

LAWS OF FIJI

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CHAPTER 113

MENTAL TREATMENT ACT

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*Ordinances Nos. 8 of 1940, 2 of 1945, 1 of 1948, 13 of 1962,
31 of 1962, 24 of 1964, 37 of 1966, Acts No. 47 of 1971, 14 of 1975.*

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO PERSONS OF UNSOOUND MIND AND TO PROVIDE FOR THE RECEPTION AND DETENTION OF SUCH PERSONS IN MENTAL HOSPITALS

[28th February, 1940.]

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Mental Treatment Act.

Interpretation

2. In this Act, unless the context otherwise requires-

"Court" means the Supreme Court;

"patient" means a person received into a mental hospital in accordance with the provisions of this Act;

"Permanent Secretary" means the Permanent Secretary for Health;

"person of unsound mind" includes an idiot;

"registered medical practitioner" means a medical practitioner registered under the Medical and Dental Practitioners Act; (*Substituted by 14 of 1975, s. 24.*)

"Chief Registrar" means the Chief Registrar of the Supreme Court.

Establishment of mental hospitals

3. The Minister may establish mental hospitals for the reception and detention of persons of unsound mind at such places as he thinks fit.

Minister to make regulations

4.-(1) The management of every mental hospital and the care and custody of its inmates shall be subject to such regulations as shall from time to time be made under this Act by the Minister.

Board of Visitors

(2) The Minister shall appoint for every mental hospital a Board of Visitors of not less than three persons. The chairman of every such board shall be such member as the Minister shall appoint.

(3) The Permanent Secretary shall *ex officio* be a Visitor to all mental hospitals in Fiji.

Management

5. Every such mental hospital and the patients therein shall be under the care and superintendence of a registered medical practitioner (hereinafter called a superintendent) to be appointed by the Permanent Secretary. A superintendent shall be assisted by such officers and servants as the Permanent Secretary may appoint for that purpose. (*Amended by 24 of 1964, s. 3.*)

Patients to be kept until discharge, decease or release on trial

6. Every person admitted to a mental hospital as a patient shall be kept therein until his decease, discharge or release on trial under the provisions of this Act, and, while detained in a mental hospital, shall be subject to the directions of the superintendent and to the observance of any regulations which may be made under the provisions of this Act. (*Amended by 24 of 1964, s. 4.*)

Powers of police officers

7. Any police officer may arrest without a warrant any person whom he has reason to believe to be dangerous by reason of unsoundness of mind or is found wandering at large and whom he has reason to believe to be of unsound mind. A person so arrested shall be taken forthwith before a magistrate and shall be dealt with as if he were a person brought before the magistrate in accordance with the provisions of section 8. (*Inserted by 1 of 1948, s. 2, and amended by 24 of 1964, s. 5.*)

PART II - ADMISSION OF PATIENTS

Magistrate may order apprehension of person supposed to be of unsound mind for examination

8. If it shall have been made to appear to any magistrate by information on oath that any person suspected of being of unsound mind is at large or is dangerous to himself or others, or is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, it shall be lawful for such magistrate by order under his hand to require any police officer to apprehend such person and bring him before himself for the purpose of examination as hereinafter provided.

Magistrate may commit to mental hospital upon oath of registered medical practitioner

9. If any person be brought before a magistrate under an order issued as provided for in section 8, such magistrate shall call to his assistance a registered medical practitioner who shall separately examine such person, and if upon view and examination of the person so brought before him and upon proof on oath by the said practitioner and on any other proof the magistrate is satisfied that such person is a person of unsound mind and was at large, or was dangerous to himself and others, or was not under proper care and control, or was cruelly treated or neglected by any relative or other person having the care or charge of him, such magistrate may, by warrant under his hand in the prescribed form, commit such person to a mental hospital, and until such person can be removed to a mental hospital, give such directions or make such arrangements for the proper care and control of such person as he may deem necessary. Such warrant shall be sufficient authority to the person to whom it is addressed to remove such person accordingly and, subject to the directions and arrangements aforesaid, to keep him in safe custody until such removal can be effected. *(Amended by 24 of 1964, s. 6.)*

Registered medical practitioner to give certificate

10. The registered medical practitioner assisting at such examination as aforesaid shall fill up and sign a certificate in the prescribed form and, except as hereinafter provided, no person shall be committed by a magistrate to a mental hospital unless such certificate shall have been first signed as aforesaid. The said examination may, if the magistrate thinks fit, be held at the abode of the person examined or at such other proper and convenient place as he may direct. *(Amended by 24 of 1964, s. 6.)*

Provision in case of the absence of a registered medical practitioner

11. If for any reason the assistance of a registered medical practitioner be not procurable for the purpose of an examination as aforesaid, the magistrate may exercise the powers conferred upon him by section 9 without such assistance, but in such case the person committed to the mental hospital shall not be detained therein for a longer period than seven days from the date of his admission, unless a certificate in the prescribed form having reference to such person shall have been signed by a registered medical practitioner other than the superintendent and deposited with the superintendent. *(Amended by 24 of 1964, s. 6)*

Reception order

12. Every magistrate committing a person to a mental hospital as aforesaid shall make out and fill, up an order in the prescribed form. Such order shall be forwarded to the superintendent as soon as possible and the superintendent shall refuse admission to any person committed by a magistrate as aforesaid, if he shall not have previously received such order. (*Amended by 24 of 1964, s. 6.*)

Urgency orders

13.-(1) Notwithstanding the foregoing provisions of this Act, in cases of urgency where on the evidence of a registered medical practitioner it appears expedient either for the welfare of a person alleged or supposed to be of unsound mind or for the public safety that the person alleged to be of unsound mind should be placed forthwith under care and treatment or medical observation, he may upon an urgency order made by a magistrate be received and detained in a mental hospital or other convenient place mentioned in the order, as the magistrate may direct.

(2) A magistrate may make an urgency order in the prescribed form for a period not exceeding seven days on the application of the husband or wife or a relative of the person alleged to be of unsound mind or of a police officer of or above the rank of inspector.

(3) On an urgency order being issued, the person alleged to be of unsound mind may be examined and kept under observation by a registered medical practitioner, who may at any time within the period during which the order in the prescribed form is in force issue a certificate in the prescribed form, or may within a like period report to the magistrate upon the circumstances and condition of the person alleged to be of unsound mind. (*Section amended by 24 of 1964, s. 6.*)

(4) An urgency order may be extended by a magistrate for one further period of seven days.

Special orders

14.-(1) Notwithstanding the provisions of any other law in force in Fiji, the Minister may in his discretion discharge any person in respect of whom there is in force an order made under the provisions of sections **148** or **150** of the Criminal Procedure Code wheresoever detained, upon such conditions as the Minister may think fit. (*Amended by 47 of 1971, s. 2.*)

(*Cap. 21.*)

(2) The Minister may in his discretion revoke any discharge granted under this section and thereupon it shall be lawful for any police officer to take such person into custody and return him to the place from whence he was discharged and the said person shall then be detained in the said mental hospital, prison or other place as if the order of discharge had not been made. (*Section substituted by 24 of 1964, s. 7.*)

Patient may be admitted on application by relatives or person in charge

15. Any person being nearly related to or having the care or control of any person of unsound mind may make application for his reception in a mental hospital for the purpose of medical care

and treatment, but no person shall be received as a patient in consequence of such application unless the applicant shall have signed an order in the prescribed form, and have furnished the statement of particulars contained in such form, nor without the medical certificate according to the prescribed form of two registered medical practitioners, each of whom shall separately from the other have personally examined the person to whom it relates:

Provided that under special circumstances preventing the examination of such person by two registered medical practitioners as aforesaid any person may be received into a mental hospital upon the certificate of one registered medical practitioner, but in such case the statement annexed to the applicant's order shall set forth the special circumstances which prevent the examination of such person by two registered medical practitioners, and the certificate in the prescribed form of another registered medical practitioner shall be furnished within seven days of the patient's admission. (*Amended by 24 of 1964, ss. 6 and 9.*)

Power to receive voluntary patients

16.-(1) Any person who is desirous of voluntarily submitting himself to treatment for mental illness, and who makes a written application in the prescribed form to the superintendent, may be admitted as a voluntary patient into a mental hospital.

(2) Any person under the age of eighteen whose parent or guardian is desirous of submitting him to treatment for mental illness may, if the parent or guardian makes to the superintendent a written application in the prescribed form, be received as a voluntary patient under this section, but such person shall not be so received on his own application.

(3) Any person received as a voluntary patient under this section may leave the mental hospital upon giving to the superintendent in charge seventy-two hours' notice in writing of his intention to do so, or if he is a person under the age of eighteen, upon such notice being given by his parent or guardian, and upon leaving such hospital that person shall be deemed to be discharged.

(4) For the purposes of this section, the expression "guardian" in relation to a person under the age of eighteen includes any person having the charge of the person under such age.

(5) The superintendent shall refuse to admit any person under this section if he is of the opinion that the case is not a proper one for care and treatment in the mental hospital or that such person ought more properly to be received under the other provisions of this Act.

(6) A person when under treatment as a voluntary patient shall not be deemed to be under care and treatment for the purpose of any Act relating to divorce unless such treatment follows without any interval a period of detention in pursuance of any order made under the provisions of this Act. (*Section substituted by 24 of 1964, s. 10.*)

Superintendent to send notice of admission of patient

17. A superintendent shall, within forty-eight hours of the admission of any patient into a mental hospital, send notice in writing thereof to the chairman of the Board of Visitors with the

superintendents' own opinion of the case specifying in every such notice the name of such patient and the authority under which he was admitted.

Mental Hospital Register

18. A superintendent shall, after his examination of a patient admitted into a mental hospital, make or cause to be made an entry with respect to such patient in a book to be kept at the mental hospital for the purpose and to be called the "Mental Hospital Register". Such entry shall be made according to the prescribed form, and shall be made within twenty-four hours of the examination except the entry as to the form of mental disorder, which shall be made as soon as the superintendent shall have formed an opinion thereon, and except the entry as to the discharge or death or release on trial of the patient, which shall be made as hereinafter mentioned.
(Amended by 24 of 1964, s. 11.)

Superintendent shall not refuse qualified patient without direction of Visitors

19. Nothing in this Act shall be held to give any person a legal right to admission or to maintenance in a mental hospital but a superintendent shall not without the direction of the Visitors refuse to receive any patient duly qualified to be admitted and for whom there may be room in the mental hospital.

Superintendent may on emergency detain person supposed to be of unsound mind

20. Notwithstanding anything in the previous sections contained, a superintendent may, if upon any emergency he shall deem it necessary to do so, detain in a mental hospital any person whom he shall have reason to believe is a person of unsound mind without any warrant or order for any time not exceeding twenty-four hours. Any detention under this section shall be forthwith reported by the superintendent to the chairman of the Board of Visitors.

PART III - SPECIAL POWERS AND DUTIES OF THE VISITORS

Visits to be made not less than once every three months

21. No fewer than two of the Visitors shall, together once at least in every three months, inspect every part of the mental hospital and see and examine every person of unsound mind therein and the order and certificate for the admission of every patient admitted since their last visitation and the books of the mental hospital, and shall enter in a book to be kept for the purpose to (to be styled "The Visitors' Book") any remarks which they may deem proper in regard to the condition and management of the mental hospital and the patients therein and shall sign such book upon every such visit.

Visitors to make report to the Minister each year

22. The Visitors shall, in the month of January in every year, forward to the Minister a report in writing of the state and condition and management of the mental hospital and the conduct of the superintendent and the servants thereof and the care of the patients therein and in such report

shall make such observations in relation to any matters connected with the mental hospital as they may think fit.

Special reports

23. In addition to the annual report the Visitors, or any of them, shall make such reports upon any matter connected with the mental hospital as may be specially directed by the Minister.

Visits may be made at any time

24. Any Visitor may visit the mental hospital upon any day at such time and for such length of time as he may think fit, and the superintendent shall, on demand of such Visitor, show to him every or any person detained in the mental hospital as a person of unsound mind or any part of the mental hospital or any house, out-house, place or building connected therewith or in its curtilage.

Patients' letters

25. Every letter which may be written by a patient to the Visitors or any of them shall be forwarded unopened.

PART IV - GENERAL POWERS AND DUTIES OF A SUPERINTENDENT

Superintendent to visit mental hospital three times a week

26. A superintendent shall visit and examine every patient admitted to a mental hospital within twenty-four hours of his admission, and shall make a general visit to the mental hospital at least three times a week, and shall do and perform all such other acts and duties as are hereinafter mentioned.

Subordinate officers

27. The subordinate officers attached to a mental hospital shall, subject to any regulations which may be in force, follow and obey the directions of the superintendent as to the care and treatment of any patient and no such officer shall be liable to any action for following any directions so given.

PART V - DISCHARGE, DEATH OR ESCAPE OF PATIENTS

Discharge, death or escape of patients to be notified

28. When any person is discharged from a mental hospital or when any patient dies therein or escapes therefrom, it shall be the duty of the superintendent within twenty-four hours of such discharge, death or escape to send notice in writing thereof to the chairman of the Board of Visitors.

Inquiry in case of death

29.-(1) On the death of any person confined in a mental hospital the superintendent shall at once report such death to a magistrate of the Division in which such mental hospital is situate who shall thereupon proceed to hold an inquiry into the cause of the death of the deceased:

Provided that such magistrate may dispense with holding an inquiry if he considers that there is no reasonable suspicion of culpability and no other circumstance making it desirable to hold an inquiry. (*Proviso inserted by 13 of 1962, s. 2.*)

(2) For the purpose of such inquiry the magistrate shall have all the powers conferred upon magistrates under the Inquests Act. (*Amended by 24 of 1964, s. 14.*)

(*Cap. 46.*)

Entries to be made in Hospital Register

30. Upon the discharge of any patient from a mental hospital, or upon the death or release on trial of any patient therein, the superintendent shall, within twenty-four hours of such discharge or death or release on trial, make or cause to be made the appropriate entries in the Mental Hospital Register. (*Amended by 24 of 1964, s. 15.*)

Minister may order discharge or removal of prisoner on certificate of superintendent

31. If it is certified to the Minister by a superintendent that any patient confined by order of the Minister under the provisions of the Criminal Procedure Code, or any law for the time being in force relating to prisons is fit to be discharged therefrom, the Minister may, by warrant under his hand directed to the superintendent, order that such person shall be remitted to the prison or place of confinement from which he shall have been taken, or, if the period of imprisonment or custody of such person shall have expired, that he be discharged. (*Amended by 24 of 1964, s. 16.*)
(*Cap. 21.*)

Superintendent may discharge patient if fit

32. If it appears to a superintendent that any person detained in a mental hospital is fit to be discharged therefrom he may order such patient to be discharged and he shall be discharged accordingly.

Visitors may order discharge of patient

33.-(1) It shall be lawful for any two of the Visitors to make special visits to any patient detained in a mental hospital and, if after two distinct and separate visits not less than seven clear days apart it shall appear to them that such patient is detained without sufficient cause, they may make an order addressed to the superintendent for the discharge of such patient and such patient shall be discharged accordingly:

Provided that the superintendent shall have previous notice of the second of such visits, and, if he protests against such discharge, it shall not be made without the consent of the Minister.

(2) The powers of ordering the discharge of a patient conferred by this section and section **32** shall not apply to the case of persons sent to a mental hospital under order of the Minister nor to any person confined in a mental hospital under an order of any court made under the provisions of the Criminal Procedure Code.

(Cap. 21.)

Discharge of patients admitted on own application or on application of relatives or guardian

34.-(1) If and when any person who signed the order under the provisions of section **15** on which a patient was received into a mental hospital, shall, by writing under his hand directed to the superintendent, request that such patient be discharged or released on trial, such patient shall be discharged or released on trial accordingly.

If the person who signed the order be dead, absent or incapable, the request may be made and signed by the person who made the last payment on account of the patient or by the patient's nearest of kin (being an adult) resident in Fiji or by any person who would have the care and control of the patient upon his discharge or release on trial and the patient shall be discharged or released on trial accordingly. (*Amended by 24 of 1964, s. 17.*)

(2) A person admitted as a patient on his own application may be discharged by the superintendent on his own application.

(3) Notwithstanding the foregoing provisions, no patient shall be discharged under this section if the superintendent certifies that in his opinion such person is dangerous and unfit to be at large unless two of the Visitors and the Minister consent to such discharge. In such case the discharge may, if the Minister thinks fit, be made conditional upon the friends or relatives of such patient entering into sufficient recognizance before a magistrate for the peaceable behavior of such patient.

Escaped patient may be apprehended

35.-(1) If any patient confined or detained in a mental hospital shall escape therefrom, the superintendent or any person authorized by him may at any time within one month of such escape apprehend such patient and return him to the mental hospital.

(2) Nothing in this section limiting the time within which any patient may be retaken after escape, or providing for his discharge if not retaken, shall apply to any person confined by order of the Minister under the provisions of section **14**, the Criminal Procedure Code, or any law for the time being in force relating to prisons, and any such person may be retaken at any time after his escape. (*Inserted by 24 of 1964, s. 18.*)

(Cap. 21.)

Removal of patient to hospital

36.-(1) Any patient requiring special medical or surgical care may upon the order of the superintendent be sent under proper control to a public hospital to be specified in such order. The superintendent shall, without delay, report a removal under this subsection to the chairman of the Board of Visitors.

(2) The medical officer in charge of a public hospital, to which a patient has been removed under subsection (1), shall notify the superintendent when in his opinion the patient is sufficiently recovered to justify his discharge from hospital, and the superintendent shall forthwith cause the patient to be brought back to the mental hospital.

Absence on trial of patient

(3) Any two Visitors to a mental hospital with the advice in writing of the superintendent may permit a patient in such mental hospital to be absent on trial for so long as they think fit. A permit under this subsection shall be in writing and-

(a) may be limited to a specified time; or

(b) may be limited to a specified place; or

(c) may allow a patient to be at large during the day between such hours as may be specified in the permit provided he returns to the mental hospital at the hour named in the permit and spends the night as a patient in the mental hospital; or

(d) may commit the patient to the care of a particular individual; or

(e) may combine any two or more of (a), (b), (c) and (d).

This subsection shall not apply to any person admitted to a mental hospital on an order of the Governor-General unless the consent of the Governor-General or the Minister, as the case may be, to the granting of such permission is first had and obtained. (*Amended by order 7th October, 1970.*)

(4) If a person allowed to be absent on trial for any period does not return at the expiration thereof, and a certificate of a registered medical practitioner certifying that his detention as a person of unsound mind is no longer necessary is not sent to the superintendent, he may at any time within one month after the expiration of the period of trial be retaken and returned to the mental hospital and if not so retaken, discharged.

(5) Any two Visitors one of whom is a registered medical practitioner may, if they think fit, order that a permit issued under subsection (3) be cancelled, and such order shall be sufficient authority to any person to whom it is addressed to retake the patient and return him to the mental hospital. (*Section amended by 24 of 1964, s. 19.*)

Certificates to remain in force

37. In every case in which any patient shall have been removed temporarily or released on trial under the provisions of section 36 and also in every case in which any patient shall have escaped from a mental hospital, the certificates relating to and the order for the reception of such patient into the mental hospital shall upon his return respectively remain in force in the same manner as the same would have done if such patient had not been so removed or released on trial or had not so escaped and been retaken:

Provided that such certificates and order relating to a patient who has escaped, other than a patient confined by order of the Governor-General or Minister under the provisions of section 14, the Criminal Procedure Code, or any law for the time being in force relating to prisons shall cease to be in force after the expiry of one month from the date of such escape if the patient is not retaken during that period. *(Section amended by 24 of 1964, s. 20.)*

(Cap. 21.)

Supreme Court may order patient to be brought before it for examination

38. If it appears to the Court upon information upon oath or otherwise that any person of sound mind, other than a criminal under sentence or a person legally detained during the pleasure of the Crown, is confined to a mental hospital against his will it shall have power to order the superintendent to bring such confined person before it for examination at a time to be specified in such order and if, upon examination on oath of such confined person and of any medical or other witness or witnesses who may be called by the superintendent or the Court to testify as to the state of mind of such person, it shall appear to the satisfaction of the Court that such confined person is of sound mind and detained against his will, the Court may order such person to be discharged from the mental hospital and the superintendent shall discharge such person accordingly.

PART VI - PROVISIONS REGULATING PROCEEDINGS IN INQUIRIES INTO UNSOUNDNESS OF MIND

Court may order inquiry

39.-(1) The Court may, on such application as is hereinafter mentioned, make an order directing an inquiry whether any person subject to the jurisdiction of the Court who is alleged to be of unsound mind, is or is not of unsound mind and incapable of managing himself and his affairs.

(2) Such order may also contain directions for inquiries concerning the nature of the property belonging to the person alleged to be of unsound mind, the persons who are his relatives or next of kin, the time during which he has been of unsound mind or such other questions as to the Court shall seem proper.

Application by whom made

40. Application for such inquiry may be made by any person related by blood or marriage to the person alleged to be of unsound mind, or by any officer in the public service of Fiji nominated by the Minister for the purpose of making the application.

Provision as to notice of inquiry

41.-(1) Reasonable notice of the time and place appointed for the inquiry shall be given to the person alleged to be of unsound mind.

(2) If it shall appear that the person alleged to be of unsound mind is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper.

(3) The Court may also, if it thinks fit, direct a copy of such notice to be served upon any person related by blood or marriage to the person alleged to be of unsound mind.

Power to examine person alleged to be of unsound mind

42. At any time after the application for the inquiry the Court may require the person alleged to be of unsound mind to attend at such convenient time and place as the Court may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of his mental capacity and condition, and the Court may also make an order authorizing any person or persons named therein to have access to the person alleged to be of unsound mind for the purpose of a personal examination.

Questions to be decided by Court

43. On the day fixed for the inquiry, after receiving such reports and hearing such evidence and arguments as it may think fit, the Court shall decide whether the person who is alleged to be of unsound mind is or is not of unsound mind and incapable of managing himself and his affairs and shall also decide any other questions as to which an inquiry has been directed.

Order as to costs

44. The Court may make such order as may appear just respecting the costs of the inquiry and may include therein such remuneration to medical witnesses as the Court shall deem reasonable:

Provided that no order for the payment of costs shall be made against any officer nominated under the provisions of section 40.

Appointment of committees

45.-(1) If the Court finds that the person who is alleged to be of unsound mind is of unsound mind and incapable of managing himself and his affairs, the Court may, if it shall think fit, appoint a committee or committees of the person and estate of such person and may make such

order, if any, as to the remuneration of the committee or committees out of such person's estate, and as to the giving of security by the committee or committees, as to the Court may seem fit.

(2) If the Court finds that the person who is alleged to be of unsound mind is incapable of managing his affairs, but is not dangerous to himself or to others, the Court may appoint a committee of his estate without appointing a committee of his person.

Powers of management of estate of person of unsound mind

46. The Court may, on the appointment of a committee or committees of the person or estate of a person of unsound mind, direct by the order of appointment or by any subsequent order that the person to whom the charge of the estate is committed shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether real or personal, of which the estate may consist. But such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof or to the letting of any real property, unless for a term not exceeding three years. (*Amended by 37 of 1966, s. 38.*)

Power of Chief Registrar to receive proposal

47. The Chief Registrar shall be at liberty, without an order of reference, to receive any proposal and conduct any inquiry respecting the management of the estate of a person of unsound mind if such proposal relates to any matter which the committee of the estate has not been empowered by an order under section 46 to dispose of. The Chief Registrar may likewise, without reference, receive and inquire into any proposal relating to the sale or charge by way of mortgage of the estate or of any part thereof or to the letting of any immovable property for a term exceeding three years.

Chief Registrar to report to Court

48. The Chief Registrar shall report to the Court on the proposal, and the Court shall, subject to the provisions of this Act, make such order upon the report and respecting the costs as shall under the circumstances seem just.

What relatives may attend proceeding

49. The Court shall once in the matter of each inquiry, and may afterwards from time to time, determine whether any one or more and, if any, how many and which of the relatives or next of kin shall attend before the Chief Registrar at the cost of the estate in any proceeding connected with the management thereof, and, if any such relative or next of kin is an infant, may from time to time appoint a fit person to be his guardian for the purpose of such proceeding.

Orders may be made on petition

50. The Court may, on application made to it by petition concerning any matter whatsoever connected with the inquiry, make such order, subject to the provisions of this Act, respecting the

application and the costs thereof and of the consequent proceedings as shall under the circumstances seem just.

Dealing with property of person of unsound mind for certain purposes

51. The Court may, if it appears to be just or for the benefit of the person of unsound mind, order that any property, real or personal, and whether in possession, reversion, remainder, contingency or expectancy, be sold, charged by way of mortgage, or otherwise disposed of as may seem most expedient for the purpose of raising money to be applied for any of the following purposes-

- (a) the payment of his debts, including any debts incurred for his maintenance or otherwise for his benefit;
- (b) the discharge of any incumbrance on his estate;
- (c) the payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal from Fiji, when he shall be so removed, and all expenses incidental thereto;
- (d) the payment of the costs of any proceeding under this Act and of any costs incurred by order or under the authority of the Court. (*Amended by 37 of 1966, s. 38.*)

Committee to execute instruments

52. The committee of the estate of the person of unsound mind shall, in his name and on his behalf, execute all such conveyances and instruments of transfer, relative to any sale, mortgage or other disposition of his estate as the Court shall order. In like manner such committee shall, under the order of the Court, exercise all powers whatsoever vested in a person of unsound mind, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

Performance of contract

53. Where a person having contracted to sell or otherwise dispose of his estate or any part thereof afterwards becomes of unsound mind, the Court may, if the contract is such as the Court thinks ought to be performed, direct the committee of the estate to execute such conveyances and to do such acts in fulfillment of the contract as it shall think proper.

Partner found to be of unsound mind

54. If a member of a partnership firm be found to be of unsound mind, the Court may, on the application of the other partners or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the committee of the estate may, in the name and on behalf of the person of unsound mind, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

Disposal of business premises

55. Where a person of unsound mind has been engaged in business the Court may, if it appears to be for the benefit of his estate that the business premises should be disposed of, order the committee of the estate to sell and dispose of the same, and the moneys arising from such sale shall be applied in such manner as the Court shall direct.

Committee may dispose of lease

56. Where a person of unsound mind is entitled to a lease or underlease, and it appears to be for the benefit of his estate that it should be disposed of, the committee of the estate may by order of the Court surrender, transfer or otherwise dispose of the same to such person for such valuable or nominal consideration and upon such terms as the Court shall think fit.

Transfer of stock of person of unsound mind

57. Where any stock or Government or municipal securities or any share or debenture in a public company (transferable within Fiji or the dividends of which are payable there) are standing in the name of or are vested in, a person of unsound mind beneficially entitled thereto or a committee of the estate of a person of unsound mind or a trustee for him, and the committee or trustee dies intestate or himself becomes of unsound mind or is out of the jurisdiction of the Court, or it is uncertain whether the committee or trustee be living or dead or he neglects or refuses to transfer the stock, securities or shares or to receive and pay the dividends to a new committee or trustee, or as he directs, within fourteen days after being required by him to do so, the Court may order some fit person to make such transfer or to transfer the same and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payments shall be valid and effectual for all purposes.

Transfer of property of person of unsound mind residing out of Fiji

58. Where any property situate in Fiji is standing in the name of or vested in any person residing out of Fiji, the Court, upon being satisfied that such person has been declared of unsound mind and that his personal estate has been vested in a Committee, curator or manager according to the laws of the place where he is residing, may order some fit person to make such transfer of the property, or of any part thereof, to such committee, curator or manager or otherwise, and also to receive any and pay over any proceeds or profits thereof as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Power to order maintenance without appointing committee

59. If it appears to the Court, having regard to the situation and condition in life of the person of unsound mind and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, the Court may, instead of appointing a committee of the estate, order that the property, if money, or, if of any other description, the produce thereof when realized, be paid to such person

as the Court may think fit to be applied for the purpose aforesaid, and all payments so made shall be a good discharge to the person making the same.

Temporary provision for maintenance of person of unsound mind

60. If it appears to the Court that the unsoundness of mind of a person is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of his family, the Court may in like manner as under section **59** direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Order for detention of person of unsound mind

61. When upon any inquiry under this Part any person shall have been found by the Court to be of unsound mind and incapable of managing himself and his affairs, the Court shall either make an order for such person to be received into a mental hospital and send him in suitable custody, together with the order for his reception, to the mental hospital named in such order, or may, if any friend or relative of such person shall undertake in writing to the satisfaction of the Court that such person shall be properly taken care of and shall be prevented from doing injury to himself or others, make him over to the care of such friend or relative.

Annulling proceedings

62.-(1) When any person has been found of unsound mind and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for inquiry whether such person is or is not still of unsound mind and incapable of managing himself and his affairs.

(2) The inquiry shall be conducted in the same manner subject to the same rules as are hereinbefore mentioned for an inquiry into the unsoundness of mind of a person alleged to be of unsound mind; and if it be found that the unsoundness of mind has ceased, the Court shall order all proceedings in such matter to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

Discharge of person found on inquiry not to be of unsound mind

63. When after inquiry into the unsoundness of mind of any person detained in a mental hospital, the Court has made an order under the provisions of section **62** that the proceedings shall cease or be set aside, the superintendent of the mental hospital shall forthwith, on the production of a certified copy of such order, discharge from such mental hospital the person whose unsoundness of mind has ceased.

PART VII - MISCELLANEOUS

Maintenance of patients

64. Where any patient has property applicable to his maintenance, so much thereof as may be necessary to pay the charges of the lodging, maintenance, medicine and care of such patient shall be applied to that purpose, and any sum which may be due under any regulation which may be in force with respect to charges may be recovered by the Chief Accountant from the trustees or other person having the custody, possession or charge of the property of such patient. Where any person is liable for the support or maintenance of a person of unsound mind the charges for the treatment of such person while a patient in a mental hospital may like manner be recovered from the person so liable. *(Amended by 2 of 1945, s. 125.)*

Ill-treatment of patients

65. If a superintendent or any officer, nurse, attendant, servant or other person employed in a mental hospital strike, wound, ill-treat or willfully neglect any patient therein he shall be guilty of a misdemeanor and liable on conviction thereof to imprisonment for two years.

Penalty for conniving at escape of patient

66.-(1) If a superintendent or any officer or servant in a mental hospital shall, through willful neglect or connivance, permit any patient to escape from a mental hospital, or shall secrete or abet or connive at the escape of such a patient, he shall be liable to a fine of two hundred dollars or to imprisonment for a term not exceeding twelve months.

(2) Any person who, by any means directly or indirectly procures, persuades, or attempts to procure or persuade any patient to escape or who aids, abets, or is accessory to the escape of any patient, or who knowingly harbours in or about his house, grounds or otherwise, or who knowingly employs, or who knowingly and without lawful excuse assists any patient who has escaped, shall be guilty of an offence, and shall, on conviction therefore, be liable to imprisonment for any period not exceeding six months or to a fine not exceeding one hundred dollars or to both such fine and imprisonment. *(Section amended by 2 of 1945, s. 125, and 24 of 1964, s. 22.)*

Copies of reception order and other documents to be furnished

67. A superintendent shall, upon the discharge of a person furnish to him upon his request, free of expense, a copy of the reception order and certificates upon which he was confined. *(Amended by 24 of 1964, s. 24.)*

Fees and remission thereof

68. The Minister may prescribe such charges and fees in respect of the care and treatment of patients in a mental hospital as he may think fit and may remit either wholly or in part any such charges or fees at his discretion.

Construction of laws

69. Whenever in any written law or other document whatsoever any reference to a lunatic or to lunacy or to a lunatic asylum or asylum is contained, that reference shall be read as a reference to a person of unsound mind, or to a patient within the meaning of this Act or, as the case may be, to unsoundness of mind or to a mental hospital.

Certified mental patients

70. A person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Fiji shall mean:-

(a) a person admitted to a mental hospital in pursuance of the provisions of sections **9** or **15** and not discharged therefrom; or

(b) a person admitted to a mental hospital in pursuance of the provisions of sections **11** or **13** and subsequently certified by a registered medical practitioner by a certificate in the prescribed form and not discharged therefrom; or

(c) a person of unsound mind confined in a mental hospital, prison or other suitable place of custody under the provisions of section **14**, the Criminal Procedure Code, or any law for the time being in force relating to prisons. (*Section inserted by 24 of 1964, s. 25.*)

(Cap. 21.)

Burden of proof and presumptions

71. In any proceedings-

(a) a document purporting to be an order made under the provisions of this Act shall, until the contrary is proved, be presumed to be such an order;

(b) any order made under the provisions of this Act shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made;

(c) any certificate made or given under the provisions of this Act purporting to be signed by a registered medical practitioner shall, until the contrary is proved, be deemed to have been so signed and that the person signing the certificate shall be deemed to be a registered medical practitioner;

(d) any notice or certificate made or given under the provisions of this Act purporting to be signed by the superintendent shall, until the contrary is proved, be deemed to have been so signed. (*Section inserted by 24 of 1964, s. 25.*)

Regulations

72.-(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) In particular and without prejudice to the generality of subsection (1) the Minister may make regulations prescribing forms required under the provisions of this Act. (*Section inserted by 24 of 1964, s. 25.*)

Controlled by Ministry of Health

SECTION 3. - ESTABLISHMENT OF MENTAL HOSPITAL

Notice 22nd Oct., 1964

Made by the Governor

The following has been established as a mental hospital for the reception and detention of persons of unsound mind:-

All that land together with buildings thereon known as St. Giles' Hospital, Suva and specified in the Schedule.

SCHEDULE

All that land in the city of Suva containing an area of 11 acres 2 roods and which is more particularly described as follows:-

Starting at an iron peg on the western side of Reservoir Road being also the south-eastern corner of the Military Cemetery; thence in a south-easterly direction following the western side of Reservoir Road by the following lines:-

On a bearing of 162 degrees 16 minutes 00 seconds for a distance of 182.13 links to a concrete peg. On a bearing of 124 degrees 47 minutes 50 seconds for a distance of 237.01 links to a concrete peg. On a bearing of 147 degrees 42 minutes 10 seconds for a distance of 594.17 links to a concrete peg. On a bearing of 186 degrees 25 minutes 00 seconds for a distance of 38.25 links to a concrete peg;

thence in a westerly direction by the following lines:-

On a bearing of 244 degrees 32 minutes 30 seconds for a distance of 89.33 links to a concrete peg. On a bearing of 294 degrees 42 minutes 30 seconds for a distance of 312.98 links to a concrete peg. On a bearing of 257 degrees 18 minutes 50 seconds for a distance of 359.08 links to a point on the northern boundary of Lands Department plan No. S. 765; thence following the northern

boundary of said S. 765, on a bearing of 226 degrees 07 minutes 00 seconds for a distance of 459.3 links. On a bearing of 270 degrees 00 minutes 00 seconds for a distance of 209.9 links to an iron peg;

thence in a northerly and easterly direction by the following lines:-

On a bearing of 345 degrees 45 minutes 30 seconds for a distance of 150.84 links to a concrete peg. On a bearing of 1 degree 46 minutes 10 seconds for a distance of 358.49 links to a concrete peg. On a bearing of 3 degrees 40 minutes 30 seconds for a distance of 491.38 links to a concrete peg. On a bearing of 340 degrees 53 minutes 00 seconds for a distance of 331.86 links to a concrete peg. On a bearing of 5 degrees 05 minutes 10 seconds for a distance of 221.36 links to a concrete peg. On a bearing of 54 degrees 21 minutes 30 seconds for a distance of 158.04 links to a concrete peg. On a bearing of 94 degrees 50 minutes 40 seconds for a distance of 409.29 links to a concrete peg on the western boundary of the Military Cemetery, plan No. S. 742;

thence in a southerly and easterly direction following the western and southern boundaries of the Military Cemetery by the following lines:-

On a bearing of 180 degrees 08 minutes 00 second for a distance of 432.15 links to a concrete peg. On a bearing of 90 degrees 08 minutes 00 seconds for a distance of 241.30 links to an iron peg on the western side of Reservoir Road and being the starting point.
Such land being more particularly delineated on plan S. 1191 lodged in the office of the Director of Lands, Suva.

SECTION 4. - MENTAL TREATMENT REGULATIONS

Regulations 11th Jan., 1965

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Mental Treatment Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires-"superintendent" includes any member of the staff of a mental hospital authorized in writing by the superintendent to perform any of the functions of the superintendent hereunder.

Visits

3.-(1) Subject to the right of the superintendent of a mental hospital to refuse permission in any particular case, visitors may be admitted to see patients in a mental hospital at such times and on such days as the Permanent Secretary may determine by notice published in the Gazette as the official visiting hours.

(2) Except in cases where the superintendent of a mental hospital in his discretion and in special circumstances may permit a visitor to see a patient at a time other than the official visiting hours for such period of time and subject to such conditions as the superintendent may see fit, no visitor shall enter any ward or visit any patient in a mental hospital at any time other than the official visiting hours.

(3) Except in cases where the superintendent of a mental hospital in his discretion and in special circumstances may permit, no child under the age of 16 years shall visit a patient in a mental hospital.

Ministers of religion

4. A minister of religion may at any time, with the permission of the superintendent, visit patients of the same religious denomination[sic].

Presents from visitors

5. No visitor shall, without the permission of the superintendent, give to a patient any money, food, drink or any other article whatsoever.

Prohibited articles

6. No person shall bring into a mental hospital any alcohol, knife, razor, razor blade, matches, cigarette or other lighter, or any sharp or dangerous implement except such of the foregoing as may reasonably be required by members of the staff of a mental hospital in connexion with their duties.

Segregation of male and female patients

7. Male and female patients shall be kept separately in mental hospitals and no male orderly shall attend any female patient unless a female orderly be also present.

Forms

8. The forms set out in the Schedule are hereby prescribed in respect of the several matters to which they relate.

SCHEDULE

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 9)

WARRANT OF COMMITMENT OF PERSON OF UNSOUND MIND TO A MENTAL HOSPITAL

To..... of..... and to all police officers in Fiji, and to the Superintendent of Mental Hospital.

Whereas of was on the day of , 19..... , examined by me and before me at , under and by virtue of the powers conferred upon me by the Mental Treatment Act: And whereas I was satisfied by the said examination that the said..... is a person of unsound mind who ought to be confined in a mental hospital under the provisions of the said Act:

This is therefore to command you, the said police officers to take the said and safely convey him to the mental hospital at....., and there to deliver him to the Superintendent thereof together with this warrant.

(Signed).....
Magistrate

Dated this..... day of, 19.....

FORM No. 2

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 10)

FORM OF MEDICAL CERTIFICATE

I, the undersigned, being a registered medical practitioner of Fiji, hereby certify that I on the day of, 19....., at, separately from any other registered practitioner, personally examinedand that the said is in my opinion a person of unsound mind (or an idiot) and a proper person to be taken charge of and detained in a mental hospital under care and treatment, and that I have formed this opinion upon the following grounds:-

1. Facts indicating unsoundness of mind observed by myself:
[Here state the facts.]

2. Other facts, if any, indicating unsoundness of mind which were communicated to me by others:

[Here state the information and from whom.]

(Signed).....
(Registered Medical Practitioner)

Dated thisday of, 19.....

FORM No. 3

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 12)

ORDER OF MAGISTRATE FOR RECEPTION OF PATIENT

I,, magistrate, having called to my assistance, a registered medical practitioner and having personally examined, and being satisfied that the said is a person of unsound mind in a dangerous state (or wandering at large or not under proper care and control or cruelly treated or neglected by the person having the care or charge of him) and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said as a patient in the Mental Hospital.

Hereunder is a statement respecting the said

(Signed).....
Magistrate

Dated thisday of, 19.....

To: The Superintendent of the.....Mental Hospital.

STATEMENT

[To be filled up by the examining magistrate as far as possible.]

Name of patient in full:
Sex and age:
Married, single or widowed

Occupation:
Religion:
Place of abode:
Whether first attack:
Age on first attack:
When and where previously under care and treatment:
Duration of existing attack:
Supposed cause:
General appearance when under attack:
Name and place of abode of nearest relative:
Special circumstances, if any, preventing the presence of a registered medical practitioner at inquiry:

(Signed).....

FORM No. 4

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 13)

URGENCY ORDER FOR RECEPTION OF PATIENT

I,....., magistrate, having personally examined and being satisfied that the said is a person in a dangerous state (or wandering at large or not under proper care and control), and a proper person to be taken charge of and detained under care and observation, hereby direct you to receive the said..... as a patient in the Mental Hospital or at (as the case may be) and there to detain the said for not exceeding the space of seven days and to produce the said before me within or at the expiration of the said space of seven days with such further evidence, if any, medical or otherwise which may be available.

(Signed).....

Magistrate

Dated this day of, 19.....

To: The Superintendent of Mental Hospital or Police Officer
[as the case may be].

FORM No. 5

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 15)

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT

I, the undersigned, hereby request you to receive a person of unsound mind as a patient into the Mental Hospital.

Hereunder is a statement respecting the said.....

(Signed).....

Name:

Occupation:

Place of abode:

Degree of relationship, if any, or other circumstances of connexion with the patient:

Dated this day of, 19.....

To: The Superintendent of the Mental Hospital.

STATEMENT

[If any particulars required be not known the fact to be so stated.]

Name of patient in full:

Sex and age:

Married, single or widowed:

Occupation:

Religion:

Previous place of abode:

Whether first attack:

Age on first attack:

When and where previously under care and treatment:

Duration of existing attack:

Supposed cause:

General appearance when under attack:

Special circumstances, if any, preventing the patient being examined before admission separately by two registered medical practitioners:

When the person signing the statement is not the person who signs the order the following particulars concerning the person signing the statement are to be added:-

Occupation, if any:

Place of abode:

Degree of relationship, if any, or other circumstances of connexion with the patient:

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 16)

APPLICATION TO BE ADMITTED AS A VOLUNTARY PATIENT

I, the undersigned, hereby request you to admit me as a voluntary patient into the mental hospital.

My personal particulars are as follows:-

Name:

Occupation:

Place of abode:

Dated this day of, 19.....

(Signed).....

To: The Superintendent of the Mental Hospital.

MENTAL TREATMENT ACT

(CHAPTER 113)

(Section 18)

MENTAL HOSPITAL REGISTER

Admission No.	Case No.	Full Name	Home Address	First Admission						Re-Admission						Age in years	
				Fijian		Indian		Other		Fijian		Indian		Other			
				M	F	M	F	M	F	M	F	M	F	M	F		
Marital Status		Authority of Admission										Observations					
		s.9	s.11	s.13	s.15	s.16	s.20	Governor-General's Order									
Date of Admission		Date of Leaving Hospital			Date of Death			Duration of Stay in Days			Date of Discharge						

Controlled by Ministry of Health
