

THE MENTAL HEALTH ORDINANCE, 2001

(VIII OF 2001)

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TEXT

¹THE MENTAL HEALTH ORDINANCE, 2001

(VIII of 2001)

[20th February, 2001]

An

Ordinance

to consolidate and amend the law relating to the mentally disordered persons with respect to their care and treatment, the management of their property and other related matters

WHEREAS it is expedient to consolidate and amend the law relating to the treatment and care of mentally disordered persons, to make better provisions for their care, treatment, management of properties and affairs and to provide for matters connected therewith or incidental thereto and to encourage community care of such mentally disordered persons and further to provide for the promotion of mental health and prevention of mental disorder;

AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Republic of Pakistan is pleased to make and promulgate the following Ordinance: -

¹ Pursuant to the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Republic of Pakistan promulgate this Ordinance on 20 February 2001; and, was published in the Punjab Gazette (Extraordinary), Pt I, dated 20 February 2001, pages 115-48.

This Ordinance was originally in the Federal ambit, however, the subject on which this law was enacted, devolved to the provinces by virtue of 18th Amendment in the Constitution, hence it was adopted, with amendments, for the province of the Punjab by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993.

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.— (1) This Ordinance may be called the Mental Health Ordinance, 2001.

(2) It extends to the whole of ²[the Punjab].

(3) It shall come into force with effect from the 20th day of February, 2001.

2. Definitions.— (1) In this Ordinance, unless there is anything repugnant in the subject or context, –

(a) “approved psychiatrist” means a medical practitioner possessing a recognized postgraduate qualification and registered with the Pakistan Medical and Dental Council and also approved by the Authority;

(b) “Authority” means the ³[Punjab Mental Health Authority] constituted under section 3;

(c) “cost of maintenance” in relation to a mentally disordered person, includes the cost of lodging, maintenance, clothing, medicine and care of a mentally disordered person and any expenditure incurred in removing such mentally disordered person to and from a psychiatric facility together with any other charges specified in this behalf by the Government;

(d) “Court of Protection” means a District Court having jurisdiction under this Ordinance in matters specified herein and designated as such by the Government;

(e) “Court” means a Court of Protection;

⁴[(f) “Government” means Government of the Punjab;]

(g) “health facility” means any basic health unit, rural health centre, Tehsil hospital, district hospital, teaching hospital and any private medical facility, supervised by a medical practitioner;

(h) “hospital management” means personnel operating and or managing any psychiatric facility or a health facility that has provision for indoor treatment for the mentally disordered;

(i) “informed consent” means voluntary and continuing permission of the patient or if the patient is a minor his nearest relative or guardian, as

² Substituted by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.3.

³ Substituted for the words “Federal Mental Health Authority” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.2(b).

⁴ Substituted by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.4.

the case may be, for assessment or to receive a particular treatment based on an adequate knowledge of the purpose, nature, likely effects, and risks of that treatment including the likelihood of its success and any alternatives to it and the cost of treatment;

- (j) “Magistrate” means a Judicial Magistrate of the first class specially empowered by the Government to perform functions and exercise powers of a Magistrate under this Ordinance;
- (k) “medical officer” means a medical graduate serving in a Government health facility and registered with the Pakistan Medical and Dental Council;
- (l) “medical practitioner” means a medical graduate registered with the Pakistan Medical and Dental Council with good standing;
- (m) “mental disorder” means mental illness, including mental impairment, severe personality disorder, severe mental impairment and any other disorder or disability of mind and “mentally disordered” shall be construed accordingly and as explained hereunder:
 - (i) “mental impairment” means a state of arrested or incomplete development of mind (not amounting to severe mental impairment) which includes significant impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned and “mentally impaired” shall be construed accordingly;
 - (ii) “severe personality disorder” means a persistent disorder or disability of mind (whether or not including significant impairment of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the person concerned;
 - (iii) “severe mental impairment” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned and “severely mentally impaired” shall be construed accordingly;

Explanation:- Nothing contained in clause (m), sub-clauses (i), (ii) and (iii) above shall be construed as implying that a person may be dealt with under this Ordinance as suffering from mental disorder or from any other form of such mental disorder defined in this section, by reason only of promiscuity or other immoral conduct, sexual deviancy or dependence on alcohol or drugs.

- (n) “mentally disordered prisoner” means a person, who is a prisoner for whose detention in or removal to a psychiatric facility or other place of safety, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898 (Act V of 1898), section 30 of the Prisoners Act, 1900 (III of 1900), section 130 of the Pakistan Army Act, 1952 (XXXIX of 1952) section 143 of the Pakistan Air Force Act, 1953 (VI of 1953) or section 123 of the Pakistan

Navy Ordinance, 1961 (XXXV of 1961);

- (o) “minor” means a child or adolescent not having attained the age of eighteen years;
- (p) “patient” means a person who is under treatment and care;
- (q) “place of safety” means a Government run health facility, a psychiatric facility, or residence of any suitable relative who is willing to temporarily receive the patient;
- (r) “prescribed” means prescribed by rules or regulations as the case may be, made under this Ordinance;
- (s) “psychiatric facility” means a hospital, institute, ward, clinic, nursing home, day-care institution, half-way house, whether in public or private sector involved in the care of mentally disordered persons;
- (t) “psychiatrist” means a medical practitioner possessing a recognized postgraduate qualification in psychiatry and registered with the Pakistan Medical and Dental Council;
- (u) “relative” means and includes any person related by blood or marriage or adoption under the personal law, with the mentally disordered person;
- (v) “rules” means the rules made under this Ordinance;
- (w) “specialized psychiatric treatments” means electro-convulsive treatment, anti-psychotic depot injection, psychosurgery, and such other form of treatment as may be specified for the purposes of this Ordinance; and
- (x) “treatment of mentally disordered person” means the assessment and treatment of a mentally disordered person and shall include assessment, care, training, habilitation as well as rehabilitation techniques or measures, as the case may be.

CHAPTER II

ESTABLISHMENT OF ⁵[PUNJAB MENTAL HEALTH AUTHORITY]

- 3. ⁶[Punjab Mental Health Authority].—** (1) For the purposes of this Ordinance,

⁵ Substituted for the words “Federal Mental Health Authority” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.2(b).

⁶ Substituted for the words “Federal Mental Health Authority” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.2(b).

the ⁷[Government] shall constitute, by notification in the official Gazette, the ⁸[Punjab Mental Health Authority].

⁹[(2) The Authority shall consist of a Chairperson and not more than ten members to be appointed by the Government.]

¹⁰[(3) The members of the Authority shall be as follows:

- (i) Secretary to the Government, Health Department;
- (ii) Chief Consultant Psychiatrist, Punjab Institute of Medical Health, Lahore; and
- (iii) three eminent psychiatrists and two eminent psychologists of at least ten years' standing.]

(4) The Chairperson and the members of the Authority, other than ex-officio members, shall be appointed on such terms and conditions as may be determined by the ¹¹[Government].

(5) The Chairperson and the members of the Authority shall be appointed for a tenure of four years. The Chairperson and a member may resign from his office in writing addressed to the ¹²[Government].

(6) The Chairperson or a member of the Authority may be removed from his office by the ¹³[Government], for reasons of misconduct, or if he is unable to perform functions of his office, on account of mental or physical incapacity or for any other reason.

(7) The Authority established under sub-section (1) shall carry out the following functions.-

- (a) advise the Government on all matters relating to promotion of mental health and prevention of mental disorder;
- (b) develop and establish new national standards for care and treatment of

⁷ Substituted for the words "Federal Government" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.2(a)

⁸ Substituted for the words "Federal Mental Health Authority" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.2(b).

⁹ Substituted by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.5(a).

¹⁰ Substituted by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.5(b).

¹¹ Substituted for the words "Federal Government" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.2(a)

¹² Substituted for the words "Secretary, Ministry of Health, Government of Pakistan" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.5(c).

¹³ Substituted for the words "Secretary, Ministry of Health, Government of Pakistan" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.5(c).

patients;

- (c) recommend measures to improve existing mental health services and setting up of child and adolescence, psychogeriatric, forensic, learning disability and community based services;
- (d) prescribe procedures with respect to setting up and functioning of the mental health services and facilities;
- (e) prescribe a code of practice to be implemented for achieving the purposes and objects of this Ordinance as well as to be followed by all the mental health personnel involved with the care of patients under this Ordinance;
- (f) provide for regular review by the Board of Visitors to ensure that the provisions of this Ordinance for assessment and treatment are being properly carried out, whether or not requested by any individual, patient or his relative;
- (g) prescribe for care, aftercare or rehabilitation, under supervision or otherwise;
- (h) provide for and regulate the setting up of help lines and crisis centres for the general public with regard to mental health;
- (i) provide for, organize and regulate public awareness programs and promote research, publish journals, bulletins, magazines, and other educational material on mental health issues;
- (j) discharge such other functions with respect to matters relating to mental health as the Government may require;
- (k) register psychiatrists for the purposes of this Ordinance, in such manner as may be prescribed; and
- (l) arrange and organize such courses and training programs as may be necessary for carrying out the purposes and objects of this Ordinance.

(8) The Authority may, by notification in the official gazette, make regulations in respect of functions specified in subsection (7).

4. Constitution of Board of Visitors.— (1) The Authority shall, in consultation with the Government ¹⁴[***] establish Boards of Visitors for carrying out the purposes of this Ordinance as hereinafter provided.

(2) There shall be a Board of Visitors ¹⁵[***] which shall consist of

(a) A Chairperson who is or has been a Judge of the High Court;

¹⁴ Omitted the word "concerned" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.6(a).

¹⁵ Omitted the words "at the Provincial level" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.6(b).

- (b) two psychiatrists, one having a minimum experience of ten years in Government service;
 - (c) one prominent citizen of good standing;
 - (d) two medical practitioners of repute with a minimum standing of twelve years, one of whom shall be a nominee of Pakistan Medical and Dental Council; and
 - (e) Director General Health Services ¹⁶[***] or his nominee.
- (3) The Chairperson and members of the Board shall be appointed for a tenure of two years.
- (4) No member shall be deputed to perform any duty as a visitor to a psychiatric facility wherein he has a direct or indirect conflict of interest.

5. Powers and functions of the Board.— (1) The Board may, at any time, enter and inspect any psychiatric facility within its area of responsibility and require the production of any records and documents for inspection to ensure that they are in proper order.

(2) The Board shall periodically inspect every part of a psychiatric facility and examine as far as possible every patient and mentally disordered prisoner. The Board shall inspect records and documents relating to the patients and mentally disordered prisoners since last visitation by the Board.

(3) The Board may make recommendations to a psychiatric facility, the Authority and the Government, concerning improvement of conditions of such facility.

(4) The Authority may order the Board to visit any patient in case it appears necessary for the purpose of investigating any particular matter, or matters related to the capacity of the patient to manage his property and affairs, or otherwise, relating to the exercise of its functions. In compliance of this order, the Board may visit the facility or nominate a sub-committee of not less than two members:-

- (a) the Board or the sub-committee, making a visit under this sub-section shall make such report on the visit as the Authority may order;
- (b) the Board or the sub-committee, making a visit under this sub-section may interview and examine a patient in private and may require the production of and inspect any documents and/or medical records relating to the patient;
- (c) where the sub-committee visits a facility it shall report to the Board and the Board shall make its final report to the Authority; and
- (d) where the Board or a sub-committee is to visit a mentally disordered prisoner, it shall also include the Inspector General of Prisons, or his nominee.

¹⁶ Omitted the words "of the Province" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.6(b).

(5) Where the Board is satisfied that any patient in a psychiatric facility is not receiving proper care or treatment, it may report the matter to the Authority which may issue such directions as it may deem fit to the medical practitioner, or psychiatrist in charge of the psychiatric facility, as the case may be, who shall be bound to comply with such directions.

(6) The Board shall enter remarks in a register to be kept for that purpose in regard to the management and condition of a psychiatric facility and the inmates therein.

(7) Any information obtained by any member of the Board in the course of his duties or which comes to the knowledge otherwise, shall not be disclosed except to the authorised person(s).

6. Establishment of psychiatric facilities by the Government.—¹⁷[(1) The Government may establish or maintain psychiatric facilities for the assessment, admission, treatment, rehabilitation, care and after care of mentally disordered patients at such places, as it deems fit.]

(2) The psychiatric facilities established under sub-section (1) may organize or maintain separate units for –

- (a) persons who are above the age of eighteen years;
- (b) child and adolescence psychiatric units;
- (c) psychogeriatric units for the elderly; and
- (d) persons who have been convicted of any offence and are mentally disordered for whom special security measures shall be required.

(3) Where drug dependence units need to be established, they shall be set up separately which may be within the premises of the psychiatric facility for people who are not mentally disordered but have drug dependence or patients with drug induced behavioural changes.

CHAPTER III

ASSESSMENT AND TREATMENT

7. Care in the Community.— (1) Community based mental health services shall be set up for providing mentally disordered persons, their families and others involved in their care with guidance, education, rehabilitation, after care and preventive measures and other support services on an informal basis.

Explanation:- For the purposes of this section, community shall include, family, home, workplace, educational institutions and other places where care and after

¹⁷ Substituted by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.7.

care can be provided on an informal or voluntary basis.

8. Care and Treatment on an informal or voluntary basis.— Any person who himself seeks or is brought by a relative or is referred by a medical practitioner or is referred by any authority for forensic psychiatric assessment, shall be examined by a psychiatrist or a medical officer nominated by him who shall record his findings in writing and decide that the patient be treated on an out-patient basis or otherwise. Any such person on withdrawal of his consent may be discharged in accordance with the provisions of this Ordinance.

9. Duration for periods of detention for assessment, treatment, urgent admission and emergency holding.— For the purposes of this Ordinance, there are four types of detention of a patient, namely; (1) admission for assessment, (2) admission for treatment, (3) urgent admission, and (4) emergency holding. The duration for each type of detention shall be as follows :-

- (a) The period of detention for the purposes of assessment shall be up to 28 days from the date of application made under section 10;
- (b) The period of detention for the purposes of treatment shall be up to six months from the date of application made under section 11, and is renewable under the provisions of the said section;
- (c) The period of detention for the purposes of urgent admission shall be up to 72 hours from the time of application made under section 12; and
- (d) The period of detention in the case of a patient for the purposes of emergency holding already in hospital, shall be up to 24 hours from the time of application made under section 13.

10. Admission for assessment.— (1) A patient may be admitted to a Psychiatric Facility and detained there for the period allowed by subsection (4) in pursuance of an application made in accordance with subsections (2) and (3).

(2) An application for admission for assessment may be made in respect of a patient on the grounds that –

- (a) he is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a psychiatric facility for assessment (or for assessment followed by initial treatment) for at least a limited period; and
- (b) he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons; and
- (c) specifying that care and treatment in the community and on an informal and voluntary basis is not possible.

(3) An application for admission for assessment shall be founded on the written recommendations in the prescribed form of two medical practitioners, one of whom should be a medical officer and one should be a psychiatrist, or where a

psychiatrist is not available, a medical practitioner with experience in psychiatry, including in each case a statement that in the opinion of such medical practitioners the conditions set out in sub-section (2) above are complied with.

(4) A patient admitted to a psychiatric facility in pursuance of an application for admission for assessment may be detained for a period not exceeding 28 days beginning with the day on which application was made under this section, but shall not be detained after the expiration of that period unless before it has expired he has become liable to be detained by virtue of a subsequent application, order or direction under the provisions of this Ordinance.

(5) Where a psychiatrist deems it fit he may discharge the patient from detention and advise the patient to continue treatment on voluntary basis.

(6) The patient, his relative or guardian shall have the right of filing only one appeal against the order of detention under this section to a Court of Protection within a period of 14 days from the day on which the application was made. The decision of the Court of Protection shall be final for the period of detention under this section.

11. Admission for treatment.— (1) A patient may be admitted to a psychiatric facility and detained there for the period allowed by the following provisions, in pursuance of an application made in accordance with this section.

(2) An application for admission for treatment may be made in respect of a patient on the grounds that –

- (a) he is suffering from mental illness, severe mental impairment, severe personality disorder or mental impairment and his mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a psychiatric facility; and
- (b) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is admitted under this section.

(3) An application for admission for treatment shall be founded on the written recommendations, on the prescribed form of two medical officers, one of whom shall be an approved psychiatrist, including in each case a statement that in the opinion of such medical officers the conditions set out in sub-section (2) above are complied with; and each such recommendation shall include –

- (a) such particulars as may be prescribed of the grounds for that opinion so far as it relates to the conditions set out in clause (a) of that sub-section; and
- (b) a statement of the reason for that opinion so far as it relates to the conditions set out in clause (b) of that sub-section, specifying, whether other methods of dealing with the patient are available and, if so, why they are not appropriate.

(4) A patient admitted to a psychiatric facility in pursuance of an application under this section may be detained in a psychiatric facility, for a period not exceeding six months allowed by clause (b) of section 9 but shall not be so detained or

kept for any longer period unless the authority for his detention is renewed under this section –

- (a) the authority for detention of a patient may, unless the patient has previously been discharged, be renewed from the expiration of the period of six months referred to in sub-section above, for a further period of six months;
- (b) from the expiration of any period of renewal under clause (a) above, for a further period of one year, if necessary and so on for periods of one year at a time.

(5) The patient, his relative or guardian may file an appeal against the order of detention under this section to a Court of Protection:

Provided that only one appeal shall lie during the subsistence of each period of detention.

12. Admission for assessment in cases of urgency.— In any case of urgent necessity, an application for admission for assessment may be made in respect of a patient in accordance with the following provisions –

- (i) an urgent application may be made either by a relative of the patient or medical officer; and every such application shall include a statement that it is of urgent necessity for the patient to be admitted and detained under this section and that compliance with the provisions relating to an application for treatment, under section 11 would involve undesirable delay;
- (ii) an urgent application shall be sufficient in the first instance if founded on the medical recommendation of an approved psychiatrist or his nominated medical officer and if practicable, the nominated medical officer shall not be the same medical officer referred to in sub-clause (i) above;
- (iii) an urgent application shall cease to have effect after 72 hours from the time when the patient is admitted under this section to the psychiatric facility unless –
 - (a) the second medical recommendation required by section 11 above is given and received by the psychiatrist in-charge of the facility within the said period of 72 hours; and
 - (b) that such recommendation and the recommendation referred to in sub-clause (ii) above together comply with all the requirements as contained in section 17.

13. Emergency Holding.— If in the case of a patient who is receiving treatment for mental disorder as an inpatient in a psychiatric facility who wishes or attempts to leave and it appears to a medical officer –

- (i) that the patient is suffering from mental disorder to such a degree that it is necessary for his health or safety or for the protection of others, for him to

be prevented from leaving the facility, and

- (ii) that it is not practicable to secure the immediate attendance of the psychiatrist in charge or his nominated medical officer for the purpose of furnishing a medical recommendation,

the medical officer shall record that fact in writing and in that event the patient may be detained in the hospital for a period of 24 hours from the time when the fact is so recorded or until the earlier arrival of the psychiatrist in charge or his nominated medical officer.

14. Emergency Powers.— Where in case of an emergency a medical practitioner is unable to obtain informed consent in writing, he may administer treatment, notwithstanding the provisions of section 51, that in his professional opinion, is necessary for:-

- (i) saving the patient's life; or
- (ii) preventing serious deterioration of his condition; or
- (iii) alleviating serious suffering by the patient; or
- (iv) preventing the patient from behaving violently or being a danger to himself or to others.

15. Application by whom to be presented.— (1) Subject to the provisions of subsection (3) the application on a prescribed form shall be presented by the husband or wife of the patient or, if there is no husband or wife or the husband or wife is prevented by reason of mental disorder, absence from Pakistan or otherwise from making the presentation, by the nearest relative of the patient.

(2) If the application is not presented by the husband or wife, or, where there is no husband or wife, by the nearest relative of the patient, the application shall contain a statement of the reasons why it is not so presented, by the husband, wife or the nearest relative and of the connection of the applicant with the patient, and the circumstances under which he presents the application.

(3) No person shall present an application unless he has attained the age of majority and has within fourteen days before the presentation of the application, personally seen the said patient.

(4) The application shall be signed and verified by the applicant, and the statement of prescribed particulars by the person making such statement.

16. Effect of application for admission.— (1) An application for the admission of a patient to a psychiatric facility under this Ordinance, duly completed in accordance with the section under which he is being admitted, shall be sufficient authority for the applicant or any person authorized by the applicant, to take the patient and convey him to a psychiatric facility at any time within the following periods, that is to say –

- (a) in the case of an application made other than an emergency application within the period of 14 days beginning with the date from which the patient was last examined by an approved Psychiatrist or medical officer, as the case may be, before giving a medical recommendation for the purposes of the application;
- (b) in the case of an emergency application, under section 12, the period of 24 hours beginning at the time when the patient was examined by an approved psychiatrist or his nominated medical officer giving the medical recommendation which is referred to in section 11 above, or at the time when the application is made, whichever is the earlier.

(2) Where a patient is admitted within the said period to a psychiatric facility as mentioned in sub-section (1), on an application made under sections 10, 11 or 12, as the case may be, the application shall be sufficient authority for the hospital management to detain the patient in the said facility in accordance with the provisions of this Ordinance.

(3) Any application for the admission of a patient under sections 10, 11 or 12, as the case may be, and which appears to be duly made and is founded on the necessary medical recommendations, may be acted upon without further proof of the signature or qualification of the person by whom the application or any such medical recommendation is made or given or of any matter of fact or opinion stated therein.

(4) Once a patient is admitted to a psychiatric facility in pursuance of an application for admission for treatment, any previous application under this Ordinance by virtue of which he was detained in a psychiatric facility shall cease to have effect.

17. General provisions as to applications and medical recommendations.— (1)
General provisions as to applications :-

- (a) subject to provisions of this section, an application for admission for assessment or for treatment may be made either by the nearest relative of the patient, by an approved psychiatrist or nominated medical officer; and every such application shall specify the qualification of the applicant to make such an application;
- (b) every application for admission shall be addressed to the hospital management to which admission is sought;
- (c) before or within a reasonable time after an application for the admission of a patient for assessment is made by an approved psychiatrist or a nominated medical officer, as the case may be, he shall take such steps as are practicable to inform the person (if any) appearing to be the nearest relative of the patient, that the application is to be or has been made;
- (d) none of the applications mentioned in sub-section (1) above shall be made by any person in respect of a patient unless that person has personally seen the patient within the period of 14 days ending with the date of

application;

- (e) any recommendation given for the purposes of an application for admission for treatment, may describe the patient as suffering from more than one form of mental disorder, namely, severe mental impairment, severe personality disorder, mental impairment, or any other disorder or disability of mind:

Provided that the application shall be of no effect unless the patient is described in each of the recommendations as suffering from the same form of mental disorder whether or not he is also described in either of those recommendations as suffering from another form.

- (f) each of the applications mentioned in subsection (1) above shall be sufficient if the recommendations on which it is founded are given either as separate recommendations, or as a joint recommendation signed by the medical officer and a psychiatrist.
- (2) General provisions as to medical recommendations: -
 - (a) where recommendations are required for the purposes of an application under this Ordinance, they shall be signed on or before the date of the application, and shall be given by a medical officer or an approved psychiatrist who have examined the patient either together or separately, but where they have examined the patient separately not more than five days must have elapsed between the days on which those separate examinations took place;
 - (b) Of the medical recommendations given for the purposes of any application as referred under clause (a) above, one shall be given by an approved psychiatrist and unless that psychiatrist has previous acquaintance with the patient, the other such recommendation shall, if practicable, be given by a medical officer who has such previous acquaintance.

18. Rectification of applications and recommendations.— (1) If within the period of 14 days beginning with the day on which application was made in respect of the patient to be admitted to a psychiatric facility for assessment or for treatment the application or any medical recommendation given for the purposes of the application, is found to in any respect incorrect or defective, the recommendation or application may, within that period and with the consent of the management of the psychiatric facility, be amended by the person by whom it was signed; and upon such amendment being made the application or recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.

(2) Without prejudice to sub-section (1) above, if within the period mentioned in that sub-section it appears to the management of the psychiatric facility that one of the two medical recommendations on which the application for admission of a patient is founded is insufficient to warrant the detention of the patient in pursuance of the application, they may, within that period, give notice in writing to that effect to the

applicant; and where any such notice is given in respect of a medical recommendation, that recommendation shall be disregarded, but the application shall be, deemed always to have been, sufficient if –

- (a) a fresh recommendation complying with the relevant provisions of this Ordinance (other than the provisions relating to the time of signature and the interval between examinations) is furnished to the hospital management within that period; and
- (b) the fresh recommendation, and the other recommendation given earlier on which the application is founded, together comply with those provisions.

(3) Where the medical recommendations upon which an application for admission is founded are, taken together, insufficient to warrant the detention of the patient in pursuance of the application, notice under subsection (2) above may be given in respect of either of those recommendations; but this subsection shall not apply in a case where the application is of no effect by virtue of clause (e) of sub-section (1) of section 17 above.

(4) Nothing in this section shall be construed as authorizing the giving of notice in respect of an application made as an emergency application, or the detention of a patient admitted in pursuance of such an application after the period of 72 hours referred to in clause (iii) of section 12 above unless the conditions set out in clauses (a) and (b) of that section are complied with or would be complied with apart from any error or defect to which this applies.

19. Mentally disordered persons found in public places.— (1) If an officer in charge of a police station finds in a place to which the public have access, a person whom he has reason to believe, is suffering from a mental disorder and to be in immediate need of care or control the said officer may, if he thinks it necessary to do so in the interest of that person or for the protection of other persons, remove that person to a place of safety, which means only a Government run health facility, a government run psychiatric facility, or hand him over to any suitable relative who is willing to temporarily receive the patient.

(2) A person removed to a place of safety under this section may be detained there for a period not exceeding 72 hours for the purpose of enabling him to be examined by a psychiatrist or his nominated medical officer and for making any necessary arrangements for his treatment or care.

CHAPTER IV

LEAVE AND DISCHARGE

20. Order of leave.— (1) An application in the prescribed form, for leave of absence in regard to any mentally disordered person (not being a mentally disordered prisoner) who is formally admitted in any psychiatric facility may be made to the psychiatrist in

charge of the facility, by a relative who is desirous of taking care and custody of such mentally disordered person for a specified period, requesting that he may be allowed on his application to take care and custody of such a patient and subject to the assessment by a psychiatrist, in charge of the said facility, who may allow or deny the said application:

Provided that no application under this sub-section shall be made by a person who has not attained the age of majority.

(2) Every application under sub-section (1) shall be accompanied by an undertaking-

- (a) to take proper care of the mentally ill patient;
- (b) to prevent the mentally ill patient from causing injury to himself or to others; and
- (c) to bring back the mentally ill patient to the said facility on the expiry of the period of leave.

(3) On receipt of the application under sub-section (1), the psychiatrist in charge may grant leave of absence to the mentally ill person for such period as he may deem necessary and subject to such conditions as may, in the interests of the personal safety of the mentally ill patient or for the protection of others, be specified in the order.

(4) In case a patient is not returned by the relative after a specified period of leave, the said psychiatrist shall report to the magistrate, in whose jurisdiction the psychiatric facility is situated, and the referring authority and the Magistrate if satisfied, may direct the police to recover and return the said patient to the psychiatric facility.

(5) In any case where a patient is absent from a psychiatric facility in pursuance of order of leave granted under this section and it appears to the psychiatrist that it is necessary to do so in the interest of the patients' safety or for the protection of other persons, he 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 the psychiatric facility.

(6) If after the passage of reasonable time after the notice as given under sub-section (5) above, the patient does not return or is not returned, then the psychiatrist may report to the Magistrate and the referring authority of the reasons of revoking the leave of absence.

(7) If the Magistrate is satisfied with the report of the psychiatrist and the reasons as mentioned in this section, he may direct the police to locate and produce the patient before him on a specified date and the Magistrate after hearing the patient, the person in charge and the concerned psychiatrist or their representatives, may make an order placing the patient in the psychiatric facility or allow him to continue being in the care and custody of the person in charge or may make such other orders as he may deem fit.

(8) Without prejudice to what has been stated above in this section, the period of detention under provisions of section 10 or 11 shall continue during the period for which order of leave was granted:

Provided that a patient in whose favour order of leave has been granted under this section shall not be recalled, after he has ceased to be liable to be detained for the periods specified under section 10 or 11, unless he is absent, at the expiration of period specified under the above referred sections, without leave from the psychiatric facility.

21. Discharge of a patient.— (1)The psychiatrist in-charge of the treatment of a patient, may by order in writing, direct discharge of the patient at any time he deems it appropriate.

(2) Where any order of discharge is made under sub-section (1), in respect of a person who has been admitted or is undergoing treatment as a patient in pursuance of an order of a referring authority, a copy of such order shall be immediately forwarded to that authority by the psychiatrist in charge.

(3) Any person admitted in a psychiatric facility under an order made in pursuance of an application made under this Ordinance, may be discharged on an application made to the psychiatrist in charge:

Provided that no patient shall be discharged under this section if the psychiatrist in charge certifies in writing that the patient is unfit to be discharged for reasons of his own health and safety or the safety of others.

22. Application by a patient for discharge.— (1) Any patient, not being a mentally disordered prisoner, who feels that he has recovered from his mental disorder, may make an application to the Magistrate for his discharge from the psychiatric facility.

(2) The Magistrate may after making such inquiry as he may deem fit, pass an order discharging the person or dismiss the application.

Provided that no subsequent application for discharge shall be made by the patient during the said period of detention.

23. Discharge of a detained person found not to be mentally disordered after assessment.— If any person admitted in a psychiatric facility is subsequently found not to be mentally disordered and is capable of taking care of himself and managing his affairs, an approved psychiatrist, of the said facility shall forthwith, discharge such person from the psychiatric facility and notify the fact to the referring authority and the nearest relative.

24. Duty of hospital management to inform relatives of the discharge.— Where a patient detained under this Ordinance in a psychiatric facility is to be discharged, the management of the psychiatric facility shall take such steps as are practicable to inform the relative (if any), of the patient and or the applicant (if any), and or any suitable person who is willing to accept the responsibility to take care and custody of the said patient; and that information shall, if practicable, be given at least seven days before the date of discharge.

25. Application for discharge to Magistrate.— Where any patient is admitted under section 10 or 11, his relatives may apply to the Magistrate within the local limits of whose jurisdiction the psychiatric facility is situated for his discharge and the Magistrate may, in consultation with psychiatrist in charge of the treatment, after giving notice to the person at whose instance he was admitted and after making such inquiry as he may deem fit, either allow or dismiss the application:

Provided that no subsequent application for discharge shall be made during the said period of detention.

26. Notice about serious illness or death.— If a patient becomes seriously ill or dies, that fact shall be notified to his nearest relatives, if known or on whose application the patient was admitted and also to the authority by whom the patient was referred to the psychiatric facility.

27. Transfer and removal.— Transfer and removal of patient placed in a psychiatric facility to another such facility in ¹⁸[any other Province or territory of Pakistan] shall be carried out in accordance with any general or special order of the ¹⁹[Government with the consent of the Government of that Province or territory] provided that a notice of such intended transfer or removal has been given to the applicant.

28. Foreign nationals.— (1) When an arrangement has been made with any foreign state with respect to the placement of a patient, the Federal Government may issue a notification under this Ordinance directing the ²⁰[Government for such placement of the patient].

(2) On publication of a notification under sub-section (1), the agent of the foreign state in which the alleged mentally disordered person ordinarily resides may make an application for an order to the ²¹[Government].

(3) The functions of the Magistrate shall be performed by such officer as the ²²[***] Government may by general or special order appoint in this behalf, and such officer shall be deemed to be the Magistrate having jurisdiction over the alleged mentally disordered person for the purposes of this section.

¹⁸ Substituted for the words “the same Province or some other Province” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.8

¹⁹ Substituted for the words “Provincial Government with the consent of the other Provincial Government” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.8.

²⁰ Substituted for the words “Provincial Government concerned within which such order may be made” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.9(a).

²¹ Substituted for the words “Provincial Government concerned” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.9(b).

²² Omitted the word “Provincial” by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.9(c).

(4) The ²³[***] Government may specify approved psychiatrists for the purposes of this section.

CHAPTER V

JUDICIAL PROCEEDINGS FOR APPOINTMENT OF GUARDIAN OF PERSON AND MANAGER OF THE PROPERTY OF THE MENTALLY DISORDERED

29. Judicial proceedings.— Whenever any person is possessed of property and is alleged to be mentally disordered, the Court of Protection, within whose jurisdiction such person is residing may, upon application by any of his relatives having obtained consent in writing of the ²⁴[Advocate General Punjab] by order direct an inquiry for the purpose of ascertaining whether such person is mentally disordered and incapable of managing himself, his property and his affairs.

30. Regulation of proceedings of the Court of Protection.— (1) The following provisions shall regulate the proceedings of the Court of Protection with regard to the matter to which they relate, namely:-

- (a) Notice shall be given to the mentally disordered person of the time and place at which it is proposed to hold the inquiry;
- (b) if it appears that personal service on the alleged mentally disordered person would be ineffectual, the Court may direct such substituted service of notice as it thinks fit;
- (c) the Court may also direct copy of such notice to be served upon any relative of the alleged mentally disordered person and upon any other person to whom in the opinion of the Court notice of the application should be given;
- (d) the Court may require the alleged mentally disordered person to attend, at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or to any person from whom the Court may desire to have a report of the mental capacity and condition of such mentally disordered person;
- (e) the Court may likewise make an order authorising any person or persons therein named to have access to the alleged mentally disordered person for the purpose of personal examination; and
- (f) the attendance and examination of the alleged mentally disordered person under the provisions of clause (d) and clause (e) shall, if the alleged mentally disordered person be a woman who, according to customs

²³ Omitted the word "Provincial" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.9(c).

²⁴ Substituted "Advocate General of the Province concerned" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.10.

of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.

(2) The Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said proceedings.

(3) Upon the completion of the inquiry, the Court shall determine whether the alleged mentally disordered person is suffering from mental disorder and is incapable of managing himself and his affairs, or may come to a special finding that such person lacks the capacity to manage his affairs, but is capable of managing himself and is not dangerous to himself or to others, or may make any such order it deems fit, in the circumstances of the case, in the best interests of such person.

31. Inquiry by subordinate Court on commission issued by the Court of Protection and proceedings thereon.— (1) If the alleged mentally disordered person resides at a distance of more than fifty miles from the place where the Court is held to which the application is made, the said Court may issue a Commission to any subordinate court to make the inquiry, and such subordinate court shall thereupon conduct the inquiry in the manner hereinbefore provided.

(2) On the completion of inquiry the subordinate court shall transmit the record of its proceedings with the opinion of the assessor, if any have been appointed, and its own opinion on the case; and the Court shall thereupon proceed to dispose the application in the manner provided in sub-section (3) of section 30:

Provided that the Court may direct the subordinate court to make such further or other inquiry as it thinks fit before disposing of the application.

32. Appointment of guardian.— Where a mentally disordered person is incapable of taking care of himself, the Court may appoint any suitable person to be his guardian, or order him to be looked after in a psychiatric facility and order for his maintenance.

33. Management of property of mentally disordered person.— (1) Where the property of the mentally disordered person who is incapable of managing it, the Court shall appoint any suitable person to be the manager of such property.

(2) No person, who is a legal heir of a mentally disordered person, shall be appointed under section 32 to be the guardian of such a person or the manager of his property, as the case may be, unless the Court for reasons to be recorded in writing considers that such appointment is for the benefit of the mentally disordered person.

(3) The guardian of a mentally disordered person and the manager of his property appointed under this Ordinance shall be paid, from out of the property of the mentally disordered person, such allowance as the Court may determine.

34. Responsibility of manager.— A person appointed as a manager of the property

of a, under this Ordinance, shall be responsible for the care, cost of treatment and maintenance of the mentally disordered person and of such member(s) of his family as are dependent on him.

35. Allowance payable to guardian.— The manager of the property of the patient shall pay to the guardian of the patient such allowances as may be fixed by the Court for the care and maintenance of the patient and of such members of his family as are dependent on him.

36. Powers of manager of property of mentally disordered person.— (1) Every manager appointed under this Ordinance shall, subject to the provisions of this Ordinance, exercise the same power in regard to the management of the property of the mentally disordered person in respect of which he is appointed as manager, as the mentally disordered person would have exercised as owner of the property, had he not been mentally disordered and shall realize all claims due to the estate of the mentally disordered person and pay all debts and discharge all liabilities legally due from that estate and in exercise of powers under this section regard shall be had first of all to the requirements of the mentally disordered person and the rights of the creditors, if any:-

Provided that no manager so appointed shall without the permission of the Court—

- (a) mortgage, create any charge on, or transfer by sale, gift, exchange or otherwise, any movable or immovable property of the mentally disordered person; or
- (b) lease out or give on bailment any such property.

(2) The permission under proviso to sub-section (1) may be granted subject to such conditions or restrictions as the Court may think fit to impose.

(3) The Court shall cause notice of every application for permission to be served on any relative or friend of the mentally disordered person and after considering objections, if any, received from the relatives or friends and after making such inquiries as it may deem necessary, grant or refuse permission having regards to the interest of the mentally disordered person.

37. Furnishing of inventory of immovable property, etc.— (1) Every manager appointed under this Ordinance shall, within a period of three months from the date of his appointment, deliver to the Court an inventory of the immovable property belonging to the mentally disordered person and of all assets and other movable property received on behalf of the mentally disordered person, together with a statement of all claims due on and all debts and liabilities due by such a person.

(2) All transactions under this Ordinance shall be made through a bank authorized by the Court.

(3) Every such manager shall also furnish to the Court within a period of three months of the closure of every financial year, an account of the property and assets in his charge, the sums received and disbursed on account of the mentally

disordered person and the balance remaining with him.

(4) If any relative of a mentally disordered person impugns, by a petition to the Court, the accuracy of the inventory or statement referred to in sub-section (1) or as the case may be, any annual account referred to in sub-section (3), the Court may summon the manager and summarily inquire into the matter and make such order thereon as it thinks fit.

(5) Any relative of a mentally disordered person may, with the leave of the Court, sue for an account from any manager appointed under this Ordinance or from any such person after his removal from office or trust, or from his legal representatives in the case of his death, in respect of any property then or formerly under his management or of any sums of money or other property received by him on account of such property.

38. Inquiry by Court of Protection in certain cases.— Where a mentally disordered person had, before the onset of his mental disorder, contracted to sell or otherwise disposed of his property or any portion thereof, the Court may, after conducting an inquiry, direct the manager appointed under this Ordinance to perform such contract and to do such other acts in fulfillment of the contract as the Court considers necessary and thereupon the manager shall be bound to act accordingly.

39. Disposal of business premises under the direction of Court of Protection.— Where a mentally disordered person had been engaged in business before he became mentally disordered the Court may, if it appears to be in the best interest of such a person, after proper hearing notices have been issued to dependants, relatives for hearing to dispose of his business premises, direct the manager appointed under this Ordinance in relation to property of such person to sell and dispose of such premises and to apply the sale proceeds thereof in such manner as the Court may direct and thereupon the manager shall be bound to act accordingly.

40. Investment of assets of mentally disordered person.— All sums received by a manager on account of any estate in excess of what may be required for the current expenses of a mentally disordered person or for the management of his property, shall be paid into the public treasury on account of the estate, and shall be invested, from time to time, through state owned investment agencies, in the interest of the mentally disordered person.

41. Appointment of a new manager or guardian.— (1) The manager of the property of a mentally disordered person may resign with the permission of the Court, or for sufficient cause and for reasons to be recorded in writing, be removed by the Court and such Court may appoint a new manager in his place.

(2) Any manager removed under sub-section (1) shall be bound to deliver the charge of all property of such a person to the new manager, and to account for all monies received or disbursed by him.

(3) The guardian of the person of a mentally disordered person may resign with the permission of the Court, or for sufficient cause and for reasons to be recorded in writing, be removed by the Court and such Court may appoint a new guardian in his place.

42. Dissolution of partnership.— (1) Where a person, being a member of a partnership firm, is found to be mentally disordered, the Court may, on the application of any other partner, order for the dissolution of the partnership or on the application of any person who appears to that Court to be entitled to seek such dissolution dissolve the partnership in accordance with the provisions of the Partnership Act, 1932 (IX of 1932).

(2) Upon dissolution a partnership firm to which sub-section (1) applies, the manager appointed under this Ordinance may, in the name and on behalf of the mentally disordered person, 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 may direct.

(3) Notwithstanding anything contained in the foregoing provisions, the Court may, instead of appointing a manager of the estate, order that in the case of cash, or in the case of any other property, the produce thereof, shall be realized and paid or delivered to such person as may be appointed by the Court in this behalf, to be applied for the maintenance of the mentally disordered person and of such members of his family as are dependent on him.

43. Securities, etc., of mentally disordered person.— (1) Where any stock or Government securities or any share in a company are standing in the name of, or vested in, a mentally disordered person beneficially entitled thereto, or in the manager dies in the estate or himself becomes mentally disordered, or is out of the jurisdiction of the Court, or it is uncertain whether the manager is living or dead, or neglects or refuses to transfer the stock, securities or shares, or to receive and pay over thereof the dividends to a new manager appointed in his place, within fourteen days after being required by the Court to do so, then the Court may direct the company or ²⁵[the Government] to make such transfer, or to transfer the same, and to receive an pay over the dividends in such manner as it may direct.

(2) The Court may direct those dividends, the profit of shares, stock and Government securities shall be deposited in the mentally disordered person's bank account.

(3) Where any stock or Government securities or shares in a company is or are standing in the name of, or vested in, any person residing out of Pakistan, the Court upon being satisfied that such person has been declared to be mentally disordered and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing may direct the company or ²⁶[the Government] to make transfer of such stock, securities or shares or of any part thereof, to or into the name of the person so appointed or

²⁵ Substituted for the words "government concerned" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.11.

otherwise, and also to receive and pay over the dividends and proceeds, as the Court thinks fit.

44. Maintenance during temporary mental disorder.— If it appears to the Court that the mental illness of a mentally disordered person is in its nature temporary and that it is expedient to make provision for a temporary period, for his maintenance or for the maintenance of such members of his family as are dependent on him, the Court may direct his property or a sufficient part thereof to be applied for the purpose specified therein.

45. Inquiry by Court of Protection into cessation of mental disorder.— (1) Where the Court has reason to believe that any person who was found to be mentally disordered has ceased to be mentally disordered, it may direct any court subordinate to it to inquire whether such person has ceased to be mentally disordered.

(2) An inquiry under sub-section (1) shall, so far as may be, be conducted under this Ordinance.

(3) If after an inquiry under this section, it is found that the mental disorder of a person has ceased, the Court shall order all actions taken in respect of such person under this Ordinance to be set aside on such terms and conditions as that Court thinks fit to impose.

(4) Without prejudice to the generality powers given above, the court shall have powers to make such orders and give such directions as the Court thinks fit, for the betterment of such a person.

46. Appeal to High Court.— An appeal shall lie to the High Court from an order made by a Court of Protection under this Chapter, within a period of sixty days from the date of order of the said Court.

CHAPTER VI

LIABILITY TO MEET COST OF MAINTENANCE OF MENTALLY DISORDERED PERSON ADMITTED IN A PSYCHIATRIC FACILITY

47. Liability to meet cost of maintenance of a patient admitted in a psychiatric facility.— (1) The cost of maintenance of a patient admitted in a Government owned psychiatric facility shall be borne by the Government:

Provided that –

- (a) the authority which made the order has not taken an undertaking from any person to bear the cost of maintenance of such a person; and
- (b) there is no provision for bearing the cost of maintenance of such person

²⁶ Substituted for the words "Government concerned" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.11.

by the Court of Protection under this Ordinance.

(2) Person holding public office or a public servant who is paid by the Government and is mentally disordered shall continue to receive benefit as per entitlement even after he retires voluntarily or on attainment of the age of superannuation or on the basis of medical invalidation.

(3) In case of defence personnel, the paymaster of the military circle within which any psychiatric facility is situated shall pay to the officer in charge of such facility the cost of maintenance of such a mentally disordered person received and detained therein under this Ordinance.

(4) Where any such person admitted in a psychiatric facility has an estate or where any person legally bound to maintain such person has the means to maintain such person, the Government or local authority liable to bear the cost of maintenance of such a person under any law, for the time being in force, may make an application to the Court within whose jurisdiction the estate of such a person is situated or the person legally bound to maintain the said person and having the means therefore resides, for an order authorizing it to apply his estate towards the cost of maintenance or directing the legally bound person to bear the cost of maintenance.

(5) Nothing contained in the foregoing provisions shall be deemed to absolve a person legally bound to maintain a mentally disordered person from maintaining such a person.

48. Maintenance out of pay, pension, etc.— (1) Where any sum is payable in respect of pay, pension, gratuity or any allowance to any person by the Government and the person to whom the sum is payable is certified by a Magistrate under this Ordinance to be a mentally disordered person, the officer under whose authority such sum would be payable, may pay to the person having charge of the mentally disordered person so much of the said sum, as he thinks fit, having regard to the cost of maintenance of such person and may pay to such members of the family of the mentally disordered person as are dependent on him for maintenance, the surplus, if any, or such part thereof, as he thinks fit, having regard to the expenses of maintenance of such member.

(2) Where there is any further surplus amount available out of the funds specified sub-section (1) after making payments as provided in that sub-section, the Government shall hold the same to be dealt with as follows, namely:-

- (a) where a mentally disordered person is certified to have ceased to be mentally disordered by the Court of Protection within the local limits of whose jurisdiction such person resides or is admitted, the whole of the surplus amount shall be paid back to that person;
- (b) where a mentally disordered person dies before payment, the whole of the surplus amount shall be paid over to those of his heirs who are legally entitled to receive the same; and
- (c) where a mentally disordered person dies during his mental disorder without leaving any person legally entitled to succeed to his estate,

the whole of the surplus amount shall be paid into the State Treasury.

CHAPTER VII

PROTECTION OF HUMAN RIGHTS OF MENTALLY DISORDERED PERSONS

49. Cases of attempted suicide.— A person who attempts suicide shall be assessed by an approved psychiatrist and if found to be suffering from a mental disorder shall be treated appropriately under the provisions of this Ordinance.

50. Confidentiality.— No patient shall be publicized nor his identity disclosed to the public through press or media unless such person chooses to publicise his own condition.

51. Informed consent.— (1) Before commencing any investigation or treatment a psychiatrist or nominated medical officer shall obtain written informed consent, on a prescribed form, from the patient or if the patient is a minor, his nearest relative or a guardian, as the case may be.

(2) Where the consent of a patient to any form of investigation(s) and or treatment(s) has been given the patient or if the patient is a minor, his nearest relative or a guardian, as the case may be, may withdraw his consent in writing at any time before the completion of the treatment.

(3) Without prejudice to the application of sub-section (2) above to any treatment given under the plan of treatment to which a patient or if the patient is a minor, his nearest relative or a guardian, as the case may be, who has consented, to such a plan may, at any time withdraw his consent in writing to further treatment, or to further treatment of any description under the plan of treatment.

CHAPTER VIII

OFFENCES AND INDEMNITY

52. Penalty for making false statement, etc.— (1) Any person who willfully makes a false entry or statement in any application, recommendation, report, record or other document required or authorized to be made for any of the purposes of this Ordinance, with an intent to get someone to be detained for assessment or for treatment of mentally disordered; or with intent to deceive, makes use of any such entry or statement which he knows to be false, shall be guilty of an offence under this Ordinance.

(2) Any person employed in a psychiatric facility, who strikes, ill-treats, maltreat or willfully neglects any patient confined in such psychiatric facility or willfully violates or neglects any of the provisions of this Ordinance shall be guilty of an offence.

(3) Any manager of estate of a patient who willfully neglects or refuses to

deliver his accounts or any property in his possession within the time fixed by the Court shall be guilty of an offence.

(4) Without prejudice to criminal prosecution under any other law for the time being in force, whoever is guilty of an offence under sub-section (1), (2) or (3), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.

(5) Any person who carries out any form of inhumane treatment, on a mentally disordered person which includes: trepanning, branding, scalding, beating, exorcising, chaining to a tree etc. of any such person or subjecting a child to the cultural practice of rendering him mentally retarded, by inducing microcephaly, or subjecting any such person to physical, emotional or sexual abuse, shall be guilty of an offence, punishable with rigorous imprisonment which may extend to five years or with fine extending up to Rs.50,000 or with both.

(6) Any person who contravenes any of the provisions of this Ordinance or of any rule or regulation made thereunder, for the contravention of which no penalty is expressly provided in this Ordinance, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

53. Indemnity.— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or the rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Ordinance or the rules or orders made thereunder.

CHAPTER IX

INSPECTION OF MENTALLY DISORDERED PRISONERS

54. Inspection of mentally disordered prisoners.— (1) Where any person is detained under the provisions of section 466 or section 471 of the Code of Criminal Procedure 1898 (Act V of 1898), section 130 of the Pakistan Army Act, 1952 (XXXIX of 1952), section 143 of the Pakistan Air Force Act, 1953 (VI of 1953, or section 123 of the Pakistan Navy Ordinance, 1961 (XXXV of 1961), the Inspector-General of Prisons, if the accused person is detained in a jail, and the Board of Visitors or any two members of such Board, if the accused person is detained in a psychiatric facility, may visit him in order to ascertain his state of mind and such a detainee shall be visited once at least in every six months by the Inspector-General of Prisons or, as the case may be, the Board or any two members of such Board, shall make a report as to the state of mind of such person to the authority under whose order the accused person is detained and the Inspector-General of Prisons or, as the case may be, the Board of Visitors or any two members of such Board, shall make a report as to the state of mind of such person

to the authority under whose order the accused person is detained.

(2) The Government may empower the officer in charge of the jail in which such accused person is detained to discharge all or any of the functions of the Inspector General of Prisons under sub-section (1).

CHAPTER X

FORENSIC PSYCHIATRIC SERVICES

55. Forensic psychiatric services.— (1) Special security forensic psychiatric facilities shall be developed by the Government to house mentally disordered prisoners, mentally disordered offenders, as may be prescribed.

(2) Admission, transfer or removal of patients concerned with criminal proceedings in such facilities shall be under the administrative control of the Inspector General of Prisons.

(3) The Board of Visitors shall have an access to such persons admitted in forensic psychiatric facility in accordance with the provisions of this Ordinance.

CHAPTER XI

MISCELLANEOUS

56. Specialized Psychiatric Treatments.— (1) Specialized psychiatric treatment may be carried out with the informed consent of the patient, on the orders in writing by the psychiatrist in charge of the treatment of the patient or his relative or guardian, if the patient is a minor.

(2) All electro-convulsive treatments shall preferably be administered under general anesthesia.

(3) All electro-convulsive treatments shall be advised by a psychiatrist, in charge of the patient, recording the reasons for such advice and stating the reasons as to why the alternative available methods of treatment are not appropriate.

(4) Administration of long acting anti-psychotic depot injections shall only be carried out upon the advice of a psychiatrist for a period as specified in the prescription and such cases shall be reviewed periodically.

(5) No person shall advise and carry out psychosurgery or make any decision to carry out psychosurgery, except in cases where it is decided to be necessary and appropriate in a meeting in this regard, attended by a neurosurgeon, a neurophysician, a physician, two approved psychiatrists and a clinical psychologist.

57. Provisions for public and private sector psychiatric facilities.— The provisions of this Ordinance shall apply to all psychiatric facilities whether in public and or

private sector.

58. Removal of difficulties.— If any difficulty arises in giving effect to any of the provisions of this Ordinance, the ²⁷[Government] may make such order, not inconsistent with the provision of this Ordinance, as may appear to ²⁸[it] to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of two years from the coming into force of this Ordinance.

59. Power to make rules.— ²⁹[(1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.]

(2) Without prejudice to the generality of the foregoing power, the rules may provide for all or any of the following matters, namely :-

- (a) to prescribe forms for any proceedings under this Ordinance;
- (b) to prescribe places of admission, places of safety and regulation of treatment of mentally disordered persons;
- (c) to regulate the admission, care and treatment of under trial persons or convicted prisoners;
- (d) to regulate the management of a mental health facility; and
- (e) to prescribe conditions subject to which a psychiatric facility may be licensed.

60. Ordinance to override.— The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

61. Repeal and saving.— (1) The Lunacy Act, 1912 (IV of 1912), is hereby repealed.

(2) Notwithstanding the repeal of Lunacy Act, 1912 (IV of 1912), hereinafter referred to as the repealed Act,-

- (a) all orders made, acts done and powers exercised under the repealed Act shall be deemed to have been validly made, done and exercised and deemed always to have had effect accordingly; and
- (b) nothing contained in this Ordinance shall be deemed to apply to

²⁷ Substituted for the word "President" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.12.

²⁸ Substituted for the word "him" by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.12.

²⁹ Substituted by the Punjab Mental Health (Amendment) Act 2014 (XI of 2014); and published in the Punjab Gazette (Extraordinary), dated 29.5.2014, pages 3991-3993, s.13.

proceedings, suits or appeals and applications pending under the repealed Act before any court immediately before the commencement of this Ordinance and such proceedings, suits, appeals and applications shall continue to be heard and disposed of in accordance with the provisions of the repealed Act.