



ST. HELENA

CHAPTER 57

MENTAL HEALTH ORDINANCE and Subsidiary Legislation

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown
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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

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CHAPTER 57

MENTAL HEALTH ORDINANCE

(Ordinances 4 of 1986, 1 of 1990, 2 of 1995 and 3 of 2009)

AN ORDINANCE TO PROVIDE FOR THE ADMISSION, CARE, AND TREATMENT OF PERSONS WHO ARE MENTALLY ILL AND FOR MATTERS CONNECTED THEREWITH.

Commencement

[11 April 1986]

Short title

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

Interpretation

2. (1) In this Ordinance—

“**approved home**”² means—

- (a) a house in respect of which a certificate has been issued under section 32(1); and
- (b) Sundale and Barnview House; and
- (c) Block A of Her Royal Highness the Princess Royal Community Care Centre;

“**Chief Medical Officer**” means a medical practitioner appointed by the Governor to be in charge of medical services for St. Helena and such expression shall include his deputy;

“**general hospital**” means a place where a person suffering from any illness may be treated;

“**medical practitioner**” means a medical practitioner employed by the St. Helena Government who is qualified to practise medicine or surgery under the Medical Practitioners Ordinance;

“**mental disorder**” means mental illness, mental subnormality, psychopathic disorder and any other disorder or disability of mind and “**mentally disordered**” shall be construed accordingly;

“**mentally ill**” or “**mentally ill person**” means a person who is suffering from a mental disorder and the nature and severity of the disorder is such that the person requires care and treatment for his own welfare and protection or for the welfare and protection of others;

“**mentally subnormal**” or “**mentally subnormal person**” means a person in whom there is a condition of arrested or incomplete development of mind whether such condition arises from inherent causes or is induced by disease or injury before such person attains the age of 18 years and “**mental subnormality**” shall be construed accordingly;

“**patient**” except in Part IV means a person who is suffering from or is suspected to be suffering from mental disorder and has been admitted to a hospital, a psychiatric ward or an approved home under the provisions of this Ordinance;

“**police officer**” includes the Chief of Police and his subordinates and a member of the St. Helena Special Constabulary;

“**psychiatric hospital**” or “**hospital**” means a building or part of a building that has been specially set aside for the care and treatment of the mentally ill;

² Definition of “approved home” amended by Ord. 2 of 1995 and Ord. 3 of 2009

“psychiatric ward” or **“ward”** means that part of a general hospital that has been set aside for the care and treatment of the mentally ill;

“psychopathic disorder” means a persistent disorder or disability of mind (whether or not including mental subnormality) which results in abnormally aggressive or seriously irresponsible conduct on the part of the person concerned;

“public place” means any place to which the public has access with or without payment;

“regulations” means regulations made under this Ordinance;

“relative” means any of the following persons—

- (a) husband or wife;
- (b) son or daughter;
- (c) father or mother;
- (d) brother or sister;
- (e) grandparent;
- (f) grandchild;
- (g) uncle or aunt;
- (h) nephew or niece.

In deducing relationships for the purposes of this definition any relationship of the half-blood shall be treated as a relationship of the whole blood, and an illegitimate person shall be treated as the legitimate child of his mother;

“1956 Ordinance” means the Mental Health Ordinance 1956.

(2) Nothing in this Ordinance shall be construed as implying that a person may be dealt with under this Ordinance as suffering from mental disorder, or from any form of mental disorder described herein, by reason only of promiscuity or other immoral conduct, sexual deviancy, or dependence on alcohol or drugs.

PART I

ADMISSION AND DETENTION IN PSYCHIATRIC HOSPITAL OR WARD

Interpretation of Part I

3. In this Part—

“application” means an application made in the form prescribed by the regulations;

“Order” means an Order made in the form prescribed by the regulations.

Persons who may be admitted and classes of admission to a psychiatric hospital

4. Every person who is or is reasonably believed to be in need of such treatment as is provided in a psychiatric hospital or ward may be admitted thereto—

- (a) as an urgent admission patient under section 5;
- (b) as an informal patient under section 7;
- (c) as a medically recommended patient under section 8;
- (d) by an Order of the Court made pursuant to section 11; or
- (e) by an Order of the Governor made pursuant to section 12.

Admission of urgent admission patient

5. (1) A medical practitioner may subject to subsection (3), admit to a hospital or ward as an urgent admission patient any person in respect of whom an application is made.

(2) An application under subsection (1)—

- (a) may be made by any person who alleges that the person in respect of whom the application is made is mentally ill and, in the interest of his health and for the safety and protection of others, or either of them, ought to be detained in a hospital or ward; and
- (b) shall be accompanied by a certificate from the medical practitioner admitting the patient.
- (3) A person shall not be admitted to a hospital or ward as an urgent admission patient if more than three days have elapsed since the date of issue of the medical certificate referred to in subsection (2)(b).
- (4) A medical certificate issued under subsection (2) must—
 - (a) contain the history of the patient;
 - (b) contain a statement to the effect that the medical practitioner has personally examined the patient;
 - (c) contain the facts on which the medical practitioner has based his opinion separately from the facts communicated to him by others;
 - (d) contain a statement to the effect that, after examination, the patient was found to be suffering from mental disorder;
 - (e) contain a statement to the effect that the patient is recommended for admission; and
 - (f) bear the date on which the patient was examined and contain the signature of the medical practitioner.
- (5) Notwithstanding subsection (1), two certificates may be submitted but each must satisfy the requirements of subsection (4)(a) to (f).

Examination of urgent admission patient

6. (1) The Chief Medical Officer shall, within seventy-two hours of admitting to a hospital an urgent admission patient subject to subsection (2), make or cause to be made on the patient such examination as he may consider necessary for determining whether or not the patient is mentally ill and in need of care and treatment in a hospital.

(2) The examination shall be made by the Chief Medical Officer unless he admitted the patient under section 5(1), in which event another medical practitioner shall make the examination; in either case a medical certificate shall be issued.

(3) Where a medical practitioner carries out an examination under subsection (2) and certifies that the patient was found to be suffering from a mental disorder requiring detention for care and treatment, then such patient shall be detained as a medically recommended patient under section 8 and shall be deemed to have satisfied the admission procedure in relation thereto, and in any case where the patient was not certified as suffering from mental disorder then such patient shall be immediately discharged.

- (4) A medical certificate issued under subsection (2) must—
 - (a) contain the history of the patient;
 - (b) contain a statement to the effect that the medical practitioner has personally examined the patient;
 - (c) contain the facts on which the medical practitioner has based his opinion separately from the facts communicated to him by others;
 - (d) contain a statement to the effect that, after examination, the patient was found to be suffering from mental disorder and should be detained for care and treatment;
 - (e) bear the date on which the patient was examined and contain the signature of the medical practitioner.

Admission of informal patients

7. (1) The Chief Medical Officer may, subject to subsection (2), admit to a hospital or ward as an informal patient, any person who orally or in writing consents to being admitted under this section if on examination, the senior medical officer³ shall certify that—

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

(2) (a) Where the person to be admitted is under the age of eighteen years, the consent shall be made on his behalf by a parent, guardian or any other person in *loco parentis*.

(b) Where the person to be admitted is unable to express or withhold his consent to admission by reason of a mental disorder then, such consent may be given in writing by the person's nearest relative provided that the senior medical officer considers that—

- (i) it is in the person's best interest to be admitted under this section; and
- (ii) the person did not express any objection to admission whether orally or by action.

(3) The Chief Medical Officer shall, within 72 hours of the admission of a patient under subsection (1), record in the patient's inpatient record the date of the examination and the circumstances surrounding the admission including *inter alia* the form of consent given thereto and his findings on examination.

(4) The Chief Medical Officer may at any time discharge an informal patient if he is satisfied that it is in the interest of the patient to discharge him and—

- (a) the patient is not in need of any further care and treatment in a hospital or ward; or
- (b) the patient may be in need of further care and treatment, but such care and treatment can be provided informally within the community.

(5) An informal patient or a relative or guardian or person formally in *loco parentis* of the patient, may give notice in writing to the Chief Medical Officer, requesting the patient's discharge.

(6) Where notice has been given under subsection (5) an informal patient shall not be kept in a hospital or ward for more than seventy two hours from the date of the notice.

(7) Notwithstanding the provisions of subsection (6), the Chief Medical Officer may keep in a hospital or ward as a medically recommended patient, an informal patient where notice has been given under subsection (6), if the Chief Medical Officer and a medical practitioner other than the Chief Medical Officer certify that the patient—

- (a) is mentally ill; and
- (b) is in need of further care and treatment in a hospital or ward.

(8) A certificate issued under subsection (7) shall contain the information set out in section 6(3).

(9) In this section “nearest relative” means the person first described in the definition of “relative” contained in section 2(1) who has a meaningful relationship with the patient and who is for the time being surviving, relatives of the whole blood being preferred to relatives of the same description of the half blood and the elder or eldest of two or more relatives described in any paragraph of that definition being preferred to the other or others of those relatives regardless of sex.

Admission of medically recommended patient

8. (1) Subject to this section, the Chief Medical Officer may, on an application made by a relative or friend or the social services officer or his authorised deputy and

³ Gazette Notice No. 63 of 1 July 2011: Senior Medical Officer/Clinical Director

accompanied by a certificate of a medical practitioner, other than the Chief Medical Officer, admit to a hospital or a psychiatric ward as a medically recommended patient, any person named in the certificate if he certifies that the person named therein is unable or unwilling to express himself as being in need of care and treatment.

(2) A medical certificate issued under subsection (1) shall not be valid if—

- (a) more than seven calendar days have elapsed since the date of the last examination referred to therein;
- (b) it is not completed within twelve hours following such last examination;
- (c) it is made, issued, given, completed or signed by a medical practitioner who is by blood or marriage related to the patient named therein;
- (d) it does not contain the information set out in section 5(4).

(3) Where a person to whom section 8(1) applies, refuses to be admitted to a hospital or a psychiatric ward, the Chief Medical Officer may by Order direct that such person be apprehended at any time and in any place by a police officer or any person designated in writing for that purpose by the Chief Medical Officer and be brought to a hospital or a psychiatric ward.

Conditional discharge of medically recommended patient

9. (1) The Chief Medical Officer, may on the receipt of a written undertaking by one or more of the relatives or friends of a medically recommended patient to comply with conditions attached to the discharge, authorise the conditional discharge of such a patient if he considers it conducive to the recovery of the patient that he should be under the care and in the custody of such relative or friend.

(2) If within six months of the date of the conditional discharge the Chief Medical Officer is satisfied that he has become so mentally ill that his return to hospital is considered necessary, he may by Order direct that the patient be apprehended and brought back to the hospital or the psychiatric ward as the case may be.

(3) An Order issued under subsection (2) is authority for anyone to whom it is addressed, whether specifically or in general terms, to comply with the directions therein contained.

(4) A patient who is conditionally discharged shall, for a period of six months from the date of his discharge, be deemed to continue to be a patient of the hospital or psychiatric ward from which he was discharged in the same manner and to the same extent and shall, save as varied by any conditions attached to the discharge, be subject to the same authority and control as if he were not conditionally discharged.

(5) On the expiration of six months from the date of the conditional discharge, the patient shall, unless an order has been made under subsection (2), be deemed to have been absolutely discharged.

Discharge of medically recommended patient

10. A medically recommended patient may be discharged at any time, if the Chief Medical Officer is satisfied that it is in the interest of the patient to discharge him, and that either—

- (a) the patient is not in need of any further care and treatment in a hospital or psychiatric ward; or
- (b) the patient may be in need of further care and treatment, but such care and treatment can be provided informally within the community.

Admission by order of Court

- 11. (1)** Where—
- (a) a person is—
 - (i) convicted by the Supreme Court of an offence other than an offence the sentence for which is fixed by law; or
 - (ii) convicted by a magistrate of an offence punishable on summary conviction by imprisonment; and
 - (b) the Supreme Court or magistrate considers that such person may be mentally disordered; and
 - (c) the Supreme 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 Order the Chief Medical Officer to admit the person to a hospital or ward.

(2) Subject to subsection (4)(b), a person who has been admitted under subsection (1) shall not be kept in a hospital for more than fourteen days.

(3) The Chief Medical Officer and a medical practitioner shall, as soon as practicable after admitting a person under subsection (1), make or cause to be made such examination as they consider necessary for determining whether or not the person is mentally ill and in need of care and treatment, and within fourteen days of the date of admission submit a report in writing to the Court relative to the mental condition of the person.

(4) On receipt of the report, the Court shall forthwith—

- (a) rescind the order made under subsection (1), if the Chief Medical Officer and a medical practitioner are satisfied that the person named in the Order is not in need of care and treatment; or
- (b) make another order authorising the Chief Medical Officer to admit the person named therein to a hospital or ward for such further care and treatment as the Chief Medical Officer may consider necessary.

(5) Where an Order is made under subsection (4)(b), the Chief Medical Officer shall, when he is satisfied that the patient is no longer in need of care and treatment report this fact to the Court which shall forthwith rescind the Order.

(6) The Court shall, where it rescinds an Order made under subsection (4)(a) or (5), deal with the person in such manner as it deems necessary.

Admission by Order of the Governor

12. (1) The Governor, on receipt of the medical certificates of two medical practitioners, one of whom shall be the Chief Medical Officer, to the effect that a prisoner, named in the certificate is suffering from mental illness, may by Order direct that the prisoner be transferred to a hospital or ward and that he be kept therein until the Chief Medical Officer is satisfied that he is no longer in need of care and treatment in a hospital or ward.

(2) An Order made under subsection (1) is sufficient authority for the person to whom it is addressed to carry out the directions contained therein.

(3) The Governor may, by Order, authorise the transfer of a prisoner from a hospital to any other hospital, if on the advice of the Chief Medical Officer he is satisfied that the prisoner is in need of treatment other than that provided by the hospital in which he is a patient.

(4) A person who is discharged from a hospital or general hospital before the expiration of the time during which he was in lawful custody, shall on discharge be sent back to the place from which he was originally transferred.

(5) A person to whom subsections (1) and (3) apply, shall be deemed to be a medically recommended patient, if on the expiration of the time during which he was in lawful custody, he is still a patient at a hospital or general hospital, and all the provisions of this Ordinance relating to a medically recommended patient shall apply to such a person.

(6) For the purposes of this section “**prisoner**” means a person who is detained in lawful custody in pursuance of any sentence or order passed or made by a Court.

Transitional arrangements

13. *Expired, spent.*

PART II TREATMENT

Application of Part II

14. (1) This part of the Ordinance applies to any patient liable to be detained under this Ordinance except an informal patient.

(2) Section 15 and, so far as relevant to that section, sections 17, 18 and 20, apply also to any patient who is not liable to be detained under this Ordinance.

Treatment requiring consent and a second opinion

15. (1) This section applies to the following forms of medical treatment for mental disorder—

- (a) any surgical operation for destroying brain tissue or for destroying the functioning of brain tissue;
- (b) the surgical implantation of hormones;
- (c) such other forms of treatment as may be specified for the purposes of this section by regulations made by the Governor in Council.

(2) Subject to section 19, a patient shall not be given any form of treatment to which this section applies unless he has consented to it and—

- (a) the Chief Medical Officer and a medical practitioner appointed for the purposes of this Part of this Ordinance by the Governor and two other persons appointed for the purposes of this paragraph by the Governor (not being registered medical practitioners) have certified in writing that the patient is capable of understanding the nature, purpose and likely effects of the treatment in question and has consented to it; and
- (b) the Chief Medical Officer has certified in writing that, having regard to the likelihood of the treatment alleviating or preventing a deterioration of the patient’s condition, the treatment should be given.

(3) Before making any regulations for the purpose of this section the Governor in Council shall consult such bodies as appear to him to be concerned.

Treatment requiring consent or second opinion

16. (1) This section applies to the following forms of medical treatment for mental disorder—

- (a) electro convulsive therapy;
- (b) the administration of medicine to a patient by any means (not being a form of treatment specified under paragraph (a) above or section 15 above) at any time during a period for which he is liable to be detained as a patient to whom this Part of this Ordinance applies, if three months or more have elapsed since the first occasion in that period when medicine was administered to him by any means for this mental disorder;
- (c) such forms of treatment as may be specified for the purposes of this section by regulations made by the Governor in Council.

(2) Subject to section 20, a patient shall not be given any form of treatment to which this section applies unless—

- (a) he has consented to that treatment and a medical practitioner has certified in writing that the patient is capable of understanding its nature, purpose and likely effect and has consented to it; or
- (b) two medical practitioners have certified in writing that the patient is not capable of understanding the nature, purpose and likely effects of the treatment or has not consented to it but that, having regard to the likelihood of its alleviating or preventing a deterioration of his condition, the treatment should be given; or
- (c) he has been admitted under section 7(2) and the person who consented to his admission has consented to the treatment.

(3) Before giving a certificate under subsection (2)(b) the medical practitioner concerned shall if practicable consult one other person who is not a medical practitioner and who has been professionally concerned with the patient's medical treatment.

(4) Before making any regulations for the purposes of this section the Governor in Council shall consult such bodies as appear to him to be concerned.

Plans of treatment

17. Any consent or certificate under section 15 or 16 may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more of the forms of treatment to which that section applies.

Withdrawal of consent

18. (1) Where the consent of a patient or person mentioned in section 7(2) to any treatment has been given for the purposes of section 15 or 16, the patient or other person may, subject to section 20, at any time before the completion of the treatment withdraw his consent, and those sections shall then apply as if the remainder of the treatment were a separate form of treatment.

(2) Without prejudice to the application of subsection (1) to any treatment given under the plan of treatment to which a patient or said other person has consented, the patient or the other person who has consented to such a plan may, subject to section 20, at any time withdraw his consent to further treatment, or to further treatment of any description, under the plan.

Review of treatment

19. Where a patient is given treatment in accordance with section 15(2) or 16(2)(b), a report on the treatment and the patient's condition shall be given by the Chief Medical Officer to the Psychiatric Hospital Tribunal every six months or at any other time if so required by the Psychiatric Hospital Tribunal.

Urgent treatment

20. Sections 15 and 16 shall not apply to any treatment which is immediately necessary—

- (a) to prevent a serious deterioration in a patient's condition; or
- (b) to alleviate serious suffering by the patient; or
- (c) to prevent the patient behaving violently or being a danger to himself or others and represents the minimum interference to the patient.

Treatment not requiring consent

21. The consent of a patient shall not be required for any medical treatment given to him for the mental disorder from which he is suffering, not being treatment falling within section 15 or 16, if the treatment is given by or under the direction of the Chief Medical Officer.

PART III PSYCHIATRIC HOSPITAL TRIBUNAL

Establishment, composition and function of Psychiatric Hospital Tribunal

22. (1) A Psychiatric Hospital Tribunal (hereinafter referred to as "the Tribunal") is hereby established for the purposes of this Ordinance.

(2) The Tribunal shall consist of the Chief Medical Officer, and three other suitable persons who shall be appointed by the Governor.

(3) A person who has been appointed by the Governor—

- (a) shall, subject to paragraphs (b) and (c), hold office for a term of three years but is eligible for re-appointment;
- (b) may at any time be removed from office by the Governor;
- (c) may at any time resign his office by instrument in writing addressed to the Chairman of the Tribunal who shall cause it to be transmitted to the Governor; resignation shall take effect from the date on which the Governor receives the instrument;
- (d) may be paid such remuneration and allowances as the Governor in Council may from time to time determine.

(4) The provisions of paragraph (d) shall not apply to any member of the Tribunal who is a public officer.

Chairman and quorum

23. (1) The Governor shall appoint the Chairman of the Tribunal from one of its members (other than the Chief Medical Officer) who shall preside over all meetings of the Tribunal.

(2)⁴ The Tribunal shall meet at least once every six months and at such other times as may be necessary or expedient for the transaction of its business; meetings shall be held at such place and time and on such days as the Tribunal may determine.

(3) At any meeting of the Tribunal the Chairman, the Chief Medical Officer and at least one other Member shall constitute a quorum.

Function of Tribunal

24. (1) The Tribunal shall—

- (a)* review not less than every six months the case of each medically recommended patient and each informal patient;
- (b)* review every six months the case of a patient who has been in hospital for more than six months pursuant to an Order of the court or an Order of the Governor; and
- (c)* inspect at least once annually each psychiatric hospital, psychiatric ward or approved home.

(2) The Tribunal may, if it considers it necessary to the efficient performance of its functions, require the attendance before it of any member of the staff of a psychiatric hospital or ward.

(3) The Tribunal shall within one month of the exercise of its functions under subsection (1) submit to the Governor any report or recommendations it may consider necessary or desirable.

Staff

25. The Tribunal shall have a Secretary and such other staff, as it may consider necessary for the proper performance of its functions. The Secretary and any other staff shall be public officers.

Patient may apply for discharge

26. (1) A person who is a patient at a hospital, a psychiatric ward, or an approved home or a relative or friend of such person, may make an application in the prescribed form to the Tribunal requesting his discharge.

(2) The provisions of subsection (1) do not apply to a person who is detained pursuant to an unrevoked or unexpired Order of the Court or an Order of the Governor made under sections 11 and 12 respectively.

(3) Where an application made under subsection (1) is refused, a further application thereunder shall not be made within six months of the date of the refusal.

⁴ Section 23(2) amended by Ord. 1 of 1990

Duty of Secretary

27. (1) On receipt of an application made pursuant to section 26(1), the Secretary shall forthwith transmit the application, or a copy thereof, to the Chairman of the Tribunal who shall cause a meeting of the Tribunal to be summoned within 28 calendar days of such application.

(2) All information relating to the admission, treatment and progress of the patient as well as the reason for which his discharge is requested shall be made available to the Tribunal; the patient, or his relative or friend where the application is made on his behalf, may be allowed to attend any meeting of the Tribunal at which the patient's application is under review.

(3) The Tribunal shall cause to be made any examination it considers necessary for the purpose of determining whether or not the patient is mentally ill, in need of further care and treatment or is dangerous to himself or others.

(4) The Tribunal, if it is satisfied that a patient—

(a) is not mentally ill; or

(b) though suffering from a mental disorder is not in need of further care and treatment in a hospital, psychiatric ward or an approved home and is not dangerous to himself or others,

may by Order in the prescribed form, direct that the person named in the Order be discharged, conditionally discharged, granted leave of absence, or transferred to another hospital or ward.

(5) A patient in respect of whom an Order is made under subsection (4) shall not be kept in a hospital psychiatric ward or an approved home for more than two days after the date on which the Order was made, except where appropriate to facilitate discharge arrangements, the Tribunal may defer discharge for up to 30 calendar days.

(6) Where the requirements of subsection (4) are not satisfied, the Tribunal shall dismiss the application.

(7) Subject to section 28 the decision of the Tribunal with respect to an application or matter arising therefrom or incidental thereto shall be final.

Appeals

28. A person who is aggrieved by a decision of the Tribunal acting under sections 26 and 27 may within 14 days of such decision appeal by way of originating application to the Supreme Court.

PART IV

POWERS AND DUTIES OF THE CHIEF MEDICAL OFFICER

Duty and powers of the Chief Medical Officer

29. (1) The Chief Medical Officer shall ensure that all correspondence addressed to the Secretary of the Tribunal, which comes to his notice, shall be delivered to the Secretary, unopened and unimpeded.

(2) Every patient is subject to the authority and control of the Chief Medical Officer and any medical practitioner attached to the hospital or psychiatric ward to which he was admitted.

Leave of absence

30. (1) The Chief Medical Officer or medical practitioner, may, if he considers it conducive to the best interests of the patient, permit a patient to be away from a hospital or a psychiatric ward for such period and on such terms and conditions as he considers necessary.

(2) Subject to subsection (3), the Chief Medical Officer may, if he considers it conducive to the recovery of the patient, authorise the transfer of such patient to an approved home.

(3) The provisions of subsection (1) do not apply to a person who is detained pursuant to an unrevoked or unexpired Order of the Court or an Order of the Governor made under sections 11 and 12 respectively.

Patients at large may be apprehended

31. (1) A patient who is liable to be detained under this Ordinance and who has not been permitted to be absent from a hospital or a psychiatric ward under section 30(1) or who has not been conditionally discharged under section 9(1), may at any time within twelve months of the date of his leaving the hospital or psychiatric ward, and in any place, on an Order made by the Chief Medical Officer in the prescribed form, be apprehended by a police officer or any other person designated in writing for that purpose by the Chief Medical Officer and be brought back to the hospital or the psychiatric ward in which he was a patient.

(2) On the expiration of twelve months a person to whom subsection (1) applies shall be deemed to be absolutely discharged from the hospital or psychiatric ward in which he was a patient, if within that period he was not brought back to the hospital or ward.

PART V APPROVED HOMES

Governor may issue certificate approving use of home as approved home

32. (1) The Governor may, subject to the provisions of this Part, issue a certificate approving the use of any house as an approved home for the reception of persons who are in need of care and treatment and authorising the person named in the certificate to admit such persons for the necessary care and treatment as—

- (a) an urgent admission patient;
- (b) an informal patient; or
- (c) a medically recommended patient.

(2) Every person who has been admitted to an approved home shall be under the care and supervision of a medical practitioner.

(3) A house shall not be used as an approved home except on the authority of a certificate issued under subsection (1).

(4) A certificate shall not be issued unless the house, its location with regard to neighbouring premises and its proposed facilities and equipment are suitable for the purpose for which it is intended and the Governor is satisfied as to the character and fitness of the applicant.

Certificate to be displayed

33. A certificate issued under section 32(1), shall be displayed in a conspicuous part of the house in respect of which it was issued.

Offences and penalty

34. A person who contravenes the provisions of section 32(3) or 33 or of any regulations made under this Part is guilty of an offence and liable on summary conviction to a fine of £1,000 or to imprisonment for twelve months or to both such fine and imprisonment.

PART VI

PROTECTION OF PROPERTY OF PATIENTS

Supreme Court to exercise control over property of patient

35. (1) Subject to this Part, on application by originating summons made by a public officer or a relative of a patient, the Chief Justice may exercise control over the property and affairs of a patient if he is satisfied by evidence on affidavit that the patient is incapable by reason of mental disorder of managing and administering his property and affairs.

(2) For the purpose of this Part of the Ordinance—

“**patient**” means a person as to whom the Chief Justice is satisfied as is mentioned in subsection 1;

“**public officer**” means the person appointed by the Governor for the purpose of this Part.

Court may make Order appointing committee

36. (1) On an application made under section 35(1) the Court may make an Order appointing the applicant or any other person the committee of a patient’s property on production of—

(a) a certificate by the Chief Medical Officer and another medical practitioner to the effect that the patient is suffering from mental disorder as a result of which he is incapable of managing and administering his property and affairs, and stating the probable duration of such disorder; and

(b) a statement by the applicant stating—

(i) what he proposes to do with the patient’s property during the latter’s illness; and

(ii) in a case where the applicant is a public officer the name(s) and address(es) of such of the patient’s relatives as may be known to him.

(2) Prior to making an Order under subsection (1) the Chief Justice must be satisfied where the application was made by a public officer that service of the summons was effected on at least one of the patient’s relatives, or that the whereabouts of any of the patient’s relatives could not be ascertained.

Powers of Chief Justice

37. (1) In addition to the powers conferred on the Chief Justice by sections 35 and 36 the Chief Justice may, with respect to the property and affairs of a patient, do or cause to be done all or any such things which he may consider necessary or expedient—

- (a) for the maintenance or other benefit of the patient or members of his family or both;
 - (b) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from mental disorder; or
 - (c) generally for administering the patient's property and affairs.
- (2) In the exercise of his powers under subsection (1), the Chief Justice shall have regard to—
- (a) the requirements of the patient;
 - (b) the interests of creditors as well as to the desirability of making provisions for obligations of the patient notwithstanding that they may not be legally enforceable.
- (3) The provisions of any rules of law governing the enforcement by a creditor of rights against the property of a person who is suffering from a mental disorder shall apply to property under the control of the Chief Justice.

Chief Justice may make orders and give directions and authorities

38. (1) In the exercise of his powers under section 37 the Chief Justice may make such orders and give such directions and authorities as he thinks fit for the purpose of that section, and in particular may for those purposes make orders or give directions or authorities for—

- (a) the control (with or without the transfer or vesting of property) and management of any property of the patient;
 - (b) the sale, exchange, charging or other disposition of or dealing with any property of the patient;
 - (c) the acquisition of any property in the name or on behalf of the patient;
 - (d) the settlement of any property of the patient or the gift of any property of the patient to any such persons or for the maintenance of members of the patient's family or for the purpose specified in paragraph (b) of section 37(1);
 - (e) the carrying on by a suitable person of any profession, trade or business of the patient;
 - (f) the dissolution of a partnership of which the patient is a member;
 - (g) the carrying out of any contract entered into by the patient;
 - (h) the conduct of legal proceedings in the name of the patient or on his behalf;
 - (i) the reimbursement out of the property of the patient, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or members of his family or in making provisions for other persons or purposes for whom or which he might be expected to provide if he were not suffering from mental disorder;
 - (j) the exercise of any power (including a power to consent vested in the patient, whether beneficially, or as guardian or trustee or in any other manner) except the consent to treatment under Part II of this Ordinance.
- (2) Where pursuant to subsection (1) provision is made for the settlement of any property of a patient or for the exercise of a power vested in a patient to appoint trustees or retire from a trust, the Chief Justice may also make, with respect to the property which has been settled or the trust property, such consequential vesting or other orders as the case may require.
- (3) The power of the Chief Justice to provide for the settlement of the property of a patient shall not be exercisable at any time when the patient is under the age of 18 years.

(4) Where a settlement has been made pursuant to this section and the Chief Justice is satisfied, at any time before the death of the patient, that any material fact was not disclosed when the settlement was made, or that there has been any substantial change in the circumstances which existed when the settlement was made, he may by order vary the settlement in such manner as he thinks fit and give any consequential directions.

Chief Justice may appoint receiver

39. (1) The Chief Justice may by Order appoint as receiver for a patient the person named in the Order or the holder of an office so specified.

(2) The receiver shall, in relation to the property and affairs of the patient, do all such things as the Chief Justice in exercise of his powers under this Part, orders, directs or authorises him to do.

(3) A receiver may be discharged by order of the Chief Justice at any time if the Chief Justice considers it expedient to do so and shall be discharged—

- (a) automatically on the death of the patient;
- (b) by order of the Chief Justice whenever the Chief Justice is satisfied that the person is capable of managing and administering his property and affairs.

Stock may be dealt with

40. (1) Where the Chief Justice is satisfied that—

- (a) under the law prevailing in a place outside St. Helena a person has been appointed to exercise any power with respect to the property or affairs of any other person on the ground that that other person is incapable by reason of mental disorder of managing and administering his property and affairs; and
- (b) having regard to the nature of the appointment and to the circumstances of the case it is expedient that the Chief Justice should exercise his powers under this section,

the Chief Justice may in his discretion direct any stock standing in the name of that other person or the right to receive the dividends thereof to be transferred into the name of the person so appointed or otherwise dealt with as requested by that person, and may give such direction as the Chief Justice thinks fit for dealing with accrued dividends thereof.

(2) In this section “**stock**” includes shares, any fund, annuity or security transferable in the books kept by anybody, corporate or unincorporated association, or by an instrument of transfer, and “**dividends**” shall be construed accordingly.

Preservation of interests in patient’s property

41. (1) Where—

- (a) property of a person has been disposed of under this Part; and
- (b) under his will or intestacy or by any gift perfected or nomination taking effect on his death any other person would have taken an interest in such property but for such disposal,

that other person is entitled to the like interest, if and so far as the circumstances allow, in any property belonging to the estate of the deceased that represents the property disposed of; and if the property disposed of were real property, any property representing it is so long as it remains part of such estate, to be treated as if it were personal property.

(2) The Chief Justice in ordering, directing or authorising under this Part any disposal of property that apart from this section would result in the conversion of personal property into real property, may direct that the property representing the property disposed of, so long as it

remains the property of the patient or forms part of his estate, be treated as if it were personal property.

PART VII
GENERAL PROVISIONS

Removal of patient from St. Helena for treatment

42. (1) Where an alien or any other person not domiciled in St. Helena, is detained as a mentally ill person, the Governor with the prior approval of the Secretary of State, may Order the removal of the patient to the country of which he is a national or to the country of his domicile for care and treatment, if he is satisfied that—

- (a) it is in the patient's interest for him to be removed; and
- (b) proper arrangements have been made for the removal of the patient from St. Helena and for his subsequent care and treatment.

(2) Where the removal of a patient is ordered in pursuance of the provisions of this section the Governor may issue a warrant which shall—

- (a) direct the patient to be delivered to the person named in the warrant;
- (b) contain such directions as the Governor thinks fit for the conveyance of the patient to his destination;
- (c) be sufficient authority for the master of any vessel or captain of any aircraft to receive and detain the patient on such vessel or aircraft for the purpose of conveying the patient to his destination.

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

(4) Any patient removed from St. Helena in accordance with the provisions of this section shall not return to St. Helena except by permission of the Governor.

Removal of patient domiciled in St. Helena for treatment

43. (1) Where a person, other than an alien or any other person not domiciled in St. Helena, is detained as a mentally ill person, the Governor with the prior approval of the Secretary of State, may Order the removal of the patient outside St. Helena for care and treatment, if he is satisfied that—

- (a) it is in the patient's interest for him to be so removed; and
- (b) proper arrangements have been made for the removal of the patient from St. Helena and for his subsequent care and treatment.

(2) Where the removal of a patient is ordered in pursuance of the provisions of this section the Governor may issue a warrant which shall—

- (a) direct the patient to be delivered to the person named in the warrant;
- (b) contain such directions as the Governor thinks fit for the conveyance of the patient to his destination;
- (c) be sufficient authority for the master of any vessel or captain of any aircraft to receive and detain the patient on such vessel or aircraft for the purpose of conveying the patient to his destination.

(3) Any warrant for removal made under this section shall be addressed to the Chief Medical Officer of the hospital or psychiatric ward in which the patient is at the time detained

and shall direct him to deliver up the patient to the person mentioned in such warrant at such place and in such manner as may be specified in the said warrant for the purpose of such removal as aforesaid; and the patient shall be delivered up accordingly.

Protection against civil proceedings

44. No person shall be liable to any suit or action in respect of any act done under lawful direction and authority pursuant to the provision of this Ordinance or the regulations unless it can be shown to the satisfaction of the Chief Justice that the person acted without good faith or reasonable care.

Court may order stay of proceedings

45. Where proceedings are instituted against a person for any act done pursuant to the provisions of this Ordinance or the regulations, the Supreme Court may, on an application made by summons, stay such proceedings on such terms as to cost as the Supreme Court may think fit, if it is satisfied that the person acted in good faith and with reasonable care.

Offences and penalties

46. It is an offence for any person in charge of or an officer on the staff of or otherwise employed in a hospital, a psychiatric ward, or an approved home to ill-treat or wilfully neglect a person whether or not a patient who is in their charge for the purpose of receiving care, treatment or protection on the premises of which such hospital, ward, or home forms part, or a person who is on the premises for the purpose of receiving care and treatment as an outpatient.

Offence to ill-treat person suffering from a mental disorder

47. It is an offence for any person to ill-treat or wilfully neglect a person suffering from a mental disorder who is in his custody or under his care and protection.

Penalty

48. Any person who is guilty of an offence under section 46 or 47 is liable—
- (a) on summary conviction to imprisonment for a term of six months or to a fine of £500 or to both such fine and imprisonment;
 - (b) on conviction on indictment to imprisonment for a term of two years or to a fine of £2,000 or to both such fine and imprisonment.

Offence to have sexual intercourse with patients

49. It is an offence for any person who is in charge of, or an officer on the staff of or otherwise employed in a hospital, psychiatric ward or approved home to have sexual intercourse with a person who is—

- (a) a patient in such hospital, psychiatric ward or approved home; or
- (b) on the premises of such hospital, psychiatric ward or approved home for the purposes of receiving treatment as an out-patient.

Offence to have sexual intercourse with person who is suffering from a mental disorder

50. (1) It is an offence for any person to have sexual intercourse with a person who is suffering from a mental disorder and who is in his custody or under his care and protection.

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

Penalty

51. Any person found guilty of an offence under section 49 or 50 is liable on conviction on indictment to a fine of £2,000 or imprisonment for a term of two years, or to both such fine and imprisonment.

Offence to assist patient to escape

52. Except as provided in this Ordinance or the regulations, a person who aids, abets or assists a patient to leave a hospital, a psychiatric ward or an approved home, or who harbours, assists or comforts any patient who has left a hospital, a psychiatric ward or an approved home, is guilty of an offence and liable on summary conviction to a fine of £500 or to imprisonment for three months or to both such fine and imprisonment.

Offence in respect of undertaking given under section 9

53. A person is guilty of an offence and liable on summary conviction to a fine of £500 or to imprisonment for three months or to both such fine and imprisonment if having given an undertaking under section 9(1) he—

- (a)* neglects or fails to provide the patient with adequate lodging, clothing, food or medical attention, if required;
- (b)* fails or refuses to allow the patient to be visited by any officer or employee attached to the hospital or ward from which the patient was conditionally discharged by the Chief Medical Officer;
- (c)* neglects or fails to comply with any terms or conditions subject to which the person was conditionally discharged.

Offence to obstruct persons in the execution of their duties

54. A person who without lawful authority interferes with or obstructs any person in the execution of his duties under this Ordinance or the regulations is guilty of an offence and liable on summary conviction to a fine of £250 or to three months imprisonment or to both such fine and imprisonment.

Offence to make any false or misleading statement in an application

55. A person who wilfully makes any false or misleading statement in any application required to be made under this Ordinance is guilty of an offence and liable on summary conviction to a fine of £2,000 or to imprisonment for two years or to both such fine and imprisonment.

Power to make regulations

56. The Governor in Council may make any regulations he considers necessary for the effective carrying out of the provisions of this Ordinance and in particular may make regulations—

- (a) prescribing anything that is required by this Ordinance to be prescribed;
- (b) providing that any or all of the provisions of this Ordinance shall not apply to an approved home;
- (c) prescribe fees payable in respect of the issue or renewal of an approved home certificate.

Offence to contravene regulations

57. A person who contravenes or fails to comply with the provisions of any regulation made under this Ordinance is guilty of an offence and liable on summary conviction to a fine of £500 or to imprisonment for six months or to both such fine and imprisonment.

Chief Justice may make rules

58. The Chief Justice may make rules of court for the purpose of prescribing any matter of procedure that is necessary or expedient for the proper exercise of any of the provisions of this Ordinance.

MENTAL HEALTH (FORMS) REGULATIONS – SECTION 57

(Legal Notice 7 of 1986)

Short title

- 1. These regulations may be cited as the Mental Health (Forms) Regulations.

Forms

- 2. The forms in the Schedule to these regulations, or forms to like effect, may be used in the cases to which they refer, with such variations as circumstances may require.

SCHEDULE

FORM 1

MENTAL HEALTH ORDINANCE

(Section 5)

APPLICATION FOR URGENT ADMISSION OF PATIENT

To: A Medical Practitioner

I of

.....

request you to receive as an urgent admission patient in accordance with the provisions of section 5 of the Mental Health Ordinance. The particulars of the said are as follows—

Full name Sex Age

Address

Address

Degree of relationship (if any) to applicant

If not related to the patient—

(1) State your connexion with the person to whom this application relates

.....

(2) State why you believe that the patient is mentally disordered

This e-version of the text is not authoritative for use in court.

.....

Dated this day of, 20.....

Signature:

Note: This application must be accompanied by a medical certificate issued by a registered medical practitioner who has examined the subject of the application not more than 3 days before this date.

FORM 2

MENTAL HEALTH ORDINANCE

(Section 8)

APPLICATION FOR RECEPTION OF A MEDICALLY RECOMMENDED PATIENT

To: The Chief Medical Officer

I of
request you to receive as a medically
recommended patient in accordance with the provisions of section 8 of the Mental
Health Ordinance. The particulars of the said
are as follows—

Full name..... Sex Age

Address

Address

Degree of relationship (if any) to applicant

(1) State your connexion with the person to whom this application relates

.....

(2) State why you believe that the patient is mentally disordered

.....
.....

If not related to the patient state why a relation has not made the application

.....
.....

Dated this day of, 20.....

Signature:

Note: This application must be accompanied by a medical certificate issued by a
registered medical practitioner other than the Chief Medical Officer who has
examined the subject of the application not more than 7 days before this date.

FORM 3

MENTAL HEALTH ORDINANCE

(Section 8(3))

ORDER BY THE CHIEF MEDICAL OFFICER FOR THE REMOVAL TO A PSYCHIATRIC HOSPITAL FOR THE PURPOSE OF DETENTION OF A PERSON BELIEVED TO BE A MENTALLY DISORDERED PERSON

I Chief Medical Officer have reason to believe that of is a mentally disordered person. The reasons for my belief are as follows:—

(a) (Account of personal observation)
.....
.....

(b) (Facts communicated to me by others)
.....
.....

Pursuant to the powers vested in me by section 8(3) of the Mental Health Ordinance, I hereby Order that the said be apprehended by a police officer [and/or] and brought to for admission.

Dated this day of, 20.....

Signed
Chief Medical Officer

To:
.....

Note: This Order shall only be issued after a medical certificate has been issued by a registered medical practitioner other than the Chief Medical Officer under the provisions of section 8(1) of the Mental Health Ordinance.

Please give reasons
State name of informant(s)

FORM 4

MENTAL HEALTH ORDINANCE

(Section 9)

ORDER FOR THE REMOVAL OF A CONDITIONALLY DISCHARGED MEDICALLY RECOMMENDED PATIENT TO A PSYCHIATRIC HOSPITAL OR WARD

I
Chief Medical Officer have reason to believe that
of who is a conditionally discharged patient
under the provisions of section 9 of the Mental Health Ordinance is now so
mentally disordered that his return to hospital is considered necessary for the
following reasons:—

.....
.....

Pursuant to the powers vested in me by section 9 subsections (2) and (3) of
the Mental Health Ordinance I hereby order you to apprehend the
said and return him to

Dated this day of, 20.....

Signed:
Chief Medical Officer

To:
.....
.....

FORM 5

MENTAL HEALTH ORDINANCE

(Section 11)

ORDER FOR REMOVAL TO A PSYCHIATRIC HOSPITAL OR WARD FOR THE PURPOSE OF DETENTION AND ASSESSMENT OF A CONVICTED PERSON BELIEVED TO BE A MENTALLY DISORDERED PERSON

I Chief Justice/Judge/Magistrate have reason to believe that of..... convicted of on the day of, 20..... is a mentally disordered person. The reasons for my belief are as follows:—

.....
.....

Pursuant to the powers vested in me under section 11(1) of the Mental Health Ordinance I hereby order that the said shall be detained at for a period of not longer than 14 days for examination and preparation of reports.

Dated this day of, 20.....

.....
Chief Justice/Judge/Magistrate

To: The Chief Medical Officer

.....
.....

FORM 6

MENTAL HEALTH ORDINANCE

(Section 11)

**ORDER FOR DETENTION CONVICTED PERSON
IN A PSYCHIATRIC HOSPITAL FOR TREATMENT**

I Chief Justice/Judge/Magistrate
have read the report of the Chief Medical Officer and
relating to the convicted person
and I am satisfied that the said
is a mentally disordered person
.....

Pursuant to the powers vested in me by section 11(4) of the Mental Health
Ordinance I hereby order that the said
shall be detained at for such further care and
treatment as you may consider necessary.

Dated this day of, 20.....

.....
Chief Justice/ Judge/ Magistrate

To: The Chief Medical Officer
.....
.....

FORM 7

MENTAL HEALTH ORDINANCE

(Section 12)

ORDER FOR THE DETENTION OF A PRISONER IN A PSYCHIATRIC HOSPITAL FOR TREATMENT

I
 Governor of St. Helena and its Dependencies having perused medical certificates issued by the Chief Medical Officer and
 am satisfied that convicted by the
 Court on the day of, 20.....
 and sentenced imprisonment is suffering from mental disorder for the following reason(s):—

.....

Pursuant to the powers vested in me under section 12(1) of the Mental Health Ordinance I hereby order that the said shall be detained at and he shall be kept therein until the Chief Medical Officer is satisfied that he is no longer in need of care and treatment.

Dated this day of, 20.....

Signed
 Governor

To: The Chief Medical Officer

.....

