

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Mental Treatment (Transfer of Patients from Alderney) Law, 1952.

(Registered on the Records of the Island of Guernsey
on the 17th day of May, 1952.)



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1952.

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1952

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 17th day of May, 1952, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :— Ernest de Garis, Esquire, O.B.E., Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freake Clark, Walter John Gavay, Ernest Francis Lainé, Osmond Priaulx and Stephen James Falla, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 29th day of April, 1952, ratifying a *Projet de Loi* entitled "The Mental Treatment (Transfer of Patients from Alderney) Law, 1952",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which Order in Council the tenor followeth :—

At the Court at Windsor Castle,

The 29th day of April, 1952.

PRESENT,

The Queen's Most Excellent Majesty

LORD PRESIDENT.

EARL DE LA WARR.

MR. SECRETARY HEAD.

MR. THOMAS.

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 15th day of April, 1952, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolution of the 25th day of April, 1951, the States of Deliberation at a meeting held on the 19th day of March, 1952, approved a Bill or “Projet de Loi” entitled “The Mental Treatment (Transfer of Patients from Alderney) Law, 1952” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Mental Treatment (Transfer of

Patients from Alderney) Law, 1952" and to order that the same shall have the force of Law in the Islands of Guernsey and Alderney.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey and Alderney.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

F. J. FERNAU.

**Projet de Loi referred to in the foregoing
Order in Council.**

PROJET DE LOI

ENTITLED

The Mental Treatment (Transfer of Patients from Alderney) Law, 1952

THE STATES, in pursuance of their Resolution of the 25th day of April, 1951, and of the provisions of subsection (2) of section one of "The Alderney (Application of Legislation) Law, 1948", have approved the following provisions which, subject to the sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Alderney.

1. (1) Subject to the provisions of this Law, where it is necessary either for the welfare of a person in Alderney who is alleged to be of unsound mind (hereinafter denoted by the expression "patient"), or for the safety of others, that the patient should be placed under care and control and be removed to a mental hospital in Guernsey for care and treatment, an order, in accordance with the form set out in the Second Schedule to this Law, may be made in that behalf.

(2) Any person having the care and control of a patient or engaged in the removal of a patient in

pursuance of such an order as aforesaid may use such means of restraint as are reasonably necessary for the purpose of such care, control and removal.

(3) The Clerk of the States of Alderney, or any person who for the time being is performing the duties of that office, shall be responsible for making the necessary arrangements for the transfer of a patient to a mental hospital in Guernsey.

2. (1) An order under this Law shall not be made except upon the certificate of a medical practitioner in accordance with the form set out in the First Schedule to this Law that it is necessary for the welfare of the patient or for the safety of others that an order be made, and any such order shall be made and signed by two Jurats of the Court of Alderney upon being satisfied that the patient ought to be placed under care and control and so removed:

PROVIDED that where no medical practitioner is available to give a certificate as aforesaid, an order may be made and signed by two such Jurats, if after examination of the patient and of all available evidence, they are satisfied that an order ought nevertheless to be made.

(2) Every certificate as aforesaid upon which an order made under this Law is founded shall state the facts upon which the certifying medical practitioner has formed his opinion that it is necessary for the welfare of the patient or for the safety of others that that order be made, distinguishing facts observed by himself from facts communicated by others; and such an order shall not be made upon a certificate founded only upon facts communicated by others.

(3) An order under this Law shall not be made as regards any patient unless the medical practitioner who signs the certificate has personally examined the

pursuance of such an order as aforesaid may use such means of restraint as are reasonably necessary for the purpose of such care, control and removal.

(3) The Clerk of the States of Alderney, or any person who for the time being is performing the duties of that office, shall be responsible for making the necessary arrangements for the transfer of a patient to a mental hospital in Guernsey.

2. (1) An order under this Law shall not be made except upon the certificate of a medical practitioner in accordance with the form set out in the First Schedule to this Law that it is necessary for the welfare of the patient or for the safety of others that an order be made, and any such order shall be made and signed by two Jurats of the Court of Alderney upon being satisfied that the patient ought to be placed under care and control and so removed:

PROVIDED that where no medical practitioner is available to give a certificate as aforesaid, an order may be made and signed by two such Jurats, if after examination of the patient and of all available evidence, they are satisfied that an order ought nevertheless to be made.

(2) Every certificate as aforesaid upon which an order made under this Law is founded shall state the facts upon which the certifying medical practitioner has formed his opinion that it is necessary for the welfare of the patient or for the safety of others that that order be made, distinguishing facts observed by himself from facts communicated by others; and such an order shall not be made upon a certificate founded only upon facts communicated by others.

(3) An order under this Law shall not be made as regards any patient unless the medical practitioner who signs the certificate has personally examined the

to the Board that some person who is legally responsible for, or to contribute to, the cost of the care, treatment and maintenance of that patient, is able to pay or to contribute to such cost or to contribute a greater proportion of that cost than is being contributed by that person, the President of the Board may take proceedings against that person for the purpose of obtaining an order directing that person to make such payments in respect of the care, treatment and maintenance of the patient as the Court deems just.

(2) Any order made under the last preceding subsection may be varied from time to time at the instance of the President of the Board or of the person against whom the order was made.

6. (1) In this Law the following expressions have the meanings hereby respectively assigned to them—

“the Board” means the States of Guernsey Board of Health ;

“mental hospital in Guernsey” means a place provided by the States of Guernsey for the care and treatment of persons suffering from any mental ailment ;

“medical practitioner” means a person authorised to practise the profession of medicine in the Islands of Alderney and Guernsey and actually engaged in the practice of that profession.

(2) For the purposes of the application of the provisions of this Law to the Island of Alderney, it is hereby declared that words importing the masculine gender herein contained shall include females and words in the singular herein contained shall include the plural.

Section 1. FIRST SCHEDULE

CERTIFICATE OF MEDICAL PRACTITIONER

In the matter of ⁽¹⁾
 (1) Insert full name (hereinafter referred to as "the patient")
 of ⁽²⁾
 (2) address, and
 (3) usual occupation of patient. a person alleged to be of unsound mind.
 (4) full name and I, the undersigned ⁽⁴⁾
 of ⁽⁵⁾
 (5) address of medical practitioner. do hereby certify as follows:—

1. I am a person authorised to practise the profession of medicine in Guernsey or Alderney and actually engaged in the practice of that profession.

2. On the day of , 19 , at
 I personally examined the patient
 and I came to the conclusion that the patient is a person of unsound mind and is by reason of mental ailment in need of care and treatment and I consider that it is expedient for the welfare of the patient or for the safety of others that the patient should be placed under care and control and be removed to a mental hospital in Guernsey for care and treatment.

3. I formed this conclusion on the following grounds:—

- (a) Facts indicating unsoundness of mind observed by myself at the time of examination—
- (b) Facts communicated to me by others—

4. The patient appeared to me to be in a fit condition of bodily health to be removed to a mental hospital in Guernsey.

Dated this day of 19 .

(Signed).....

Medical Qualifications.....

SECOND SCHEDULE

*Order made under the provisions of the
Mental Treatment (Transfer of Patients from
Alderney) Law, 1952.*

IN THE MATTER of _____, of
in the Island of Alderney, a person alleged to be of
unsound mind and hereinafter referred to as "the
patient".

We, _____ and _____, Jurats
of the Court of Alderney

* having read the medical certificate relating to _____ * strike out
the patient given by Dr. _____ and whichever is
dated the _____ day of _____ 19 _____ inapplicable.

* having examined the patient and being satis-
fied that no medical practitioner is available to
give a medical certificate under the provisions
of this Law

and being satisfied that there are reasonable grounds
for the allegation that the patient is a person of un-
sound mind and that it is necessary for the welfare of
the patient or for the safety of others that the patient
should be placed under care and control and re-
moved to a mental hospital in Guernsey for care and
treatment, we now make the following order—

1. The patient shall forthwith be placed in the care
and control of * _____, at
until it shall be reasonably practicable to remove the
patient to a mental hospital in Guernsey.

* Name of
the person
in Alderney
in whose
care and
control the
patient is
placed to be
inserted
here.

2. The patient shall be removed as soon as reason-
ably practicable to such mental hospital as aforesaid
where he shall be delivered into the custody of the
person in charge thereof. The following are the con-
ditions under which the patient shall be removed:

3. This Order shall cease to be valid on the expiration of the third day following the date of this order.

Dated this day of 19 .

Signed.....A Jurat of the
Court of Alderney.

.....A Jurat of the
Court of Alderney.

JAMES E. LE PAGE,
Her Majesty Greffier.