

Mental Health Act, 1987

Chapter X - Miscellaneous

The provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973 (2 of 1974), shall, as far as may be, apply to bonds taken under this Act.

Section 89 - Report by medical officer

The medical officer incharge of a psychiatric hospital or psychiatric nursing home shall, as soon as may be, after any mentally ill person detained therein has been discharged make a report in respect of his mental and physical condition to the authority under whose orders such person had been so detained.

Section 90 - Pension, etc., of mentally ill person payable by Government

Where any sum is payable in respect of pay, pension, gratuity or any allowance to any person by any Government and the person to whom the sum is payable is certified by a Magistrate under this Act to be a mentally ill person, the officer under whose authority such sum would be payable, may pay to the person having charge of the mentally ill person so much of the said sum, as he thinks fit, having regard to the cost of maintenance of such person and may pay to such members of the family of the mentally ill person as are dependent on him for maintenance, the surplus, if any or such part thereof, as he thinks fit, having regard to the cost of maintenance of such members.

(2) Where there is any further surplus amount available out of the funds specified in sub-section (1) after making payments as provided in that sub-section, the Government shall hold the same to be dealt with as follows, namely;--

(a) where the mentally ill person is certified to have ceased to be mentally ill by the District Court within the local limits of whose jurisdiction such person resides or is kept or detained, the whole of the surplus amount shall be paid back to that person;

(b) where the mentally ill person dies before payment, the whole of the surplus amount shall be paid over to those of his heirs who are legally entitled to receive the same;

(c) where the mentally ill person dies during his mental illness without leaving any person legally entitled to succeed to his estate the whole of the surplus amount shall with the prior permission of the District Court, be utilised for such charitable purpose as may be approved by the District Court.

(3) The Central Government or the State Government, as the case may be, shall be discharged of all liability in respect of any amounts paid in accordance with this section.

Section 91 - Legal aid to mentally ill person at State expense in certain cases

(1) Where a mentally ill person is not represented by a legal practitioner in any proceeding under this Act before a District Court or a Magistrate and it appears to the District Court or Magistrate that such person has not sufficient means to engage a legal practitioner, the District Court or Magistrate shall assign a legal practitioner to represent him at the expense of the State.

(2) Where a mentally ill person having sufficient means to engage a legal practitioner is not represented by a legal practitioner in any proceeding under this Act before a District Court or a

Magistrate and it appears to the District Court or Magistrate, having regard to all the circumstances of the case, that such person ought to be represented by a legal practitioner, the District Court or Magistrate may assign a legal practitioner to represent him and direct the State to bear the expenses with respect thereto and recover the same from out of the property of such person.

(3) The High Court may, with the previous approval of the State Government, make rules providing for--

- (a) the mode of selecting legal practitioners for the purpose of subsections (1) and (2);
- (b) the facilities to be allowed to such legal practitioners;
- (c) the fees payable to such legal practitioners by the Government and generally for carrying out the purpose of sub-sections (1) and (2).

Explanation.--In this section "legal practitioner" shall have the meaning assigned to it in clause (i) of section 2 of the Advocates Act, 1961 (25 of 1961).

Section 92 - Protection of action taken in good faith

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

Section 93 - Construction of references to certain laws, etc

(1) Any reference in this Act to a law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

(2) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification.

Section 94 - Power of Central Government and State Government to make rules

(1) The Central Government may, by notification, make rules providing for the qualifications of persons who may be appointed as Mental Health Authority under section 3 and the terms and conditions subject to which they may be appointed under that section and all other matters relating to such authority.

(2) Subject to the provisions of sub-section (1), the State Government, with the previous approval of the Central Government may, by notification, make rules for carrying out the provisions of this Act:

Provided that the first rules shall be made by the Central Government by notification.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may provide for all or any of the following matters, namely:--

(a) the qualifications of persons who may be appointed as Mental Health Authority and the terms and conditions subject to which they may be appointed under section 4 and all other matters relating to such authority;

(b) the class or category of persons for whom separate psychiatric hospitals and psychiatric nursing homes may be established and maintained under clause (d) of sub-section (1) of section 5;

(c) the form in which,--

(i) an application may be made for grant or renewal of a licence and the fee payable in respect thereof under section 7 or, as the case may be, section 9;

(ii) a licence may be granted for the establishment or maintenance of a psychiatric hospital or a psychiatric nursing home under section 8;

(iii) an application may be made for a reception order under section 20;

(d) the manner in which an order refusing to grant, or revoking, a licence shall be communicated under section 38 or, as the case may be, section 11;

(e) the manner in which a report may be made to the licensing authority under sub-section (2) of section 9;

(f) the minimum facilities referred to in the proviso to sub-section (5) of section 9, including,--

(i) psychiatrist-patient ratio;

(ii) other medical or para-medical staff;

(iii) space requirement;

(iv) treatment facilities; and

(v) equipment;

(g) the manner in which and the conditions subject to which a psychiatric hospital or psychiatric nursing home shall be maintained under section 10;

(h) the form and manner in which and the period within which an appeal against any order refusing to grant or renew a licence or revoking a licence shall be preferred and the fee payable in respect thereof under section 12;

(i) the manner in which records shall be maintained under sub-section (1) of section 13;

(j) the facilities to be provided under section 14 for the treatment of a mentally ill person as an out-patient;

(k) the manner in which application for a reception order shall be signed and verified under sub-section (6) of section 20;

(l) the qualifications of persons who may be appointed as Visitors and the terms and conditions on which they may be appointed, under section 37 and their functions;

(m) prevention of vexatious or defamatory communications and other matters referred to in sub-section (3) of section 81;

(n) any other matter which is required to be, or may be, prescribed.

Section 95 - Rules made by Central Government or the State Government to be laid before the Legislature

(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

Section 96 - Effect of Act on other laws

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force and to the extent of such inconsistency that other law shall be deemed to have no effect.

Section 97 - Power to remove difficulty

If any difficulty arises in giving effect to the provisions of this Act in any State, the State Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty;

Provided that no order shall be made under this section in relation to any State after the expiry of two years from the date on which this Act comes into force in that State.

Section 98 - Repeal and saving

(1) The Indian Lunacy Act, 1912 (4 of 1912) and the Lunacy Act, 1977 (25 of 1977), are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under either of the said Acts shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force until superseded by anything done or any action taken under this Act.
