

PROJET DE LOI

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XV, p. 256; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406). This Law was repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010 (No. XV of 2011).

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

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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.

Transfer of patients to Guernsey.

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.

Orders and medical certificates.

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 patient not more than seven clear days before the date of the making of the order or, where no medical practitioner is available to give a certificate as aforesaid, an order may not be made by two Jurats of the Court of Alderney unless those Jurats have personally examined the patient not more than seven clear days before the date of the making of the order.

(4) An order made under this Law shall be valid only until the expiration of the third day following the day of the making thereof but without prejudice to the making of any further order or orders if it be found impracticable during the period of validity of the first mentioned order to carry the same fully into effect.

Reception of patients.

3. During the period of validity of an order made under this Law the person in charge of a mental hospital in Guernsey shall, on production of that order or a duplicate thereof and of the medical certificate, if any, given under this Law, or a duplicate thereof, receive therein a patient removed thereto from Alderney in pursuance of that order and, notwithstanding the subsequent expiry of the order, shall detain the patient, so however that no person shall be so detained under this section for more than 72 hours.

Expenses.

4. All reasonable expense incurred by any person in connection with an order made under this Law shall be paid by [the Department] out of moneys provided by the States of Guernsey, and the [Minister] of [the Department] may recover the amount of such expenses or any part thereof as a civil debt from any person who is legally responsible for the maintenance of the patient.

NOTE

In section 4, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

Payments for Maintenance, etc.

5. (1) Where a patient who has been removed from Alderney to a mental hospital in Guernsey in accordance with an order made under this Law is being legally detained in such a hospital and it appears to [the Department] 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 [Minister] of [the Department] 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 [Minister] of [the Department] or of the person against whom the order was made.

NOTE

In section 5, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

Definitions.

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

"[the Department]" means the States of Guernsey [Health and Social Services Department],

"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.

NOTES

In section 6, the words in square brackets in the definition of the expression "the Department" were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

The Law received Royal Sanction on 29th April, 1952 and was registered on the Records of the Island of Guernsey and came into force on 17th May, 1952.

The functions, rights and liabilities of the Board of Health and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Health and Social Services Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 4, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

FIRST SCHEDULE

[Section 1]

CERTIFICATE OF MEDICAL PRACTITIONER

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

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

NOTE

The word and figure in square brackets shown, incorrectly, in the printed version of this Schedule as "Section 1" should read "Section 2".

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 the patient
given by Dr. _____

and dated the _____ day of _____ 19 _____

* strike out whichever

is inapplicable.

* having examined the patient and being satisfied 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 unsound 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 removed 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 *

, * Name of the

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

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