

ACT No. XXXVI OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th September 1858.)

*An Act relating to Lunatic Asylums.*

WHEREAS it is expedient to provide for the reception and detention of Lunatics in Asylums established for that purpose ; It is enacted as follows :—

Preamble.

I. The Executive Government of any Presidency or place, with the sanction of the Governor General of India in Council, may establish Asylums for the reception and detention of Lunatics at such places within the limits of the said Government as may be deemed proper. Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such Asylums within the said limits, and may withdraw such licenses.

Lunatic Asylums may be established by Government or may be licensed.

II. The management of every Lunatic Asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government. The Executive Government shall appoint for every Asylum not less than three visitors, one of whom at least shall be a Medical Officer. The Inspector of Jails (where such office exists) shall be a visitor ex-officio of all the Asylums within the circle of his inspection.

Rules for the management of Asylums to be sanctioned by Government.

Appointment of visitors.

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III. Two or more of the visitors, one of whom shall be a Medical Officer, shall, once at the least in every month, together inspect every part of the Asylum or Asylums of which they are visitors, and see and examine, as far as circumstances will permit, every Lunatic 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 Lunatics therein.

IV. It shall be the duty of every Darogah or District Police Officer to apprehend and send to the Magistrate all persons found wandering at large within his District who are deemed to be Lunatics, and all persons believed to be dangerous by reason of Lunacy. Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a Medical Officer, shall examine such person, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a Lunatic and a proper person to be detained under care and treatment, he shall make an order for such Lunatic to be received into the Asylum established for the Division in which the Magistrate's jurisdiction is situate, or, if such Lunatic is not a native of the country and the circumstances of the case so require, into a Lunatic Asylum at the Presidency; and shall send the Lunatic in suitable custody to the Asylum mentioned in such order. Provided that, if any friend or relative of any Lunatic, who is believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate that such Lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an Asylum, may make him over to the care of such friend or relative. Provided also that, if any such friend or relative shall desire that the Lunatic may be sent to a licensed Asylum instead of the public Asylum of the Division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the Lunatic in such Asylum, the Magistrate may send the Lunatic to the licensed Asylum mentioned in the engagement.

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V. If it shall appear 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 send for the supposed Lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed Lunatic, the Magistrate may make an order for such Lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month. If there be no person legally bound to maintain the supposed Lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding Section, 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 make an order for his reception into such Asylum as aforesaid. It shall be the duty of every Darogah or District Police Officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him, to provide for the proper treatment of such Lunatic.

If no person bound to maintain him, Magistrate may make an order for his reception in Asylum.

Darogah to report neglect.

VI. All acts which the Magistrate is authorized or required to do by the two last preceding Sections, may be done in the Presidency Towns and the Stations of the Straits Settlement by the Commissioner of Police; and all duties which a Darogah or District Police Officer is authorized or required to perform, may be performed in any of the said Towns and Stations by an Officer of the Police Force not below the rank of Inspector.

Commissioner of Police, &c., to act in the Presidency Towns and Straits Settlement.

VII. Except as otherwise hereinbefore provided, no person shall be received into a Lunatic Asylum in any Presidency Town or in any Station of the Straits Settlement without an order under the hand of some person in the Form B in the Schedule to this Act, together with such statement of particulars as is contained in the said Form B; nor unless such person has been found Lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter

Order and certificate for reception into an Asylum in Presidency Towns and Straits Settlement.

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ter, without the medical certificate containing the particulars in Form A in the Schedule to this Act, of two persons each of whom shall be a Physician or Surgeon and one of whom shall be a Presidency Surgeon or a Surgeon in the employment of the Government. When such order is presented, the visitors or manager of the Asylum, before admitting the Lunatic into the Asylum, may require the friends of the said Lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the Lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

VIII. *Clause 1.*—In places other than those specified in the last preceding Section, no person shall be received into a Lunatic Asylum, except as otherwise hereinbefore provided, without an order of the Civil Court.

In places other than Presidency Towns, &c., no person to be received into Asylum without order of Civil Court.

*Clause 2.*—When any person has been adjudged to be a Lunatic, and a guardian for such Lunatic has been appointed by the Court of Wards or the Collector or by the Civil Court, if such guardian shall desire that the Lunatic be admitted into a Lunatic Asylum, he shall make application to the Civil Court, and the Judge, with the assistance of a Medical Officer, shall examine such Lunatic, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Judge shall be satisfied that the Lunatic is a proper person to be detained under care and treatment in a Lunatic Asylum, he shall make an order for such person to be received into the Asylum established for the Division in which his jurisdiction is situate, or, if he think fit, into any licensed Asylum mentioned in the application.

Application for order to be made by a guardian, if a guardian has been appointed.

*Clause 3.*—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the Collector or by the Civil Court, desires that such person may be admitted into a Lunatic Asylum, he may make application to the Civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of Lunacy in the same manner as if an application had been made to the Civil Court under the provisions of Section III of Act XXXV of 1858 entitled “*An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature*”; and if the Lunacy be established, the Judge may then proceed in the manner prescribed in the second Clause of this Section.

Application where no guardian has been appointed.

*Clause 4*

*Clause 4.*—Whenever the Judge shall make an order for the reception of any person into a Lunatic Asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such Asylum. Provided however that, if it shall appear to the satisfaction of the Judge that the Lunatic has not sufficient property and that no person legally bound to maintain the said Lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the Lunatic into the Asylum, instead of making such order for the payment of expenses as aforesaid.

IX. It shall be lawful for three of the visitors of any Asylum, of whom one shall be a Medical Officer, by writing under their hands, to order the discharge of any person detained in such Asylum. When such order is given, if the person is detained under the order of any public Officer, notice of the order of discharge shall be immediately communicated to such Officer.

X. When any relative or friend of a Lunatic detained in any Asylum under the provisions of Section IV, Section V, or Section VI of this Act, is desirous that such Lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police under whose order the Lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a Medical Officer, and upon the undertaking in writing of such relative or friend to the satisfaction of the said Magistrate or Commissioner that such Lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such Lunatic, and such Lunatic shall thereupon be discharged.

XI. The Inspector of Jails may direct the removal of any Lunatic from any public Asylum to any other public Asylum within the circle of his inspection, and such order shall be sufficient authority for the removal of such Lunatic, and also for his reception into the Asylum to which he is ordered to be removed.



XII. If, after the reception of any Lunatic into any Asylum, it appear that the order or the medical certificate or certificates upon which he was received 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.

XIII. Every person received into a Lunatic Asylum under any such order as is required by this Act accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such Asylum, or any Officer or servant belonging thereto, or any other person authorized in that behalf by the said manager, or any Police Officer, and conveyed to and received and detained in such Asylum.

XIV. When any Lunatic is sent to a licensed Asylum by order of a Magistrate or Commissioner of Police under Section IV, Section V, or Section VI of this Act, and when a Lunatic is admitted into such Asylum under Section VII or an order for the reception of a Lunatic is made under Section VIII, and no engagement has been taken from the friends of the Lunatic or order made by the Judge for the payment of expenses under the said Section VII or Section VIII respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such Lunatic shall be paid by the Government to the manager of such Asylum.

XV. The Magistrate or Commissioner of Police by whom any Lunatic has been sent to a Lunatic Asylum, if it appear to such Magistrate or Commissioner that such Lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, may apply to the chief Civil Court of original jurisdiction within the local jurisdiction of which the estate of the Lunatic may be situate or the person legally bound to maintain him may reside, and such Court shall enquire 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

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to maintain and has the means of maintaining such Lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such Lunatic out of such estate or from such person.

Enforcement, &c. of order. 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 any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned. Any personal property which may be in the possession of a Lunatic found wandering at large may be sold by the Magistrate and the proceeds thereof (or such part of the same as may be necessary) applied towards the payment of the charges of the lodging and maintenance of the Lunatic, and of any other expenses incurred on his behalf.

Property in the possession of a Lunatic found wandering.

Saving of liability of relatives to maintain Lunatic.

XVI. 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.

XVII. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be Lunatic by inquisition or under the provisions of Act XXXIV of 1858 entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter,*" or with the rights of any Committee of the person or estate of such Lunatic, or to affect the provisions of Act IV of 1849 entitled "*An Act for the safe custody of Criminal Lunatics.*"

Saving of powers of Supreme Court, &c., and of Act IV of 1849.

Interpretation. "Lunatic."

XVIII. The word "Lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot.

"Magistrate."

The word "Magistrate" shall include a person exercising the powers of a Magistrate.

SCHEDULE.

FORM A.

CERTIFICATE OF MEDICAL OFFICER.—(See Sections IV and VIII).

I, the undersigned, (*here enter name and official designation,*) hereby certify that I, on the        day of        at        , personally examined  
(*here*

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(here enter name and residence of Lunatic) and that the said \_\_\_\_\_ is a Lunatic (or an idiot, or a person of unsound mind) and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds, namely:—

1. Facts indicating insanity observed by myself (here state the facts.)
2. Other facts (if any) indicating insanity communicated to me by others (here state the information and from whom.)

(Signed) \_\_\_\_\_

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT.—(See Section VII).

I, the undersigned, hereby request you to receive A. B., a Lunatic, [or an idiot, or a person of unsound mind,] as a patient into your Asylum. Subjoined is a statement respecting the said A. B.

(Signed) name

Occupation (if any)

Place of abode

Degree of relationship (if any), or other circumstance of connexion with the patient.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

To \_\_\_\_\_ Superintendent of the Asylum at \_\_\_\_\_ [describing the Asylum].

STATEMENT.



STATEMENT.

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

Name of patient, with Christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to Epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found Lunatic by inquisition or enquiry under order of Court, and date of Commission or order for inquisition or enquiry.

Whether any member of patient's family has been or is affected with insanity.

(Signed) Name.

[Where the person signing the Statement is not the person who signs the order, the following particulars concerning the person signing the Statement are to be added; namely,]

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstances of connexion with the patient.