

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Mental Treatment (Amendment) (Guernsey) Law, 1956.

(Registered on the Records of the Island of Guernsey
on the 30th day of June, 1956.)



1956.

XI
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ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of June, 1956, before Henry James Casey, Esquire, M.B.E., M.C., Lieutenant-Bailiff; present:—Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Esquire, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez and Bertram Guy Blampied, Esquires, Jurats.

The Lieutenant-Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 1st day of June, 1956, ratifying a *Projet de Loi* entitled "The Mental Treatment (Amendment) (Guernsey) Law, 1956",—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 Seneschal of Sark for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace,

The 1st day of June, 1956.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT
EARL OF MUNSTER
MR. SECRETARY LENNOX-BOYD
MR. THORNEYCROFT
SIR MICHAEL ADEANE
MR. MOLSON

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 24th day of May, 1956, 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 Resolutions of the 25th day of July, 1951, and of the 1st day of June, 1955, the States of Deliberation at a meeting held on the 28th day of March, 1956, approved a Bill or “Projet de Loi” entitled “The Mental Treatment (Amendment) (Guernsey) Law, 1956” 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 (Amendment) (Guernsey) Law, 1956" and to order that the same shall have the force of Law in the Islands of Guernsey, Sark, Herm and Jethou.'

"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, Sark, Herm and Jethou.

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.

W. G. AGNEW.

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

PROJET DE LOI

ENTITLED

The Mental Treatment (Amendment) (Guernsey) Law, 1956.

THE STATES, in pursuance of their Resolution of the 25th day of July, 1951, and of their Resolution of the 1st day of June, 1955, 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, Sark, Herm and Jethou.

1. The Mental Treatment Law (Guernsey), 1939 (hereinafter referred to as "the principal Law"), as amended, is hereby further amended as follows:—

- (a) in Article 1 of the principal Law the definition of the expression "Assisted patient" and of the expression "Private patient" are hereby deleted;
- (b) in Article 1 of the principal Law immediately before the definition of "Authorised place" there is hereby inserted the following additional definition—
 " "Admission order" means an admission order made by a Law Officer under the provisions of Article 9 of this Law;"
- (c) in Article 1 of the principal Law there is hereby inserted immediately after the definition of "Single patient" the following additional definition—
 " "Temporary admission order" means a temporary admission order made by a Law Officer under the provisions of Article 34 of this Law;"

- (d) subsection (iii) of section (a) of paragraph (5) of Article 3 of the principal Law is hereby repealed;
- (e) paragraph (6) of Article 3 of the principal Law is hereby repealed;
- (f) paragraph (4) of Article 6 of the principal Law is hereby repealed;
- (g) paragraph (5) of Article 9 of the principal Law is hereby repealed and the following paragraph substituted therefor—

“(5) Subject to the provisions of paragraph (3) of Article 20 of this Law the petitioner, or in the case where the patient is under natural or legal guardianship, the natural or legal guardian, as the case may be, shall, either personally or by someone who is willing and who has been specially appointed by him, visit the patient once at least in every three months during the detention of the patient in a mental hospital or other authorised place.”;

- (h) immediately after paragraph (4) of Article 16 of the principal Law there is hereby inserted the following additional paragraph—

“(5) The Medical Superintendent, or in the case of an authorised place, the person in charge, shall, after the expiration of the second day and before the expiration of the seventh day after the day on which a temporary or certified patient was admitted, send to the President of the Board a medical statement as to the mental and bodily condition of such patient in the form prescribed.”;

- (i) immediately after paragraph (2) of Article 17 of the principal Law there are hereby inserted the following additional paragraphs—

“(3) An admission order shall remain in force for one year after the date upon which the patient has been received in the place named in the order and thereafter for two years and thereafter for three years, and after the end of such periods of one, two and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of each of those periods a special report of the Medical Superintendent is sent to the Board in the form prescribed as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment.

(4) The Medical Superintendent shall give to the Board such further information concerning the patient to whom the special report relates as it requires.

(5) If in the opinion of the Board the special report does not justify the accompanying certificate, then the Board shall make further inquiry, and, if they are then satisfied that the patient is fit to be discharged and ought no longer to be detained they may by order direct his discharge whereupon the admission order in respect of that patient shall cease to have effect.

(6) The Medical Superintendent or the person in charge of an authorised place, as the case may be, shall not—

- (i) detain a patient after he has knowledge that the order for his admission has expired, or
- (ii) detain a patient in contravention of

an order made under the provisions of the last preceding paragraph.

(7) The special reports and certificates under this Article may include and refer to more than one patient.

(8) A certificate under the hand of the President of the Board that an admission order has been continued to the date therein mentioned shall be sufficient evidence of the fact.

(9) An order for the removal of a patient from one custody to another shall not be deemed to be an admission order within this Article, but the patient who is removed shall after removal be deemed to be detained under the original admission order as a person of unsound mind, and such order shall expire in accordance with the provisions of this Article unless continued as hereinbefore provided.”;

(j) in paragraph (1) of Article 18 of the principal Law the words “within thirty days next after the date of such admission” are hereby deleted and immediately after the word “same” there are hereby inserted the words “or by the Board”;

(k) Article 20 of the principal Law is hereby repealed and the following Article substituted therefor—

“(1) Upon the making of an admission order or upon the making of a temporary admission order, a Law Officer shall, as soon as may be after making the admission order or the temporary admission order, as the case may be, ascertain whether the patient is under natural or legal guardianship, and if

there is no natural or legally appointed guardian to the patient, or if by reason of absence, incapacity or other cause, the natural or legally appointed guardian is unable to supervise the interests of the patient, make arrangements for the appointment of a guardian to the patient.

(2) Such appointment shall be made at the earliest opportunity after the making of the admission order or the temporary admission order, as the case may be.

(3) Upon the appointment of a guardian to act under this Article, it shall be the duty of the person appointed, either personally or by someone who is willing and specially appointed by him,—

(a) in the case of a certified patient, to visit the patient once at least in every three months,

(b) in the case of a temporary patient, to visit the patient once at least in every two months,

during the detention of the patient in a mental hospital or authorised place, and as from such appointment, the obligation of the person (if other than the person appointed as guardian) who signed the petition on which the order for admission of the patient was made or the person who made the application under the provisions of Article 34 of this Law in respect of the patient, as the case may be, shall cease.

(4) The name and address of a guardian appointed, or a person appointed to act for a guardian, under the preceding provisions of this Article shall be notified, in the case

of the former by a Law Officer and in the case of the latter by the person concerned, to the Medical Superintendent.

(5) If a guardian appointed under the provisions of this Article dies, is no longer ordinarily resident in this Island, is permanently incapacitated or for any other reason fails to act as such, the Medical Superintendent shall, as soon as any of those facts comes to his knowledge, inform a Law Officer who shall, as soon as may be thereafter, make arrangements for the appointment of another guardian.”;

- (l) Part IV of the principal Law is hereby repealed;
- (m) in Articles 23, 24, 25, 26 and 28 (including the headings to those Articles) of the principal Law there are hereby inserted, immediately after the words “certified patient” where those words occur in those Articles, the words “or temporary patient” and in the heading to Article 27 of that Law immediately after the words “CERTIFIED PATIENT” there are hereby inserted the words “OR TEMPORARY PATIENT”;
- (n) sections (1), (2) and (3) of Article 25 of the principal Law are hereby repealed and the following sections substituted therefor:—
 - “(1) for transfer from an institution for the care and treatment of mental ailments elsewhere than in this Island to detention as a single patient in this Island, in the case of a certified patient, an admission order and an Act of the Royal Court and in the case of a temporary patient, a temporary admission order and an Act of the Royal Court;

(2) for transfer from an institution as aforesaid or from detention as a single patient elsewhere than in this Island to a mental hospital, in the case of a certified patient, an admission order and in the case of a temporary patient, a temporary admission order;

(3) for transfer from detention as a single patient elsewhere than in this Island to detention as a single patient in this Island, in the case of a certified patient, an admission order and an Act of the Royal Court and in the case of a temporary patient, a temporary admission order and an Act of the Royal Court.”;

(o) in paragraph (1) of Article 28 of the principal Law for the words “Any two Jurats of the Royal Court, with the advice” there shall be substituted the words “Any two members of the Board, neither of whom is an authorised medical practitioner, with the recommendation”;

(p) paragraph (2) of Article 28 of the principal Law is hereby repealed;

(q) the heading to and paragraph (1) of Article 29 of the principal Law are hereby repealed and the following heading and paragraph substituted therefor—

“ARTICLE 29—DISCHARGE OF CERTIFIED OR TEMPORARY PATIENT.

(1) A certified or a temporary patient may be discharged from a mental hospital or from any other place in which such patient is detained—

(a) by an order signed by two members of the Board, neither of whom is an

authorised medical practitioner, with the written recommendation of the Medical Superintendent; or

(b) by an order signed by three members of the Board, none of whom is an authorised medical practitioner; or

(c) by order of the Royal Court.”;

(r) immediately after paragraph (2) of Article 29 of the principal Law there are hereby inserted the following two additional paragraphs—

“(3) The Secretary to the Board shall, upon the discharge of a temporary patient and upon his signed request stating that he considers himself to have been improperly detained, furnish to him free of cost a copy of the recommendation and temporary admission order upon which he was detained and of the application upon which the temporary admission order was made.

(4) Upon the discharge of a certified patient or a temporary patient under this section the admission order or the temporary admission order, as the case may be, in respect of him then in force shall cease to have effect.”;

(s) immediately after Article 30 of the principal Law there is hereby inserted the following additional Article—

“ARTICLE 30A—INTERPRETATION.

For the purposes of this Part of this Law the expressions “the Island of Guernsey” and “this Island” shall include the Islands of Sark, Herm and Jethou.”;

(t) Article 34 of the principal Law is hereby repealed and the following Article substituted therefor—

“(1) A person who is suffering from mental illness and is likely to benefit by temporary treatment but is for the time being incapable of expressing himself as willing or unwilling to receive such treatment may, under a temporary admission order made by a Law Officer in the prescribed form, be received as a temporary patient for the purpose of treatment—

- (i) into a mental hospital; or
- (ii) with the consent of the Board, into charge as a single patient.

(2) A Law Officer may make a temporary admission order upon an application to him in that behalf in the prescribed form which application shall, if possible, be made by the husband or wife, or by a relative of the person to whom it relates, or by a Constable of the parish in which the said person then is, and if the application is not so made, it shall contain a statement of the reason why it is not so made, of the connection of the applicant with the person to whom it relates and of the circumstances in which he makes the application.

(3) The application shall be accompanied by a recommendation certifying that the person to whom the recommendation relates is suffering from mental illness and is likely to benefit by temporary treatment and is for the time being incapable of expressing himself as willing or unwilling to receive such treatment made in the prescribed form signed by two medical practitioners, of whom one shall be, if practicable, the usual medical attendant of the person to whom the application relates.

(4) Each of the medical practitioners by whom a recommendation under this Article is made shall, before signing the recommendation, examine the person to whom the recommendation relates, either separately or in conjunction with the other medical practitioner, and shall specify in the recommendation the date on which he so examined the said person and the facts on which he bases his recommendation.

(5) A recommendation shall be of no effect for the purposes of this Article if there is a greater interval than five clear days between the dates on which the person to whom the recommendation relates was examined by the two medical practitioners respectively, and any such recommendation shall cease to have effect on the expiration of fourteen days from the date on which the person to whom the recommendation relates was examined by the two medical practitioners, or, if he was examined by those practitioners on two different dates, on the expiration of fourteen days from the later of those dates.

(6) Where a person is received in a mental hospital as a temporary patient under this Article, notice of his reception, together with a copy of the temporary admission order on which he was received and of the recommendation accompanying the application, shall, before the expiration of the second day after the day on which he was received, be sent by the Medical Superintendent in charge of the hospital or other officer designated by the Board to the President of the Board.

(7) The Board shall upon the signed request of any person stating that he considers himself to be improperly detained under such temporary admission order furnish to him or to his authorised representative, free of cost, a copy of such temporary admission order and recommendation accompanying it.

(8) If a person so received dies in or departs from the hospital, notice of the fact shall, before the expiration of the second day after the day of the death or departure, be sent by the Medical Superintendent in charge of the hospital or other officer designated by the Board to the President of the Board and to a Law Officer.

(9) If any person fails to comply with any of the provisions of paragraph (6) or paragraph (8) of this Article he shall, for each day or part of a day during which the default continues, be guilty of an offence and liable, on conviction, to a fine not exceeding one pound.

(10) Upon an application under the provisions of paragraph (2) of this Article, a Law Officer shall consider the application and the recommendation accompanying it and the evidence of mental illness and inability to express willingness or unwillingness to receive temporary treatment and, if he is satisfied that a temporary admission order may properly be made, he may make the same accordingly.

(11) If a Law Officer declines to make a temporary admission order he shall deliver to the applicant therefor a statement in

writing under his hand of his reasons for declining to make such order.

(12) The provisions of Article 15 of this Law shall apply to the reception or detention of a temporary patient under the provisions of this Article as they apply to the reception or detention of a certified patient except that for the reference to "any certificate accompanying the admission order" there shall be substituted a reference to "any recommendation accompanying a temporary admission order" and for the reference to "a medical certificate in support of an admission order" there shall be substituted a reference to "any recommendation accompanying a temporary admission order".

(13) Subject to the provisions of this Article a person received as a temporary patient may be detained for a period not exceeding six months, but shall not be detained as such for any longer period without the sanction of the Board.

(14) Where it is anticipated that a person who is undergoing treatment as a temporary patient under this Article will not recover within the period of six months, but his early recovery appears reasonably probable, that period may from time to time be extended for further periods of such length not exceeding three months as may be specified in directions given by the Board upon the application of one of the persons mentioned in paragraph (2) of this Article, made in such form and accompanied by such evidence or recommendations as the Board may prescribe, provided that such further periods shall in no case exceed six months in all.

(15) Any consent granted by the Board under paragraph (1) of this Article may be granted subject to such conditions as the Board thinks proper and may be revoked at any time.

(16) If a person who has been received as a temporary patient becomes capable of expressing himself as willing or unwilling to continue treatment, he shall not thereafter be detained for more than twenty-eight days unless in the meantime he has again become incapable of so expressing himself or has been certified as a person of unsound mind.

(17) Subject to the provisions of paragraph (3) of Article 20 of this Law the person who makes the application under paragraph (1) of this Article or in the case where the patient is under natural or legal guardianship, the natural or legal guardian, as the case may be, shall, either personally or by someone who is willing and who has been specially appointed by him, visit the patient at least once in every two months during the detention of the patient in a mental hospital or other authorised place.

(18) If a temporary admission order or a recommendation relating to the admission of a temporary patient is, after such admission, found in any respect incorrect or defective, such order or recommendation may be amended by the person who signed the order or recommendation, as the case may be, or by the Board; no amendment shall be allowed without the sanction of the Law Officer who signed the temporary admission order or, if he be unable to deal with the matter, of another Law Officer.

(19) Every temporary admission order and recommendation amended under this Article shall take effect as if the amendment had been contained therein when the order or recommendation, as the case may be, was signed.”;

(u) in paragraph (2) of Article 40 of the principal Law the word “any” is hereby deleted and the words “at least one” substituted therefor.

2. (1) Notwithstanding any of the provisions of the principal Law if a police officer has reasonable grounds for believing that any person who is wandering at large is a person of unsound mind and that it is necessary for the safety of others or the welfare of that person that he be placed under care and control, that police officer may immediately apprehend and take that person, or cause him to be apprehended and be taken, before a medical practitioner.

(2) The medical practitioner before whom a person alleged to be of unsound mind wandering at large is brought under the provisions of this section shall examine that person and make such inquiries as he thinks proper and if that medical practitioner is satisfied that it is necessary for the safety of others or the welfare of that person that he be placed under care and treatment and if the medical practitioner signs a medical certificate in the form prescribed with regard to that person, the police officer may remove the said person to a mental hospital provided by the States, and the person in charge of the said hospital shall receive and detain the said person therein, but no person shall be detained under this paragraph for more than seven days.

3. (1) Notwithstanding anything in the principal Law in all cases of urgency where it is expedient either for the welfare of a person alleged to be a person of

unsound mind or for the safety of others that the said person should be forthwith placed under care and treatment, he may be received and detained in a mental hospital provided by the States or as a single patient on an urgency order in the form prescribed made, if possible, by the husband or wife or a relative of the said person, or a Constable of the parish in which he then is, accompanied by one medical certificate in the form prescribed.

(2) An urgency order may be signed before or after the medical certificate.

(3) No person shall sign an urgency order unless he is at least twenty years of age and has within the forty-eight hours before the making of the order personally seen the person alleged to be of unsound mind.

(4) An urgency order shall not remain in force for longer than seven days from its date.

(5) An urgency order shall as far as possible have sub-joined or annexed thereto a statement of particulars in the form prescribed.

4. The provisions of Article 15 of the principal Law shall apply to the reception and detention of a person under the provisions of the last two preceding Articles as they apply to the reception or detention of a certified patient except the reference to "any certificate accompanying the admission order" and the reference to "a medical certificate in support of an admission order" shall be construed as references to a medical certificate under Article 2 or Article 3 of this Law, as the case may be.

5. (1) If, at the date of the coming into force of this Law, there is any person detained as a certified patient in any place who was originally so detained under any Law repealed by the principal Law and in

respect of whom there is no natural or legally appointed guardian, the Law Officers shall, as soon as may be thereafter, make arrangements for the appointment of a guardian to the patient.

(2) The provisions of paragraphs (3), (4) and (5) of Article 20 of the principal Law shall apply to a guardian appointed under the provisions of the preceding paragraph as if he were a guardian appointed under the provisions of paragraph (1) of the said Article 20.

6. (1) If, on the date of the coming into force of this Law, there is any patient detained in any place as a temporary patient in respect of whom there is no natural or legally appointed guardian, the Law Officers shall, as soon as may be thereafter, make arrangements for the appointment of a guardian to the patient.

(2) The provisions of paragraphs (3), (4) and (5) of Article 20 of the principal Law shall apply to the guardian appointed under the provisions of the last preceding paragraph as if he were a guardian appointed under the provisions of the said paragraph (1) of the said Article 20.

7. References in this Law to any other enactment shall be construed as references to that enactment as re-enacted, amended, extended or applied by or under any subsequent enactment, including this Law.

8. The Mental Treatment (Guernsey) Law, 1951, is hereby repealed.

9. This Law and the principal Law shall be construed as one and may be cited together as the Mental Treatment (Guernsey) Laws, 1939 and 1956.

JAMES E. LE PAGE,

Her Majesty's Greffier.