



MONTSERRAT

## CHAPTER 14.03

# MENTAL TREATMENT ACT\*

## and Related Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

	Page
<b>MENTAL TREATMENT ACT</b>	3
Act 13 of 1956 .. in force 1 July 1956	
Amended by Acts: 1 of 1958	
22 of 1959	
23 of 1961	
4 of 2003	
8 of 2005 .. in force 5 May 2005	
9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)	
<b>MENTAL TREATMENT INSTITUTIONS</b>	
<b>PROCLAMATION – Section 12</b>	45
S.R.O. 26/1998 .. in force 28 May 1998	
Amended by S.R.O. 47/1999 .. in force 30 August 1999	
Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)	
<b>POOR AND PERSONS OF UNSOUND MIND ACT</b>	47
Act 23 of 1868 .. in force 20 October 1868	
Amended by Act 6 of 1869	
Amended by Fed. Act 19 of 1884	
Amended by Acts: 6 of 1896	
13 of 1920	

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\* Repealed sections of the Act consolidated

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**CHAPTER 14.03**

**MENTAL TREATMENT ACT**

**ARRANGEMENT OF SECTIONS**

SECTION

1. Short title
2. Interpretation
3. Power to Governor to make Arrangement with Antigua
4. Power to Governor to order removal to mental hospital

*Adjudication of Persons of Unsound Mind*

5. Enquiry as to lunacy
6. Admission for assessment and treatment
7. Admission for assessment and treatment in cases of emergency
8. General provisions as to medical recommendations
9. General
10. Admission of accused persons for observation
11. False medical certificate
12. Adjudication of person of unsound mind
13. Custody of person of unsound mind
14. Appeal

*Institutions*

15. Appointment of institutions
16. Escape from institution
17. Transfer of persons from hospital to institution in Montserrat for observation

*Licensed Houses*

18. Duty of licensee
19. Visiting Committee
20. Records
21. Escape from licensed house
22. Absence on trial
23. Death of patient
24. Discharge of licensee
25. Removal of patient at request of friends
26. Removal of patient ill-treated or neglected
27. Release of patient

28. Appeal by licensee
29. Appeal where order refused
30. Execution of order of removal

#### *Interim Orders*

31. Interim order in case of appeal

#### *Criminal Persons of Unsound Mind*

32. Prisoners of unsound mind
33. Insanity at expiration of sentence

#### *Maintenance of Insane Persons*

34. Application of insane person's property for maintenance
35. Declaring insane person a trustee

#### *Offences in Reference to Insane Persons*

36. Ill-treatment of insane person in institution
37. Rescue and permitting escape from institution
38. Taking charge of insane person without licence
39. Ill-treatment of insane person in licensed house
40. Obstructing Visiting Committee
41. Obstructing execution of order for delivery or removal

#### *Treatment of Voluntary Patients in a Mental Hospital*

42. Provision for voluntary treatment without certification of certain persons
43. Provision for temporary treatment without certification of certain persons
44. Protection to persons acting under this Act

#### *Miscellaneous*

45. Prerogative of Crown
  46. Insane persons so found by inquisition
  47. Regulations
  48. Forms
- SCHEDULE: Forms

**CHAPTER 14.03**

**MENTAL TREATMENT ACT**

*(Acts 13 of 1956, 1 of 1958, 22 of 1959, 23 of 1961, 4 of 2003,  
8 of 2005 and 9 of 2011)*

**Commencement**

*[1 July 1956]*

**Short title**

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

**Interpretation**

2. In this Act—

**“approved social worker”** means—

- (a) a probation officer, a Community Service Officer employed in the Department of Social Services;
- (b) any person appointed by the Governor acting on the advice of Cabinet as such on the recommendation of the Chief Medical Officer and the Director, Social Services;  
*(Amended by Act 9 of 2011)*

**“Arrangement”** means an Arrangement made under section 3;

**“crime”** means any felony or misdemeanour;

**“criminal person of unsound mind”** means a person detained in custody by reason of his having been charged with an offence, and either found to have been insane at the time of such offence, or found or certified or otherwise lawfully proved to be unfit on the ground of his insanity to be tried for the same, and includes a person convicted of an offence and afterwards certified or otherwise lawfully proved to be insane;

**“emergency order”** means an order made by the Magistrate pursuant to section 7(4);

**“Government medical officer”** means a registered practitioner employed in the public service;

**“hospital”** means the public hospital at St. John’s or any place designated as such by order of the Governor;

**“insane person”** or **“person of unsound mind”** or **“patient”** includes an idiot and any other person of unsound mind;

“**institution**” means a hospital or other suitable place appointed as such by the Governor acting on the advice of Cabinet for the purposes of this Act; *(Amended by Act 9 of 2011)*

“**legal guardian**” means a person appointed by the High Court to be guardian of a patient;

“**licensed house**” means a house licensed for the reception of a person of unsound mind under this Act;

“**licensee**” means the person to whom a licence in respect of a licensed house is granted;

“**medical treatment**” includes nursing, medication, care, habilitation and rehabilitation under medical supervision; and “**treatment**” shall be construed accordingly;

“**mental health officer**” means a person appointed to act as a mental health officer by the Governor acting on the advice of Cabinet; *(Amended by Act 9 of 2011)*

“**mental hospital**” means a mental hospital to which a temporary patient, or a voluntary patient or a person who has been duly adjudged to be of unsound mind and a proper subject for confinement may be removed pursuant to an Arrangement;

“**patient**” means a person suffering or appearing to be suffering from mental disorder;

“**pauper patient**” means any insane person who is found wandering at large, or who is not under proper care or not under proper control, or who is likely to commit a crime;

“**psychopathic 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;

“**public health nurse**” means an officer appointed as such to the Government service and designated as such in the estimates of revenue and expenditure for Montserrat;

“**relative**” means any of the following persons—

- (a) son or daughter;
- (b) father or mother;
- (c) sister or brother;
- (d) grandparent;
- (e) grandchild;
- (f) uncle or aunt;
- (g) nephew or niece.



In deciding relationships for the purposes of the Act, any relationship of the half-blood shall be treated as a relationship of the whole blood.

**“removal order”** means an order made by the Governor under section 4;

**“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;

**“temporary patient”** means a person described in section 43;

**“unsound mind”** means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind and **“mentally disordered”**;

**“Visiting Committee”** means the Visiting Committee for licensed houses referred to in section 19;

**“voluntary patient”** means a person described in section 39.

*(Amended by Act 8 of 2005)*

### **Power to Governor to make Arrangement with Antigua**

3. (1) The Governor may on behalf of Montserrat enter into an Arrangement with Antigua upon such terms and subject to such conditions as they may consider appropriate for the reception and detention in, and discharge from, a mental hospital in Antigua of any person of unsound mind or voluntary patient or temporary patient in Montserrat.

(2) Any Arrangement made under this section may be varied or revoked by a subsequent Arrangement.

### **Power to Governor to order removal to mental hospital**

4. Where under the provisions of section 3 an Arrangement has been made, the Governor may by order under his hand (hereinafter referred to as **“a removal order”**) direct the removal from Montserrat of any person duly adjudged to be a person of unsound mind and a proper subject of confinement, to a mental hospital and such order shall be sufficient authority for the removal of such person of unsound mind from Montserrat.

### *Adjudication of Persons of Unsound Mind*

### **Enquiry as to lunacy**

5. (1) Any Magistrate, upon the information upon oath of any informant to the effect that the informant has good cause to suspect and believe and does suspect and believe some person to be of unsound mind and a proper subject for confinement, may, in any place which he deems convenient, examine such person, and, in the same place or elsewhere, may hold an enquiry as to the state of mind of such person.

For the purposes of such enquiry the Magistrate shall have the same powers as if the person alleged to be of unsound mind were a person against whom a complaint for an offence punishable on summary conviction has been laid:

Provided that, no person alleged to be of unsound mind shall be required to attend at any Magistrate's Court for examination by a Magistrate nor shall he be taken to any such court for such purpose.

(2) A Magistrate may, if he thinks fit, proceed with an enquiry under this section in the absence of the person alleged to be of unsound mind and without proof of the service of any summons upon such person.

(3) If, at any stage of an enquiry under this section, it shall be shown to the satisfaction of the Magistrate conducting such enquiry that the person alleged to be of unsound mind is a person whom it is expedient to put immediately under confinement pending the conclusion of the enquiry, it shall be lawful for such Magistrate either *proprio motu* or at the request of the informant—

- (a) to make a written order for the detention of such person during a period which shall not exceed fourteen days in an institution;
- (b) from time to time, on good cause shown to make further orders for such detention, in the like form, for periods none of which shall exceed eight days:

Provided that, no such person shall be detained under observation for more than two months at a time;

- (c) at any time, by order under his hand, to direct that the person detained be released.

(4) It shall be lawful for any person to whom the execution of an order made under the last preceding subsection is entrusted, to convey the person alleged to be of unsound mind therein mentioned to the specified place of detention and there to detain him during the period specified unless previous to the expiry of such period the release of the person alleged to be of unsound mind be ordered in due course of law.

(5) The Magistrate shall also appoint two government medical officers to examine the suspected person and shall furnish such government medical officers with all the information bearing on the mental state of such suspected person which he has been able to procure and such government medical officers shall, if they consider the facts warrant them in so doing, sign separate certificates certifying that in their opinion the suspected person is of unsound mind. Each such certificate shall specify in full detail the facts upon which the person signing it founds his opinion, and shall distinguish facts which he has himself observed from facts communicated by others. The person signing each certificate shall enquire of any persons able to give information as to the previous history of the suspected person, and shall state in his certificate all matters known to him which he deems likely to be of service with reference to medical treatment. No certificate shall have any effect under this Act which purports to be founded wholly on facts communicated by others.

(6) The informant referred to in subsection (1) shall, if required by any government medical officer appointed to examine the suspected person, by written notice served personally on him, attend at the time and place specified in such notice and give such information touching the mental condition of the suspected person as shall be in his power to give. Any such person who neglects or refuses to attend as and when so required or refuses to answer any question concerning the mental condition of the suspected person which may be put to him by the government medical officer enquiring into such mental condition shall on summary conviction be liable to a fine of \$750 or to imprisonment for a term not exceeding six months.

*(Amended by Act 4 of 2003)*

### **Admission for assessment and treatment**

6. (1) Notwithstanding the provisions of section 5, in any case where a Magistrate considers it expedient that a person with respect to whom an information on oath has been laid should be detained for assessment and/or treatment, he may by written order direct that such a person be forthwith received into an institution for assessment and/or treatment on the grounds that—

- (a) he is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment; and
- (b) in the case of psychopathic disorder or mental impairment, such treatment is likely to alleviate or prevent a deterioration of his condition; and
- (c) 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); and
- (d) he ought to be so detained and/or treated in the interests of his own health or safety or with a view to the protection of other persons; and
- (e) it is necessary for the health or safety of the patient or for the protection of other persons that he should be assessed or receive treatment and it cannot be provided unless he is detained under the provisions of this Act.

(2) An application made under subsection (1) in respect of a person alleged to be of an unsound mind may be made by—

- (a) the husband or wife or by a relative or legal guardian of the person alleged to be of an unsound mind; or
- (b) a mental health officer, public health nurse or approved social worker;

and shall be accompanied by two medical certificates issued by registered medical practitioners, one of whom must be a government medical officer.

(3) An application for admission for assessment and/or treatment shall be founded on the written recommendations in the prescribed form of two registered medical practitioners, one of whom must be a government medical officer including in each case a statement that in the opinion of the practitioner one or more of the conditions set out in subsection (1) are complied with; and each such recommendation shall include—

- (a) such particulars as may be prescribed of the grounds for that opinion so far as it relates to the conditions set out in paragraphs (a), (b), (c) and (d) of that subsection; and
- (b) a statement of the reasons for that opinion so far as it relates to the conditions set out in subsection (e), specifying whether other methods of dealing with the patient are available and, if so, why they are inappropriate.

(4) A person admitted to an institution in pursuance of an application for admission for assessment may be detained for a period not exceeding thirty days, 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 any provision of this Act.

(5) The Magistrate shall furnish the medical officer in charge of the institution with all of the information bearing on the mental state of the person detained which he has been able to procure.

(6) If the medical officer in charge of the institution or the Chief Medical Officer certifies that any person so detained under observation is fit for discharge, such person so detained shall be discharged with all convenient speed and the said officer shall notify the Magistrate accordingly within seven days of such discharge.

(7) If the medical officer in charge of the institution or the Chief Medical Officer signs a certificate in the manner and form and containing the particulars required under section 5(5) certifying that in his opinion the person so detained is of unsound mind the Magistrate shall proceed to hold an enquiry as to the state of mind of such person in accordance with the provisions of section 5:

Provided that, for all the purposes of this Act the said medical officer in charge of the institution shall be deemed to be a government medical officer appointed under section 5(5), and his certificate signed under this section shall be deemed to be a certificate signed by him under section 5(5).

(8) A Magistrate on being satisfied on enquiry that the person so detained requires medical treatment for his mental condition shall by written order direct that over such period of time stipulated in the order—

- (a) he be administered such treatment prescribed by—
  - (i) agreement of at least two medical practitioners, one of whom shall be a government Medical Officer; or
  - (ii) a psychiatrist:

Provided that, no treatment may be administered to the patient under paragraph (a) unless both practitioners agree on the form of treatment;

- (b) he be detained in an institution during part or the course of treatment;
- (c) he receives his treatment as an outpatient;
- (d) the Chief Medical Officer or psychiatrist establish and keep under review a treatment regimen for the person adjudged to be of unsound mind.

(9) In any case where a Magistrate considers it expedient he may without further enquiry by order extend the time during which treatment may be administered to a person adjudicated to be of unsound mind under sections 5 and 6.

(10) An application under subsection (9) shall be made by information on oath and may be made brought by the Chief Medical Officer or officer in charge of the institution.

*(Inserted by Act 8 of 2005)*

### **Admission for assessment and treatment in cases of emergency**

7. (1) In any case of urgent necessity, an application for admission for assessment and treatment may be made in respect of a person believed to be of unsound mind and is referred to as “**an emergency application**”.

(2) An emergency application may be made by information on oath to the Magistrate either by—

- (a) an approved social worker; or
- (b) by the husband or wife or other nearest relative of the person alleged to be of unsound mind;

and every such application shall include a statement that it is of urgent necessity for the patient to be admitted and detained and that compliance with the provisions of section (5) relating to applications would involve undesirable delay.

(3) An emergency application shall be sufficient in the first instance if founded on the written recommendation in the prescribed form of a registered government medical practitioner including a statement that in the opinion of the practitioner the conditions set out in section 6(1) are complied with.

(4) A Magistrate on being satisfied that it is expedient that such a person should be detained for assessment and treatment may by written order direct that such a person be forthwith received into an institution and—

- (a) be evaluated immediately by a psychiatrist or second registered medical practitioner who must submit a written recommendation in the prescribed form; and

(b) be administered such treatment prescribed by the psychiatrist or by agreement of both medical practitioners:

Provided that, where no psychiatrist is available no treatment may be administered to the patient unless both medical practitioners agree on the diagnosis and the form of treatment.

(5) An “**emergency order**” 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 institution unless the second medical recommendation required by subsection 4 is given to and received by the officer in charge of the institution.

(6) No person shall be subjected to treatment under this section for a period in excess of seven days unless an application is made to the Magistrate to hold an enquiry pursuant to section 5.

(7) If within the period specified in an emergency order the medical officer in charge of the institution certifies that the person so detained is fit for discharge such person so detained shall be discharged with all convenient speed and the said officer shall notify the Magistrate accordingly within seven days of such discharge.

(8) If within the period specified in an emergency order, the Chief Medical Officer or the Officer in charge of the institution, signs a certificate in the manner and form and containing the particulars required under section 5(5) certifying that in his opinion the person so detained is of unsound mind, the Magistrate shall proceed to hold an enquiry as to the state of mind of such person in accordance with the provisions of section 5:

Provided that, the certificate signed by the said medical officer shall be deemed to be a certificate signed by him under section 5(5).

(9) Where an application is made to the Magistrate to hold an enquiry pursuant to section 7(8), the provisions of section 6(9) and (10) shall apply *mutatis mutandis*.

*(Inserted by Act 8 of 2005)*

### **General provisions as to medical recommendation**

8. The recommendations required for the purposes of an application for the admission of any person to an institution shall be signed on or before the date of the application, and shall be given by practitioners who have personally examined the patient either together or separately, but where they have examined the patient separately not more than five days must have elapsed between the days on which the separate examinations took place.

*(Inserted by Act 8 of 2005)*

### **General**

9. The mental health officer may be assisted in the performance of his duties by any police officer of the Royal Montserrat Police Service particularly as they relate to detention of and restraint of a person suspected or adjudged to be of unsound mind.

*(Inserted by Act 8 of 2005 and amended by Act 9 of 2011)*

### **Admission of accused persons for observation**

**10. (1)** Whenever a Judge or a Magistrate has reason to believe that a person committed for trial before him or charged before him with an offence is of unsound mind, he may, for the purpose of obtaining evidence as to whether such person is or is not of unsound mind, by written order direct that such person be received into an institution, to be named in the order, and be there detained under observation during such period, not exceeding fourteen days, as to the Judge or Magistrate may seem expedient:

Provided that, on good cause shown such order may be enlarged for a further period or periods each of eight days at a time:

Provided further that, no order under this subsection shall be made in respect of persons who are not being kept in custody pending trial.

**(2)** When an order has been made under this section a certificate under the hand of the medical officer in charge of the institution shall be sufficient evidence of the facts therein stated concerning the state of mind of the person kept under observation and it shall not be necessary to prove the handwriting of such officer, but the Judge or Magistrate may examine any members of the staff of such institution who shall have had the patient under observation.

**(3)** Every person ordered under this section to be received into an institution for observation shall be received into the institution named in the order and be there detained under observation for the period stated in the order or for such shorter period as the Judge or Magistrate who made the order may direct, and it shall be lawful for any person to whom the execution of the order is entrusted to convey the person named therein to such institution.

### **False medical certificate**

**11.** Any government medical officer or registered medical practitioner who knowingly and wilfully in any certificate under this Act falsely states or falsely certifies anything, shall be guilty of a misdemeanour, and, on conviction thereof on indictment, shall be liable to a fine of \$500, and may also, if the court so think fit, be imprisoned for a term of one year.

*(Amended by Act 4 of 2003)*

### **Adjudication of person of unsound mind**

**12.** Where, upon such enquiry as is provided for by this Act, it appears to the Magistrate that any person is of unsound mind and a proper subject of confinement, and such medical certificates as by this Act are required of his unsoundness of mind have been given, the Magistrate may adjudge such person to be of unsound mind and a proper subject of confinement, and may make an order according to this Act for the detention of such person in an institution pending the making of a removal order in respect of such person.

### **Custody of person of unsound mind**

**13.** Where, under this Act, any person has been duly adjudged to be of unsound mind and a proper subject of confinement, a Magistrate may—

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- (a) make an order as provided in section 9; or
- (b) grant to any person residing in Montserrat a licence authorising such person to receive the person of unsound mind into some house specified in the licence, and situate within Montserrat and there to take charge of him; or
- (c) if it appears that the person of unsound mind is a pauper patient, make an order for the detention of such person in an institution pending the making of a removal order in respect of such person.

## Appeal

14. In case of any order under this Act adjudging any alleged insane person to be of unsound mind and a proper subject of confinement, and in case of a refusal so to adjudge, an appeal shall lie to the Court of Appeal, subject to the same conditions and with the same consequences as if the alleged insane person had been convicted of an offence punishable on summary conviction in a case in which an appeal would lie.

## *Institutions*

### Appointment of institutions

15. The Governor may, by proclamation, appoint the whole or any part of any building, house, or other place, with any out-houses, yards, gardens, grounds, or premises thereto belonging, to be an institution for the purposes of this Act.

### Escape from institution

16. The Superintendent of any institution or any officer or servant thereof, or any police officer or other peace officer, may retake any patient who is escaping from such institution, and may, within fourteen days after any escape, retake any patient who has escaped from such institution, and may return to the institution any patient so retaken, where he shall revert to his former custody.

### Transfer of persons from hospital to institution in Montserrat for observation

17. (1) Where the medical officer in charge of a hospital in Montserrat or any other medical officer duly authorised by the said medical officer in charge to act on his behalf has reason to suspect that any person in such hospital is of unsound mind he may by order in writing direct the transfer of such person to and his detention in an institution for the purpose of observation during such period not exceeding fourteen days as to him may seem expedient:

Provided that, on good cause shown such order may be enlarged for further periods none of which shall exceed eight days:



Provided further that, no such patient shall be detained under observation for more than two months at a time.

(2) The medical officer in charge of the said hospital or other medical officer duly acting on behalf of the said medical officer in charge, as the case may be, shall immediately on ordering the transfer and detention of a patient under the provisions of subsection (1) notify the Magistrate of such transfer and detention and furnish him with the grounds on which he has made the order, and such Magistrate shall either confirm or annul such order and within three days of such notification communicate his decision to such medical officer in charge of the aforesaid hospital or other medical officer, as the case may be, as well as to the medical officer in charge of the institution to which the patient has been transferred:

Provided that, if the Magistrate shall annul such order the patient shall forthwith be discharged from such institution.

(3) Where the medical officer in charge of an institution signs a certificate in the manner and form and containing the particulars required under section 5(5) certifying that in his opinion any person detained under the authority of subsection (2) is of unsound mind the Magistrate shall proceed to hold an enquiry into the state of mind of such person in accordance with the provisions of section 5:

Provided that, for all the purposes of this Act the said medical officer in charge of the institution shall be deemed to be a government medical officer appointed under section 5(5), and his certificate signed under this subsection shall be deemed to be a certificate signed by him under section 5(5).

(4) Every person ordered under this section to be received into an institution for observation shall be received into the institution named in the order and be there detained under observation for the period stated in the order or for such shorter period as the medical officer in charge of the hospital or other medical officer duly authorised by him to act on his behalf or the Magistrate, as the case may be, who made the order shall direct, and it shall be lawful for any person to whom the execution of the order is entrusted to convey the person named therein to the institution named therein.

### *Licensed Houses*

#### **Duty of licensee**

18. Where a licence in respect of any patient is granted under this Act, the licensee shall be bound to take proper care of such patient until he dies or the licensee is discharged under this Act.

#### **Visiting Committee**

19. Regulations made under section 47 shall provide for the constitution by the Governor of a Visiting Committee for licensed houses consisting of such

number of persons appointed at such times, in such manner, for such periods and with such functions as may be prescribed.

### **Records**

**20.** The licensee of every licensed house shall keep such books, make such entries, furnish such returns, and give such notices as may from time to time be required by regulations made under this Act.

### **Escape from licensed house**

**21.** The licensee of any licensed house, or any servant of or person authorised by such licensee, or any police officer or other peace officer, may retake any patient who is escaping from such licensed house, and may within fourteen days after any escape, retake any patient who has escaped from such licensed house and may return to such licensed house any patient so retaken, where he shall revert to his former custody.

### **Absence on trial**

**22. (1)** Subject to the provisions of this Act, the Governor may allow any patient confined in a licensed house to be absent from such licensed house upon trial for such period as he thinks fit, and may at any time grant an extension of such period.

**(2)** No patient shall be allowed to be absent on trial under this section unless some person enters into an agreement approved by the Governor to take charge of such patient.

**(3)** If any patient allowed to be absent on trial from a licensed house under this section does not return at or before the expiration of the allowed period of absence, then, unless a certificate signed by a government medical officer certifying that such patient may safely be permitted to be at large is sent to the Magistrate and also, where practicable, to the licensee of such licensed house, such patient may at any time within fourteen days from the expiration of such allowed period, be retaken as if he had escaped from such licensed house, or, in case the licensee from whose custody the patient was allowed to be absent is unable or unwilling to resume the care and custody of such patient, may be dealt with as a person duly adjudged under this Act to be of unsound mind and a proper subject of confinement.

### **Death of patient**

**23.** Notice of the death of any patient confined in a licensed house shall be given forthwith by the licensee to the Coroner and shall also be given by the licensee as soon as may be to the nearest known relative of the patient.

### **Discharge of licensee**

**24. (1)** When any patient is confined in a licensed house, the licensee, if desirous of being discharged of the care of such patient, shall serve notice of such his desire upon the Magistrate.

(2) At the expiration of fourteen days from the service of such notice, the licensee shall be discharged, and such patient may be dealt with as a person duly adjudged under this Act to be of unsound mind and a proper subject of confinement.

### **Removal of patient at request of friends**

25. Where it appears to a Magistrate that the persons at whose expense a patient is maintained in a licensed house are desirous that the patient should be removed from such licensed house, and that provision has been made for his care and custody in a mental hospital or in another licensed house, the Magistrate may—

- (a) where provision has been made for the care and custody of the patient in a mental hospital, order such patient to be removed from the licensed house wherein he is then confined to an institution pending the making of a removal order in respect of such person; or
- (b) where the patient is to be removed from one licensed house to another licensed house order the patient to be removed to such other licensed house,

and shall in either case discharge the licensee of the first-mentioned licensed house accordingly.

### **Removal of patient ill-treated or neglected**

26. (1) Where, upon the information upon oath of any person, it appears to a Magistrate that a patient confined in a licensed house is ill-treated or neglected, the Magistrate may order the patient to be removed either to an institution pending the making of a removal order in respect of such patient or to another licensed house, and thereupon the licensee of the first-mentioned licensed house shall be discharged.

(2) Where an order has been made under subsection (1) for the removal of a patient from a licensed house to an institution or to another licensed house the Magistrate shall issue a warrant authorising such removal.

### **Release of patient**

27. (1) Where, upon the information upon oath of any person, it appears to a Magistrate that a patient confined in a licensed house is no longer a proper subject of confinement, such Magistrate may discharge the licensee and order him to release the patient, or may himself release the patient.

(2) Any licensee disobeying an order made under this section shall be liable, on summary conviction, to a fine of \$200. Such conviction shall not be a bar to any action in respect of the same wrong.

*(Amended by Act 4 of 2003)*

### Appeal by licensee

28. Where, under this Act, the Magistrate orders the removal of a patient from a licensed house on the ground of ill-treatment or neglect, or orders a patient confined in a licensed house to be released, the licensee may appeal against such order, subject to the same conditions and with the same consequences as if he had been a party against whom a conviction was made within the meaning of the Magistrate's Court Act.

### Appeal where order refused

29. Where, upon information being laid under this Act that a patient confined in a licensed house is ill-treated or neglected, or that a person confined in a licensed house as a patient ought to be released, a Magistrate refuses to make any order, an appeal shall lie to the Court of Appeal, subject to the same conditions and with the same consequences as if the licensee had been charged with an offence, punishable on summary conviction and the Magistrate had refused to convict.

### Execution of order of removal

30. Where an order for the removal of a patient from a licensed house has been made, the court, Judge, or Magistrate making the order may issue a warrant for the execution of the order directed to any person or persons whom such court, Judge or Magistrate thinks fit. Any person shall, if required by any one to whom the warrant is directed, aid and assist in the execution of the warrant.

## *Interim Orders*

### Interim order in case of appeal

31. Where notice of appeal under this Act has been given—

- (a) the Magistrate may, if he thinks fit, suspend the execution of any order made by him until the decision of the appeal, or for any shorter period, and upon such terms and conditions, if any, as he thinks fit; and
- (b) any Judge, upon the application of the appellant, and, if he thinks fit, without any notice of the application being served upon the respondent, may, at any time, and notwithstanding any previous order of a Judge or Magistrate, make such order, subject to such terms and conditions, if any, as he thinks fit, as to the care or custody or allowing to be at large, until the decision of the appeal or for any shorter period, of the person alleged or adjudged to be or confined as a person of unsound mind:

Provided that, upon an appeal being or being deemed to be abandoned, any order made under this section shall determine, and the order appealed against shall take effect.

### *Criminal Persons of Unsound Mind*

#### **Prisoners of unsound mind**

**32.** Where any person being in custody as a criminal person of unsound mind is removed from Montserrat under the provisions of the Colonial Prisoners Removal Act, 1884, the time during which such criminal person of unsound mind, if under sentence of imprisonment, is detained in a hospital for criminal persons of unsound mind or other place of detention shall be reckoned as having been served under such sentence.

#### **Insanity at expiration of sentence**

**33.** When the term of imprisonment to which a person confined in a hospital for criminal persons of unsound mind or other place of detention is liable expires while such person is in custody in such hospital or other place of detention, then unless the medical officer in charge of the said hospital or other place of detention, as the case may be, by writing under his hand, certifies that such person may safely be allowed to be at large, such person shall, at the expiration of his term of imprisonment, be deemed to be a pauper patient, and may be detained in a mental hospital as a pauper patient.

### *Maintenance of Insane Persons*

#### **Application of insane person's property for maintenance**

**34. (1)** In all cases notwithstanding any previous order made under this section a Judge of the High Court, and in cases where the property of an insane person is of less value in the whole than the sum of \$750, or the annual value of such property is less than \$200, a Magistrate, upon the application of any person, may in his discretion and having regard to all the circumstances of the case and in particular the financial circumstances of the insane person, make an order as to the application of any property of a person confined under this Act, or the income thereof, in or towards the expenses of the maintenance and support of such person, or in or towards recouping the expenses of his past maintenance and support, or such portion of either of these expenses as the Judge or Magistrate thinks fit. The expenses of such maintenance and support, or past maintenance and support, to the extent to which they are ordered by a Judge or a Magistrate hereunder to be paid out of the property of an insane person or the income thereof, shall be in equity a charge upon the real estate of the insane person in the same manner as if he had power to charge, and by writing under his hand had agreed to charge, his real estate therewith.

(2) The application to the High Court shall be by motion or petition in a summary way, or in such other manner as such Court, by a general order made under this Act, directs.

(3) Any application under this section shall be served upon such persons and in such manner as the Court or Magistrate directs.

(4) Whether any order under this section is made, suspended, or refused, the Court or Magistrate shall make such order as is just as to the costs of the applicant, and such costs shall be recoverable by distress and sale of the insane person's personal estate, and shall be a charge in equity upon his real estate in the same manner as if he had power to charge, and by writing under his hand had agreed to charge, his real estate therewith.

*(Amended by Act 4 of 2003)*

### **Declaring insane person a trustee**

35. Where, under this Act, a Judge of the High Court or a Magistrate orders the property of any insane person or the income thereof to be applied in or towards the expenses of his maintenance or support, or any portion thereof such Judge or Magistrate may declare that such person holds such property or income upon trust to obey the orders of the Judge or Magistrate.

### *Offences in Reference to Insane Persons*

### **Ill-treatment of insane person in institution**

36. Any Superintendent, officer, nurse, attendant, servant or other person employed in any institution who strikes, ill-treats or wilfully neglects any insane person or patient confined in such institution shall be liable, on summary conviction to a fine of \$500, or to imprisonment for six months, or to both such fine and imprisonment.

*(Amended by Act 4 of 2003)*

### **Rescue and permitting escape from institution**

37. (1) Any person who rescues any insane person or patient while being conveyed to or while confined in any institution under this Act, and any officer or servant of any such institution who secretes, or through wilful neglect or connivance permits to escape, any insane person or patient confined in any such institution under this Act, shall be guilty of a misdemeanour and, on conviction thereof on indictment, shall be liable to be imprisoned for five years.

(2) Any officer or servant of any institution who carelessly permits any person confined therein under this Act to escape shall be liable, on summary conviction, to a fine of \$500.

*(Amended by Act 4 of 2003)*

### **Taking charge of insane person without licence**

**38. (1)** No private person shall undertake the care or custody of any insane person unless he first obtains, in respect of such insane person, a licence under this Act.

**(2)** Any person acting in contravention of this section shall be guilty of a misdemeanour and, on conviction thereof on indictment, shall be liable to a fine of \$750, or to imprisonment for two years, or to both such fine and imprisonment.

*(Amended by Act 4 of 2003)*

### **Ill-treatment of insane person in licensed house**

**39.** Where an insane person is confined in any licensed house, the licensee, or any nurse, servant, or other person employed in such house or by the licensee, who strikes, ill-treats, or wilfully neglects such insane person shall be liable, on summary conviction, to a fine of \$500, or to imprisonment for six months.

*(Amended by Act 4 of 2003)*

### **Obstructing Visiting Committee**

**40.** Whosoever resists or obstructs any member of the Visiting Committee while visiting or attempting to visit a licensed house, shall be liable on summary conviction, to a fine of \$250, or to imprisonment for three months.

*(Amended by Act 4 of 2003)*

### **Obstructing execution of order for delivery or removal**

**41.** Whosoever obstructs any person acting in execution of an order for the delivery of an insane person to an institution or licensed house, or for the removal of an insane person from an institution or a licensed house shall be liable, on summary conviction, to a fine of \$750, or to imprisonment for six months.

*(Amended by Act 4 of 2003)*

## *Treatment of Voluntary Patients in a Mental Hospital*

### **Provision for voluntary treatment without certification of certain persons**

**42. (1)** Any person who is desirous of voluntarily submitting himself to treatment for mental illness in a mental hospital (hereinafter referred to as a “voluntary patient”) and who makes a written application to the Governor for the purpose, may without being adjudicated a person of unsound mind under this Act or an order issued thereunder, be sent, in accordance with the terms of an Arrangement, as a voluntary patient to a mental hospital.

**(2)** A voluntary patient received into a mental hospital under any Arrangement may upon giving to the medical officer in charge thereof seventy

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two hours' notice in writing leave the said hospital at the expiration of the period of such notice.

(3) A voluntary patient shall by virtue of his application for admission to a mental hospital be deemed to consent to his removal from Montserrat to a mental hospital and, subject to the provisions of subsection (2), shall undertake to remain therein until discharged in accordance with the terms of an Arrangement. The said patient shall also undertake to conform to the rules regulating the obligations, conduct and discipline of persons detained for treatment in the mental hospital, and, subject as aforesaid, shall further undertake not to leave the said hospital without being discharged in the manner hereinbefore provided.

(4) If any voluntary patient dies in a mental hospital, or departs therefrom without being discharged or giving notice, as required by this section, the Governor shall be notified of the occurrence of any of these events in the manner prescribed by an Arrangement.

### **Provision for temporary treatment without certification of certain persons**

43. (1) Subject to the provisions of this section, a person who is suffering from mental illness and is likely to benefit by temporary treatment but is for the time being incapable of expressing himself as willing or unwilling to receive such treatment (hereinafter referred to as a “**temporary patient**”) may, on a written application duly made in accordance with the provisions of this section but without being adjudicated a person of unsound mind under this Act or an order issued thereunder, be received as a temporary patient in a mental hospital for the purpose of treatment therein.

(2) An application under this section which shall be in duplicate shall be in the Form numbered 17 in the Schedule, shall be made to the Governor and shall, if possible, be made by the husband or wife, or by a relative or guardian of the temporary patient or on the request of the husband or wife or, if a relative or guardian, by a registered medical practitioner, and if the application is not so made, it shall contain a statement of the reason why it is not so made, of the connection of the applicant with the temporary patient and of the circumstances in which he makes the application.

(3) The application shall be accompanied by a recommendation in duplicate in the Form numbered 18 in the Schedule, signed by two registered medical practitioners of whom one shall be a government medical officer.

(4) On the receipt of an application accompanied by a recommendation as provided in subsection (3), the Governor shall take steps in accordance with the provisions of an Arrangement to have the temporary patient received into a mental hospital for a period not exceeding six months.

(5) Each of the registered medical practitioners by whom a recommendation under this section is to be made shall, before signing the recommendation, examine the temporary patient either separately or in conjunction with the other and shall specify in the recommendation the date on



which he so examined the said temporary patient and the grounds on which he bases his recommendation.

(6) A recommendation shall be of no effect for the purposes of this section if there is a greater interval than five clear days between the dates on which the temporary patient was examined by the two registered medical practitioners respectively and any such recommendation shall cease to have effect on the expiration of fourteen days from the date on which the temporary patient was examined by the two registered medical practitioners, or if he was examined by those practitioners on two different dates, on the expiration of fourteen days from the later of those dates.

(7) Where a temporary patient is sent under this section to a mental hospital a copy of the application and of the recommendation accompanying the application shall be forwarded to the person in charge of the mental hospital into which the temporary patient is to be received. The person in charge of the said mental hospital shall upon the signed request of any person who considers himself to be unjustly detained under such application or recommendation furnish to him or to his authorised representative free of cost a copy of such application or recommendation.

(8) If a temporary patient dies in or departs from the mental hospital where he was residing, notice of the fact shall be given to the Governor in accordance with the provisions of the Arrangement.

### **Protection to persons acting under this Act**

**44. (1)** Where a person has laid an information under section 5 or signed or carried out or done any act with a view to signing or carrying out an order purporting to be an adjudication order or any report, application, recommendation or certificate purporting to be a report, application, recommendation or certificate under this Act or has done anything in pursuance of this Act he shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground unless he has acted in bad faith or without reasonable care.

(2) No proceedings, civil or criminal, shall be brought against any person in any court in respect of any such matter as is mentioned in subsection (1), without the leave of the High Court, and leave shall not be given unless the Court is satisfied that there is substantial ground for the contention that the person against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

(3) Notice of any application under subsection (2) shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application.

(4) Where on the application under this section leave is given to bring any proceedings and the proceedings are commenced within four weeks after the date on which leave was so given, the proceedings shall for the purpose of the Public Authorities Protection Act, be deemed to have been commenced on

the date on which notice of the application was given to the person against whom the proceedings are to be brought.

### *Miscellaneous*

#### **Prerogative of Crown**

**45.** Nothing in this Act shall prejudice any right or prerogative of Her Majesty, or of the Governor on behalf of Her Majesty.

#### **Insane persons so found by inquisition**

**46.** Nothing in this Act shall apply to insane persons so found by inquisition.

#### **Regulations**

**47.** The Governor acting on the advice of Cabinet may make regulations—

- (a) for the maintenance and control of institutions and for the admission to and discharge of patients from such institutions;
- (b) for the constitution of a Visiting Committee for licensed houses in the manner provided by section 19;
- (c) as to the books to be kept by the licensee of a licensed house, the entries to be made therein, and the returns and notices to be furnished and given by such licensee;
- (d) generally for carrying into effect the provisions of this Act;
- (e) prescribing the forms to be used in connection with any provision of this Act; (*Inserted by Act 8 of 2005*)
- (f) amending or adding any Schedule to this Act. (*Inserted by Act 8 of 2005*)

*(Amended by Act 9 of 2011)*

#### **Forms**

**48.** The forms contained in the Schedule may be used in all cases to which they are applicable, but no such form shall in any case be obligatory.

**SCHEDULE**

FORM 1

*(Section 4)*

MENTAL TREATMENT ACT

**REMOVAL ORDER BY GOVERNOR**

Montserrat.

To all Constables in Montserrat

and

To the officer in charge of the mental hospital in.....

WHEREAS by an order of the Magistrate made on the ..... day of ..... A.B. of ..... was adjudged to be a person of unsound mind and a proper subject of confinement, and was by the said order detained in an institution pending the making of an order for his removal to a mental hospital.

NOW, THEREFORE, I do hereby order and command you the said constables to remove the said ..... from Montserrat for the purpose of conveying him to the mental hospital in .....

AND for such removal from Montserrat this shall be your sufficient authority.

Dated this .....day of ....., 20 .....

Governor

\_\_\_\_\_

## FORM 2

*(Section 5(1))*

## MENTAL TREATMENT ACT

**INFORMATION UPON OATH**

MONTSEERRAT.

A.B., of ..... informs the undersigned Magistrate that he has good cause to suspect and believe and does suspect and believe that D.E., of ..... is a [pauper patient] person of unsound mind and a proper subject of confinement.

Taken and sworn  
this ..... day  
of .....  
before me, }

Informant

Magistrate

## FORM 3

*(Section 5(5))*

## MENTAL TREATMENT ACT

**MEDICAL CERTIFICATE**

MONTSEERRAT.

I, R.K., a government medical officer, and being in actual practice as a (Physician, Surgeon or Apothecary, as the case may be) having been appointed by the Magistrate to examine ..... A.B. of ..... hereby certify that I, on the ..... day of ..... at ..... personally examined the said A.B. and I hereby certify that the said A.B. is a person of unsound mind and a proper subject of confinement, and I have formed this opinion upon the following grounds, namely—

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

3. I have made enquiries of all persons known to me who seem likely to be able to give information as to any facts of the previous history of the said A.B. likely to be of service with reference to the medical treatment. The following statement contains all such facts known to me:

STATEMENT

*(If any particulars in this statement are not known, this is to be stated).*

Name of patient and 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.

Name and Christian name and place of abode of nearest known relative of the patient and degree of relationship.

*(Add any other facts proper to be stated).*

(Signed) .....R.K.

*(Place of abode)*

Dated this .....day of ....., 20.....

\_\_\_\_\_

FORM 4

(Sections 12 and 13(a))

MENTAL TREATMENT ACT

**ADJUDICATION OF LUNACY AND COMMITTAL TO AN INSTITUTION  
PENDING MAKING OF A REMOVAL ORDER**

MONTSEERRAT.

A.B. Informant, D.E. Respondent.

(Date) .....

WHEREAS on the ..... day of ....., A.B., of ..... informed me the undersigned Magistrate that he had good cause to suspect and believe and did suspect and believe that D.E., of ....., was a person of unsound mind and a proper subject of confinement:

AND WHEREAS it appears to me that the said D.E. is a person of unsound mind and a proper subject of confinement:

AND WHEREAS, as required by the abovementioned Act, the medical certificates hereunto annexed of the unsoundness of mind of the said D.E. have been given.

NOW, THEREFORE, I do hereby adjudge the said D.E. to be a person of unsound mind and a proper subject of confinement and do hereby order that the said D.E. be detained in an institution at ..... pending the issue of a removal order in respect of the said D.E.

Magistrate

\_\_\_\_\_

FORM 5

*(Section 13(b))*

MENTAL TREATMENT ACT

**ADJUDICATION OF LUNACY AND COMMITTAL TO LICENSED HOUSE**

MONTSERRAT.

A.B. Informant, D.E. Respondent.

(Date) .....

WHEREAS on the ..... day of ....., 20....., A.B., of ....., informed me the undersigned Magistrate that he had good cause to suspect and believe, and did suspect and believe D.E., of ....., to be a person of unsound mind and a proper subject of confinement:

AND WHEREAS as required by the abovementioned Act the medical certificates hereunto annexed of the unsoundness of mind of the said D.E. have been given:

AND WHEREAS F.G., of ..... has offered to undertake the care and custody of the said D.E., in his house situate at ..... and has requested to have a licence granted to him for that purpose:

AND WHEREAS I am of opinion that the said F.G. is a proper person to have the care and custody of the said D.E., and that his said house is suitable for the reception of the said D.E.

NOW, THEREFORE, I do hereby adjudge the said D.E. to be a person of unsound mind and a proper subject of confinement and I do hereby grant to the said F.G. a licence to receive the said D.E. into his said house and there to take care and custody of him the said D.E. and I do hereby order that the said D.E. be detained as a person of unsound mind in the said house of the said F.G., in the care and custody of the said F.G., subject to the provisions of the abovementioned Act.

Magistrate

\_\_\_\_\_

FORM 6

(Section 13(c))

MENTAL TREATMENT ACT

**ORDER OF COMMITTAL OF PAUPER PATIENT TO AN INSTITUTION  
PENDING THE MAKING OF A REMOVAL ORDER**

MONTSERRAT.

A.B. Informant, D.E. Respondent.

(Date) .....

WHEREAS on the ..... day of ....., 20....., A.B.,  
of ..... Informed me the undersigned Magistrate  
that he had good cause to suspect and believe and did suspect and believe that D.E.  
was a pauper patient and a proper subject of confinement:

AND WHEREAS, as required by the abovementioned Act the medical certificates  
hereunto annexed of the unsoundness of mind of the said D.E. have been given.

NOW, THEREFORE, I do hereby adjudge the said D.E. to be a pauper patient  
and a proper subject of confinement and I do hereby order that the said D.E. be  
detained in an institution at ..... pending the issue of a removal order  
in respect of the said D.E.

Magistrate

\_\_\_\_\_



FORM 7

*(Section 24)*

MENTAL TREATMENT ACT

**NOTICE BY LICENSEE DESIRING TO BE DISCHARGED**

MONTSERRAT.

To T.M. Magistrate

I, E.F., to whom on the ..... day of ..... a licence was granted by ..... to receive into my house, situate in ..... one A.B., a patient, and there to take the care and custody of the said A.B., do hereby give you notice that I desire to be discharged of the care and custody of the said A.B.

E.F.

Witness D.H. of .....

Date .....

\_\_\_\_\_

## FORM 8

(Section 25)

## MENTAL TREATMENT ACT

**ORDER FOR REMOVAL OF PERSON OF UNSOUND MIND  
FROM LICENSED HOUSE AT REQUEST OF FRIENDS**

MONTSERRAT.

(Date) .....

WHEREAS by an order made on the ..... day of .....  
by ..... Magistrate a licence was granted to E.F.,  
of ..... to receive one A.B., a patient into his house  
situate at ..... and there to take the care and custody of  
the said A.B.:

AND WHEREAS it appears to me, the undersigned Magistrate, that the said A.B.  
is maintained in the said licensed house of the said E.F. at the expense of J.H. and  
K.L. and that the said J.H. and K.L. are desirous that the said A.B. should be removed  
from the licensed house of the said E.F. to the house of one Q.R. situate  
at .....

*\* (Where provision has been made for the care and custody of a patient  
in a mental hospital use the words shown below).*

AND WHEREAS the said Q.R. has applied to me for a licence to enable him to  
receive the said A.B. at his said house, and there to take the care and custody of the  
said A.B.:

AND WHEREAS I am of opinion that the said Q.R. is a proper person to have the  
care and custody of the said A.B. and that his said house is suitable for the reception  
of the said A.B.

NOW, THEREFORE, I, the said Magistrate do hereby discharge the said E.F. of  
the care and custody of the said A.B. and do hereby order that the said A.B. be  
removed from the licensed house of the said E.F. to the said house of the said Q.R.  
And I do hereby grant to the said Q.R. a licence to receive the said A.B. into his said  
house, and there to take the care and custody of him the said A.B. And I do hereby

order that the said A.B. be detained as a patient in the said house of the said Q.R. in the care and custody of the said Q.R. subject to the provisions of the above-mentioned Act.

Magistrate.

\* And Whereas provision has been made for the care and custody of the said A.B. in a mental hospital.

NOW, THEREFORE, I the said Magistrate do hereby discharge the said E.F. of the care and custody of the said A.B. and do hereby order that the said A.B. be removed from the licensed house of the said E.F. to an institution at ..... pending the making of a removal order in respect of the said A.B.

Magistrate.

FORM 9

(Section 26)

MENTAL TREATMENT ACT

COMPLAINT OF ILL-TREATMENT (OR NEGLECT) OF A PERSON OF UNSOUND MIND IN A LICENSED HOUSE

MONTSEERRAT.

..... of ....., informs ..... Magistrate, that A.B. a patient confined in the licensed house of E.F., situate at ..... is ill-treated (or neglected).

Taken and sworn }  
this ..... day }  
of ..... }  
before me, }

Informant

Magistrate

## FORM 10

*(Section 26)*

## MENTAL TREATMENT ACT

**ORDER FOR REMOVAL ON GROUND OF ILL-TREATMENT (OR NEGLECT)  
OF A PERSON OF UNSOUND MIND FROM A LICENSED HOUSE**

MONTSEERRAT.

On this ..... day of ....., at .....  
 complaint was made to me the undersigned Magistrate that A.B. a patient confined in  
 the licensed house of E.F., situate at ..... is  
 ill-treated (or neglected) and I, having heard the said complaint do hereby order that  
 the said E.F. be discharged of the care and custody of the said A.B. and do hereby  
 further order that the said A.B. be removed from the licensed house of the said E.F.

*(Where patient is to be sent to a mental hospital  
 use the following words):*

to an institution pending the making of a removal order in respect of the said A.B. and  
 I hereby discharge the said E.F. of the care and custody of the said A.B.

*(Where patient is to be sent to another licensed house  
 use the following words):*

to the house of Q.R.; And I do hereby grant the said Q.R. a license to receive the said  
 A.B. into his house and there to take the care and custody of him the said A.B. And I  
 do hereby further order that the said E.F. be discharged of the care and custody of the  
 said A.B. and that the said A.B. be detained as a patient in the said house of the said  
 Q.R. in the care and custody of the said Q.R. subject to the provisions of the above-  
 mentioned Act.

Date .....

Magistrate

FORM 11

(Section 26(2))

MENTAL TREATMENT ACT

**WARRANT FOR THE REMOVAL OF A PERSON  
OF UNSOUND MIND FROM A LICENSED HOUSE**

MONTSERRAT.

To T.S. .... W.V. .... Y.Z. .... and  
To Q.R. ....

Whereas by an order made on the ..... day of .....  
.....by me the undersigned Magistrate, I did order that A.B., a patient  
confined in the licensed house of E.F. situate at ..... be  
removed from the said licensed house of the said E.F. to (\* the house of you the  
above-named Q.R., situate at .....)/(an  
institution situate at ..... pending the making of  
an order of removal in respect of the said A.B.).

These are, therefore, to authorise you the said T.S., W.V. and Y.Z., or any or  
either of you, to remove the said A.B. from the said licensed house of the said E.F.,  
and him to deliver (\*to you the said Q.R., at the said house of you the said Q.R., where  
you the said Q.R. are to receive and take the care and custody of the said A.B.)/(\*to  
the institution aforesaid); And for so doing this shall be your warrant.

And if required in this behalf by you, or any of you, all constables, peace officers,  
and all other of Her Majesty's subjects are to be aiding and assisting in the execution  
of this warrant.

Given under my hand this ..... day of ....., 20.....

Magistrate

\* Delete words not applicable.

## FORM 12

*(Section 27)*

## MENTAL TREATMENT ACT

**ORDER FOR THE RELEASE OF A PATIENT FROM A LICENSED HOUSE**

MONTSERRAT.

On this ..... day of ..... at .....  
 complaint was made before me the undersigned Magistrate that A.B., a patient  
 confined in the licensed house of E.F. situate at ..... is no longer  
 a proper subject of confinement, and it appearing to me, having heard the said  
 complaint, that the said A.B. is no longer a proper subject of confinement, I do hereby  
 discharge the said E.F. of the care and custody of the said A.B., and do hereby order  
 him the said E.F. to release the said A.B., and him the said A.B. to suffer to go at large  
 whithersoever he will.

Date .....

Magistrate

FORM 13

*(Section 31)*

MENTAL TREATMENT ACT

**INTERIM ORDER BY A MAGISTRATE AFTER NOTICE OF APPEAL**

*(This Order may be written at the foot of the Order  
to which it relates).*

MONTSERRAT.

WHEREAS the above-named D.E. has duly given notice of appeal against the above order:

AND WHEREAS under the circumstances of the case it appears to me fit and proper to suspend the execution of the above order for the time and subject to the condition hereinafter mentioned.

NOW, THEREFORE, I do order that the above order be suspended until the appeal against it of the said D.E. is heard and determined or is deemed to be abandoned: Provided that, this suspension is subject to the following condition, namely, that the said D.E. does reside with his uncle P.K. in the village of ....., and in case the said D.E. shall cease so to reside, this order of suspension shall become void, and the above order shall revive and be of full force and effect.

Date .....

Magistrate

\_\_\_\_\_

FORM 14

(Section 34)

MENTAL TREATMENT ACT

**ORDER OF MAGISTRATE FOR APPLICATION OF INCOME  
OF INSANE PERSON'S REAL ESTATE TOWARDS HIS MAINTENANCE**

MONTSEERRAT.

In the matter of A.B. a person of unsound mind.

(Date) .....

Upon the application of S.L.C. .... it appearing to me that A.B. has since the ..... day of ..... been maintained, and that he is still maintained, at ..... as a patient, and that he is entitled to certain houses situate at ..... in Montserrat, and now let to ..... at rents amounting in the aggregate to the sum of (\$45) per annum, and that the total annual value of such houses is less than \$48, and that the said A.B. is possessed of no other property; and it also appearing to me that the expenses of the past maintenance and support of the said A.B. in the said ..... exceed the amount of the rents in arrear of the said houses, and that the yearly expenses of his future maintenance and support will exceed the yearly rents which will accrue to the said A.B.

Now, therefore, I do order that the said rents in arrear be applied in discharge of the past maintenance and support of him the said A.B., and that the said rents hereafter to accrue be applied in payment of the expenses of the future maintenance and support of the said A.B. so long as he lives and continues to be an inmate of the said ....., and I do declare that the said A.B. holds the said property and the right to receive the said rents accrued, or hereafter to accrue, on trust to obey this order, and accordingly I do order that the right to sue for and recover the said rents in arrear and the rents that shall accrue, vest in the said S.L.C. and any unapplied surplus in the hands of the said S.L.C. upon the discharge of the said A.B. from the said ..... or upon his death is to be held upon trust for the said A.B. his executors, administrators and assigns.

Magistrate



## FORM 15

*(Section 35)*

## MENTAL TREATMENT ACT

**ORDER FOR SALE OF INSANE PERSON'S REAL ESTATE,  
AND APPLICATION FOR PROCEEDS FOR HIS MAINTENANCE**

MONTSERRAT.

In the matter of A.B., a person of unsound mind.

(Date) .....

Upon the application of ....., it appearing to me ..... Magistrate, that A.B. has since the ..... day of ..... been maintained and he still is maintained in the ..... at ..... as a (pauper) patient, and that he is seised of an estate in fee simple in possession of one undivided moiety of and in a certain cottage, and premises situate at ..... to the other undivided moiety of which E.F., of ..... is entitled for an estate in fee simple in possession, and that the value of the said undivided moiety of the said A.B. is less than the sum of \$480, and that the said A.B. is possessed of no other property and it also appearing to me that the expenses of the past maintenance and support of the said A.B. in the said ..... from the said ..... day of ....., to the ..... day of ....., amount to the sum of (\$200). And the said E.F. offering to purchase the said undivided moiety of the said A.B. for the sum of (\$400). And I being of opinion that the said offer of the said E.F. is fair and reasonable, and that it is expedient to accept the same, do order that the same be accepted and carried into effect, and do declare that the said A.B. holds the said undivided moiety upon trust to obey this order. And the said E.F. having paid the sum of (\$400) to the said S.L.C., and the said S.L.C. undertaking to apply the sum of (\$200), part thereof in payment of the expenses of the past maintenance and support of the said A.B. from the said ..... day of ....., to the said ..... day of ....., and from time to time to apply the sum of (\$200) residue of the said sum of (\$400) in or towards the expenses of the maintenance and support of the said A.B. from the last mentioned day, and upon the discharge from the said ..... or death of the said A.B. to hold any unapplied surplus in his hands upon trust for the said A.B. his executors, administrators, or assigns, I do order that the said undivided moiety of the said A.B. of

and in the said cottage and premises do vest in the said E.F. his heirs and assigns for all the estate and interest which the said A.B. has therein.

Magistrate

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FORM 16

(Section 42(1))

MENTAL TREATMENT ACT

**APPLICATION BY A VOLUNTARY PATIENT TO THE GOVERNOR  
TO SECURE HIS ADMISSION TO A MENTAL HOSPITAL**

MONTSERRAT.

To the Governor of Montserrat.

I, the undersigned, do hereby request you to secure my admission, as a voluntary patient, to a mental hospital and I hereby consent to my removal from Montserrat to the said hospital.

I undertake—

(a) to remain in the mental hospital until duly discharged unless I give notice of my intention to leave the same as required by section 39(2);

(b) to conform to the rules regulating the obligations, conduct and discipline of persons detained for treatment in the said hospital and to the terms of any Arrangement made under the above-named Act;

(c) subject to my right to leave the mental hospital at any time on giving and at the expiration of, the required notice, not to leave the said hospital without being discharged therefrom in accordance with the terms of an Arrangement hereinbefore mentioned.

(Signed) .....

Dated .....

FORM 17

(Section 43(2))

MENTAL TREATMENT ACT

**FORM OF APPLICATION FOR RECEPTION  
OF A TEMPORARY PATIENT IN MENTAL HOSPITAL**

MONTSERRAT.

To the Governor of Montserrat.

(1) I, ....., hereby request you to take such steps as may be necessary for the reception of ..... as a temporary patient into the mental hospital at ..... for a period not exceeding six months.

(2) I am related to the said ..... in the following manner—

*or*

I am a registered medical practitioner in Montserrat. The said ..... is well known to me and I make this application at the request of ....., who is related to the said ..... in the following manner—

*or*

I am not related to the said ..... . The reasons why this application is not made by a relative of the said ....., and my connection with him, and the circumstances under which I make this application, are as follows:

(3) Annexed hereto is a recommendation for the temporary treatment of the said ..... signed by

(Signed) .....

Dated .....

To .....

\_\_\_\_\_

## FORM 18

(Section 43(3))

## MENTAL TREATMENT ACT

**FORM OF RECOMMENDATION FOR TEMPORARY TREATMENT**

MONTSERRAT.

Recommendation for the temporary treatment of .....

of .....

I, ..... of ..... hereby declare that—

(1) I am a government medical officer in Montserrat and I am not the usual medical attendant of the above-named.

(2) I examined the said ..... on the ..... day of.....

(\*3) I have formed the conclusions stated below on the following grounds, viz.—

I, ..... of ..... hereby declare that—

(1) I am a registered medical practitioner in Montserrat and am (am not) the usual medical attendant of the above-named.

(2) I examined the abovementioned ..... on the ..... day of .....

(\*3) I have formed the conclusions stated below in the following grounds, viz—

And we, the said ..... and ..... further declare that—

(1) The said .....

- (i) is suffering from mental illness;
- (ii) is likely to benefit by temporary treatment;

(iii) is for the time being incapable of expressing himself as willing or unwilling to receive such treatment.

(2) It is expedient with a view to the said .....’s recovery that he should be received into ..... for a period not exceeding six months.

(Signed)

.....  
Medical Qualifications.

Date .....

(Signed)

.....  
Medical Qualifications.

Date .....

\* A person in specifying the grounds on which his conclusions are based, must carefully distinguish between statements of fact which are based upon his own observations and statements of fact which are based upon communications made to him by others.

\_\_\_\_\_



**CHAPTER 14.03**

**MENTAL TREATMENT INSTITUTIONS PROCLAMATION**

*(S.R.O. 26/1998 and Act 9 of 2011)*

**WHEREAS** by section 12 of the Mental Treatment Act it is provided that, the Governor may appoint the whole or any part of any building or other place as an institution for the purposes of the said Act;

**NOW THEREFORE, I ANTHONY JOHN ABBOTT OBE**, Governor, hereby declare that the buildings situated on part of Block 14/7 Parcel 3 in the St. John's Registration Section, situated at Gerald's belonging to Joseph Shervington Kirnon, to be an institution for the purposes of the said Act.

**AND** all Her Majesty's Officers and loving subjects in Montserrat, and all those whom it may concern are hereby required to take due notice and conduct themselves accordingly.

This Proclamation is deemed to have come into force on Tuesday 28th May, 1998.

*(Amended by Act 9 of 2011)*

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**CHAPTER 14.03**

**MENTAL TREATMENT INSTITUTIONS PROCLAMATION**

*(S.R.O. 47/1999)*

**WHEREAS** by section 12 of the Mental Treatment Act it is provided that, the Governor may appoint the whole or any part of any building or other place as an institution for the purpose of the said Act;

**NOW THEREFORE, I, ANTHONY JOHN ABBOTT, OBE**, Governor hereby declare that the prison situated at Brades to be an institution for the purposes of the said Act in addition to the buildings situated on part of Block 14/7 Parcel 3 in the St. John's Registration Section, situated at Gerald's belonging to Joseph Shervington Kirnon (S.R.O. 26/1998).

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**CHAPTER 14.03**

**POOR AND PERSONS OF UNSOUND MIND ACT**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Appointment of officers and power to contract for supplies
3. Out-door relief
4. Member of Board may admit person
5. Employment of inmates
6. Definition of poor and destitute under Act
7. Persons made liable to maintain others
8. Man made liable to maintain his wife's child
9. Maintenance of child
10. Admission of mariners and sick persons under certain circumstances
11. Neglect or refusal of duty by persons made liable to maintain another
12. Proceedings against reputed father of a child
13. Board of Health to furnish quarterly report to Governor

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**CHAPTER 14.03**

**POOR AND PERSONS OF UNSOUND MIND ACT**

*(Acts 23 of 1868, 6 of 1869, Fed. Act 19 of 1884,  
Acts 6 of 1896 and 13 of 1920)*

**Commencement**

*[20 October 1868]*

**Short title**

1. This Act may be cited as the Poor and Persons of Unsound Mind Act.

**Appointment of officers and power to contract for supplies**

2. The Governor may from time to time appoint a keeper and such other officers or nurses as may be required for the establishment, and dismiss any such keeper, officer or nurse, and may from time to time contract for such supplies as may be required for the use, clothing, and maintenance of the inmates.

### **Out-door relief**

3. The Board of Health may in case of special emergency afford relief to persons entitled to relief under this Act, though not residing within the establishment.

### **Member of Board may admit person**

4. Any member of the Board of Health may authorise by order in writing the admission of a poor and destitute person into the poor house.

### **Employment of inmates**

5. The Board of Health may employ the inmates of the establishment in any work within doors or on the premises which may be sanctioned by the medical attendant.

### **Definition of poor and destitute under Act**

6. Every person who from infancy, old age, disease, bodily infirmity or mental incapacity, is unable to labour for his own support, shall, subject to the exceptions hereinafter contained, be considered a poor and destitute person within the meaning of this Act, and entitled to relief accordingly:

Provided always that this Act shall not extend to make provision for any infant whose parents or guardians or to any person whose wife or husband, parent, or grand parent or child, shall be of ability to provide for such infant or other person or whose property or effects shall be within Montserrat, and that this Act shall not extend to any person not born in Montserrat, unless he shall have been resident therein one calendar month.

### **Persons made liable to maintain others**

7. Every husband shall be liable to maintain his wife unable to work, and the father, grandfather, mother and grandmother, and the child of every poor, old, blind, lame and impotent person or other poor person not being able to work, shall be liable according to his or her ability to maintain such poor person.

### **Man made liable to maintain his wife's child**

8. Every man who shall have married or who shall marry a woman having a child at the time of such marriage, shall be liable to maintain such child, in case such child is, or shall become unable to work or labour for his support until the death of the mother of such child.

### **Maintenance of child**

9. The father and mother of every child shall be liable to maintain such child not being able to work.

### **Admission of mariners and sick persons under certain circumstances**

**10.** It shall be lawful for the Board of Health in their discretion to admit into the establishment any sick or diseased mariner or other person for the purpose of medical or surgical aid, although such mariner or other person shall not come within the definition of a poor and destitute person under this Act, provided that, the Board of Health shall take security or otherwise arrange for saving of the public harmless from the cost and outlay consequent upon such admission.

### **Neglect or refusal of duty by persons made liable to maintain another**

**11.** If any person made liable by this Act to maintain any other person shall neglect or refuse to do so on complaint by the Board of Health or their clerk, it shall be lawful for any Magistrate if satisfied of the ability of the party to make such payment, to order the offender to repay the Board of Health such sums as they shall have expended for or on behalf of the person whom the offender is made liable to maintain, such sum not exceeding forty eight cents for each week such poor person shall have been supported by the Board of Health, and in default of payment to commit the offender to prison.

### **Proceedings against reputed father of a child**

**12.** If the parentage of any child is disputed by the reputed father, the evidence of the mother shall not be deemed sufficient, unless corroborated in some material particular by other evidence:

Provided that, if any person shall be aggrieved by any order made under this Act on such person as the reputed father of any child, it shall be lawful for such person to appeal to the Court of Appeal and such person shall at the time of praying such appeal enter into a recognizance with one surety in the sum of \$48, conditioned to try the same and abide the judgment of the Court, and to pay all costs incurred by the Board of Health, in case the order appealed from should be affirmed by the said Court, which is hereby empowered to hear and finally determine the matter or make such order thereon with or without costs, as shall seem meet, which order shall be enforced in the same manner as if it had been the order of a Magistrate.

### **Board of Health to furnish quarterly report to Governor**

**13.** The Board of Health shall once in every quarter, or oftener if required, furnish to the Governor a full report of their proceedings and an account accompanied by the necessary vouchers of all sums received and expended by them.



