

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE MENTAL DISORDERS ACT

CHAPTER 305 OF THE LAWS OF ZAMBIA

CHAPTER 305 THE MENTAL DISORDERS ACT

THE MENTAL DISORDERS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Application of Act to persons detained under previous written laws
4. Application of Act to warrants issued under previous written laws
5. Classification of mentally disordered and defective persons

PART II

PROCEEDINGS AND DETENTION

The Laws of Zambia

6. Authority for detention of patients
7. Magistrate may order apprehension in certain cases
8. Officer may apprehend without warrant in certain cases
9. Inquiry into state of mind of patient
10. Magistrate may interrogate patient and must obtain certificate
11. Adjudication order
12. Procedure when no adjudication order made
13. Control orders
14. Removal out of Zambia
15. Detention during removal
16. Patient to remain in place to which removed

PART III

ESTATES

17. High Court jurisdiction
18. Investigation into estate
19. Powers of Registrar and Administrator-General

PART IV

DISCHARGE

Section

20. Discharge on certificate of sanity
21. Conditional release permit
22. Re-entry into Zambia of patient removed by warrant
23. Patients discharged in Southern Rhodesia

PART V

MISCELLANEOUS

The Laws of Zambia

24. Amendment of orders and certificates
25. False statements, entries and wilful obstruction
26. Conniving at escape of patient
27. Failure to report on re-entering Zambia
28. Failure to comply with order
29. Penalties
30. Appeals
31. Husband, wife or relative may apply to Court for inquiry
32. Limitations of actions by patients
33. Return of records to Court
34. Place of, admittance to and powers of hearing
35. Cost of maintenance of patients
36. Medical certificates evidence of certain facts
37. Visitation of patients
38. Reference in written laws to lunatics
39. Regulations

CHAPTER 305

MENTAL DISORDERS

An Act to provide for the care of persons suffering from mental disorder or mental defect; to provide for the custody of their persons and the administration of their estates; and to provide for matters incidental to or connected with the foregoing.

21 of 1949
22 of 1951
50 of 1963
69 of 1965
*Federal Government
Notice*
90 of 1957
Government Notices
159 of 1964
497 of 1964
Statutory Instrument
163 of 1965
Act No
13 of 1994

PART I

PRELIMINARY

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

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"adjudication order" means an order made under section *eleven*;

"child" means a person under the age of sixteen years;

The Laws of Zambia

"control order" means an order made under section *thirteen*;

"Court" means the High Court or a Judge sitting in chambers;

"inquiry" means an inquiry instituted under sections *seven, eight, and Nine*;

"institution" means any mental hospital or other place which has been or may hereafter be prescribed by the Minister as an institution or place for the reception, treatment, or detention of two or more persons suffering from any mental disorder or defect;

"magistrate" means a magistrate empowered to preside over a subordinate court of the first or second class;

*(1)"medical practitioner" means a medical practitioner registered under the Medical and Allied Professions Act; Cap. 297

* See section 56 of the Medical and Allied Professions Act (Cap. 297)

"mentally disordered or defective person" means any person who, in consequence of mental disorder or disease or permanent defect of reason or mind, congenital or acquired-

- (a) is incapable of managing himself or his affairs; or
- (b) is a danger to himself or others; or
- (c) is unable to conform to the ordinary usages of the society in which he moves; or
- (d) requires supervision, treatment or control; or

* See section 56 of the Medical and Allied Professions Act (Cap. 297)

- (e) (if a child) appears by reason of such defect to be incapable of receiving proper benefit from the instruction in ordinary schools;

"officer" means an Administrative Officer, a police officer, a district messenger or any person or class of persons prescribed;

"patient" means a person-

The Laws of Zambia

- (a) concerning whom proceedings are considered necessary to determine whether or not he is suffering from mental disorder or defect; or
- (b) who has been found to be a mentally disordered or defective person;

"permit" means a permit issued under section *twenty-one*;

"Registrar" includes the Registrar, a deputy registrar, a district registrar, or an assistant registrar of the High Court;

"subordinate court" means a subordinate court of the first or second class;

"superintendent" means the officer or person in charge of an institution or other place, and includes a medical superintendent.

(As amended by No. 50 of 1963, G.N. No. 159 of 1964, S.I. No. 163 of 1965 and No. 69 of 1965)

3. In addition to the persons in respect of whom provision is made herein, this Act shall apply to every person who is, at the commencement of this Act, subject to an adjudication order.

Application of Act to persons detained under previous written laws

4. Every warrant or order for the removal or detention of any such person as is mentioned in the last preceding section, issued prior to such commencement, and in force at such commencement, shall be deemed to have been lawfully issued and shall remain in force until set aside or varied under this Act.

Application of Act to warrants issued under previous written laws

5. For the purposes of this Act and all proceedings thereunder, mentally disordered or defective persons may be divided into the following classes:

Classification of mentally disordered and defective persons

Class I.-A person suffering from mental disorder, that is to say, a person who owing to some form of mental disorder is incapable of managing himself or his affairs.

Class II.-A person mentally infirm, that is to say, a person who through mental infirmity arising from age or from its common disorders is incapable of managing himself or his affairs.

Class III.-An idiot, that is to say, a person in whose case there exists mental defectiveness of such a degree that he is unable to guard himself against common physical dangers.

Class IV.-An imbecile, that is to say, a person in whose case there exists mental defectiveness which, though not amounting to idiocy, is yet so pronounced that he is incapable of managing himself or his affairs, or, if he is a child, of being taught to do so.

Class V.-A feeble-minded person, that is to say, a person in whose case there exists mental defectiveness which, though not amounting to imbecility, is yet so pronounced that he requires care, supervision and control for his own protection or for the protection of others, or, if he is a child, appears by reason of such defectiveness to be permanently incapable of receiving proper benefit from the instruction in ordinary schools.

Class VI.-A moral imbecile, that is to say, a person who displays mental defectiveness coupled with strongly vicious or criminal propensities and who requires care, supervision and control for his own protection or for the protection of others.

PART II

PROCEEDINGS AND DETENTION

6. Subject to the exceptions expressly provided by this Act, no person shall be received or detained as a patient in an institution or other place except under the authority of a warrant or order of the ⁽²⁾Minister, a Judge or a magistrate in accordance with this Act the Criminal Procedure Code.

Authority for detention of patients
Cap. 88

* See S.I. No. 406 of 1965.

(As amended by G.N. No. 159 of 1964)

7. (1) A magistrate having jurisdiction, if satisfied upon information on oath that a person is apparently mentally disordered or defective and is-

Magistrate may order apprehension in certain cases

(a) dangerous to himself or to others; or

The Laws of Zambia

(b) wandering at large and unable to take care of himself:

may by warrant require an officer to apprehend such person and bring him before the magistrate issuing such warrant.

(2) The magistrate before whom a person is brought in accordance with the provisions of this section shall forthwith institute an inquiry.

8. (1) An officer, if he has reason to believe that a person apparently mentally disordered or defective is-

Officer may apprehend without warrant in certain cases

(a) dangerous to himself or to others; or

*See S.I. No. 406 of 1965.

(b) wandering at large and unable to take care of himself;

and that it is necessary for the public safety or for the welfare of such person that, before other proceedings are taken under this Act, he should be placed under care and control forthwith, may, without warrant, apprehend and convey such person to any prescribed hospital, prison or other suitable place for observation, and the person in charge thereof shall receive and detain the persons so conveyed thereto:

Provided that such person shall not be conveyed to, or received in, a prison unless he cannot be otherwise controlled.

(2) Such officer and the person in charge of any hospital, prison or other place, who has received a patient in terms of this section, shall forthwith notify a magistrate of the admission of such patient.

(3) Upon receipt of notification as in subsection (2) provided, such magistrate shall forthwith institute an inquiry.

9. (1) Where a magistrate has instituted an inquiry, at any time prior to the completion of that inquiry he may order the person in whose charge the suspected person is to produce the suspected person at such time and place as may be set out in such order.

Inquiry into state of mind of patient

(2) For the purpose of this section the magistrate may, by warrant under his hand, authorise the apprehension of such person and his detention in a suitable place whether within or without the jurisdiction of such magistrate for a period not exceeding fourteen days.

(3) If the magistrate considers it necessary or advisable to adjourn the inquiry, he may from time to time authorise the further detention of such person for a reasonable time not exceeding fourteen days at any one time.

(4) Where it appears to a magistrate by whom an inquiry has been commenced that, owing to circumstances to be entered on the record of the inquiry, it is expedient for the inquiry to be continued by another magistrate, he shall adjourn the inquiry and refer the record to such other magistrate, and such other magistrate shall thereupon, subject to any directions in that behalf which may be given by the High Court, and which the High Court is hereby empowered to give, continue the inquiry and conclude the same in accordance with the provisions of this Act.

10. The magistrate may, in his discretion, himself interrogate the patient at the patient's place of abode or elsewhere, and shall, whether or not he makes such interrogation, direct any two medical practitioners to examine the patient. Such medical practitioners shall each furnish a certificate in the prescribed form within fourteen days (or such further time as the magistrate directs) stating whether in the medical practitioners' opinion the patient is either-

Magistrate may interrogate patient and must obtain certificate

- (a) mentally normal; or
- (b) a mentally disordered or defective person. If the medical practitioner considers that the patient is mentally disordered or defective, he shall further state his opinion of the category as set out in section *five* into which the patient falls.

11. If, upon due consideration, the magistrate is satisfied that the patient is mentally disordered or defective and-

Adjudication order

- (a) is not under proper care, treatment or control; or
- (b) is cruelly treated or neglected by any relative or other person having the care or charge of such patient; or
- (c) is of suicidal tendency or is in any way dangerous to himself or others; or
- (d) has committed or attempted to commit any crime or offence or has acted in a manner offensive to public decency; or
- (e) is an inebriate, that is to say, a person who habitually drinks to excess, or who habitually uses any narcotic to excess; or
- (f) if the person having the care, treatment or control of the patient consents;

the magistrate shall adjudge the patient to be a mentally disordered or defective person, and shall sign an adjudication order to that effect in the prescribed form.

12. (1) When an inquiry is held and no adjudication order is made, the magistrate shall discharge the patient and revoke any warrant of detention and so inform any person in whose care the patient may have been detained.

Procedure when no adjudication order made

(2) On discharging the patient, the magistrate shall have power to take all necessary steps to assist the patient to return to the place from which he was brought or to his home and may defray from public funds all or part of the necessary expenses of such journey.

The Laws of Zambia

13. (1) After an adjudication order has been made, the magistrate shall make a control order, for the control, care or detention of the patient, specifying either that the patient be-

Control orders

- (a) detained in a prescribed place; or
- (b) handed over to the care and control of his friends or relatives, or to a chief or village headman.

(2) A control order shall be of effect even though the prescribed place, or the friend, relative, chief or village headman is not within the area over which the magistrate has jurisdiction.

(3) Before making a control order under paragraph (b) of subsection (1), the magistrate shall satisfy himself, by such means as he thinks fit, that such friend, relative, chief or village headman is a fit and proper person to exercise care and supervision over the patient.

(4) A control order may from time to time be varied by-

- (a) the magistrate for the time being of the subordinate court which made the control order in the first instance; or
- (b) a magistrate within whose jurisdiction the patient is at the time of the variation:

Provided that such magistrate shall not vary the control order unless it is impracticable for the order to be varied under paragraph (a);

if the magistrate is satisfied that such varied order is in the best interests of the patient.

(5) An adjudication order in force at the commencement of this Act may be varied by a control order under this section.

(As amended by No. 68 of 1965)

14. (1) Every patient in respect of whom an adjudication order and a control order is in force may be removed to a specified place outside Zambia by a warrant signed by the ⁽³⁾Minister.

Removal out of Zambia

* Powers delegated to Director of Medical Services by S.I. No. 57 of 1964.

(2) Where any patient is removed from Zambia by virtue of the provisions of subsection (1), then-

The Laws of Zambia

- (a) the adjudication order in respect of such patient shall continue in force until such order is discharged; and
- (b) the control order in respect of such patient shall be suspended while the patient is absent from Zambia.

(As amended by G.N. No. 159 of 1964)

15. Any patient in course of removal under a warrant signed by virtue of section *fourteen* shall be deemed to be lawfully detained. Detention during removal

16. (1) Any patient removed by virtue of a warrant signed under section *fourteen* shall remain in the place to which he has been removed until the Minister shall otherwise direct, or until the patient's release or discharge as in this section or, as the case may be, in section *twenty-two* is provided. Patient to remain in place to which removed

(2) A patient removed by virtue of a warrant signed under section *fourteen* who does not re-enter Zambia shall be released or discharged in the manner specified in subsections (3) and (4).

*Powers delegated to Director of Medical Services by S.I. No. 57 of 1964.

(3) If, in accordance with the law relating to mental disorders in force in the country to which the patient is removed by warrant signed under section *fourteen*, the patient is discharged from the institution in which he is detained in that country, the adjudicating magistrate shall, on receipt of a notice or a copy of the notice of discharge, grant the person discharged an order of discharge and shall furnish him with a certified copy thereof.

(4) On the grant by an adjudicating magistrate of an order of discharge referred to in subsection (3), any warrant, adjudication order or control order made previously in respect of the person discharged shall thereupon cease to have effect

(As amended by F.G.N. No. 90 of 1957
and G.N. No. 159 of 1964)

PART III

ESTATES

17. (1) There shall be vested in the High Court jurisdiction to administer and control the estates and property of patients, including the power to appoint committees and receivers, in substantial conformity with the law and practice for the time being in force in the High Court of Justice in England. High Court jurisdiction

(2) The Chief Justice may, by statutory instrument, make rules for the due administration and efficient working of this Part.

18. After making an adjudication order, the magistrate shall make an investigation into the estate of the patient and shall report to the Registrar in the prescribed form: Investigation into estate

Provided that where it appears to the magistrate that, owing to circumstances to be entered on the record, it is expedient that such investigation be continued by another magistrate, he shall adjourn the investigation and refer the record to such other magistrate, and such other magistrate shall thereupon, subject to any directions in that behalf which may be issued by the High Court, and which the High Court is hereby empowered to give, continue the investigation and conclude the same.

(As amended by No. 22 of 1951)

19. (1) For the purposes of this Act, in default of any prescribed rules, the Registrar shall exercise all the powers and duties of the Master in Lunacy or of the Court of Protection in England, and the Administrator-General shall exercise all the powers and duties of the Official Solicitor, with regard to the estates and property of patients. Powers of Registrar and Administrator-General

(2) For the purposes of this Act, the Administrator-General shall have and exercise all the privileges, duties and powers conferred on him by the Administrator-General's Act. Cap. 58

(3) In default of any rules made by the Chief Justice, such powers and duties referred to in subsection (1) shall be exercised in substantial conformity with the law and practice for the time being observed in the High Court of Justice in England.

(4) The Registrar or Administrator-General may depute any person by name, or the person for the time being holding a specified office, to exercise such powers or perform such duties on his behalf, subject to such conditions, exceptions and qualifications as the Chief Justice may prescribe. Thereupon or from the date specified by the Registrar or the Administrator-General, the person so deputed shall have and exercise such powers and perform such duties as he may think necessary.

PART IV

DISCHARGE

20. (1) Where an adjudication order has been made and any two medical practitioners have each issued a certificate of sanity in the prescribed form, a magistrate shall grant the patient an order of discharge in the prescribed form and furnish him with a certified copy thereof. Discharge on certificate of sanity

(2) On receipt of such order, the person in whose control the patient is shall discharge him in accordance with such order.

(3) Where such an order is granted, any adjudication order, control order or permit under section *twenty-one* made previously with respect to that patient shall thereupon cease to have effect.

21. (1) A magistrate may, on being satisfied that-

Conditional release
permit

(a) it is in the interest of the patient so to do; and

(b) there is no likelihood of danger to the public;

grant a permit in the prescribed form to any patient in respect of whom an adjudication order and control order is in force, to be at large on trial for such period not exceeding twelve months and subject to such conditions as the magistrate thinks fit. During such period, any control order in respect of the patient shall be deemed to be suspended. It shall be a condition of such permit that the patient shall report at specified periods to a specified magistrate or to the magistrate of a specified court. A copy of such permit shall be given to the patient and another copy shall be sent by the magistrate granting such permit to the magistrate to whom the patient is required to report.

(2) Such permit may be extended (subject to subsection (3)), revoked or varied by the magistrate by whom it was made or by any magistrate to whom the patient is required to report.

(3) An adjudication order and a control order in respect of a patient who has been at large for a continuous period of twelve months under a permit made by virtue of this section shall no longer be in force. Thereupon the patient shall be deemed to be discharged, and may, on application to the Registrar, obtain a declaration to that effect.

22. (1) A patient who has been removed from Zambia by virtue of a warrant issued under section *fourteen* shall, on re-entering Zambia, report within twenty-four hours to the District Secretary at the place of re entry into Zambia.

Re-entry into Zambia
of patient removed by
warrant

(2) Such District Secretary shall forthwith-

(a) convey the patient to a hospital and give him into the care of the superintendent of such hospital; and

(b) notify a magistrate in writing that he has done so.

(3) Such magistrate shall thereupon order two medical practitioners, one at least of whom shall be a Government Medical Officer, to examine the patient, and report to the magistrate.

(4) For the purpose of such examination, the magistrate may exercise the powers conferred by subsections (1), (2) and (3) of section *nine*.

(5) On receipt of such reports the magistrate shall hold an inquiry and shall either-

- (a) discharge the patient in accordance with the provisions of section *twenty*; or
- (b) grant a permit in accordance with section *twenty-one*; or
- (c) vary the control order in accordance with subsection (4) of section *thirteen*.

(6) Notwithstanding the provisions of subsections (2), (3), (4) and (5), if the District Secretary to whom a patient has reported in accordance with subsection (1) is satisfied that a certificate of discharge in the prescribed form has been issued within the past fourteen days to the patient by the superintendent of the institution in which the patient has been confined, such District Secretary shall forthwith grant the patient an order of discharge in the prescribed form and furnish him with a certified copy thereof.

(As amended by No. 50 of 1963)

23. Any person who was-

- (a) adjudicated a lunatic under the provisions of the Lunacy Act, Chapter 28 of the 1950 Edition of the Laws;
- (b) removed from Zambia and confined in the Ingutsheni Mental Hospital of Southern Rhodesia; and
- (c) discharged, before the commencement of this Act, from such hospital in accordance with the law for the time being in force in Southern Rhodesia;

Patients discharged in Southern Rhodesia

shall be deemed to have been granted, at the date of such discharge, an order of discharge under the provisions of the Lunacy Act, Chapter 28 of the 1950 Edition of the Laws:

Provided that this section shall not apply to persons who have been confined in accordance with the provisions of the Criminal Procedure Code.

Cap. 88

(No. 22 of 1951)

PART V

MISCELLANEOUS

24. (1) If an application for an order or an order is found to be in any respect incorrect or deficient, the magistrate who made it, or his successor in office, or a magistrate lawfully acting for him or for his successor, may permit the application to be amended, or may, as the case may be, amend the order.

Amendment of orders and certificates

(2) If a medical certificate given under this Act is found, in respect of any matter not dealing with the patient's mental condition, to be incorrect or deficient, the certifying medical practitioner may, with the consent of a magistrate, amend such certificate.

(3) Every application, order or certificate amended under this section shall take effect as if the amendment had been contained therein when it was originally issued and signed, as the case may be.

25. Every person shall be guilty of an offence if he-

False statements, entries and wilful obstruction

- (a) makes any wilful misstatement of any material fact in any report, certificate, statement or document made in pursuance of this Act;
- (b) makes a wilful misstatement of any material fact in any medical certificate, recommendation or other certificate or in any statement or report of bodily or mental condition under this Act;
- (c) wilfully obstructs any magistrate, medical practitioner, officer or other person specifically or generally authorised under this Act or under any order of the Court or of a magistrate in the exercise of any of the powers conferred by this Act.

26. Any person who wilfully assists or permits or connives at the escape or attempted escape of any patient, or who secretes or harbours a patient who has escaped, shall be guilty of an offence.

Conniving at escape of patient

27. Any patient who has been removed from Zambia by virtue of a warrant issued under section *fourteen* and who shall, on re-entering Zambia, fail to report as provided by section *twenty-two*, shall be guilty of an offence.

Failure to report on re-entering Zambia

28. Any person who fails to comply with any order or carry out any conditions contained in an order shall be guilty of an offence.

Failure to comply with order

29. (1) Any person who commits an offence against this Act in respect of which no penalty is by this Act expressly provided shall be liable to a fine not exceeding six hundred penalty units or to imprisonment for a period not exceeding three months, or to both

Penalties

(2) Any person who is guilty of any act or omission which is declared to be an offence under sections *twenty-five* to *twenty-eight* inclusive shall be liable to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding six months, or to both

(As amended by Act No. 13 of 1994)

30. An appeal shall lie to the High Court against any order made by a magistrate under this Act at the suit of any person aggrieved by such order, in accordance with the practice and procedure for the time being in force for criminal appeals from the subordinate courts to the High Court.

Appeals

31. Nothing in this Act contained shall prevent any husband, wife or other relative of any person alleged to be mentally disordered or defective, or any friend of such person who has no husband, wife or near relative at or near the place where such person is residing, from applying by petition directly to the Court for an inquiry into such person's mental condition, and the Court may make such order as it thinks fit.

Husband, wife or relative may apply to Court for inquiry

32. (1) Where a person has done anything in pursuance or in intended pursuance of any of the provisions 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.

Limitations of actions by patients

(2) In any proceedings taken against any such person for any such act, the burden of proving that he has acted in bad faith or without reasonable care shall lie upon the person bringing the proceedings.

(3) No proceedings, civil or criminal, shall be brought against any such person for any such act in any court without the leave of the Court, and such 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.

(4) Notice of any application under subsection (3) 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 this application.

(5) No such proceedings shall be commenced after the expiration of three months from the date of the act complained of, or, in the case of the continuance of injury or damage, after the expiration of three months from the date of the cessation thereof:

Provided that in estimating the said period of three months, no account shall be taken of any time or times during which the person alleged to be injured was under detention, lawfully or unlawfully, as a mentally disordered or defective person or was ignorant of the facts which constitute the cause of action.

The Laws of Zambia

(6) Nothing in this section shall be construed as depriving any person of any defence which he would have independently of this section.

(7) No proceedings shall be taken against any person on the ground merely that any mentally disordered or defective person was certified or detained as belonging to any one class instead of another class.

33. The record of every proceeding under this Act before a magistrate and a certified copy thereof shall be transmitted with all convenient despatch to the Court, and the magistrate shall at the same time transmit a certified copy to the Director of Public Prosecutions.

Return of records to Court

(As amended by S.I. No. 163 of 1965)

34. (1) A magistrate, in his discretion, may hold an inquiry in a room or place other than that in which the subordinate court normally sits.

Place of admittance to and powers of hearing

(2) At an inquiry no person other than the members and officers of a subordinate court, the parties to the inquiry, their solicitors and counsel and other persons directly concerned in the inquiry, shall, except by leave of the magistrate, be allowed to attend.

(3) When conducting proceedings under this Act, a magistrate may exercise all the powers and authority vested in him by virtue of his office of magistrate.

35. (1) When any person is detained under the provisions of this Act in any place, the maintenance and other costs and expenses of such person shall, until further provision therefor is made, be defrayed out of the general revenues of the Republic.

Cost of maintenance of patients

(2) The cost of his maintenance and all other sums so paid may be recovered from the estate of any such detained person or from any person or persons liable by law to contribute towards the maintenance of such detained person.

(As amended by S.I. No. 163 of 1965)

36. Every medical certificate or report made under and for the purposes of this Act shall be *prima facie* evidence of the facts stated so far as they are within the knowledge of the person giving the certificate or making the report, and shall be evidence also of the opinion therein expressed by the certifying medical practitioner on such facts to the same extent as if the matter therein appearing had been verified on oath.

Medical certificates evidence of certain facts

37. Every person detained under the provisions of this Act may be visited at any reasonable time by any person specially or generally authorised in writing by a Judge or magistrate.

Visitation of patients

38. Whenever in any written law any reference to a lunatic or to lunacy or to an asylum is contained, that reference shall be read and construed as a reference to a patient or to a mentally disordered or defective person within the meaning of this Act, or, as the case may be, to mental disorder or defect or to a mental hospital.

Reference in written laws to lunatics

39. (1) The Minister may, by statutory instrument, make regulations for the due administration and efficient working of this Act.

Regulations

(2) Without prejudice to the generality of the foregoing, the Minister may make regulations concerning-

- (a) the discharge of patients on recovery, or on application of relatives or friends, or on probation;
- (b) the removal or transfer of patients from one institution or place to another institution or place, including the temporary transfer of patients to a specified place for such periods as may be deemed expedient;
- (c) the terms of payment and accommodation for paying patients in any place;
- (d) the visitation of institutions or other places where patients are detained;
- (e) the forms which shall be used for the purposes of this Act;
- (f) mechanical means of restraint;
- (g) the utilisation of the voluntary services of charitable societies for the welfare of patients, whether during the period of their detention and treatment or after discharge on probation or otherwise;
- (h) the method and procedure by which any control order is to be carried out;
- (i) the payment of fees, allowances and expenses to witnesses and medical practitioners;
- (j) the prescribing of anything to be prescribed under this Act; and
- (k) the types of treatment to be given and consents necessary to be obtained before such treatments are carried out.

(As amended by No. 50 of 1963 and G.N. No. 159 of 1964)

SUBSIDIARY LEGISLATION

MENTAL DISORDERS

SECTION 39-THE MENTAL DISORDERS REGULATIONS

Regulations by the Minister

Government Notices
320 of 1950
58 of 1951
75 of 1951
*Federal Government
Notice*
424 of 1961
Act 50 of 1963
Statutory Instruments
163 of 1965
316 of 1967

1. These Regulations may be cited as the Mental Disorders Regulations. Title
2. The following mental hospitals or other places shall be institutions or places under section *two* of the Act for the reception, treatment, or detention of two or more persons suffering from any mental disorder or defect: Institution
- (a) Livingstone General Hospital;
 - (b) The Government Prison, Livingstone;
 - (c) Lewanika District Hospital, Mongu;
 - (d) Lusaka Mental Hospital;
 - (e) Ndola General Hospital;
 - (f) Matero Rehabilitation Hostel, Lusaka.
- (F.G.N. No. 424 of 1961 as amended by No. 163 of 1965
and No. 316 of 1967)*
3. The following hospitals, prisons and places have been prescribed as suitable for observation under section *eight* of the Act: Hospitals, prison, etc., for observation
- (a) all hospitals administered by the Government;
 - (b) the Central Prisons at Chipata, Kabwe, Kasama, Livingstone, Lusaka and Mongu; and
 - (c) all other prisons situated in places where a Government Medical Officer is stationed.

(As amended by Act No. 50 of 1963)

The Laws of Zambia

4. The following places have been prescribed under section *thirteen* of the Act as places in which a control order may specify that a patient be detained: Places of detention
Cap. 97

- (a) all hospitals administered by the Government; and
- (b) all places declared to be prisons under section *three* of the Prisons Act.

(No. 75 of 1951 as amended by Act No. 50 of 1963)

5. The forms set out in Schedule have been prescribed for use under the appropriate sections of the Act. Prescribed forms

SCHEDULE

(Regulation 5)

PRESCRIBED FORMS

The Laws of Zambia
The Mental Disorders Act

FORM 1
(Section 10)

MEDICAL CERTIFICATE

Part 1 (To be completed in all cases)

I, the undersigned (full names)
being a registered medical practitioner residing at
..... do hereby certify that on the
..... day of 19
at I personally examined (full names)
a* of
..... (address)
and am of the opinion that is
a mentally disordered or defective person within the meaning of the above Act, and as such requires care, treatment or
control,** or is a mentally normal person.

Part II (To be completed only if in your opinion the said person is mentally disordered or defective)

1. The following are the facts observed by me on the occasion of the examination aforesaid, on which my opinion is based:

.....

2. I make this further statement with respect to the said person-

(a) The following facts, indicating mental disorder or defect on the part of the said person, have been observed by me on occasions other than the date of examination aforesaid (set out date or approximate date of observation and facts observed)

.....

(b) The following facts concerning the said person, indicating mental defect, have been communicated to me by (set out facts communicated by other persons, together with the names and addresses of such persons):

.....

(c) In my opinion the said person may be properly classified as being mentally disordered or mentally infirm, or an idiot, or an imbecile, or feeble-minded, or a moral imbecile.

(d) In my opinion the factors which have caused the mental disorder or defect of the said person are the following:

.....

(e) In my opinion the said person is/is not homicidal.
is/is not suicidal.
is/is not dangerous.

If dangerous, in what way?

(f) The following treatment has been employed for the said person in respect of his mental condition (describe treatment, if any):

(g) The said person's present bodily health and condition are as follows (describe bodily condition, etc., with special reference to the presence or absence of communicable disease or recent injury):

.....

Date Signature

*Give tribe, chief, village and District, where appropriate.
Strike out whichever is inapplicable.

THE MENTAL DISORDERS ACT

FORM 2
(Section 11)

ADJUDICATION ORDER

Upon reading the certificate of and
..... medical practitioners, upon interrogating*
..... (hereinafter referred to as the
patient) of
and upon due consideration I am satisfied that the patient is mentally disordered or defective and-

- *(a) is not under proper care, treatment or control; or
- *(b) is cruelly treated or neglected by any relative or other person having the care or charge of such patient: or
- *(c) is of suicidal tendency or is in any way dangerous to himself or others; or
- *(a).. has committed or attempted to commit any crime or offence or has acted in a manner offensive to public decency; or
- *(e) is an inebriate, that is to say, a person who habitually drinks to excess, or who habitually uses any narcotic to excess;
or
- *(f) the person having the care, treatment or control of the patient consents;

and I accordingly adjudge the said patient to be a mentally disordered or defective person.

Date

.....
Magistrate
The Subordinate Court of the
Class holden at

*Delete if inapplicable.

THE MENTAL DISORDERS ACT

FORM 3
(Section 13)

CONTROL ORDER

Whereas by an Adjudication Order made by the Magistrate
Class sitting at on the day of
..... 19 of was adjudged
to be a mentally disordered or defective person, I hereby order that the said
be*

Date

.....
Magistrate
The Subordinate Court of the
Class holden at

*Set out particulars of order under section 13 (1) (a) or (b) of the Act.

The Laws of Zambia

THE MENTAL DISORDERS ACT

FORM 4
(Section 18)

REPORT ON ESTATE TO REGISTRAR

The Laws of Zambia

1. Full name of patient
2. Date and place of adjudication
3. Address of patient immediately prior to adjudication.
.....
4. Names of dependants, if any
5. Profession, trade or other occupation of patient: (If in partnership, give the name of the firm and the names of the other partners where known)
6. Absolute property owned by patient in Zambia:
 - (a) Cash in hand
 - (b) Cash at bank, including Post Office Savings Bank: (Show each bank separately if more than one, and state branch)
 - (c) Insurance policies: (State Company)
 - (d) Furniture and personal effects: (Give estimated total value, and show separately any especially valuable item, e.g., jewellery)
 - (e) Securities: (Give holdings in different companies separately, if possible)
 - (f) Freehold property
 - (g) Leasehold property
 - (h) Livestock.
 - (i) Crops
 - (j) Motor vehicles or tractors (except where stock-in-trade of a dealer)
 - (k) Stock-in-trade if in business on own account
 - (l) Share in any partnership: (Give partnership separately if more than one)
 - (m) Share in any co-operative society or building society
 - (n) Pension or annuity
 - (o) Salary or wages (if continuing after adjudication)
 - (p) Debts owed to the patient
 - (q) Any other absolute property
7. Absolute property owned by the patient outside Zambia: (Itemise separately as in 6 above)
.....
8. Life interests in property enjoyed by the patient
9. Reversionary interests in property owned by the patient
10. Property held on trust for any other person
11. Approximate total capital value of estate
12. Approximate present income of patient
13. Patient's liabilities:
 - (a) Continuing:
 - (i) Rent
 - (ii) Rates
 - (iii) Wages to staff
 - (iv) Insurance premiums
 - (v) Sums payable as maintenance or alimony under any Order of Court or Separation Deed
 - (vi) Any other continuing commitment.....
 - (b) Debts (other than further payments on continuing commitments)
14. Temporary arrangements, if any, which have been made for maintenance of the property

The Laws of Zambia

The Laws of Zambia

THE MENTAL DISORDERS ACT

FORM 5
(Section 20)

MEDICAL CERTIFICATE OF SANITY

I (full name in block capitals)
of (address),
a registered medical practitioner, hereby certify that I have this day personally examined
.....and after due inquiry into all the necessary facts relating to his case I
certify that he is now of sufficiently sound mind to be a proper person to be discharged from the adjudication order to which
he is subject.

Date
.....
Signature

The Laws of Zambia

THE MENTAL DISORDERS ACT

FORM 6
(Section 20)

ORDER OF DISCHARGE

To the Superintendent:

WHEREAS (hereinafter called the patient)
of has been adjudged to be a
mentally disordered or defective person, and by a control order dated the day of
..... 19 ordered to be

AND WHEREAS two medical practitioners have each issued a Certificate of Sanity in the prescribed form in respect of
the patient.

NOW THEREFORE I grant the patient this Order of Discharge and direct you to discharge him from your control.

Date

.....
Magistrate
The Subordinate Court of the
Class holden at

THE MENTAL DISORDERS ACT

FORM 7
(Section 21)

CONDITIONAL RELEASE PERMIT

WHEREAS (hereinafter called the patient)
was on the day of 19 adjudged to be a
mentally disordered or defective person.

AND WHEREAS after due consideration of the evidence before me I am satisfied that-

- (a) it is in the best interest of the patient so to do; and
- (b) there is no likelihood of danger to the public.

NOW THEREFORE I grant to the patient permission to be at large on trial for the period of
months from the date hereof.

It shall be a condition of this Permit that the patient shall report to the.....
Magistrate at intervals of The following
conditions shall also be observed by the patient:

.....
.....
.....

Date

.....
Magistrate
The Subordinate Court of the
Class holden at

NOTE.-One copy hereof to be given to the patient and one copy to be sent to the Magistrate to whom the patient is to report.

The Laws of Zambia

THE MENTAL DISORDERS ACT

FORM 8
(Section 22 (6))

CERTIFICATE OF DISCHARGE

I Superintendent of
..... (institution) hereby certify
that (patient) not
being a criminal patient, is fit to be discharged, and in accordance with the powers vested in me by the law of the country
in which the above-named institution is situate, I hereby discharge him.

Date
.....
Signature

Copy to be sent to the Director of Public Prosecutions, Lusaka, and the District Secretary, Livingstone.

(As amended by No. 163 of 1965)

The Laws of Zambia

THE MENTAL DISORDERS ACT

FORM 9
(Section 22 (6))

ORDER OF DISCHARGE

WHEREAS (hereinafter called the patient) of has been adjudged to be a mentally disordered or defective person, and by a control order dated the day of 19 ordered to be

AND WHEREAS the patient was removed from Zambia by virtue of a warrant issued under section 14 of the Mental Disorders Act.

AND WHEREAS I am satisfied that the patient is a person to whom the provisions of section 22 of such Act apply and there having been produced to me a certificate of discharge in respect of the patient:

I hereby grant the patient this order of discharge.

Date
District Secretary
.....*District*

NOTE.-The patient shall be furnished with a certified copy of this order. (Copy to be sent to the Director of Medical Services.)

(No. 58 of 1951)

Endnotes

1 (Popup - Popup)

See section 56 of the Medical and Allied Professions Act (Cap. 297)

2 (Popup - Popup)

See S.I. No. 406 of 1965.

3 (Popup - Popup)

Powers delegated to Director of Medical Services by S.I. No. 57 of 1964.