

ORDER IN COUNCIL

VII
1972

ratifying a Projet de Loi

ENTITLED

The Mental Treatment (Amendment) (Guernsey) Law, 1972

(Registered on the Records of the Island of Guernsey
on the 6th day of June, 1972.)



1972.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 6th day of June, 1972, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnersly, Esquires and Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 28th day of April, 1972, ratifying a *Projet de Loi* entitled "The Mental Treatment (Amendment) (Guernsey) Law, 1972", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller 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 Windsor Castle

The 28th day of April 1972

PRESENT,

The Queen's Most Excellent Majesty

LORD PRESIDENT

EARL ST. ALDWYN

CHANCELLOR OF THE DUCHY OF LANCASTER

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 25th day of April 1972, 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 28th day of July 1971 the States of Deliberation at a meeting held on the 29th September 1971 approved a Bill or “Projet de Loi” entitled “The Mental Treatment (Amendment) (Guernsey) Law, 1972” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the Chief Pleas of the Island of Sark at a meeting held on the 16th day of December 1971 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Sark. 3. 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, 1972" and to order that the same shall have 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, 1972

THE STATES, in pursuance of their Resolution of the twenty-eighth day of July, nineteen hundred and seventy-one, 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, as amended^(a), is hereby further amended as follows:— Amend-
ments to
Law of 1939.

(a) in Article 16 thereof—

(i) in paragraph (4) immediately after the words "to the President of the Board" the words "and to a Law Officer" are inserted;

(ii) paragraph (5) is repealed;

(b) Article 28 thereof and the heading thereto are repealed and the following Article and heading are substituted therefor—

"ARTICLE 28.—LEAVE OF ABSENCE
OF CERTIFIED
PATIENT OR
TEMPORARY
PATIENT.

(a) Ordres en Conseil Vol. XI, p. 405; Vol. XVII, p. 64;
Vol. XVIII, p. 355 and Vol. XIX, p. 269.

(1) The Consultant Psychiatrist may grant to any certified patient or temporary patient of a mental hospital leave to be absent from the hospital subject to such conditions, if any, as he considers necessary in the interests of the patient.

(2) Leave of absence may be granted to a certified patient or temporary patient under the provisions of this Article either indefinitely or on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the patient from hospital.

(3) In any case where a certified patient or temporary patient is absent from a mental hospital in pursuance of leave of absence granted under the provisions of this Article, and it appears to the Consultant Psychiatrist that it is necessary so to do in the interests of the patient's health or safety or for the protection of other persons, the Consultant Psychiatrist may by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to a mental hospital.

(4) If a certified patient or temporary patient allowed to be absent for any period under the provisions of this Article does not return to a mental hospital at the expiration of the permitted period of absence and a medical certificate certifying that his detention as a certified patient or temporary patient is no longer necessary is not received by the Board, the patient may at any time within the fourteen days next following the

expiration of the permitted period of absence be retaken as in the case of an escape.

(5) If a certified patient or temporary patient whose leave of absence has been revoked under the provisions of paragraph (3) of this Article does not return to a mental hospital, he may at any time within the fourteen days next following the date of revocation of the leave of absence be retaken as in the case of an escape.”;

- (c) sub-paragraph (a) of paragraph (1) of Article 29 thereof is repealed and the following sub-paragraph is substituted therefor—

“(a) by an order signed by the Consultant Psychiatrist; or”;

- (d) in Article 31 thereof—

(i) in paragraph (1) the words “a written application to the Consultant Psychiatrist in the prescribed form” are repealed and the words “a request in that behalf to the Consultant Psychiatrist” are substituted therefor;

(ii) in paragraph (2) the words “a written application in the prescribed form” are repealed and the words “a request in that behalf” are substituted therefor, and the words “on his own application” are repealed and the words “at his own request” are substituted therefor;

(iii) in sub-paragraph (a) of paragraph (3) the word “application” is repealed and the word “request” is substituted therefor;

(iv) in paragraph (5)—

(a) the words “seventy-two hours’ notice in writing” are repealed and the word “notice” is substituted therefor;

(b) the full stop at the end of that paragraph is deleted and a colon is substituted therefor and immediately thereafter the following Proviso is inserted—

“Provided that if it appears to the Consultant Psychiatrist that the mental state of the patient is such that steps should be taken to deal with him under the provisions of Part II of this Law as a person of unsound mind or under Article 34 of this Law as a person who is likely to benefit by temporary treatment, the patient may be detained in a mental hospital for up to seventy-two hours and the Consultant Psychiatrist shall forthwith furnish to the Board a report in writing to that effect.”;

(v) immediately after paragraph (6) there is inserted the following additional paragraph—

“(7) Nothing in this Law shall be construed as preventing a patient who requires treatment for mental illness from remaining in a mental hospital as a voluntary patient in pursuance of a request made under the provisions of paragraph (1) of this Article after he has ceased to be liable to be detained

under any of the provisions of this Law.”;

(e) in Article 32 thereof—

(i) the heading thereto is repealed and the following heading is substituted therefor—

“ARTICLE 32.—PROVISIONS
REGARDING VOLUNTARY
PATIENTS.”;

(ii) paragraphs (1), (2) and (5) are repealed;

(iii) in paragraph (3) the words “as aforesaid” are repealed and the words “as a voluntary patient under Article 31 of this Law” are substituted therefor;

(f) in Article 34 thereof—

(i) paragraph (6) is repealed;

(ii) in paragraph (9) the words “paragraph (6) or” are repealed;

(g) in paragraph (2) of Article 37 thereof the comma after the words “render such employment necessary” is deleted and a full stop is substituted therefor and all the words beginning with the words “but such person in charge” to the end of that paragraph are repealed;

(h) in paragraph (2) of Article 38 thereof the full stop at the end of that paragraph is deleted and a colon is substituted therefor and immediately thereafter the following Proviso is inserted—

“Provided that the provisions of this paragraph shall not be deemed to prohibit any such medical practitioner from attending professionally upon a patient in that hos-

pital at the request of the Consultant Psychiatrist for the purpose of consultation or treatment for a condition other than a mental ailment.”;

(i) Article 40 thereof is repealed.

Amend-
ment to
Law of 1961. 2. In section eight of the Criminal Justice (Special Verdicts) (Guernsey) Law, 1961, as amended(b), the words “Article forty (which provides for the visitation of patients)” are repealed.

Citation. 3. This Law may be cited as the Mental Treatment (Amendment) (Guernsey) Law, 1972.

Collective
title. 4. This Law, the Mental Treatment (Amendment) (Guernsey) Law, 1964, and the Mental Treatment (Guernsey) Laws, 1939 and 1956, may be cited together as the Mental Treatment (Guernsey) Laws, 1939 to 1972.

R. H. VIDELO,

Her Majesty's Greffier.

(b) Ordres en Conseil Vol. XVIII, p. 355 and Vol. XIX, p. 269.