding to that effect and may make a reception order in the prescribed form for his admission into a mental hospital:

Provided that if any friend or relative of that person enters into a bond with or without sureties for the sum of money determined by the court the court may determine conditioned that he shall be properly taken care of , and shall be prevented from doing injury to himself or to others, the court, instead of making a reception order, may if it thinks fit, make him over to the care of that friend or relative.

(2) If the court is not satisfied that a person is of unsound mind and is a proper person to be detained it shall record its reasons and shall discharge him.

(3) When making a reception order the court shall, in so far as it is practicable, ascertain the particulars respecting the person to whom the reception order relates which are mentioned in Form 1 of the Schedule to this Act and shall sign a statement which shall

be transmitted, together with the reception order, to the officer in charge of the mental hospital named in the order.

[PCh98s9]9. Detention of persons pending inquiry into state of mind Ords. Nos. 34 of 1941 s. 5; 27 of 1948 s. 2

(1) When a petition for a reception order is received or when any person alleged to be of unsound mind is brought before a court under the provisions of this Part the court may by an order in writing, authorise his detention in suitable custody for such time not exceeding fifteen days as may be necessary to enable the medical officer to determine whether that person is of unsound mind and is a person in respect of whom a medical certificate may be properly given.

(2) The court may, from time to time, for the same purpose, by an order in writing, authorise any further detention of a person for periods not exceeding fifteen days at a time which it thinks necessary:

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding sixty days from the date on which he was first brought before the court.

(3) The expression "suitable custody" shall for the purposes of subsection (1) of this section include a mental hospital whether situated at a place within or without the territorial jurisdiction of the court and the expression "court" shall for the purposes of subsection (2) of this section include a court having territorial jurisdiction over the area within which the mental hospital is situated.

[PCh98s10]10. Powers of certain magistrates and justices of the peace Ord. No. 27 of 1948 s. 2; Acts Nos. 67 of 1962 s. 2; 55 of 1963 5th Sch. Part IV

(1) Where an officer in charge of a police station is required by section 6 to make a report, or by section 7 to take a person to the court and there is no magistrate available who has jurisdiction to hold a court having jurisdiction in lunacy under this Part, that officer shall make the report or take that person, as the case may be, to some other magistrate or to the justice of the peace assigned to a district court house, and that other magistrate or justice of the peace—

(a) may, where a report is made under the provisions of section 6 and this section, by order in writing, cause the person in respect of whom the report is made to be brought before him; and

(b) shall, where any person is taken or brought before him, examine that person and, if it appears to him that there are grounds for proceeding further under this Part, may make an order in writing authorising that person's detention in suitable custody for such time, not exceeding fifteen days, as may be necessary to enable the medical officer to determine whether that person is of unsound mind and is a person in respect of whom a medical certificate may be properly given,

and where he authorises that person's detention the magistrate or justice of the peace assigned to a district court house shall report the matter as soon as may be to the court.

(2) Where a magistrate or justice of the peace assigned to a district court house authorises a person's detention under this section, the court may exercise the powers of detention conferred on a court by subsection (2) of section 9, and the proviso to that

subsection shall have effect as if the period of sixty days were computed from the date of the authorisation.

(3) A person detained under this section shall, at the end of the period of detention, be brought before the court, and any further proceedings in respect of that person shall be continued before the court as if the order for detention had been made by the court under section 9.

(4) The provisions of section 38 shall apply to proceedings under this section as they apply to proceedings in the court.

(5) An order by a magistrate or justice of the peace assigned to a district court house under this section shall have effect as an order of the court and the provisions of section 4 shall apply in relation to that order as they apply in relation to an order of the court, and the magistrate or justice of the peace assigned to a district court house shall be under the same duty as that section imposes on a court to inform any person aggrieved by his order of the right of appeal.

(6) For the purposes of this section, the expression "suitable custody" shall have a corresponding meaning to that attributed to it in subsection (3) of section 9, and the expression "justice of the peace assigned to a district court house" includes an area secretary:

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding sixty days from the date on which he was first brought before the court.

(7) The expression "suitable custody" shall for the purposes of subsection (1) of this section include a mental hospital whether situated at a place within or without the territorial jurisdiction of the court and the expression "court" shall for the purposes of subsection (2) of this section include a court having territorial jurisdiction over the area within which the mental hospital is situated.

[PCh98s11]11. Disposal of movable property Ord. No. 34 of 1941 Sch.

In any proceedings under this Part the court may make inquiries into the property belonging to a person alleged to be of unsound mind and may make any orders regarding the disposal of any movable property not exceeding five hundred shillings in value belonging to any person in respect of whom a reception order is made as it thinks fit.

[PCh98s12]12. Reception orders Ord. No. 34 of 1941 Sch.

(1) A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the person authorised by the court in that behalf to take the person named in the order and convey him to the place mentioned and for his reception and detention in it or in any mental hospital to which he may be removed in accordance with the provisions of this Act, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.

(2) Any court making a reception order shall forthwith send a certified copy of the order to the person in charge of the mental hospital into which that person is to be admitted.

(3) When any reception order has been made under the provisions of this Part in respect of any person the court may, for reasons to be recorded in writing, direct that that

person, pending his removal to a mental hospital, be detained in suitable custody in any place which the court thinks fit and the direction shall be endorsed on the reception order.

[PCh98s13]13. Orders under other law for confinement of criminal lunatics Ord. No. 34 of 1941 Sch.

An order duly made under the provisions of any other law for the time being in force for the confinement or reception of a criminal lunatic or a person of unsound mind in a mental hospital shall be sufficient authority for the reception and detention of that person in the mental hospital or in any other mental hospital to which he may lawfully be transferred.

[PCh98s14]14. Medical certificates Ord. No. 34 of 1941 s. 6

(1) Every medical certificate under this Act shall be made and signed by a Medical Officer and shall be in the form prescribed.

(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the person to whom it relates is of unsound mind and is dangerous or incapable of managing himself, distinguishing facts observed by himself from facts communicated by others:

Provided that no such certificate shall have any effect under this Act which purports to be founded wholly on facts communicated by other.

[PCh98s15]15. Removal from one mental hospital to another Ord. No. 34 of 1941 Sch.

The order of the Minister endorsed upon a reception order or upon any order as is mentioned in section 13 shall be sufficient authority for the removal of the person named

with from the mental hospital in which he is lawfully detained to another mental hospital in Tanzania.

[PCh98s16]16. Power of the Minister to authorise certain persons to give medical certificates Ord. No. 34 of 1941 s. 7

(1) It shall be lawful for the Minister to authorise in writing any registered medical practitioner to give medical certificates under this Act.

(2) The authorisation shall be given only in special circumstances to be specified in the writing, and shall be effective only during the period specified in that writing.

PART III

ADMISSION OF VOLUNTARY AND TEMPORARY PATIENT TO MENTAL HOSPITAL (ss 17-21)

[PCh98s17]17. Power to receive voluntary patients Ord. No. 62 of 1952 s. 3

(1) Any person who has attained the apparent age of sixteen years, who is desirous of voluntarily submitting himself to treatment for mental disorder and who makes to the officer in charge of a mental hospital a written application in duplicate in the form prescribed, accompanied by a medical recommendation in duplicate, may be received as a voluntary patient into a mental hospital.

(2) Any person who has not attained the apparent age of sixteen years and whose parent or guardian is desirous of submitting him to treatment for mental disorder or mental defect may, if the parent or guardian makes to the officer in charge of a mental hospital a written application in duplicate in the form prescribed, accompanied by a medical recommendation in duplicate, be received as a voluntary patient.

(3) The medical recommendation referred to in subsections (1) and (2) of this section shall—

(a) be signed by a registered or licensed medical practitioner who has been approved by the Minister for the purpose of making that recommendation;

(b) state the professional qualifications of the registered or licensed medical practitioner; and

(c) state the date or dates on which he examined the patient concerned and that the patient is likely to be benefited by being received as a voluntary patient.

(4) A medical recommendation shall cease to have effect, for the purposes of this section, upon the expiration of fourteen days from the last date on which the patient to whom the recommendation relates was examined by the registered or licensed medical practitioner.

(5) Any person received as a voluntary patient under the provisions of this section may leave the mental hospital, upon giving to the officer in charge seven days' notice in writing of his intention so to do, or if he is a person who has not attained the apparent age of sixteen years, upon the notice being given by his parent or guardian.

(6) For the purpose of this Part of this Act, the term "guardian", in relation to a person who has not attained the apparent age of sixteen years, includes any person having the charge of that person, and the expression "apparent age" means the age which is apparent to the registered or licensed medical practitioner concerned.

[PCh98s18]18. Notification of reception, death or departure of voluntary patient

Ord. No. 62 of 1952 s. 3

Whereas a person is received into a mental hospital as a voluntary patient under the provisions of section 17 of this Act, or where a person so received dies in or departs from a mental hospital, information of his reception, death or departure shall be given by the officer in charge to the visitors at their next visit to that mental hospital.

[PCh98s19]19. Voluntary patient not to be detained for more than forty days after becoming incapable of expression Ord. No. 62 of 1952 s. 3

(1) If any person, received into a mental hospital as a voluntary patient under the provisions of section 17 of this Act, becomes at any time incapable of expressing himself as willing or unwilling to continue to receive treatment, he shall not be retained as a voluntary patient for a longer period than forty days after that, and shall be discharged on or before the expiration of that period, unless, in the meantime, he has again become capable of so expressing himself or he has been made the subject of an application under the provisions of section 20 or of a reception order or of any such order as is referred to in section 13.

(2) If a patient who has not attained the apparent age of sixteen years and who has been received under subsection (1) ceases to have any parent or guardian, or if his parent or guardian is incapable of performing, or refuses or persistently neglects to perform his duty, the officer in charge shall inform the visitors, at their next visit, of the circumstance of the case and the condition of the voluntary patient, and the visitors shall forthwith consider the report and give any directions for the retention or discharge of the patient which they think fit.

(3) The officer in charge shall act on any direction given by the visitors under the provisions of subsection (2) of this section.

[PCh98s20]20. Provision for temporary treatment without certificate of certain persons Ord. No. 62 of 1952 s. 3

(1) Subject to the provisions of this section, a person who is suffering from mental disorder or mental defect and is likely to benefit by temporary treatment in a mental hospital but is for the time being incapable of expressing himself as willing or unwilling to receive the treatment may, on a written application duly made in accordance with the provisions of this section, be received into a mental hospital as a temporary patient for the purpose of treatment.

(2) An application under the provisions of this section shall be made in duplicate, in the form prescribed, to the officer in charge of the mental hospital and shall be made—

- (a) by the husband or wife, or by a relative of the person to whom it relates;
- (b) if there is no husband, wife or relative, by the Attorney-General; or
- (c) if there is no husband, wife, or relative and no application is made by the Attorney-General, by any other person, who shall in his application state the reason why it is not made as provided in paragraphs (a) or (b) of this section, the connection of the applicant with the person to whom the application relates and the circumstances in which he makes the application.

(3) The application shall be accompanied by a recommendation in duplicate, in the form prescribed, signed by a registered or licensed medical practitioner who has been approved by the Minister for the purpose of making the recommendation.

(4) The registered or licensed medical practitioner by whom a recommendation is made under the provisions of this section, shall, before signing the recommendation, examine the person to whom that recommendation relates and shall in the recommendation state his professional qualifications and specify the date or dates on which he examined the person and the grounds on which he bases such recommendation.

(5) A recommendation shall cease to have effect on the expiration of fourteen days from the last date on which the person to whom the recommendation relates was examined by the registered or licensed medical practitioner.

(6) A person received as a temporary patient into a mental hospital may be detained there for a period not exceeding twelve months but shall not be detained for any longer period.

(7) If a person becomes capable of expressing himself as willing or unwilling to continue to receive treatment, he shall not be detained for more than forty days after that unless, in the meantime, he has again become incapable of so expressing himself, or an application has been duly made by him under the provisions of section 17, or he has been made the subject of a reception order or of the order referred to in section 13.

(8) Where a person has been received into a mental hospital as a temporary patient under the provisions of this section, or if a patient so received dies in or departs from the mental hospital, information of the reception, death or departure shall be given by the officer in charge of the mental hospital to the visitors at their next visit.

Where any person has been received into a mental hospital under the provisions of this Part of this Act, the Minister may at any time order that that person be discharged or otherwise dealt with under the provisions of this Act.

PART IV

MANAGEMENT AND ADMINISTRATION OF THE ESTATES OF CRIMINAL LUNATICS AND PERSONS OF UNSOUND MIND (ss 22-32)

[PCh98s22]22. Jurisdiction

The court having jurisdiction in lunacy for the purposes of this Part shall be the High Court.

[PCh98s23]23. Persons in respect of whose estates orders may be made under this Part Ord. No. 34 of 1941 Sch.

The provisions of this Part relating to management and administration shall apply to—

- (a) every person lawfully detained as a criminal lunatic;
- (b) every person lawfully detained as a person of unsound mind;
- (c) every person with regard to whom it is proved to the satisfaction of the court that he is of unsound mind and incapable of managing his affairs;
- (d) every person who is proved to the satisfaction of the court to be through mental infirmity arising from disease or age incapable of managing his affairs.

[PCh98s24]24. Application for order for administration Ord. No. 34 of 1941 Sch.

(1) Application for an order for the management and administration of the estate of a person to whom this Part applies may be made by any friend or relative or any person in whose care or charge that person is lawfully detained or by the Attorney-General.

(2) Every such application shall be accompanied by an affidavit setting forth the grounds upon which it is made and shall give full particulars as to the property and kindred of the person to whom it relates.

(3) If the application relates to a person lawfully detained as a person of unsound mind under the provisions of Part II it shall be accompanied by a certified true copy of the reception order and medical certificate issued in respect of that person.

[PCh98s25]25. Notice of application Ord. No. 34 of 1941 Sch.

(1) Notice of the application shall, unless the court considers that service of that notice is impracticable or inexpedient or would be ineffectual, be served upon the person in respect of whom the application is made in the manner directed by the court.

(2) The court may also direct a copy of the notice to be served upon any relative of the criminal lunatic or person alleged to be of unsound mind, and upon any other person to whom in the opinion of the court notice of the application should be given.

[PCh98s26]26. Attendance of person to whom proceedings relate

(1) The court may require the person in relation to whom the application is made to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the court, or by a registered medical practitioner or any other person from whom the court may desire to have a report of mental capacity and condition of that person.

(2) The court may likewise make an order authorising any person or persons named in the order to have access to the criminal lunatic or person of unsound mind for the purpose of a personal examination as to his mental capacity.

[PCh98s27]27. Evidence

(1) The court shall receive any evidence on affidavit or otherwise as to the mental capacity and condition of the person to whom the application relates as may be produced before it, and shall consider any report submitted to it under the provisions of section 26.

(2) The court may take judicial notice of any reception order or medical certificate duly made or given in accordance with the provisions of this Act.

[PCh98s28]28. Order for administration of estate

The court may make any orders which it thinks fit for the administration and management of the estate of any person to whom this Part applies and for the purpose of making provision for his maintenance and that of members of his family dependent upon him and the payment of his debts and the costs incurred by any inquiry or other proceeding under this Act or any other expenses connected with the management of his estate or arising out of anything ordered to be done by the court under the provisions of this Act.

[PCh98s29]29. Orders for disposal of property

The court may, upon application or otherwise, if it appears to be just or for the benefit of any person to whom this Part applies order that any property belonging to that person be sold, charged or otherwise disposed of as may seem most expedient for any of the purposes mentioned in section 28 and may order that the property or the proceeds of it

be delivered to that person as the court may think fit to be applied for the purposes referred to in section 28.

[PCh98s30]30. Appointment of manager

The court may appoint a fit and proper person to be manager of the estate of any person to whom the provisions of this Part apply.

[PCh98s31]31. Manager's powers and duties

(1) A manager appointed under the provisions of section 30 shall act under the directions of the court and shall exercise only the powers for the management of the estate which may be expressly conferred upon him either specifically or generally by any order or direction of the court and no manager shall, without the express permission of the court, mortgage, charge or transfer any immovable property or lease the property for a term exceeding five years.

(2) The manager shall execute all the conveyances and other instruments relative to the estate which the court may order.

(3) The manager shall, in like manner, under the order of the court, exercise all powers vested in him for his own benefit or in the character of trustee or guardian.

(4) Every conveyance or other instrument made in pursuance of any order of the court under the provision of section 29 or this section shall be valid and have effect as if made by the person, being of sound mind, in respect of whose estate the order is made.

[PCh98s32]32. Discretion of the court to make orders relating to estate

The court may, on application made to it by petition concerning any matter connected with the estate of any person, make any order, subject to the provisions of this Act, as in the circumstances it thinks fit.

PART V

GENERAL PROVISIONS (ss 33-46)

[PCh98s33]33. Establishment of mental hospitals Ord. No. 34 of 1941 s. 9; G.Ns. Nos. 478 of 1962; 102 of 1963

(1) The Minister may by order establish mental hospitals for the custody and treatment of criminal lunatics and persons of unsound mind at any places which he thinks fit.

(2) No person shall be received for reward into any mental home or other premises for treatment for mental illness unless the home or premise has or have been established in accordance with rules made under this Act. Any person in charge of any home or premises who contravenes this subsection commits an offence and on conviction is liable to a fine not exceeding one thousand shillings.

[PCh98s34]34. Visitors Ord. No. 34 of 1941 s. 9; 7 of 1946 s. 2; 62 of 1952 s. 4; G.N. No. 102 of 1963

(1) The Regional Commissioner for the region shall appoint for every mental hospital not less than two visitors, one of whom shall be a medical officer directly concerned in the management of the mental hospital.

(2) One or more visitors shall once at least in every month visit and inspect every part of the mental hospital of which they are visitors, and see and examine, as far as

circumstances will permit, every person detained there and the order and certificate for the admission of every person admitted since the last visitation 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 its inmates.

(3) When any person is confined or detained in a mental hospital in accordance with any of the provisions at any time in force in Tanzania of the Criminal Procedure Act * or in accordance with the provisions of section 78 or section 80 of the Prisons Act *, the visitors of the mental hospital, or any two of them shall once at least in every six months make a special report as to his state of mind to the authority under whose order he is detained.

[PCh98s35]35. Discharge Ord No. 34 of 1941 Sch.

(1) The court within whose jurisdiction any person is detained under the provisions of Part II of this Act shall upon application being made for the discharge of that person hold an inquiry into the circumstances of the case and make an order for his discharge or otherwise as it thinks fit.

(2) An application under this section may be made by any friend or relative of such person or by the officer in charge of the mental hospital or by the visitors or by any other interested person.

[PCh98s36]36. Order of discharge on undertaking of relative for due care Ords. Nos. 35 of 1941 Sch.; 62 of 1952 s. 5

When any relative or friend of a person detained in a mental hospital under the provisions of Part II is desirous that that person shall be delivered over to his care and

custody, he may make application to the court in whose jurisdiction the person is detained, and the court may if it thinks fit, after consultation with the officer in charge of the mental hospital and with the visitors or with one of them, being a medical officer, and upon the relative or friend entering into a bond with or without sureties for a sum of money which the court thinks fit, conditioned that that person shall be properly taken care of and shall be prevented from doing injury to himself or to others, make an order for his discharge and he shall then be discharged.

[PCh98s37]37. Order to justify detention and recapture after escape Ord. No. 34 of 1941 Sch.

Every person duly received into a mental hospital under the provisions of this Act, may be detained there until he is removed or discharged as authorised by law, and in case of escape may be retaken and conveyed to the mental hospital.

[PCh98s38]38. Proceedings may be held in private

Any proceedings under this Act may, if the court thinks fit, be held in private and the court may allow the person to whom the proceedings relate to be represented by any suitable person or may itself appoint a fit and proper person to represent him.

[PCh98s39]39. Removal of persons lawfully detained Ord. No. 34 of 1941 Sch.

When it appears to the President that it is likely that the life of any person lawfully under this Act and who is not a detained citizen of Tanzania will be endangered or his recovery hindered by reason of there being no mental hospital or other place in Tanzania in which he can be properly detained and treated, or by reason of there being no person in Tanzania who can be made responsible for his safe keeping and treatment, or for any other

cause, and arrangements are made with the government of some other country for his reception by some person or institution in that country, it shall be lawful for the President to order that he be sent to that person or institution in that other country in the custody of a person or persons who shall be named in the order:

Provided that no order of removal shall be made unless the prior written consent for the removal has been obtained from the government of that country and a certified copy of the consent shall be endorsed on the order for removal.

[PCh98s40]40. President's order sufficient authority to remove

The order of the President shall be sufficient authority to the person or persons to whom it is directed or delivered for execution to receive and detain the person described in the order and to carry him to the place named in it, according to the order.

[PCh98s41]41. Admission into Tanzania of person found to be of unsound mind
Ord. No. 34 of 1941 Sch.

When with the previous consent of the President any person who is a citizen of Tanzania and is found to be of unsound mind by the laws of any other country is received by any person or institution in Tanzania that person shall forthwith be brought before a court and shall be dealt with as if an application for his reception into a mental hospital had been made under the provisions of this Act.

[PCh98s42]42. Rules Ords. Nos. 34 of 1941 Sch.; 62 of 1952 s. 6

The Minister may make rules for prescribing anything which may be prescribed under the provisions of this Act and generally for the purpose of carrying the Act into effect, and in particular with respect to the following matters—

- (a) the forms to be used under this Act;
- (b) the payment by his relatives or out of his estate of the cost of maintenance of any person detained under the provisions of this Act;
- (c) the establishment of mental homes and the admission for treatment of persons of unsound mind;
- (d) the appointment of guardians of person found to be of unsound mind;
- (e) the management and control of mental hospitals and the treatment of inmates;
- (f) the confinement and care of criminal lunatics and the confinement, care and discharge of persons of unsound mind;
- (g) the duties of visitors;
- (h) the records to be kept by officers in charge of mental hospitals;
- (i) the care and treatment for reward of persons of unsound mind;
- (j) the care and treatment of voluntary and temporary patients.

[PCh98s43]43. Forms

Until varied or revoked by rules made under the provisions of section 42, the forms set forth in the Schedule to this Act shall be used for the respective purposes.

[PCh98s44]44. Certain provisions of Criminal Procedure Act to apply

The provisions of the Criminal Procedure Act * , in so far as they relate to the taking of bonds, the summoning and attendance of witnesses, and matters appertaining thereto to them shall, so far as may be, apply to proceedings taken under this Act.

[PCh98s45]45. Protection of persons acting in good faith and with reasonable care
Ord No. 34 of 1941 s. 10

(1) No proceedings, civil or criminal, shall be brought against any person in any court in respect of anything done under the authority or purported authority of this Act without the leave of the High 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.

(2) Notice of any application under the preceding subsection 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.

(3) Where on an application under this section leave is given to institute a civil suit, and the suit is commenced within four weeks after the date on which leave was so given, the suit shall for the purposes of the Civil Procedure Code * as be deemed to have been instituted on the date on which notice of the application was given to the person against whom the proceedings are to be brought.

[PCh98s46]46. Disapplication

[Disapplication of the Indian Lunacy Act, 1912.]

SCHEDULE

FORM 1

3. The grounds upon which this application is presented are as follows:

The petitioner therefore prays that the court will be pleased to make a reception order as prayed.

Dated

STATEMENT OF PARTICULARS

Notes: 1. If any of the particulars in this statement are not known, the fact to be so stated.

2. Where the applicant is unable of his own knowledge to prove any of the particulars in this statement, he should state the grounds of his belief.

The following is a statement of particulars relating to the said person:

Name of patient at length.

Sex and age.

Married, single or widowed.

Occupation.

Tribe and religious belief, as far as known.

Residence.

Name of relatives.

When first showed signs of unsoundness of mind.

Age (if known) on first attack.

Whether previously under care and treatment.

Supposed cause.

Whether the patient is subject to epilepsy.

Whether suicidal.

Whether he is known to be suffering from phthisis or any form of tubercular disease.

Whether dangerous to others, and in what way.

Whether he is capable of looking after himself.

With whom he has been living.

Whether the patient is addicted to the use of any drug or intoxicant.

Whether any near relative (stating the relationship) has been afflicted with insanity.

I, the above-named petitioner, do hereby affirm/make oath and say that the statements contained in the above petition are true to the best of my knowledge and belief.

.....

(Signature of person making the statement)

Affirmed/Sworn at

Date

Before me

.....

(Signature and qualification)

FORM 2

MEDICAL CERTIFICATE

THE MENTAL DISEASES ACT

(Section 13)

In the matter of
..... in
the district of

I ,
.....

do hereby certify as follows:

1. The said has been under my observation for
days during which time I have visited him on occasions.

2. On the day of 20....., at in the district of I
personally examined the said and I am of the opinion that the said
..... is of unsound mind and a proper person to be taken charge of and detained
under care.

3. I formed this conclusion on the following grounds:

- (a) Facts indicating insanity observed by myself;
- (b) other facts, if any, indicating insanity communicated to me by others.

(Here state the information and from whom I .)

(Sgd.)

FORM 3

RECEPTION ORDER

THE MENTAL DISEASES ACT

(Section 8)

In the Court of

Whereas..... has been brought before his court [on the petition of] under the provisions of section of this Act:

Now, I,, Resident/District Magistrate of Court at , having caused the said to be examined by and being satisfied that the said is of unsound mind and is-

- (a) dangerous; or
- (b) not under proper care and control; or
- (c) cruelly treated or neglected by the person having the care or charge of him,

and is a proper person to be taken charge of and detained under care, hereby direct you to receive the said into your mental hospital.

Dated the, 20.....

To the Officer in Charge

of the mental hospital at

FORM 4

BOND ON THE MAKING OVER OF A PERSON OF UNSOUND MIND TO THE
CARE OF RELATIVE OR FRIEND

THE MENTAL DISEASES ACT

(Section 8)

Whereas has been
brought before the Resident/District Magistrate of the Court at and
has been found to be of unsound mind:

Now, I,, do hereby bind myself that on the said
..... being made over to my care, I will have the said
properly taken care of and prevented from doing injury to himself or to others; and in case
of my making default therein, I hereby bind myself to forfeit to the President the sum of
..... shillings.

Dated this day of, 20.....

(Signature)

(Where a bond with sureties is to be executed, add)–

We do hereby declare ourselves sureties for the above-named
that he will, on the aforesaid being made over to his care, have the said

..... making default therein, we bind ourselves, jointly and severally,
to forfeit to the President the sum of shillings.

Dated this day of, 20.....

(Signature)

FORM 5

BOND ON THE DISCHARGE OF A PERSON OF UNSOUND MIND FROM A MENTAL HOSPITAL INTO THE CARE OF RELATIVE THE MENTAL DISEASES ACT

(Section 33)

Whereas of
.....

..... is now detained in the mental hospital at, under an
order made by the Resident/District Magistrate
Resident/Magistrate's/District Court at under section 8 of the Mental
Diseases Act; and whereas I,, have applied that the
said..... may be delivered to my care and custody:

I hereby bind myself that on the said being made over to
my care and custody, I will have him properly taken care of and prevented from doing

injury to himself or to others; and in case of my making default therein I hereby bind myself to forfeit to the President the sum of shillings.

Dated this day of, 20.....

(Signature)

(Where a bond with sureties is to be executed, add)–

We do hereby declare ourselves sureties for the above-named that he will, on the aforesaid being delivered to his care and custody, have the said properly taken care of and prevented from doing injury to himself or to others; and in the case of the said making default therein, we bind ourselves, jointly and severally, to forfeit to the President the sum of shillings.

Dated this day of, 20.....

(Signature)

FORM 6

FORM OF APPLICATION FOR VOLUNTARY ADMISSION TO A MENTAL HOSPITAL

THE MENTAL DISEASES ACT

(Section 17(1))

Every person who desires to undergo treatment as an in-patient at a mental hospital will be required to sign this form in token that admission is at his/her own request.

The attention of intending applicants is drawn to the following provisions of section 16(5) of the Mental Diseases Act, which should be noted so as to avoid any misconception at a later stage—

"Any person received as a voluntary patient under the provisions of this section may leave the mental hospital, upon giving to the officer in charge seven days' notice in writing of his intention so to do ...".

I,, the undersigned, of
desire voluntarily to submit myself to treatment for mental disorder as an in-patient at Hospital, and I agree to conform to all existing rules and regulations, and to such others as may be made for the conduct of the Hospital.

(Signature)

Date 20.....

Note: This application must be submitted in duplicate and accompanied by a medical recommendation in duplicate which must be signed by a registered or licensed medical practitioner who has been approved by the Minister for the purpose of making any such recommendation.

FORM 7

FORM OF APPLICATION FOR VOLUNTARY ADMISSION TO A MENTAL
HOSPITAL

THE MENTAL DISEASES ACT

(Section 17 (2))

Where it is desired that a person under the apparent age of sixteen years should receive voluntary treatment at a mental hospital, this form must be signed by the parent or guardian in token that admission is at the request of the said parent or guardian.

The attention of intending applicants is drawn to the following provisions of section 17(5) of the Mental Disease Act, which should be noted so as to avoid any misconception at a later stage—

"Any person received as a voluntary patient under the provisions of this section may leave the mental hospital, upon giving to the officer in charge seven days' notice in writing of his intention so to do, or, if he is a person who has not attained the apparent age of sixteen years, upon such notice being given by his parent or guardian."

I,, the undersigned, of
..... being the parent (or guardian) of
..... being a person who has not attained the apparent
age of sixteen years, desire to submit him/her to treatment for mental disorder or mental
defect as an in-patient at..... Hospital, and I agree in his/her behalf that he/she will
conform to all existing rules and regulations, and to such others as may be made for the
conduct of the Hospital.

(Signature)

Date 20.....

Note: This application must be submitted in duplicate and accompanied by a medical recommendation in duplicate which must be signed by a registered or licensed medical practitioner who has been approved by the Minister for the purpose of making any such recommendation.

FORM 8

FORM OF APPLICATION FOR TEMPORARY ADMISSION OF A PATIENT TO A
MENTAL HOSPITAL

THE MENTAL DISEASES ACT

(Section 20(2))

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

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

or

There is no relative of the said and I am the
Attorney-General of Tanzania.

or

There is no relative of the said and no application in this
behalf has been made by the Attorney-General of Tanzania. I am not related to the said
..... The reasons why this application is not made as provided in

paragraphs (a) and (b) of subsection (2) of section 20 of the Mental Diseases Act, my connection, with him/her, and the circumstances in which I make this application, are as

f o l l o w s :

.....
.....
.....

(Signature)

Date 20.....

Note: This application must be submitted in duplicate and accompanied by a medical recommendation in duplicate which must be signed by a registered or licensed medical practitioner who has been approved by the Minister for the purpose of making any such recommendation.

FORM 9

RECOMMENDATION FOR TREATMENT AS A TEMPORARY PATIENT AT A
MENTAL HOSPITAL

THE MENTAL DISEASES ACT

(Section 20(3))

Recommendation for the treatment at a mental hospital as a temporary patient of
..... of

I,, of hereby declare that—

1. I am a registered/licensed medical practitioner approved by the Minister for the purpose of making recommendations under the provisions of the Mental Diseases Act.

2. My professional qualifications are

3. I examined the said on the day of,
20..... and on the day of 20.....

1 4. I have formed the conclusions stated below on the following grounds, viz.—

I further declare that—

(a) the said

(i) is suffering from mental disorder or defect;

(ii) is likely to benefit by treatment in a mental hospital as a temporary
patient; and

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

(b) it is expedient with a view to the said 's recovery
that he/she should be received into Hospital for a period not
exceeding twelve months.

(Signature)

Date 20.....