

THE LUNACY ACT.

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THE LUNACY ACT.

[INDIA ACT IV, 1912.] (16th March, 1912.)

PART I.

PRELIMINARY.

CHAPTER I.

1. * * * *

Savings.

2. Nothing contained in Part II shall be deemed to affect the powers of the High Court over any person found to be a lunatic by inquisition or over the property of such lunatic, or the rights of any person appointed by such Court as guardian of the person or manager of the estate of such lunatic.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

- (1) "asylum" means an asylum or mental hospital for lunatics established or licensed by Government;
- (2) "cost of maintenance" in an asylum includes the cost of lodging, maintenance, clothing, medicine and care of a lunatic, and any expenditure incurred in removing such lunatic to and from an asylum, together with any other charges specified in this behalf by the President of the Union, in exercise of any power conferred upon him by this Act;
- (3) "District Court" includes the High Court as respects the area within its civil jurisdiction;
- (4) "criminal lunatic" means any person for whose detention in, or removal to an asylum, jail or other place of safe custody an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, or of section 30 of the Prisoners Act, * * * 1 or of the Burma Army Act;
- (5) "lunatic" means an idiot or person of unsound mind;
- (6) "Magistrate" means a District Magistrate, Subdivisional Magistrate or a Magistrate of the first class specially empowered by the President of the Union to perform the functions of a Magistrate under this Act;

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

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- (7) "medical officer" means a gazetted medical officer of Government, and includes a medical practitioner declared by general or special order of the President of the Union to be a medical officer for the purposes of this Act;
- (8) "medical practitioner" means a holder of a qualification to practise medicine and surgery which can be registered in the United Kingdom in accordance with the law for the time being in force for the registration of medical practitioners, and includes any person declared by general or special order of the President of the Union to be a medical practitioner for the purposes of this Act;
- (9) "prescribed" means prescribed by this Act or by rule made thereunder;
- (10) "reception order" means an order made under the provisions of this Act for the reception into an asylum of a lunatic other than a lunatic so found by inquisition;
- (11) "relative" includes any person related by blood, marriage or adoption; and
- (12) "rule" means a rule made under this Act.

PART II.

RECEPTION, CARE AND TREATMENT OF LUNATICS.

CHAPTER II.

RECEPTION OF LUNATICS.

4. (1) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum without a reception order save as provided by sections 8, 16 and 98:

Reception
of persons
in asylum.

Provided that any person in charge of an asylum may, with the consent of two of the visitors of such asylum, which consent shall not be given except upon a written application from the intending boarder, receive and lodge as a boarder in such asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in an asylum under the proviso to sub-section (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception orders on petition.

5. (1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer.

Application
for reception
order.

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(2) If either of the medical certificates is signed by any relative, partner or assistant of the lunatic or of the petitioner, the petition shall state the fact and, where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(3) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any Court; and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.

(4) No application for a reception order shall be entertained in any area unless the President of the Union has, by notification in the Gazette, declared such area as an area in which reception orders may be made.

Application
by whom to
be presented.

6. (1) Subject to the provisions of sub-section (3), the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from the Union of Burma or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented.

(2) If the petition is not presented by the husband or wife, or where there is no husband or wife, by the nearest relative of the alleged lunatic, the petition shall contain a statement of the reason why it is not so presented, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

(3) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject, and has within fourteen days before the presentation of the petition personally seen the said lunatic.

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

Procedure
upon peti-
tion for
reception
order.

7. (1) Upon the presentation of the petition the Magistrate shall consider the allegations in the petition and the evidence of lunacy appearing by the medical certificates.

(2) If he considers that there are grounds for proceeding further, he shall personally examine the alleged lunatic, unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do.

(3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

(4) If he is not so satisfied, he shall fix a date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

Detention
of alleged
lunatic
pending
inquiry.

8. Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending the conclusion of the inquiry.

Lunacy.

9. The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs), any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit. Consideration of petition.

10. (1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same for further evidence or inquiry, and may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit. Order.

(2) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

11. No reception order shall be made under section 7 or section 10, save in the case of a lunatic who is dangerous and unfit to be at large, unless— Further provisions as to reception orders on petition.

- (a) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and
- (b) the petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

11A. (1) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last-mentioned person shall be construed accordingly: Power to appoint substitute for the person upon whose application a reception order has been made

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or, if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive, and to any relative of the lunatic to whom, in the opinion of the Magistrate, notice should be given; the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic, any shall receive all such evidence as may be produced by or on behalf of and

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such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution :

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate, fitted to undertake the duties and responsibilities under this Act of such first-mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless, for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic.

(5) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(6) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended.

Reception orders otherwise than on petition.

1 12. * * * *

Powers and duties of police in respect of wandering or dangerous lunatics and lunatics cruelly treated or not under proper care and control.

13. (1) Every officer in charge of a police-station may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and shall arrest or cause to be arrested all persons within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

(2) Every officer in charge of a police-station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate.

Reception order in case of wandering and dangerous lunatics.

14: Whenever any person is brought before a Magistrate, under the provisions of sub-section (1) of section 13, the Magistrate shall examine such person, and if he thinks that there are grounds for proceeding further, shall cause him to be examined by a medical officer, and may make such other inquiries as he thinks fit ; and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person gives a medical certificate with regard to such person, make a reception order for the admission of such lunatic into an asylum :

Provided that, if any friend or relative desires that the lunatic be sent to a licensed asylum and engages in writing to the satisfaction of the Magistrate

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

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to pay the cost of maintenance of the lunatic in such asylum, the Magistrate shall, if the person in charge of such asylum consents, make a reception order for the admission of the lunatic into the licensed asylum mentioned in the engagement :

Provided further, that if any friend or relative of the lunatic enters into a bond with or without sureties for such sum of money as the Magistrate thinks fit, conditioned that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or to others, the Magistrate, instead of making a reception order, may, if he thinks fit, make him over to the care of such friend or relative.

15. (1) If it appears to the Magistrate, on the report of a police-officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him, and summon such relative or other person as has or ought to have the charge of him.

Order in case of lunatic cruelly treated or not under proper care and control.

(2) If such relative or other person is legally bound to maintain the alleged lunatic, the Magistrate may make an order for such alleged lunatic being properly cared for and treated, and, if such relative or other person wilfully neglects to comply with the said order, the Magistrate may sentence him to imprisonment for a term which may extend to one month.

(3) If there is no person legally bound to maintain the alleged lunatic, or if the Magistrate thinks fit so to do, he may proceed as prescribed in section 14, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment may, if a medical officer gives a medical certificate with regard to such lunatic, make a reception order for the admission of such lunatic into an asylum.

16. (1) When any person alleged to be a lunatic is brought before a Magistrate under the provisions of section 13 or section 15, the Magistrate may, by an order in writing, authorize the detention of the alleged lunatic in suitable custody for such time not exceeding ten days as may be, in his opinion, necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given.

Detention of alleged lunatic pending report by medical officer.

(2) The Magistrate may, from time to time, for the same purpose, by order in writing, authorize such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary :

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate.

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Commissioner of Police to act in Rangoon.

17. All acts which the Magistrate is authorized or required to do by section 14, 15 or 16 may be done in Rangoon by the Commissioner of Police.

Further provisions as to reception orders and medical certificates.

Medical certificates.

18. (1) Every medical certificate under this Act shall be made and signed by a medical practitioner or a medical officer, as the case may be, and shall be in the form prescribed.

(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no reception order on petition shall be made upon a certificate founded only upon facts communicated by others.

(3) Every medical certificate made under this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

Time and manner of medical examination of lunatic.

19. (1) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate, or, where two certificates are required, each person who signs a certificate has personally examined the alleged lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition, and, in all other cases, not more than seven clear days before the date of the order.

(2) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other.

Authority for reception.

20. A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorized by him, or in the case of an order not made upon petition, for the person authorized so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, or in any asylum to which he may be removed in accordance with the provisions of this Act, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order:

Provided that no reception order shall continue to have effect—

- (a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period; or
- (b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed.

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21. Any authority making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum into which such lunatic is to be admitted.

Copy of reception order to be sent to person in charge of asylum.

22. Subject to the provisions of section 85, no Magistrate shall make a reception order for the admission of any lunatic into any asylum outside the Union of Burma.

Restriction as to asylum into which reception orders may direct admission.

Detention of lunatics pending removal to asylum.

23. When any reception order has been made under sections 7, 10, 14 or 15, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to an asylum, be detained in suitable custody in such place as the Magistrate thinks fit.

Detention of lunatics pending removal to asylum.

Reception and detention of criminal lunatics.

24. An order under section 466 or section 471 of the Code of Criminal Procedure, or under section 30 of the Prisoners Act, * * *¹ or under the Burma Army Act, directing the reception of a criminal lunatic into any asylum which is prescribed for the reception of criminal lunatics, shall be sufficient authority for the reception and detention of any person named therein in such asylum or in any other asylum to which he may be lawfully transferred.

Reception and detention of criminal lunatics.

Reception after inquisition.

25. A lunatic so found by inquisition may be admitted into an asylum on an order made by the District Court.

Reception after inquisition.

26. (1) When any lunatic has been admitted into an asylum in accordance with the provisions of section 25, the High Court or the District Court, as the case may be, shall, on the application of the person in charge of the asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him :

Order for payment of cost of maintenance of lunatic.

Provided that if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the cost as aforesaid.

(2) An order under sub-section (1) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

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decree made by the Court in a suit in respect of the property or person therein mentioned.

Amendment of order or certificate.

Amendment of order or certificate.

27. If, after the reception of any lunatic into any asylum on a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer.

CHAPTER III.

CARE AND TREATMENT.

Visitors.

Appointment of visitors:

28. (1) The President of the Union shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer.

(2) The Inspector-General of Prisons shall be a visitor *ex-officio* of all the asylums within the limits of his jurisdiction.

Monthly inspection by visitors.

29. Two or more of the visitors, one of whom shall be a medical officer, shall, once at least in every month, together inspect every part of the asylum of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic and boarder therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.

Inspection of criminal lunatics by Inspector-General or visitors.

30. (1) When any person is detained under the provisions of section 466 or section 471 of the Code of Criminal Procedure, * * * *¹ or under the Burma Army Act, the Inspector-General of Prisons, if such person is detained in a jail, or the visitors of the asylum or any two of them, if he is detained in an asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report as to the state of mind of such person to the authority under whose order he is detained.

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

Discharge of lunatics.

Order of discharge from asylum by visitors.

31. (1) Three of the visitors of any asylum, of whom one shall be a medical officer, may by order in writing, direct the discharge of any person detained in such asylum, and such person shall thereupon be discharged:

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

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Provided that no order under this sub-section shall be made * * *
* * * 1, in the case of a criminal lunatic, otherwise than as provided by section 30 of the Prisoners Act.

(2) When such order is made, if the person is detained under the order of any public authority, notice of the order of discharge shall be immediately communicated to such authority.

32. (1) A lunatic detained in an asylum under a reception order, made on petition, shall be discharged if the person on whose petition the reception order was made so applies in writing to the person in charge of the asylum : Discharge of lunatics in other cases.

Provided that no lunatic shall be discharged under the provisions of sub-section (1) if the officer in charge of the asylum certifies in writing that the lunatic is dangerous and unfit to be at large.

- 1 (2) * * * *
- 1 (3) * * * *

33. When any relative or friend of a lunatic detained in any asylum under the provisions of section 14, 15 or 17 is desirous that such lunatic shall be delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond, with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged. Order of discharge on undertaking of relative for due care of the lunatic.

34. If any lunatic detained in an asylum on a reception order made under section 7, 10, 14, 15 or 17 is subsequently found on an inquisition under Chapter V not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum. Discharge of person subsequently found on inquisition not to be of unsound mind.

Removal of lunatics.

35. (1) Any lunatic may, in accordance with any general or special order of the President of the Union, be removed from any asylum established by Government to any other asylum within the Union of Burma, or to any other asylum in [any foreign State] ² with the consent of the Government concerned : Removal of lunatics and criminal lunatics.

Provided that no lunatic admitted into an asylum on a reception order made on petition shall be removed in accordance with the provisions of this sub-section until notice of such intended removal has been given to the petitioner.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.
² Substituted *ibid.*

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(2) The President of the Union may make such general or special order as he thinks fit directing the removal of any person for whose detention an order has been made under section 466 or section 471 of the Code of Criminal Procedure, * * * *¹, or under the Burma Army Act, from the place where he is for the time being detained to any asylum, jail or other place of safe custody in the Union of Burma * * * *¹.

Escape and re-capture.

Order to justify detention and re-capture after escape.

36. Every person received into an asylum under any such order as is required by this Act may be detained therein until he is removed or discharged as authorized by law, and in case of escape may, by virtue of such order, be re-taken by any police-officer or by the person in charge of such asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said person in charge, and conveyed to and received and detained in such asylum.

1 * * * *

PART III.

JUDICIAL INQUISITION AS TO LUNACY.

CHAPTER IV.

INQUISITION.

37—39. * * * *

Notice of time and place of inquisition.

40. (1) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

(2) If it appears that personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

(3) The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

Powers of Court in respect of attendance and examination of lunatic.

41. (1) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

(2) The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Lunacy.

42. The attendance and examination of the alleged lunatic under the provisions of section 41 shall, if the alleged lunatic be a woman who, according to the manners and customs 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.

Rules respecting attendance and examination of females alleged to be lunatic.

43—55. * * *

56. (1) If it appears to the Court, having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a manager of the estate, order that the property if money, or if any other description the produce thereof when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid.

Power to apply property for lunatic's maintenance without appointing manager in certain cases.

(2) The receipt of the person so appointed shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

57—58. * * *

59. If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependent on him for their maintenance, the Court may, in like manner as under section 56, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Power to apply property for lunatic's maintenance in case of temporary lunacy.

60—61. * * *

CHAPTER V.

PROCEEDINGS IN LUNACY.

Inquisition.

62. Whenever any person is possessed of property and is alleged to be a lunatic, the District Court within whose jurisdiction such person is residing may, upon application¹, by order direct an inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

Power of District Court to institute inquisition as to persons alleged to be lunatic.

63. (1) Application for such inquisition may be made by any relative of the alleged lunatic or by any curator appointed under section 195 of the Succession Act (hereinafter referred to as the curator), or by the Government Pleader, as defined in the Code of Civil Procedure, or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Collector of the district in which it is situate.

Application by whom to be made.

(2) * * *

¹ For the manner in which applications are to be made, see *Burma Gazette*, 1940, Part IV, page 208.

Lunacy.

Regulation of proceedings of District Courts.

64. The provisions of sections 40, 41 and 42 shall regulate the proceedings of the District Court with regard to the matters to which they relate,

Inquisition by District Court and finding thereon.

65. (1) The District Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said inquisition.

(2) Upon the completion of the inquisition, the Court shall determine whether the alleged lunatic is of unsound mind and incapable of managing himself and his affairs, or may come to a special finding that such alleged lunatic is of unsound mind so as to be incapable of managing his affairs but that he is capable of managing himself and is not dangerous to himself or to others.

Inquisition by subordinate Court on commission issued by District Court and proceedings thereon.

66. (1) If the alleged lunatic resides at a distance of more than fifty miles from the place where the District Court is held to which the application is made, the said Court may issue a commission to any subordinate Court to make the inquisition, and such subordinate Court shall thereupon conduct the inquisition in the manner hereinbefore provided in this Chapter.

(2) On the completion of the inquisition the subordinate Court shall transmit the record of its proceedings with the opinions of the assessors, if assessors have been appointed, and its own opinion on the case; and the District Court shall thereupon proceed to dispose of the application in the manner provided in section 65, sub-section (2):

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

Judicial powers over person and estate of lunatic.

Custody of lunatics and management of their estates.

67. (1) The Court may make orders for the custody of lunatics so found by inquisition and the management of their estates.

(2) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic, including proper provisions for the maintenance of the lunatic and of such members of his family as are dependent on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic.

68. * * * *

Power to direct Collector to take charge of person and estate of lunatic in certain cases.

69. (1) If the estate of a lunatic so found consists in whole or in part of land or any interest in land, the District Court may direct the Collector to take charge of the person and estate of the lunatic:

Provided that no such order shall be made without the consent of the Collector previously obtained.

Lunacy.

(2) The Collector shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic.

70. All proceedings of the Collector in regard to the person or estate of a lunatic under this Chapter shall be subject to the control of the President of the Union or of such authority as he may appoint in this behalf.

Control over proceedings of Collector.

71. (1) In all other cases the District Court shall appoint a manager of the estate of the lunatic and may appoint a guardian of his person :

Power of District Court to appoint guardian and manager and take security from manager.

Provided that a District Court may, instead of appointing a manager of the estate of a lunatic, exercise any of the powers conferred on the Court under sections 56 and 59.

(2) Any person who has been appointed by the District Court or Collector to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or the Collector, as the case may be, may seem fit, engaging duly to account for what he may receive in respect of the property of the lunatic.

72. The legal heir of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the Court or the Collector, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic.

Restriction on appointment of legal heir of lunatic to be guardian of his person.

73. A guardian of the person of a lunatic or a manager of his estate appointed under this Chapter shall be paid such allowance, if any, as the Court or the Collector, as the case may be, thinks fit for his care and pains in the execution of his duties.

Remuneration of managers and guardians.

74. (1) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance.

Duties of guardian.

(2) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Collector, as the case may be, for the maintenance of the lunatic and such members of his family as are dependant on him for their maintenance.

75. (1) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic, and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic :

Powers of manager.

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

- (a) mortgage, charge, or transfer by sale, gift, exchange or otherwise any immoveable property of the lunatic, or
- (b) lease any such property for a term exceeding five years.

Lunacy.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(2) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interests of the lunatic.

Manager to furnish inventory and annual accounts.

76. (1) Every person appointed by the District Court or by the Collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the immoveable property belonging to the lunatic and of all such money, or other moveable property, as he may receive on account of the estate, together with a statement of all debts due by or to the same.

(2) Every such manager shall also furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

Proceedings if accuracy of inventory or accounts is impugned

77. If any relative of the lunatic, or the Collector by petition to the Court, impugns the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and inquire summarily into the matter and make such order thereon as it thinks fit; or the Court, at its discretion, may refer any such petition to any subordinate Court, or to the Collector if the manager was appointed by the Collector.

Payment into public treasury and investment of proceeds of estate.

78. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate shall be paid into the public treasury on account of the estate and shall be invested from time to time in any of the securities specified in section 20 of the Trusts Act, unless the Court or the Collector, as the case may be, for reasons to be recorded in writing, directs that such sums be in the interest of the lunatic otherwise invested or applied.

Relative may sue for an account.

79. Any relative of a lunatic may, with the leave of the District Court, sue for an account from any manager appointed under this Chapter, or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

Removal of managers and guardians.

80. (1) The District Court, for any sufficient cause, may remove any manager appointed by it not being the curator, and may appoint such curator or any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also for any sufficient cause remove any guardian of the person of the lunatic appointed by it, and may appoint any other fit person in his place.

(3) The Collector, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him, and may appoint any other fit person in place of such manager or guardian; and the District Court, on the application of the Collector, may compel any manager removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

81. The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court, and may realize such fine as if it were a sum due under a decree of the Court, and may also commit the recusant to the civil jail until he delivers such accounts or property.

Penalty on manager for refusing to deliver accounts or property.

82 (1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

Proceedings in lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased.

(2) The inquiry shall, as far as may be, be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

83. An appeal shall lie to the High Court from any order made by a District Court under this Chapter.

Appeals.

PART VI.

MISCELLANEOUS.

CHAPTER VI.

ESTABLISHMENT OF ASYLUMS.

84. The President of the Union may establish or license the establishment of asylums at such places as he thinks fit if he is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases.

President may establish or license the establishment of asylums.

Lunacy.

Power to cancel licence if provision for curative treatment is insufficient.

84A. If in any licensed asylum no provision for curative treatment has been made, or the President of the Union considers that the provision made is insufficient, the President of the Union may require the person in charge of the asylum to take such measures for making or supplementing such provision as he may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the President of the Union may revoke the licence.

Provision for admission of lunatics in asylums outside the Union of Burma.

85. The Magistrates or Courts exercising jurisdiction under this Act may send lunatics or any class of lunatics to any asylum situate in [any foreign State]¹ in accordance with any general or special order of the President of the Union made in that behalf with the consent of the Government concerned.

CHAPTER VII.

EXPENSES OF LUNATICS.

Payment of cost of maintenance in licensed asylums in certain cases by Government.

86. (1) When any lunatic is admitted to a licensed asylum under a reception order or an order under section 25, and no engagement has been taken from the friends or relatives of the lunatic or order made by the Court for the payment of expenses under the provisions of this Act, the cost of maintenance of such lunatic shall, subject to the provision of any law for the time being in force, be paid by the Government to the person in charge of such asylum.

² (2) * * * *

Application of property in the possession of a lunatic found wandering.

87. Any money in the possession of a lunatic found wandering at large may be applied by the Magistrate towards the payment of the cost of maintenance of the lunatic or of any other expenses incurred on his behalf, and any moveable property found on the person of the lunatic may be sold by the Magistrate and the proceeds thereof similarly applied.

Application to civil Court for order for the payment of cost of maintenance out of the lunatic's estate, or by person bound to maintain him.

88. If a lunatic detained in an asylum on a reception order made under section 14, section 15 or section 17 has an estate applicable to his maintenance, or if any person legally bound to maintain such lunatic has the means to maintain him, the authority which made the reception order or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force may apply to the High Court or District Court, within the local limits of the original jurisdiction of which the estate of the lunatic is situate or the person legally bound to maintain him resides, for an order for the payment of the cost of maintenance of the lunatic.

Order of Court and enforcement thereof.

89. (1) The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic, together with the costs of the application out of such estate or from such person.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Omitted *it id.*

Lunacy.

(2) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal, as a decree made by the said Court in a suit in respect of the property or person therein mentioned.

90. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of liability of relatives to maintain lunatic.

CHAPTER VIII.

RULES.

91. (1) The President of the Union may make rules for all or any of the following purposes, namely :—

Power of President to make rules.

- (a) to prescribe forms for any proceeding under this Act other than a proceeding before the High Court ;
- (b) to prescribe places of detention and regulate the care and treatment of persons detained under section 8 or section 16 ;
- (c) to regulate the detention, care, treatment and discharge of criminal lunatics ;
- (d) to regulate the management of asylums and the care and custody of the inmates thereof and their transfer from one asylum to another ;
- (e) to regulate the transfer of criminal lunatics to asylums ;
- (f) to prescribe the procedure to be followed by District Courts and Magistrates before a lunatic is sent to any asylum established by Government ;
- (g) to prescribe the asylums established by Government to which lunatics from any area or any class of lunatics shall be sent ;
- (h) to prescribe conditions subject to which asylums may be licensed ;
- (i) save as otherwise provided in this Act, generally to carry into effect the provisions of the Act.

(2) In making any rule under this section, the President of the Union may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

92. All rules made under section 91 shall be published in the Gazette, and shall thereupon have effect as if enacted in this Act.

Publication of rules.

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

93. Any person who—

- (a) otherwise than in accordance with the provisions of this Act receives or detains a lunatic or alleged lunatic in an asylum, or

Penalty for improper reception or detention of lunatic.

Lunacy.

(b) for gain detains two or more lunatics in any place not being an asylum.

shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Provisions as to bonds.

94. The provisions of Chapter XLII of the Code of Criminal Procedure shall, so far as may be, apply to bonds taken under this Act.

Pension of lunatic payable by Government.

95. (1) When any sum is payable in respect of pay, pension, gratuity, or other similar allowance to any person by Government and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much of the said sum as he thinks fit to the person having charge of the lunatic, and may pay the surplus, if any, or such part thereof as he thinks fit, for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

(2) * * * * 1 The Government shall be discharged of all liability in respect of any amounts paid in accordance with this section.

Use of forms in Schedule.

96. Subject to any rules, the forms set forth in the First Schedule, with such variation as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and if used shall be sufficient.

Protection to persons acting under Act.

97. 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 under this Act.

198-100. * * * *

SCHEDULE I.

FORMS.

(See section 96.)

FORM 1.

Application for Reception Order.

(See sections 5 and 6.)

In the matter of A.B. [1], residing at _____, by occupation _____, son of _____; a person alleged to be a lunatic.

To

District Magistrate of _____
 or Sub-Divisional Magistrate of _____
 or Magistrate specially empowered under the Lunacy Act for

[1] Full name, caste and titles.

1 On fitted by the Union of Burma (Adaptation of Laws) Order, 1918.

Lunacy.

The petition of C.D. [1], residing at _____, by occupation _____, son of _____ in the town of _____ [or sub-division _____] of _____ in the district of _____.

1. I am [2] years of age.
2. I desire to obtain an order for the reception of A.B. as a lunatic in the asylum of _____ situate at [3]
3. I last saw the said A.B. at _____ on the [4] day of _____
4. I am the [5] of the said A.B.

[Or if the petitioner is not a relative of the patient state as follows.]

I am not a relative of the said A.B. The reasons why this petition is not presented by a relative are as follows : [State them.]

The circumstances under which this petition is presented by me are as follows : [State them.]

5. The persons signing the medical certificates which accompany the petition are [6].

6. A statement of particulars relating to the said A.B. accompanies this petition

7. [If that is the fact.] An application for an inquiry into the mental capacity of the said A.B. was made to the _____ on the _____ and a certified copy of the order made on the said petition is annexed hereto.

[Or if that is the fact.]

No application for an inquiry into the mental capacity of the said A.B. has been made previous to this application.

The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C.D.

The statements contained or referred to in paragraphs _____ are true to my knowledge ; the other statements are true to my information and belief.

(Sd.) C.D.

Dated

[1] Full name, caste and titles.

[2] Enter the number of completed years. The petitioner must be at least eighteen or twenty-one whichever is the age of majority under the law to which the petitioner is subject.

[3] Insert full description of the name and locality of the asylum or the name, address and description of the person in charge of the asylum.

[4] A day within 14 days before the date of the presentation of the petition is requisite.

[5] Here state the relationship with the patient.

[6] Here state whether either of the persons signing the medical certificate is a relative, partner or assistant of the lunatic or of the petitioner and, if a relative of either, the exact relationship.

Statement of particulars.

[If any of the particulars in this statement is not known, the fact to be so stated.]

The following is a statement of particulars relating to the said A.B.
Name of patient at length.

Lunacy.

Sex and age.

Married, single or widowed.

Previous occupation.

Caste and religious belief, as far as known.

Residence at or immediately previous to the date hereof.

Names of any near relatives to the patient who are alive.

Whether this is first attack of lunacy.

Age (if known) on first attack.

When and where previously under care and treatment as a lunatic.

Duration of existing attack.

Supposed cause.

Whether the patient is subject to epilepsy.

Whether suicidal.

Whether the patient is known to be suffering from phthisis or any form of tubercular disease.

Whether dangerous to others, and in what way.

Whether any near relative (stating the relationship) has been afflicted with insanity.

Whether the patient is addicted to alcohol, or the use of opium, ganja charas, bhang, cocaine or other intoxicant.

The statements contained or referred to in paragraphs _____ are true to my knowledge. The other statements are true to my information and belief.

Signature by person making the statement.

FORM 2.

Reception Order on Petition.

(See sections 7, 10.)

I, the undersigned E.F., being the District Magistrate of _____ or the Sub-Divisional Magistrate of _____ or a Magistrate of the first class specially empowered by Government to perform the functions of a Magistrate under the Lunacy Act, upon the petition of C.D. of [1] in the matter of A.B. [2] a lunatic, accompanied by the medical certificates of G.H., a medical officer, and of J.K., a medical practitioner [or medical officer], under the said Act, hereto annexed, hereby authorize you to receive the said A.B. into your asylum. And I declare that I have [or have not] personally seen the said A.B. before making this order.

(Sd.) E.F.

(Designation as above.)

To[2]

[1] Address and description.

[2] To be addressed to the officer or person in charge of the asylum.

Lunacy.

FORM 3.

Medical Certificate.

(See sections 18, 19.)

In the matter of A.B. of [1] in the town of [or the sub-division of in the district of] an alleged lunatic.

I, the undersigned C.D., do hereby certify as follows :—

1. I am a gazetted medical officer or a medical practitioner declared by the President of the Union to be a medical officer under the Lunacy Act and I am in the actual practice of the medical profession.

2. On the _____ day of 19____ at [2] in the ^{town} of [or the sub-division of in the district of] [separately from any other practitioner] [4], I personally examined the said A.B. and came to the conclusion that the said A.B. is a lunatic and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz.:—

- (a) Facts indicating insanity observed by myself, viz.:—
- (b) Other facts (if any) indicating insanity communicated to me by others, viz.:—*Here state the information and from whom.*

(Sd.) C.D.

(Designation as above.)

[1] Insert residence of patient

[2] Insert qualification to practise medicine and surgery registrable in the United Kingdom.

[3] Insert place of examination

[4] Omit this where only one certificate is required.

FORM 4. 1

* * * *

FORM 5.

Reception order in case of wandering or dangerous lunatics or lunatics not under proper control or cruelly treated (sent to an asylum established by Government).

(See sections 14, 15, 17.)

I, C.D., Commissioner of Police for Rangoon [or the District Magistrate of or the Sub-Divisional Magistrate of or a Magistrate specially empowered by the President of the Union under the Lunacy Act]

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Lunacy.

having caused A.B. to be examined by E.F., a Medical Officer under the Lunacy Act, and being satisfied that A.B. [*describing him*] is a lunatic who was wandering at large [*or is a person dangerous by reason of lunacy*] [*or is a lunatic not under proper care and control or is cruelly treated or neglected by the person having the care or charge of him*] and a proper person to be taken charge of, and detained under care and treatment, hereby direct you to receive the said A.B. into your asylum.

(Sd.) C.D.

(*Designation as above.*)

Dated the

To the Officer in charge of the asylum at

FORM 6.

Same when sent to a licensed asylum.

I, C.D., [*as above down to "care and treatment"*] and being satisfied with the engagement entered into in writing by G.H. of [*here insert address and description*] who has desired that the said A.B. may be sent to the asylum at [*here insert description of asylum and name of the person in charge*] to pay the cost of maintenance of the said A.B., in the said asylum, hereby authorize you to receive the said A.B. into your asylum.

(Sd.) C.D.

(*Designation as above.*)

Dated the

To the person in charge of the asylum at

FORM 7.

Bond on the making over of a lunatic to the care of relative or friend.

(*See sections 14, 15, 17.*)

Whereas A.B., son of _____, inhabitant of _____, has been brought up before C.D., Commissioner of Police for Rangoon [*or the* District / Sub-Divisional Magistrate of _____, *or a Magistrate of the first class specially empowered under the Lunacy Act*] and is a lunatic who is believed to be dangerous [*or deemed to be a lunatic who is not under proper care and control or is cruelly treated or neglected by the person having the charge of him*] and whereas I, E.F., son of _____, inhabitant of _____, have applied to the Magistrate [*or Commissioner of Police*], that the said A.B. may be delivered to my care :

Lunacy.

I, E.F., abovenamed hereby bind myself that on the said A.B. being made over to my care, I will have the said A.B. properly taken care of and prevented from doing injury to himself or to others; and in case of my making default therein, I hereby bind myself to forfeit to [the State] ¹ the sum of rupees

Dated this day of 19 (Sd.) E.F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the abovenamed E.F. that he will, on the aforesaid A.B. being made over to his care, have the said A.B. properly taken care of and prevented from doing injury to himself or to others; and in case of the said E.F. making default therein, we bind ourselves, jointly and severally, to forfeit to [the State] ¹ the sum of rupees

Dated this day of 19 (Signatures.)

FORM 8.

Bond on the discharge of a lunatic from an asylum on the undertaking of relative or friend to take due care.

(See section 33.)

Whereas A.B., son of , inhabitant of , is a lunatic who is now detained in the asylum at under an order made by C.D., Commissioner of Police for Rangoon (or the ^{District} _{Subdivisional} Magistrate of , or a Magistrate of the first class specially empowered under the Lunacy Act) under section 14 (or section 15) of the Lunacy Act, and whereas I, E.F., son of , inhabitant of , have applied to the said Magistrate (or Commissioner of Police) that the said A.B. may be delivered to my care and custody:

I hereby bind myself that on the said A.B. being made over to my care and custody, I will have him properly taken care of and prevented from doing injury to himself or to others; and in case of my making default therein, I hereby bind myself to forfeit to [the State] ¹ the sum of rupees

Dated this day of 19 (Sd.) E.F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the abovenamed E.F. that he will, on the aforesaid A.B. being delivered to his care and custody, have the said A.B. properly taken care of and prevented from doing injury to himself or to others; and in case of the said E.F. making default therein, we bind ourselves, jointly and severally, to forfeit to [the State] ¹ the sum of rupees

Dated this day of 19 (Signatures.)

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1943.