

## No. 1 of 1873.

*(As amended by No. 3 of 1882.)*

### **An Ordinance relating to the care and custody of Persons of unsound mind, and their Estates.**

*(See ch. XXXIII. of No. 3 of 1883, No. 2 of 1889, and No. 10 of 1889.)*

**W**HEREAS it is expedient to make further and better provision relating to the care and custody of persons of unsound mind and their estates: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

**1** This Ordinance shall come into operation at the date of the passing thereof.

Commencement of Ordinance.

**2** This Ordinance may be cited as "The Lunacy Ordinance, 1873."

Short title.

**3** The Ordinance No. 11 of 1840, entitled "An Ordinance to amend the Law relative to the establishment of Lunatic Asylums, and to make further general provisions for the proper care and custody of Insane Persons," and section 3 of the Rules and Orders for regulating the form of proceedings in district courts, headed "Jurisdiction over Idiots and Lunatics," are hereby repealed. Provided that such repeal shall not affect acts and proceedings which shall have been already performed, or commenced, under the said Ordinance or Rules and Orders.

Repeal of Ordinance 11 of 1840, and section 3 of rules and orders relative to jurisdiction over idiots and lunatics.

Proviso.

**4** For the purposes of this Ordinance—

(1) Every person shall be deemed to be of unsound mind who is so far deranged in mind as to render it necessary that he, either for his own sake or that of the public, should be placed under control; and

Meaning of "unsound mind" and

*Lunacy.*

qualification  
of medical  
practitioner.

(2) No one shall be deemed a medical practitioner except such as shall have received a collegiate medical education, or shall hold a certificate of competency from the Principal Civil Medical Officer.

Any officer of police or headman or private person may apply for inquiry into the state of mind of a person suspected to be of unsound mind. Application of private person should be supported by certificate from medical practitioner.

5 Any officer of the police force, or headman, or any private person having reason to believe that a person is of unsound mind may apply in writing to the district court having jurisdiction over the place in which such person so suspected is found, that his state of mind be inquired into. An application by a private person should be accompanied by a certificate from a medical practitioner that the person so suspected has been under his observation, and that he believes him to be of unsound mind.

Proceedings  
thereupon by the  
district court.

6 The district court shall thereupon, with as little delay as possible, cause such person so suspected to be of unsound mind (hereafter called suspected person) to be brought before it, and, either then or at some other day for which the court may see reason to adjourn the inquiry, proceed to view and examine the said person, and, if need be, to hear evidence, to enable it to determine as to the state of mind of the said person. If upon such view and examination, or other proof, the district court shall be satisfied that such person is or is not of unsound mind, it shall adjudicate accordingly. Provided that it shall be lawful for the court, should it deem it necessary to subject the suspected person to further observation, to remand the suspected person once or oftener for such reasonable time as shall be specified in the order of remand to the custody of the fiscal. And provided further, that it shall be the duty of the court so to remand such person in all cases where the court considers that the said person is of sound mind but two medical practitioners certify to the contrary. At the expiration of the time fixed for the remand the court shall hear evidence and find the said person of sound or of unsound mind as to it shall seem fit, and shall accordingly either discharge him or direct his further detention, as in section 8 provided. All persons so remanded shall be kept in such place as the Governor shall appoint, and shall be subject to the inspection of such persons as the Governor shall nominate.

Further  
observation.

Places of  
remand for  
further  
observation.

If no relative  
or friend will  
undertake  
custody of  
such person,  
he shall be  
sent to the  
lunatic  
asylum.

8 If any fit relative or friend is prepared to undertake to enter into sufficient security for the proper custody, care, and maintenance of the person adjudged to be of unsound mind, it shall be lawful for the court to order that the person so adjudged should be placed in his charge and under his control. But if no fit relative or friend will undertake as aforesaid, the district court shall order that such person be kept in custody until the Governor's pleasure shall be known; whereupon the Governor may issue his warrant to order the removal of such person to a lunatic asylum, and may give such further order for the safe custody of such person in such place or manner as to the Governor shall seem fit. Provided that it shall be lawful for any relative or friend who shall have undertaken to enter into security as

Proviso.

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aforesaid, or who shall have entered into such security, to surrender such person to the court, whereupon it shall be the duty of the court to order that such person be kept in custody until the Governor's pleasure shall be known. Until the Governor's warrant shall be received it shall be the duty of the fiscal to detain such person in the place appointed by the Governor for the reception of persons under remand for further observation.

9 It shall be lawful for the Governor upon any petition being presented by any guardian or relative or friend of any person of unsound mind, requesting that such person may be admitted into a lunatic asylum, and offering to enter into security for the expenses of his care and maintenance, to issue his warrant to the superintendent of such lunatic asylum to direct that such person shall, on being brought to such lunatic asylum, be examined by two medical practitioners named in such warrant, and upon their granting a certificate of such person being of unsound mind, that he shall be thereupon admitted into the lunatic asylum, to be therein taken care of and maintained until his recovery, or until application be made for his discharge by any relative or friend, as hereinafter provided, or failure of payment of the rate hereinafter required. Provided always that a bond with such security as the Governor shall require, previous to the admission of any such person, be given by his relative or friend for the due payment of such daily rate or allowance as may be fixed and declared payable by the general regulations of such lunatic asylum, on the reception therein of such person, together with all other expenses contingent upon the maintenance and care of such person during his continuance in such lunatic asylum, as well as for the removal of such person within fourteen days after due notice given in writing by the superintendent of such lunatic asylum to the said relative or friend of such person, or at his last place of abode; and in default of any of the conditions of the said bond being duly performed, the amount due under such bond shall be deemed a debt to the Crown, and shall be recoverable as other debts due to the Crown.

10 When application at any time by any guardian or relative or friend of a person of unsound mind confined in any lunatic asylum, or in the custody of the fiscal for the purpose of being transferred to a lunatic asylum (not being under any criminal warrant), shall be made to the Governor, requesting that such person may be delivered over to the care and maintenance of such relative or friend, it shall be lawful for the Governor, if he shall see fit to do so, and upon such reasonable security as may be required being given by such guardian or relative or friend to take care of and maintain such person, to direct the immediate discharge of such person. Upon the recovery of any person confined in a lunatic asylum (not being under any criminal warrant) and such recovery being certified by the medical officer in charge of such asylum, he shall be discharged by order of the

Governor may, on petition of relatives, admit such persons (not being paupers) into lunatic asylum.

Proviso for bond to pay the daily allowance or rate and contingent expense of such person.

On application and security, relatives may take persons confined in lunatic asylums under their own care.

Discharge on recovery.

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Proviso as to paupers.

Governor ; and in all cases where any such person, being a pauper, shall have been removed under the provisions of this Ordinance to any lunatic asylum out of the province to which he belongs, such person shall, upon being discharged from such lunatic asylum, upon his recovery, be conveyed back by Government to his own village or usual place of former residence, or be allowed such reasonable batta or sum for his travelling expenses thereto as shall be approved by the Governor under any rule or order to be issued for that purpose.

Prisoners under sentence in jail on becoming of unsound mind to be removed to lunatic asylum.

12 If any person under imprisonment in any jail shall become of unsound mind, and a report shall be made to the Governor by the fiscal of the province wherein the said jail is situated, with a certificate of the medical officer thereof, that such person is of unsound mind, it shall be lawful for the Governor to direct by warrant under his hand that such person shall be removed to the lunatic asylum named in such warrant, to be there detained until the expiration of the sentence under which such person may have been imprisoned. If any person shall become of sound mind before the expiration of his sentence, of which the period of his detention in such lunatic asylum shall be reckoned as part, the Governor shall thereupon issue his warrant to the superintendent of the lunatic asylum, directing that such person shall be removed back from thence to the jail or other place of confinement from whence he shall have been taken, or shall give such other orders thereon as to the Governor shall seem fit. And the fiscal from whose custody any person shall be removed to such lunatic asylum shall, at the time of delivering over such person, furnish the superintendent of such asylum with a copy of the sentence under which such person shall have been imprisoned.

If they recover before expiration of sentence, they shall be re-transferred to jail.

Further proceeding at expiration of sentence, if the person shall not have recovered.

13 The superintendent of any lunatic asylum to which any person shall have been removed under the provisions of the preceding clause, and who shall not have recovered, shall, at least fourteen days before the expiration of the sentence under which such person shall have been imprisoned, report the same to the district court of the district in which such lunatic asylum shall be situated. And if the said district court shall, upon inquiry, be satisfied that such person is still of unsound mind, and that it is necessary to continue to keep him under control, the said district court may order such person to be detained in the lunatic asylum until discharged therefrom by order of the Governor.

Property of persons of unsound mind to be applied for their maintenance in lunatic asylums.

14 In all cases where any person shall be kept in custody as a person of unsound mind, and shall be transferred to any lunatic asylum, the district court shall make summary inquiry into his circumstances and as to his property, and if it shall appear that such person is possessed of sufficient property which can be applied for his maintenance, the district court shall order and direct so much of the same as shall be necessary to be applied to pay and satisfy the expenses of the maintenance and care of such person



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according to such usual allowance or rate as may be fixed and declared to be payable under the general regulations to be made by the Governor for such lunatic asylum.

15 (1) Every order made by a district court under the provisions of "The Lunacy Ordinance, 1873," shall be subject to an appeal to the Supreme Court.

(2) Such appeal may be prosecuted by, or at the instance of (1) the person suspected or adjudged to be of unsound mind, or (2) of any relative or friend of his, or (3) of the Queen's Advocate or of any deputy Queen's advocate, or (4) of the Inspector-General of Police, or (5) of the Principal Civil Medical Officer, or (6) of the Inspector-General of Prisons, or (7) of any medical practitioner who shall have certified or testified to the state of mind of the person suspected or adjudged to be of unsound mind.

(3) The time for, the rules of, and the practice relating to the filing and forwarding of an appeal from an interlocutory order of the district court shall apply to appeals prosecuted under this enactment.

(4) The Supreme Court shall take cognizance of such appeal and deal with the same as an appeal from an interlocutory order of the district court, and make such order thereon as to the Supreme Court shall seem fit. And it shall be the duty of the district court to conform to and execute such order.

16 No stamp duty shall attach or be payable for any application, process, or other document filed in court under the provisions of this Ordinance. Nor shall it be necessary to attach schedules to processes issued to the fiscal under such provisions.

17 It shall be lawful for the Governor to nominate and appoint one or more fit and proper persons to be visitors of any lunatic asylum, and any visitor so appointed to remove and to appoint another in his stead. Every visitor so appointed shall be at liberty to enter at all times any such asylum, and to make such inquiries or examination therein as to him shall appear necessary; and visitors are hereby required to visit such asylum at least once in every month, unless prevented by illness or other sufficient cause, and from time to time to make such reports to the Colonial Secretary as may be required by order of the Governor. Any superintendent or keeper of such asylum, or other person, who shall at any time refuse admittance to any such visitor, or offer to him any hindrance or obstruction, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees.

18 It shall be lawful for the Governor, with the advice of the Executive Council, to make from time to time such regulations as to him shall seem expedient for the management and conduct of any lunatic asylum established in this island, and of the officers and visitors thereof.

9th January, 1873.

Right of appeal from order of district court given—

[§ 2, 3 of 1882]

to person affected thereby, to his relatives, to the Queen's Advocate, Inspector-General of Police, Principal Civil Medical Officer, or any medical practitioner concerned.

[§ 3, 3 of 1882]

Appeal to follow rules for appeals from interlocutory orders.

[§ 4, 3 of 1882]

Duty of Supreme and district courts in case of appeal.

[§ 5, 3 of 1882]

Proceedings exempt from stamp and schedule duty.

Appointment of visitors.

Their duties.

Penalty for refusing admittance to visitors, or obstructing them.

Governor to make regulations for conduct and management of lunatic asylums and officers.