

## MENTAL HEALTH AMENDMENT ACT 1998

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**BERMUDA**  
**1998 : 32**

### MENTAL HEALTH AMENDMENT ACT 1998

[Date of Assent 13 July 1998]

[Operative Date 13 July 1998]

WHEREAS it is expedient to amend the Mental Health Act 1968:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

#### **Citation**

1 This Act which amends the Mental Health Act 1968 (hereinafter referred to as "the principal Act"), may be cited as the Mental Health Amendment Act 1998.

#### **Amends section 1 of principal Act**

2 Section 1 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the definition of the expression "application for admission for observation" and substituting the following definition—

"application for admission for assessment or for assessment followed by treatment" means an

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- application for admission of a patient to a hospital made under section 9(1);
- (ii) in the definition of the expression "mental disorder" by deleting the words "psychopathic disorder" and substituting the words "severe personality disorder";
- (iii) by inserting next after the definition of the expression "emergency application" the following—
- "hospital" means—
- (a) a hospital under the control of the Board and includes the buildings or the premises and the precincts thereof; and
- (b) any building or premises or part thereof declared to be a hospital under section 2(2);
- (iv) by deleting the definition of the expression "the Mental Hospital";
- (v) in the definition of "Mental Hospital Rules", by deleting the word "Mental";
- (vi) by deleting the definition of the expression "psychopathic disorder", "severe subnormality" and "subnormality";
- (vii) by inserting in the appropriate alphabetical order the following definitions—
- "consultant psychiatrist" means a medical practitioner who is registered as a specialist in psychiatry by the Bermuda Medical Council under the Medical Practitioners' Act 1950;
- "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;

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"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;

"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;"; and

- (viii) by deleting the definition of "responsible medical officer" and substituting the following—

"responsible medical officer" in relation to a patient means the consultant psychiatrist in charge of the psychiatric care of that patient and includes the Chief of Psychiatry and any consultant psychiatrist designated by the Chief of Psychiatry to be in charge of the psychiatric care of that patient during the absence of the responsible medical officer;

- (b) in subsection (2), by deleting the words "or other immoral conduct" and substituting the words ", other immoral conduct, sexual deviance or dependence on alcohol or drugs";

- (c) by inserting next after subsection (2) the following—

" (3) The Chief of Psychiatry may, from time to time, designate a consultant psychiatrist to be in charge of a patient during the absence of the responsible medical officer."; and

- (d) by deleting the words "the Mental Hospital" wherever they appear in the section and substituting therefore in each case the words "a hospital".

### **Repeals and replaces section 2 of principal Act**

3 Section 2 of the principal Act is repealed and replaced by the following—

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### **"Facilities for persons suffering from mental disorder**

2 (1) For the purposes of this Act, a person suffering from mental disorder may be lawfully detained and may be given therapeutic or psychiatric treatment in any hospital.

(2) The Minister may from time to time, by notice published in the Gazette declare any building or premises or any part thereof to be a hospital for the purposes of subsection (1)."

### **Repeals and replaces section 3 of principal Act**

4 Section 3 of the principal Act is repealed and replaced by the following—

#### **"Administration**

3 The Board shall have the general charge for administration of a hospital referred to in section 2 and, for the purposes of this Act, shall administer such hospital in accordance with the provisions of this Act and, in so far as they are not in conflict therewith, in accordance with the provisions of the Bermuda Hospital Boards Act 1970."

### **Amends section 7 of principal Act**

5 Section 7 of the principal Act is amended—

- (a) in subsection (1), by deleting the words "the Mental Hospital" wherever they appear and substituting therefor, in the first instance the words "a hospital" and in the second instance the words "the hospital";
- (b) by deleting subsection (3) and substituting the following—

" (3) Subject to subsections (3A) and (3B) in any case where a patient is the subject of a voluntary or informal admission to a hospital, he or the nearest relative, as the case may be, may at any time request his discharge from hospital and, subject as aforesaid, the patient shall be so discharged.

(3A) Notwithstanding subsection (3), if, in the case of such a patient as is mentioned in that subsection, it appears to a responsible medical officer or a medical practitioner nominated by the Chief of Psychiatry that an application ought to be made under this Part for the admission of the patient to hospital, he may furnish a report in writing to the Board to that effect; and in any such case the patient may be detained

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in the hospital for a period of seventy-two hours from the time when the report is so furnished and the report shall be sufficient authority for the Board to detain the patient in hospital for a period of seventy-two hours from the time when the report is so furnished.

(3B) Notwithstanding subsection (3), if, in the case of such a patient as is mentioned in that subsection, it appears to a nurse of the prescribed class—

- (a) 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 immediately restrained from leaving the hospital; and
- (b) that it is not practicable to secure the immediate attendance of a responsible medical officer or the medical practitioner referred to in subsection (3A) for the purpose of furnishing a report under that subsection,

the nurse may record that fact in writing; and in that event the patient may be detained in the hospital for a period of three hours from the time when that fact is so recorded or until the earlier arrival at the place where the patient is detained of a responsible medical officer having power to furnish a report under subsection (3A).

(3C) A record made under subsection (3B) shall be delivered by a nurse (or by a person authorised by the nurse in that behalf) to a responsible medical officer as soon as possible after it is made; and where a record is made under that subsection the period mentioned in subsection (3A) shall begin at the time when it is made.

(3D) In subsection (3B) "prescribed" means prescribed by an order made by the Board."; and

- (c) in subsection (4), by deleting all the words beginning with ", and the patient" and ending with "the patient".

### **Amends section 8 of principal Act**

6 Section 8 of the principal Act is amended—

- (a) in subsection (4), by deleting paragraph (a); and

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(b) by inserting next after subsection (5) the following—

" (6) Subject to the provisions of this section, where a patient ordinarily resides with or is cared for by one or more of his relatives (or, if he is for the time being an in-patient in a hospital, he last ordinarily resided with or was cared for by one or more of his relatives) his nearest relative shall be determined—

(a) by giving preference to that relative or those relatives over the other or others; and

(b) as between two or more such relatives, in accordance with subsection (3).

(7) A person, other than a relative, with whom the patient ordinarily resides (or, if the patient is for the time being an in-patient in a hospital, last ordinarily resided before he was admitted), and with whom he has or had been ordinarily residing for a period of not less than five years, shall be treated for the purposes of this section as if he were a relative but—

(a) shall be treated for the purposes of subsection (3) as if mentioned last in subsection (1); and

(b) shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of subsection 4(b).

(8) In this section "husband" and "wife" include a person who is living with the patient as the patient's husband or wife, as the case may be (or, if the patient is for the time being an in-patient in a hospital, was so living until the patient was admitted), and has been or had been so living for a period of not less than six months; but a person shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of subsection (4)(b)."

### **Repeals and replaces section 9 of principal Act**

7 Section 9 of the principal Act is repealed and replaced by the following—

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### **"Admission for assessment**

"9 (1) A patient may be admitted to a hospital and detained there for the period allowed by subsection (4) in pursuance of an application (in this Act referred to as "an application for admission for assessment") 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 hospital for assessment (or for assessment followed by medical 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.

(3) An application for admission for assessment shall be founded on the written recommendations of two medical practitioners one of whom shall be a consultant psychiatrist, including in each case a statement that in the opinion of the practitioner the conditions set out in subsection (2)(a) and (b) are complied with.

(4) A patient admitted to hospital in pursuance of an application for admission for assessment may be detained for a period not exceeding twenty-eight days beginning with the day on which he is admitted, 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 following provisions of this Act."

### **Amends section 10 of principal Act**

8 Section 10 of the principal Act is amended—

(a) in subsection (2)(a)(i), by deleting the words "severe subnormality" and substituting the words "severe mental impairment"; and

(b) in subsection (2)(a)(ii) and subsection (5), by deleting the words "psychopathic disorder" and "subnormality" wherever they appear and substituting therefor respectively the words "severe personality disorder" and the words "mental impairment".

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### **Amends section 11 of principal Act**

9 Section 11 of the principal Act is amended—

(a) by deleting subsection (1) and substituting the following—

" (1) Subject to this section, an application for the admission of a patient for assessment or for treatment may be made either by the nearest relative or by a mental welfare officer; and every such application shall be addressed to the Board and shall specify the qualification of the applicant to make the application.

(1A) Before making an application for the admission of a patient to hospital a mental welfare officer shall interview the patient in a suitable manner and if he is satisfied that detention in a hospital is in all the circumstances of the case the most appropriate way of providing the care and medical treatment of which the patient stands in need shall submit, with the application, a report to that effect."

### **Repeals and replaces section 13 of principal Act**

10 Section 13 of the principal Act is repealed and replaced by the following—

#### **"Admission for assessment in cases of emergency**

13 (1) 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 of this section, and any application so made is in this Act referred to as "an emergency application".

(2) An emergency application may be made either by a mental welfare officer or by the nearest relative of the patient or by a police officer; and every such application shall include a statement that it is of urgent necessity for the patient to be admitted and detained under section 9, and that compliance with the provisions of this Part of this Act relating to applications under that section would involve undesirable delay.

(3) An emergency application shall be sufficient in the first instance if founded on one of the medical recommendations required by section 9, given, if practicable, by a practitioner who has previous acquaintance with the patient and otherwise complying with the requirements of section 12 so far as



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practicable to a single recommendation, and verifying the statement referred to in subsection (2) of this section.

(4) An emergency application shall cease to have effect on the expiration of a period of seventy-two hours from the time when the patient is admitted to the hospital unless—

(a) the second medical recommendation required by section 9 is given and received by the Board or a person designated by the Board within that period; and

(b) that recommendation and the recommendation referred to in subsection (3) together comply with all the requirements of section 12 (other than the requirement as to the time of signature of the second recommendation).

(5) In relation to an emergency application, section 11 shall have effect as if in subsection (3) of that section for the words "the period of fourteen days ending with the date of the application" there were substituted the words "the previous twenty-four hours".

### **Amends section 14 of principal Act**

11 Section 14 of the principal Act is amended—

(a) in subsection (1)(b), by deleting the word "observation" and substituting the word "assessment";

(b) in subsection (2), by deleting the words "Chief of Psychiatry" and substituting the words "the Board or a person designated by the Board";

(c) by inserting next after subsection (2) the following—

" (3) The responsible medical officer may nominate one (but not more than one) other medical practitioner on the staff of that hospital to act for him under subsection (2) in his absence."

### **Amends section 15 of principal Act**

12 Section 15 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the words "the Mental Hospital" wherever they appear and substituting therefore, in the first instance, the words "a hospital" and,

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in the second instance the words "the hospital";  
and

- (ii) by deleting the words "the Chief of Psychiatry" wherever they appear and substituting therefor in each case the words "a responsible medical officer".

### **Amends section 16 of principal Act**

13 Section 16 of the principal Act is amended—

- (a) in subsection (1), by deleting the words "for observation" and substituting the words "for assessment";
- (b) in subsections (1) and (2), by deleting the words "Chief of Psychiatry" wherever they appear and substituting therefor in each case the words "the Board or a person designated by the Board";.

### **Amends section 20 of principal Act**

14 Section 20 of the principal Act is amended—

- (a) in subsection (3), by deleting the words "the Chief of Psychiatry" and substituting the words "a responsible medical officer";
- (b) in subsection (5), by deleting the words "six months" and substituting the words "twelve months"; and
- (c) by inserting next after subsection (5) the following—

" (6) A patient to whom leave of absence is granted under this section may apply to the Review Tribunal within the period of three months beginning with the day on which leave was granted, and thereafter at intervals of three months.

(7) Nothing in subsection (5) shall have effect in respect of a patient to whom leave of absence had been granted prior to the coming into operation of this Act and the provisions of the said subsection (5) shall have effect as if this Act had not been enacted."

### **Amends section 21 of principal Act**

15 Section 21 of the principal Act is amended—

- (a) in subsection (1), by deleting the words "Chief of Psychiatry" and substituting the words "the responsible medical officer"; and

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(b) in subsection (2)(a), by deleting the words "a psychopathic or subnormal patient" and substituting the words "a patient suffering from severe personality disorder or mental impairment".

### **Repeals and replaces section 22 of principal Act**

16 Section 22 of the principal Act is repealed and replaced by the following—

#### **"Duration of authority**

22 (1) Subject to the following provisions of this Part, a patient admitted to a hospital in pursuance of an application for admission for treatment, may be detained in hospital for a period not exceeding one year, beginning with the day on which he was so admitted but shall not be so detained or kept for a longer period unless the authority for his detention is renewed under this section.

(2) Authority for the detention of a patient may, unless the patient has previously been discharged, be renewed—

(a) from the expiration of the period referred to in subsection (1), for a further period of six months; and

(b) from the expiration of any period of renewal under paragraph (a), for a further period of one year,

and so on for periods of one year at a time.

(3) Within the period of two months ending on the day on which a patient who is liable to be detained in pursuance of an application for admission for treatment would cease under this section to be so liable in default of the renewal of the authority for detention, it shall be the duty of the responsible medical officer—

(a) to examine the patient; and

(b) if it appears to him that the conditions set out in subsection (4) are satisfied, to furnish to the Board or a person designated by the Board a report to that effect in the prescribed form,

and where such a report is furnished in respect of a patient the Board or the person designated by the Board shall, unless it discharges the patient, cause him to be informed.

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(4) The conditions referred to in subsection (3) are that—

- (a) the patient 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 hospital; and
- (b) such treatment is likely to alleviate or prevent a deterioration of his condition; and
- (c) 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 that it cannot be provided unless he continues to be detained,

but, in the case of mental illness or severe mental impairment, it shall be an alternative to the condition specified in paragraph (b) that the patient, if discharged, is unlikely to be able to care for himself, to obtain the care which he needs or to guard himself against serious exploitation.

(5) Before furnishing a report under subsection (3) the responsible medical officer shall consult one or more other persons who have been professionally concerned with the patient's medical treatment.

(6) Where a report is duly furnished under subsection (3), the authority for the detention of the patient shall be thereby renewed for the period prescribed in subsection (2).

(7) Where the form of mental disorder specified in a report furnished under subsection (3) is a form of disorder other than that specified in the application for admission for treatment, that application shall have effect as if that other form of mental disorder were specified in it."

### **Repeals section 23 of principal Act**

17 Section 23 of the principal Act is repealed.

### **Amends section 24 of principal Act**

18 Section 24 of the principal Act is amended in subsections (2) and (3), by deleting therefrom the words "or section 23(2)".

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### **Amends section 26 of principal Act**

19 Section 26 of the principal Act is amended in subsection (2)(a), by deleting the words "admission for observation" and substituting therefor the words "admission for assessment".

### **Amends section 27 of principal Act**

20 Section 27 of the principal Act is amended—

- (a) in subsection (1), by deleting the words "section 23(2) and substituting the words "section 22(3)"; and
- (b) in subsections (2) and (3), by deleting the words "the Chief of Psychiatry" wherever they appear in those subsections and substituting therefor in each case the words "the Board or a person designated by the Board".

### **Amends section 29 of principal Act**

21 Section 29 of the principal Act is amended in subsection (4), by deleting the words "admission for observation" and substituting the words "admission for assessment".

### **Amends section 33 of principal Act**

22 Section 33 of the principal Act is amended—

- (a) in subsection (1)(a), by deleting sub-paragraph (i) and substituting the following—
  - "(i) that the offender is suffering from mental illness, severe personality disorder, mental impairment or severe mental impairment"; and
- (b) in subsection (2), by deleting the words "severe subnormality" and substituting therefor the words "severe mental impairment".

### **Amends section 36 of principal Act**

23 Section 36 of the principal Act is amended—

- (a) in subsection (1)(a), by deleting the words "the Mental Hospital" and substituting the words "a hospital";
- (b) in subsection (1)(c), by deleting the words "the Mental Hospital" and substituting the words "the hospital";
- (c) in subsections (1)(b) and (c), by deleting the words "the Chief of Psychiatry" and substituting the words "a responsible medical officer"; and

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- (d) in subsection (3)(b), by deleting the words "twelve months" where they first appear and substituting therefor the words "six months".

### **Amends section 38 of principal Act**

24 Section 38 of the principal Act is amended in subsection (1) by inserting next after the words "protection of the public" the words "from serious harm".

### **Inserts new section 38A in principal Act**

25 The principal Act is amended by inserting next after section 38 the following new section—

#### **"Applications to tribunal by patient subject to restriction order**

38A A patient who is subject to a restriction order and is detained in a hospital may apply to the Review Tribunal—

- (a) in the period between the expiration of six months and the expiration of twelve months beginning with the date of the hospital order or transfer direction; and
- (b) in any subsequent period of twelve months."

### **Amends section 39 of principal Act**

26 Section 39 of the principal Act is amended—

- (a) by deleting subsection (3) and substituting the following—

" (3) The Minister may at any time during the continuance in force of an order restricting the discharge of a patient who has been conditionally discharged under subsection (2) by warrant recall the patient to such hospital as may be specified in the warrant.

(3A) Where a patient is recalled as mentioned in subsection (3)—

- (a) if the hospital specified in the warrant is not the hospital from which the patient was conditionally discharged, the hospital order and the order restricting his discharge shall have effect as if the hospital specified in the warrant were

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substituted for the hospital specified in the hospital order;

(b) in any case, the patient shall be treated for the purposes of section 21 as if he had absented himself without leave from the hospital specified in the warrant, and, if the order restricting his discharge was made for a specified period, that period shall not in any event expire until the patient returns to the hospital or is returned to the hospital under section 21.";

(b) in subsection (6), by deleting all the words beginning with ", and, where so requested" and ending with "ceases to have effect"; and

(c) by deleting subsection (7) and substituting the following—

" (7) A patient who is subject to a restriction order and is detained in a hospital may apply to the Review Tribunal—

(a) in the period between the expiration of six months and the expiration of twelve months beginning with the date of the hospital order; and

(b) in any subsequent period of twelve months."

### **Amends section 43 of principal Act**

27 Section 43 of the principal Act is amended in subsection (2) by deleting the words "the Chief of Psychiatry" and substituting the words "a responsible medical officer".

### **Amends section 44 of principal Act**

28 Section 44 of the principal Act is amended in subsection (1) by deleting paragraph (a) and substituting the following—

"(a) that the said person is suffering from mental illness, severe personality disorder, mental impairment or severe mental impairment."

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### **Amends section 46 of principal Act**

29 Section 46 of the principal Act is amended—

- (a) by deleting subsection (1) and substituting the following—

" (1) Where a transfer direction and a restriction direction have been given in respect of a person serving a sentence of imprisonment and before the expiration of that person's sentence the Minister is notified by a responsible medical officer or the Review Tribunal that that person no longer requires treatment in hospital for mental disorder, the Minister may—

(a) by warrant direct that he be remitted to prison, there to be dealt with as if he had not been so removed; or

(b) exercise or authorise the Commissioner of Prisons to exercise any power of releasing him on licence or discharging him under supervision or otherwise, which would have been exercisable if he had been remitted to prison or to a training school,

and on his arrival in the prison or training school or, as the case may be, his release or discharge as aforesaid, the transfer direction and the restriction direction shall cease to have effect.";

- (b) by deleting subsection (3) and substituting the following—

" (3) Subject to subsection (4), references in this section to the expiration of a person's sentence are references to the expiration of a period during which he would have been liable to be detained in a prison or other institution if the transfer direction had not been given and that period shall be treated as expiring on the date on which he could have been discharged if he had not forfeited remission of any part of the sentence after his removal pursuant to the direction.".

### **Repeals and replaces section 47 of principal Act**

30 Section 47 of the principal Act is repealed and replaced by the following—



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### **"Further provisions as to persons committed for trial**

47 (1) Any transfer directions given in respect of any such person as is described in section 44(6)(c) shall cease to have effect when his case is disposed of by the court to which he was committed or by which he was remanded, as the case may be, but without prejudice to any power of that court to make a hospital order or other order under this Part.

(2) If the Minister is notified by a responsible medical officer, or the Review Tribunal at any time before the detainee's case is disposed of by the court—

- (a) that the detainee no longer requires treatment in hospital for mental disorder; or
- (b) that no effective treatment for his disorder can be given at the hospital to which he has been removed,

the Minister may by warrant direct that he be remitted to prison, there to be dealt with as if he had not been so removed, and on his arrival at the prison the transfer direction shall cease to have effect.

(3) If (no direction having been given under subsection (2)) the court having jurisdiction to try or otherwise deal with the detainee is satisfied on the written or oral evidence of a responsible medical officer—

- (a) that the detainee no longer requires treatment in hospital for mental disorder; or
- (b) that no effective treatment for his disorder can be given at the hospital to which he has been removed,

the court may order him to be remitted to prison or released on bail and on his arrival at prison or, as the case may be, his release on bail the transfer direction shall cease to have effect.

(4) If (no direction or order having been given or made under subsection (2) or (3)) it appears to the court having jurisdiction to try or otherwise deal with the detainee—

- (a) that it is impracticable or inappropriate to bring the detainee before the court; and
- (b) that the conditions set out in subsection (5) are satisfied,

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the court may make a hospital order (with or without a restriction order) in his case in his absence and, in the case of a person awaiting trial, without convicting him.

(5) A hospital order may be made in respect of a person under subsection (4) if the court—

- (a) is satisfied, on the written or oral evidence of at least two registered medical practitioners, that the detainee is suffering from mental illness or severe mental impairment of a nature or degree which makes it appropriate for the patient to be detained in a hospital for medical treatment; and
- (b) is of the opinion, after considering any depositions or other documents required to be sent to the court, that it is proper to make such an order."

### **Amends section 48 of principal Act**

31 Section 48 of the principal Act is amended by deleting subsection (4) and substituting the following—

" (4) The court shall not under subsection (3) further remand the accused in his absence unless he has appeared before the court within the previous six months.

(5) If the court is satisfied, on the written or oral evidence of a responsible medical officer—

- (a) that the accused no longer requires treatment in hospital for mental disorder; or
- (b) that no effective treatment for his disorder can be given in the hospital to which he has been removed,

the court may direct that the transfer direction shall cease to have effect notwithstanding that the period of remand has not expired or that the accused is committed to the Supreme Court as mentioned in subsection (2)."

### **Repeals and replaces section 61 of principal Act**

32 Section 61 of the principal Act is repealed and replaced by the following—

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### **"Applications to the Review Tribunal**

61 (1) Where—

- (a) a patient is admitted to a hospital in pursuance of an application for admission for assessment under section 9; or
- (b) a patient is admitted to a hospital in pursuance of an application for admission for treatment under section 10; or
- (c) a report is furnished under section 19 in respect of a patient; or
- (d) a report is furnished under section 22 in respect of a patient and the patient is not discharged; or
- (e) a report is furnished under section 27 in respect of a patient who is detained in pursuance of an application for admission for treatment; or
- (f) an order is made under section 29 in respect of a patient who is or subsequently becomes liable to be detained under Part II of this Act,

an application may be made to the Review Tribunal within the relevant period—

- (i) by the patient (except in the cases mentioned in paragraph (e) and (f)) or, in the case mentioned in paragraph (c), by his nearest relative, and
  - (ii) in the cases mentioned in paragraph (e) and (f) above, by his nearest relative.
- (2) In subsection (1) "the relevant period" means—
- (a) in the case mentioned in paragraph (a) of that subsection, fourteen days beginning with the day on which the patient is admitted as so mentioned;
  - (b) in the case mentioned in paragraph (b) of that subsection, six months beginning with the day on which the patient is admitted as so mentioned;
  - (c) in the cases mentioned in paragraphs (c) and (e) of that subsection, twenty-eight days beginning

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with the day on which the applicant is informed that the report has been furnished;

- (d) in the case mentioned in paragraph (d) of that subsection, the period for which authority for the patient's detention is renewed by virtue of that report;
- (e) in the case mentioned in paragraph (f) of that subsection, twelve months beginning with the date of the order, and in any subsequent period of twelve months during which the order continues in force.

### **References to Review Tribunal by Minister concerning Part II patients**

61A (1) The Minister may, if he thinks fit, at any time refer to the Review Tribunal the case of any patient who is liable to be detained under Part II of this Act.

(2) For the purpose of furnishing information for the purposes of a reference under subsection (1) a registered medical practitioner authorised by or on behalf of the patient may, at any reasonable time, visit the patient and examine him in private and require the production of, and inspect, any records relating to the detention or treatment of the patient in a hospital.

### **Duty of Board to refer cases to Review Tribunal**

61B (1) Where a patient who is admitted to a hospital in pursuance of an application for admission for treatment does not exercise his right to apply to the Review Tribunal under section 61(1) by virtue of his case falling within paragraph (b) of that section, the Board shall at the expiration of the period for making such an application refer the patient's case to the Review Tribunal unless an application or reference in respect of the patient has then been made under section 61(1) above by virtue of his case falling within paragraph (c), (e) or (f) of that section or under section 61A(1).

(2) If the authority for the detention of a patient in a hospital is renewed under section 22 and a period of two years (or, if the patient has not attained the age of sixteen years, one year) has elapsed since his case was last considered by the Review Tribunal, whether on his own application or otherwise, the Board shall refer his case to the Review Tribunal.

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(3) For the purpose of furnishing information for the purposes of any reference under this section, a registered medical practitioner authorised by or on behalf of the patient may at any reasonable time visit and examine the patient in private and require the production of, and inspect, any records relating to the detention or treatment of the patient in any hospital.

(4) The Minister may by order vary the length of the periods mentioned in subsection (2).

(5) For the purposes of subsection (1) a person who applies to a tribunal but subsequently withdraws his application shall be treated as not having exercised his right to apply, and where a person withdraws his application on a date after the expiration of the period mentioned in that subsection, the Board shall refer the patient's case as soon as possible after that date.

### **Applications to Review Tribunal concerning patients subject to hospital order**

61C (1) Without prejudice to any provision of section 61(1) as applied by section 36(2), an application to the Review Tribunal may also be made in respect of a patient admitted to a hospital in pursuance of a hospital order, by the nearest relative of the patient in the period between the expiration of six months and the expiration of twelve months beginning with the date of the order and in any subsequent period of twelve months.

(2) Where a person detained in a hospital—

(a) is treated as subject to a hospital order by virtue of section 38(5); or

(b) is subject to an order having the same effect as a hospital order by virtue of section 43(1),

then, without prejudice to any provision of Part II of this Act as applied by section 36, that person may make an application to the Review Tribunal in the period of six months beginning with the date of the order mentioned in paragraph (a) or (b).

### **Applications to Review Tribunal concerning restricted patients**

61D A patient in respect of whom an order restricting his discharge from hospital has been made under section 38 may apply to the Review Tribunal—

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- (a) in the period between the expiration of six months and the expiration of twelve months beginning with the date of the order; and
- (b) in any subsequent period of twelve months.

### **References by Minister concerning restricted patients**

61E (1) The Minister may at any time refer the case of a patient in respect of whom an order restricting his discharge from hospital has been made under section 38 to the Review Tribunal.

(2) The Minister shall refer to the Review Tribunal the case of any such patient whose case has not been considered by such a tribunal, whether on his own application or otherwise, within the last two years.

(3) The Minister may by order vary the length of the period mentioned in subsection (2).

### **Duty of Board to give information to detained patients**

61F (1) The Board shall take such steps as are practicable to ensure that a patient who is detained under this Act understands—

- (a) under which of the provisions of this Act he is for the time being detained and the effect of that provision; and
- (b) what rights of applying to the Review Tribunal are available to him in respect of his detention under that provision,

and those steps shall be taken as soon as practicable after the commencement of the patient's detention under the provision in question.

(2) The Board shall in respect of a patient who is detained as aforesaid also take such steps as are practicable to ensure that the patient understands the effect, so far as relevant in his case, of sections 26, 27, 61(1)(e) and 17; and those steps shall be taken as soon as practicable after the commencement of the patient's detention in the hospital or nursing home.

(3) The steps to be taken under subsections (1) and (2) above shall include giving the requisite information both orally and in writing.

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(4) The Board shall in respect of a patient who is detained as aforesaid, except where the patient otherwise requests, take such steps as are practicable to furnish the person (if any) appearing to the Board to be his nearest relative with a copy of any information given to him in writing under subsections (1) and (2); and those steps shall be taken when the information is given to the patient or within a reasonable time thereafter.

### **Duty of Board to inform nearest relative of discharge of patient**

61G (1) Where a patient liable to be detained under this Act in a hospital is to be discharged otherwise than by virtue of an order for discharge made by his nearest relative, the Board shall, subject to subsection (2), take such steps as are practicable to inform the person (if any) appearing to the Board to be the nearest relative of the patient; and that information shall, if practicable, be given at least seven days before the date of discharge.

(2) Subsection (1) shall not apply if the patient or his nearest relative has requested that information about the patient's discharge should not be given under this section."

### **Minor consequential amendments**

33 (1) The provisions of the principal Act specified in the first column of Part I of the Schedule are amended in the manner specified in the second column of that Part.

(2) The other statutory provisions specified in Part II of the Schedule are amended in the manner specified in the second column that Part.

### **Savings and transitional**

34 Where prior to the coming into operation of this Act, a patient had been admitted to a hospital for assessment under section 9 of the principal Act, then, on the date of the coming into operation of this Act, that patient shall be deemed to have been admitted under this Act and, accordingly, the provisions of section 61(1)(a) shall have effect in relation to that patient.

### **Amends First Schedule to the principal Act**

35 The First Schedule to the principal Act is amended in paragraph 4—

(a) by renumbering the paragraph as sub-paragraph (1);

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- (b) by inserting next after the words "under section 63(2)(b)" the words "and sub-paragraph (2)";
- (c) by deleting the words "or more" wherever they appear in that paragraph; and
- (d) by inserting the following as sub-paragraph (2)—
  - " (2) Notwithstanding sub-paragraph (1)—
    - (a) in the case of a patient who was admitted to a hospital for treatment and who has been detained in that hospital for six months or more;
    - (b) in the case of a patient in respect of whom a hospital order was made,the Review Tribunal shall, consist of the members referred to in sub-paragraphs (a) and (c) and one medical practitioner who satisfies the Chairman of the Review Tribunal that he has experience in psychiatric care."; and
- (e) by deleting the word "Governor" wherever it appears and substituting therefor in each case the word "Minister".



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**SCHEDULE**

**(section 33(1))**

**PART I**

**Provisions of principal Act**

**Amendment**

Sections 1(1), 3, 6, 7(1) and (2),  
8(4), 9(1), (2) and (4), 10(1), 14(1)  
and (2), 15(2) and (5), 16(1), 17(1),  
19(1), 20(1) and (4), 21(1) and (3),  
22(1), [23(2)], 27(2), 33(1), 36(1)  
(3) and (4), 38(5), 39(3), (5) and  
(6), 41(1), 43(1), 44(1) and (2),  
47(4), 65(1), 66(1), 67(1) and (2),  
70(1), 71(6), 74(1) and (4), 76(1),  
77(1), 78(1) and (2)

Delete the words "the Mental  
Hospital" wherever they  
appear and substitute the  
words "a hospital"

Section 1(1), 4(1) and (2), 5(3), }  
17(2), 38(3), 39(1), (2), (3), (5), (6) }  
and (7), 43(1) and (2), 44(1) and }  
(5), 45(1), 46(1) and (2), 57(1) to }  
(3), 62(3) }  
First Schedule }  
paragraph 1, 2, 3 }  
Second Schedule }

Delete the words "the Governor"  
wherever they appear and  
substitute the words "the  
Minister"

Sections 7(4), 11(1), 14(1) and (2),  
15

Delete the words "the Chief of  
Psychiatry" and substitute the  
words "a responsible medical  
officer"

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**PART II**

**(section 33(2))**

**Statutory Provisions**

**Amendments**

**Human Rights Act 1981**

The proviso to section 6(1)

Delete the words "or any mental hospital" and substitute the words "or in regard to the employment of persons in a hospital to care for persons suffering from mental disorder".

**Mental Health (Magistrates' Court) Rules 1968**

Rule 3(1)

Delete paragraph (c) and substitute the following—

"(c) an officer in a hospital authorised to make such report in respect of a person suffering from mental disorder."

**The Prisons Act 1979**

Section 6(p)

Delete the words "to the Mental Hospital" and substitute the words "to a hospital for the treatment of a mental disorder".

**The Young Offenders Act 1950**

Section 54(j)

Delete the words "to the Mental Hospital" and substitute the words "to a hospital for the treatment of a mental disorder".

**The Liquor Licensing Act 1974**

First Schedule  
Paragraph 1(iii)

Delete the words "to the Mental Hospital" and substitute the words "to a hospital for the treatment of a mental disorder".

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### **The Mental Health (Patients' Property) Rules 1990**

Rule 36

Delete the words "the mental hospital" and substitute the words "a hospital for the treatment of a mental disorder".

### **The Hospital Insurance (Mental Illness, Alcohol and Drug Abuse) Regulations 1973**

Regulation 1

Delete the heading and substitute "Treatment of patients for mental disorder at a hospital".

Delete the words "at the mental hospital" and substitute the words "at a hospital for the treatment of a person suffering from mental disorder".

### **The Defence Act 1965**

Section 12(1)(g)

Delete the words "in the Mental Hospital" and substitute the words "in a hospital receiving treatment primarily for mental disorder".

### **Section 13A(6)**

Delete the words "in the Mental Hospital" and substitute the words "in a hospital receiving treatment for mental disorder".

### **The Jurors Act 1971**

Section 3(2)(c)

Delete the words "in the mental hospital" and substitute the words "in a hospital and receiving treatment primarily for mental disorder".

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Section 7	<p>In subsection (2), delete the words "Medical Director of the mental hospital" and substitute the words "Chief of Psychiatry".</p> <p>Insert next after subsection (3), the following—</p> <p>" (4) In this section "Chief of Psychiatry" means the Chief of Psychiatry appointed under the Bermuda Hospitals Board Act 1970."</p>
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### **The Mental Health Review Tribunal Rules 1968**

Rule 4(2)(b) and (6)	Delete the words "the Mental Hospital" and substitute the words "to a hospital for the treatment of mental disorder".
Rule 10	Delete the words "the Mental Hospital" and substitute the words "a hospital".

### **The Criminal Code Act 1907**

Section 71E(7)	Delete the word "mental"
Section 545(4)	Delete the words "the Mental Hospital" and substitute the words "a hospital".
Section 546(2)	Delete the words "the Mental Hospital" and substitute the words "a hospital".

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**The Public Service  
Superannuation Act 1981**

Section 29(1)(a)

Delete the words "a patient in a mental hospital" and substitute the words "receiving treatment primarily for mental disorder in a hospital".

Section 29(2)

Delete the words "in a mental hospital" wherever they appear and substitute therefor in each case the words "in a hospital".

**The Bermuda Hospitals Board  
Act 1970**

Section 1

Delete the definition of "the hospitals" and substituting the following—

"the hospitals" means the general hospital and a hospital as defined in section 2 of the Mental Health Act 1968, and includes any establishment for the care or relief of the sick or infirmed that may be placed under the control of the Board;"

Delete the definition of the expression "the mental hospital".

Sections 8

Delete subsection (3).

Section 12

Delete the words "for the general hospital and for the mental hospital" and substitute the words "for the hospitals".

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### **The Bermuda Hospitals Board (Hospital Fees) Regulations 1980**

Regulation 4

Delete the heading and substitute "Residents' rates for in-patient treatment for mental disorder".

Delete the words "in-patient treatment in the mental hospital" and substitute the words "treatment for mental disorder in a hospital".

Regulation 5

Delete the words "in the mental hospital" and substitute the words "in a hospital for the treatment of mental disorder".

In Schedule 1  
Part B

Delete paragraph (f) and substitute the following—

"(f) for treatment for mental disorder in a hospital".

### **The Coroners Act 1938**

Section 8

Delete the words "or in the Mental Hospital" and substitute the words "or in a hospital in which he was being treated primarily for mental disorder".

Delete the words "or Mental Hospital" and substitute the words "or hospital".

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In the proviso to subsection (1), delete the words "or in the Mental Hospital" and substitute the words "in a hospital in which he was being treated primarily for mental disorder".

Section 11

In subsection (2), in the proviso to paragraph (a), delete the words "or the Mental Hospital" and substitute the words "or in a hospital in which he was being treated primarily for mental disorder".

Section 14

Delete the word "Mental".