

CHAPTER 157.

LUNACY.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Short title.
2. Interpretation.
3. Jurisdiction in lunacy vested in the Supreme Court.
4. Commissions of lunacy may be dispensed with.
5. Traverse of inquisition of lunacy.
 - (1) Limitation of time.
 - (2) Trial in the Supreme Court.
 - (3) Security to be given by traverser.
 - (4) When the traverser barred.
6. Proceedings in lieu of traverse when no commission has issued.
7. Property of lunatics.
 - (1) Security given by committee.
 - (2) Inventory to be filed by the Committee.
 - (3) Subsequently discovered property.
 - (4) Verification of inventory.
8. Where estate not sufficient to pay debts.
 - (1) Leave to mortgage or sell.
 - (2) Contents of petition.
 - (3) Enquiry into truth of petition.
 - (4) Disposal of real estate if personal insufficient.
 - (5) Payment of debts out of proceeds.
 - (6) Rateably and without preference.
9. Application of realty if personalty insufficient to maintain lunatic.
10. Application of surplus sums.
11. Practice when a lunatic is a trustee.
12. Execution of instruments by Committee to be valid.
13. Specific performance of lunatic's contracts.
14. Payment of costs and expenses.
15. Power to declare any building, etc., a mental hospital.
16. Charge of mental hospital.
17. Government of mental hospital.
18. Confinement of lunatic under certificate and order.
19. Effects of certificate.
20. Certificate of emergency.
21. Power of arrest in cases of escape.
22.
 - (1) Power of Governor to order discharge or to allow absence on trial.
 - (2) Failure of person absent on trial to return.
 - (3) Medical examination of person absent on trial.
 - (4) Re-confinement of persons discharged or absent on trial.
23. Discharge of lunatic becoming sane.
24. Criminal lunatics.
25. Demand for maintenance of infant lunatic.
26. Maintenance for portion of quarters of the year.
27. Mode of enforcing claims for maintenance.
28. Hearing of the case.
29. Possession taken of lunatic's property to pay for maintenance.

SECTION.

30. Sale of lunatic's realty to be approved by Court.
31. Liability of Medical Superintendent for the effects of lunatics.
32. Rules of Court.
33. Provision in event of illness or absence of D.M.S.
34. Where mental hospital not specified, Kissy to be understood.

SCHEDULE.

CHAPTER 157.

LUNACY.

An Ordinance to consolidate and amend the Ordinances relating to lunacy.

[14TH APRIL, 1902.]

6 of 1902.
21 of 1922.
Sec. 10 of No.
12 of 1924.
5 of 1944.
9 of 1947.
21 of 1954.
26 of 1957.

Short title.*

1. This Ordinance may be cited as the Lunacy Ordinance.

Interpreta-
tion.

Cap. 151.

2. In this Ordinance the expression "qualified medical practitioner" means a person registered as a medical practitioner under the Medical Practitioners, Dentists and Druggists Ordinance.

Jurisdiction
in lunacy
vested in the
Supreme
Court.

3. The Supreme Court shall have power and authority to do, exercise and perform all such acts, matters and things as can and may be done by the Lord High Chancellor of England in the exercise, as well of equitable and common law jurisdiction, as of jurisdiction to him belonging by virtue of commission from the Crown or otherwise, within the realm of England, and to appoint guardians and committees of the persons and estates of lunatics and persons deprived of understanding and unable to govern themselves or their estates, and for that purpose to enquire into, hear and determine, by inspection of the person, the subject of such enquiry, or by examination, on oath or otherwise, of the party in whose custody or charge such person may be, or of any other person or by such other ways and means by which the truth may be best discovered and to act in all cases whatsoever as fully and amply to all intents and purposes as the said Lord High Chancellor or the grantee from the Crown

* The short title has been, hitherto, the Lunacy Regulation Ordinance.

of the persons and estates of lunatics, and persons deprived of understanding as aforesaid, may now lawfully do, and all the powers hereby vested in the said Court may be exercised by any one of the Judges thereof.

4. Where there is no reasonable doubt, the Court may, on sufficient evidence, declare a person a lunatic without the delay or expense of issuing a commission to enquire into the alleged lunacy. In the case of pauper lunatics, it shall be sufficient to follow the procedure prescribed by section 18 of this Ordinance.

Commissions of lunacy may be dispensed with.

5. When a commission has been issued (which shall be under the hand of one of the Judges and the seal of the Court), and an inquisition thereupon returned into Court, by which a person is found lunatic, in case anyone entitled to traverse the inquisition desires to do so, he may within three months from the day of the return and filing of the inquisition present a petition for that purpose to the Court, and the Court shall hear and determine the petition subject to the following provisions—

Traverse of inquisition of lunacy.

(1) In every order giving effect to such petition, the Court shall limit a time, not exceeding six months from the date of the order within which the person desiring to traverse, and all other proper parties, shall proceed to the trial of the traverse, but the Court may, under the special circumstances of any case, and upon a petition being presented for that purpose, and upon the circumstances being substantiated upon affidavit, allow the traverse to be had or tried after the time limited; and in such special case the Court may make such orders as seem just.

Limitation of time.

(2) The trial may be ordered to take place in the Supreme Court according to the circumstances of the case and the situation of the parties, at such time as shall be ordered by the Court.

Trial in the Supreme Court.

(3) The Court may order that the person to traverse, if he is not the party who has been found lunatic, shall, within one month after the date of the order, file with the Master of the Court a bond, with one or more sureties, in favour of the Master for the time being, and conditioned for all proper parties proceeding to the trial of the traverse within the time limited, such bond before the filing thereof being approved of, and certified to be sufficient, by the Master.

Security to be given by traverser.

(4) Every person who does not present his petition, or who neglects to give the security, or who does not proceed to the trial of the traverse within the times respectively limited

When the traverser barred.

therefor, and the heirs, executors, and administrators of every such person, and all others claiming through him, shall be absolutely barred of the right of traverse.

Proceedings
in lieu of
traverse
when no
commission
has issued.

6. In case the Court declares a person a lunatic without issuing a commission, any person who might traverse an inquisition to the same effect may move against the order containing the declaration, or may appeal therefrom, as the case requires; and the right so to move or appeal shall, as to time, be subject to the same rules as the right to traverse.

Property of
lunatics.

7. In order to afford due protection to the property of lunatics, the following provisions shall in every case be observed—

Security
given by
Committee.

(1) The Committee of the estate shall give two or more responsible persons as sureties, in double the amount of the personal estate, and of the annual rents and profits of the real estate, for duly accounting for the same once in every year, or oftener if required by the Court, and the security shall be taken by bond or recognisance in the name of the Master of the Court for the time being, in such manner as the Court or the Master thereof may direct, and the same shall be filed in the Office of the Master.

Inventory to
be filed by
the
Committee.

(2) The Committee of the estate shall, within six months after being appointed, file in the Office of the Master a true inventory of the whole real and personal estate of the lunatic, stating the income and profits thereof, and setting forth the debts, credits, and effects of the lunatic, so far as the same have come to the knowledge of the Committee.

Subsequently
discovered
property.

(3) If any property belonging to the estate be discovered after the filing of an inventory, the Committee shall file a true account of the same from time to time, as the same is discovered.

Verification
of inventory.

(4) Every inventory shall be verified by the oath of the Committee.

Where estate
not sufficient
to pay debts.
Leave to
mortgage or
sell.

8. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts, the following steps may be taken—

(1) The Committee of the estate shall petition for authority to mortgage, lease, or sell so much of the real estate as may be necessary for the payment of such debts.

Contents of
petition.

(2) Such petition shall set forth the particulars and amount of the estate, real and personal, of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate.

(3) The Court shall, by the Master or otherwise, enquire into the truth of the representations made in the petition, and hear all parties interested in the real estate.

Enquiry into truth of petition.

(4) If it appears to the Court that the personal estate is not sufficient for the payment of debts, and that the same has been applied to that purpose as far as the circumstances of the case render proper, the Court may order the real estate, or a sufficient portion of it, to be mortgaged, leased, or sold either by the Committee or otherwise.

Disposal of real estate if personal insufficient.

(5) The Court shall direct the Committee to discharge such debts out of the money so raised, and the Court may order the Committee to execute conveyances of the estate, and to give security for the due application of the money, and to do such other acts as may be necessary in such manner as the Court may direct.

Payment of debts out of proceeds.

(6) In the application of any moneys so raised, the debts shall be paid in equal proportion without giving any preference to those which are secured by sealed instruments.

Rateably and without preference.

9. When the personal estate, and the rents, profits, and income of the real estate of the lunatic, are insufficient for his maintenance or that of his family, or for the education of his children, an application may be made by the Committee or by any member of the family of the lunatic, that the Committee be authorised or directed to mortgage or sell the whole or part of the real estate, as may be necessary, upon which the like reference and proceedings shall be had, and a like order made as for the payment of debts.

Application of realty if personalty insufficient to maintain lunatic.

10. In case of any mortgage, lease, or sale being made, the lunatic and his heirs, next of kin, devisees, legatees, executors, administrators and assigns, shall have the like interest in the surplus which remains of the money raised as he or they would have in the estate if no mortgage, lease or sale had been made, and such money shall be of the same nature and character as the estate mortgaged, leased or sold, and the Court may make such orders as are necessary for the due application of the surplus.

Application of surplus sums.

11. When a lunatic is seised or possessed of real estate by way of mortgage, or as a trustee for others in any manner, the Committee may apply to the Court for authority to convey such real estate to the person entitled thereto in such manner as the Court may direct; and thereupon the like proceedings shall be had as in the case of an application to sell the real estate; and

Practice when a lunatic is a trustee.

the Court, upon hearing all the parties interested, may order a conveyance to be made; and on the application by bill or petition of any person entitled to a conveyance, the Committee may be compelled by the Court, after hearing all parties interested, to execute the conveyance.

Execution of instruments by Committee to be valid.

12. Every conveyance, mortgage, lease, and assurance made by the Committee under the direction of the Court, pursuant to any of the provisions of this Ordinance, shall be as valid as if executed by the lunatic when of sound mind.

Specific performance of lunatic's contracts.

13. The Court may compel the specific performance of any contract made by a lunatic while capable of contracting, and may direct the Committee to execute all necessary conveyances for that purpose; and the purchase money, or so much thereof as remains unpaid, shall be paid to the Committee or otherwise as the Court directs.

Payment of costs and expenses.

14. The Court may order any expenses and costs of, and relating to, the said petitions, orders, directions, and conveyances to be paid and raised from the lands, rents, or personal estate of the lunatic in respect of which the same were respectively made, in such manner as the Court thinks proper.

Power to declare any building, etc., a mental hospital.

15. (1) The Governor may, by Order, appoint the whole or part of any building with any out-houses, grounds or premises thereto belonging, to be a mental hospital.

(2) The Governor may in like manner declare that any place shall cease to be a mental hospital.

Charge of mental hospital.

16. The present, and any other mental hospital in this Colony, shall be under the superintendence of the Director of Medical Services for the time being, who shall be responsible for the good government of the same. Every such mental hospital shall be under the charge of a properly qualified medical practitioner to be called the Medical Superintendent, who shall be appointed by the Governor and be subject to the control of the Director of Medical Services.

Government of mental hospital.

17. It shall be lawful for the Governor, with the approval of the House of Representatives, by Order to prescribe for the government of the mental hospital aforesaid, and to amend the same when necessary, and such Order, when so drawn up or amended, shall have the like force as if they formed part of this Ordinance:

Provided always, that the Order at present existing shall be deemed to be in force until altered by competent authority, subject, however, to the provisions of this Ordinance.

18. No person shall be received into a mental hospital as a lunatic without a certificate signed by at least two duly qualified medical practitioners (of whom the Director of Medical Services or a medical practitioner appointed by him either generally or for the purposes of any specific case shall be one), and an order thereupon made and signed either by a Judge of the Supreme Court, a Police Magistrate, or any two Justices of the Peace, which certificate and order may be in the Form A in the schedule to this Ordinance. Every such certificate shall state that the subscribing medical practitioners did, separately from the other, personally examine the patient, and, after due enquiry into all the necessary facts relating to his case, found him to be a lunatic.

Confinement
of lunatic
under
certificate
and order.

Form A.

19. Such certificate shall be sufficient authority to any person to convey the lunatic to the mental hospital therein specified, and to the authorities of the mental hospital to detain him therein so long as he continues to be insane, or until his discharge be ordered under the provisions of this Ordinance.

Effects of
certificate.

20. (1) Notwithstanding anything required under the provisions of this Ordinance, any person may be received into, and detained in, a mental hospital as a lunatic whose case is duly certified to be one of emergency by the Director of Medical Services or a Medical Officer, for any period not exceeding seven days and without any order by a Judge of the Supreme Court, a Police Magistrate, or two Justices of the Peace.

Certificate of
emergency.

Such certificate of emergency shall contain a statement that it is expedient for the welfare of the alleged lunatic that he should be forthwith placed under observation and treatment for a period not exceeding seven days, with the reasons for such statement, and may be in the Form B set out in the schedule to this Ordinance. Such certificate of emergency shall be sufficient authority to any person to convey the alleged lunatic to the mental hospital therein specified, and to the authorities of the mental hospital to detain him therein for the period therein stated.

Form B.

(2) When the medical practitioners, who have an alleged lunatic under observation and treatment in accordance with the provisions of this section, are undecided after seven days' detention as to whether they should sign a certificate of lunacy

21 of 1954.

in respect of the alleged lunatic, and are of the opinion that he should be kept under observation and treatment for a further period, the Director of Medical Services or a Medical Officer may, by endorsement on the certificate of emergency, extend the period of detention for a further period not exceeding seven days and so on from time to time provided that the total period of detention shall not exceed thirty days.

Power of arrest in cases of escape.

21. It shall be lawful for anyone to arrest any person who has been detained in a mental hospital and who is escaping, or who has escaped, from such mental hospital, or from any custody which may be lawful under this Ordinance, and to return him to the mental hospital or into such custody.

Power of Governor to order discharge or to allow absence on trial.

22. (1) Where anyone is willing to take charge of a person detained in a mental hospital, the Governor may, if he thinks fit, whether such person has recovered or not, order the discharge of such person, or allow him to be absent from the mental hospital on trial for such period as the Governor may think fit, and the Governor may at any time grant an extension of such period.

Failure of person absent on trial to return.

(2) If any person allowed to be absent from a mental hospital on trial under this section does not return at, or before, the expiration of the period of absence allowed, such person may at any time after the expiration of such period be re-taken as if he had escaped from the mental hospital.

Medical examination of person absent on trial.

(3) It shall be lawful for the Director of Medical Services, or any Medical Officer whom he may appoint for the purpose, at all reasonable times to examine a person who is absent from a mental hospital on trial under this section, and for that purpose to enter any house or building in which such person may be.

Re-confinement of persons discharged or absent on trial.

(4) Nothing in this section contained shall preclude any person whose discharge has been ordered by the Governor, or whom the Governor has allowed to be absent on trial, under this section, from being re-confined at any time in a mental hospital under the provisions of this Ordinance.

Discharge of lunatic becoming sane.

23. If it shall appear at any time that any person confined in a mental hospital has sufficiently recovered his reason so as to be a proper person to be discharged, it shall be lawful for either a Judge of the Supreme Court, a Police Magistrate, or any two Justices of the Peace, upon the receipt of a certificate to

that effect signed by at least two duly qualified medical practitioners, of whom the Director of Medical Services or a medical practitioner appointed by him either generally or for the purposes of any specific case shall be one, to order his discharge therefrom, and upon the receipt of such order the Medical Superintendent of the mental hospital shall, and he is hereby authorised to, allow such person to depart out of his custody.

26 of 1957.

Such certificate and order may be in the Form C in the schedule to this Ordinance annexed.

Form C

24. If any prisoner in any gaol shall appear to be insane, the keeper thereof shall forthwith give notice to the Medical Officer of the gaol, and it shall be lawful to remove such person to a mental hospital (the certificate required under the provisions of this Ordinance being first duly had and obtained); and if such person shall, after such removal, and before the expiration of the period of his imprisonment or custody, be found to be sane upon examination and upon the grant of a certificate to that effect, as in the last preceding section of this Ordinance provided, then such person shall, by an order of either a Judge of the Supreme Court, a Police Magistrate or any two Justices of the Peace, be taken back to the said gaol to be dealt with according to law, as if no certificate or order for his removal to the mental hospital had been issued.

Criminal lunatics.

25. In case any lunatic sent to a mental hospital be under the age of twenty-one years, and has a father or mother able to pay for his maintenance, or has a guardian or Committee, the Medical Superintendent of the mental hospital shall send a copy of the certificate hereinbefore mentioned, attested under his hand, to the father or mother, guardian or Committee, as the case may be, of such lunatic, to which copy the Director of Medical Services shall subscribe a certificate of the admission of such lunatic, and of the amount per quarter which will become due for him to the mental hospital, and the same shall be paid on demand made by the Medical Superintendent of the mental hospital.

Demand for maintenance of infant lunatic.

26. On the first of the said quarter days after the admission of the lunatic, such demand shall be for a sum proportionate to the broken period elapsed since the admission of the lunatic, and on the discharge of the lunatic a like demand shall be made for the sum due for the broken period since the then last quarter day.

Maintenance for portions of quarters of the year.

Mode of enforcing claims for maintenance.

27. In case of refusal or neglect to pay the sums due, the Medical Superintendent may apply, upon affidavit, to any Judge of the Court, and the Judge, on the return of a rule to show cause which he shall make upon the proper party, being satisfied that the father or mother of the lunatic is able to pay for his maintenance as aforesaid, or that such guardian or Committee is able to pay for the same out of property in his possession belonging to such lunatic, the Medical Superintendent shall be entitled to an order for the payment of the amount then due, or so much thereof as the Court or Judge shall consider the party liable is able to pay, together with the costs, and a writ of execution may issue thereon in like manner as upon judgment of such Court for the amount.

Hearing of the case.

28. The Court or Judge, after hearing the parties and their witnesses under oath, either orally or in writing by affidavit, may make the order herein referred to.

Possession taken of lunatic's property to pay for maintenance.

29. If any lunatic upon, or at any time after, his admission to a mental hospital possesses, or becomes possessed of, or entitled to, any real or personal property whereby the expenses of his maintenance in the mental hospital can be paid, and he has no guardian or Committee lawfully appointed to take the care or management of the same for the benefit of the lunatic, then if any such demand as aforesaid for the sum due for the maintenance of the lunatic in the mental hospital be not paid on demand, or if there be no one of whom it can be demanded, and such property is, in the opinion of the Medical Superintendent, more than sufficient to maintain the family, if any, of such lunatic, the Superintendent aforesaid may take possession of such property, or so much thereof as he thinks necessary to pay, or to secure the payment of, the sum due, or to become due, for the support and maintenance of the lunatic in the mental hospital, and he shall have full power over, and be competent to manage and appropriate, take or recover possession of, lease, mortgage, sell and convey, all or any part of such property in the name of such lunatic, or as his Committee under this Ordinance, as fully and effectually to all intents and purposes as such lunatic could or might do if of full age and of sound mind.

Sale of lunatic's realty to be approved by Court.

30. Before any sale and conveyance of any real property of such lunatic, the Medical Superintendent shall report the case, with the terms of the proposed sale, to the Supreme Court for its approval, and such sale and conveyance, so approved, shall be valid and binding upon the lunatic and his heirs.

31. The Medical Superintendent shall be liable to render an account as to the manner in which he has managed the property and effects of such lunatic, in the same way and subject to the same responsibilities as any trustee, guardian, or Committee duly appointed for a similar purpose may be called upon to account.

Liability of Medical Superintendent for the effects of lunatics.

32. The Chief Justice may make rules of practice and draw up scales of fees and costs to be observed and paid in respect of all matters and things to be done and executed under, and by virtue of, the provisions of this Ordinance; and when such rules and scales shall have been approved of by the House of Representatives, they shall have full force and effect as if they had been inserted in, and formed part of, this Ordinance.

Rules of Court.

33. In the event of the Director of Medical Services being unable, by reason of illness or absence, to exercise any power or perform any duty conferred or imposed upon him by sections 18, 22 and 23 of this Ordinance, such power may be exercised, and such duty may be performed, by any Medical Officer appointed by the Governor for the purpose.

Provision in event of illness of D.M.S.

34. Where any certificate or order issued or made under this Ordinance refers to a mental hospital but does not mention the name or situation of such mental hospital, then, unless a contrary intention appears, the mental hospital at Kissy shall be deemed to be intended and specified.

Where mental hospital not specified, Kissy to be understood.

SCHEDULE.

FORM A.

Sec. 18.

CERTIFICATE OF LUNACY.

We, the undersigned, being duly qualified medical practitioners, and being in actual practise as such within the Colony of.....do hereby certify that we on the.....day of.....at.....not jointly with each other, and separately from any medical practitioner, personally examined.....and that the said.....is a person of unsound mind and a proper person to be taken charge of, and detained under care and treatment and we formed this opinion upon the following grounds, viz.:-

- 1. Facts indicating insanity observed by ourselves.
2. Other facts (if any) indicating insanity communicated to us by others.

STATEMENT OF PARTICULARS.

(If any of the particulars in this statement be not known the fact to be so stated)

- (1) Name of patient, country or nationality in full.
- (2) Sex and age.
- (3) Married, single, widow or a widower.
- (4) Condition of life, and occupation, if any.
- (5) Religious persuasion, as far as known.
- (6) Previous place of abode.
- (7) Whether present is first attack.
- (8) Age on first attack.
- (9) When and where previously under care and treatment.
- (10) Duration of existing attack.
- (11) Supposed cause.
- (12) Whether subject to epilepsy.
- (13) Whether suicidal.
- (14) Whether dangerous to others.
- (15) Whether found lunatic by inquisition, and date of commission or order for inquisition.
- (16) Special circumstances (if any) preventing the patient being examined before admission separately by two medical practitioners.

ORDER OF REMOVAL.

I (or We).....Chief Justice of the Supreme Court of Sierra Leone (or Judge, Police Magistrate, or Justices of the Peace, as the case may be), do hereby order the removal of.....to the mental hospital at.....to be detained there until the further order of the Court.

.....
(Signed)

To.....Medical Superintendent.

FORM B.

CERTIFICATE OF EMERGENCY.

I certify that it is expedient for the welfare of.....that the said.....should be forthwith placed under observation and treatment for a period not exceeding.....days.

My reasons for this conclusion are as follows:—(Here state them.)

.....
(Signed)

To.....Medical Superintendent.

FORM C.

Sec. 23.

CERTIFICATE OF SANITY.

We hereby certify that we have this day, not jointly with each other, and separately from any medical practitioner, personally examined..... at present confined in the mental hospital at.....and after due inquiry into all necessary facts relating to his case, we believe that he is now of sufficiently sound mind as to be a proper person to be discharged therefrom.

.....
(Signed)

ORDER OF DISCHARGE.

I (or We).....Chief Justice of the Supreme Court of Sierra Leone (or Judge, Police Magistrate, or Justices of the Peace, as the case may be), do hereby order the discharge of.....from the mental hospital at.....

.....
(Signed)

To.....Medical Superintendent.
