

No. S 25

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

MENTAL HEALTH ORDER, 2014

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

MENTAL HEALTH ORDER, 2014

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Mental Health Order, 2014 and shall commence on such date as the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may appoint by notification published in the *Gazette*.

(2) Different dates may be appointed under subsection (1) for different provisions of this Order.

(3) The long title of this Order is “An Order to consolidate the laws relating to mental disorder and to provide for the admission, detention, lodging, care, treatment, rehabilitation and protection of persons who are mentally disordered and for related matters”.

Interpretation.

2. (1) In this Order, unless the context otherwise requires —

“Board” means a Board of Visitors appointed under regulations made under section 77(1);

“code of practice” means a code of practice issued, approved or amended under section 74(1);

“community mental health centre” means a Government community mental health centre or a private community mental health centre;

“community psychiatric residence” means a Government community psychiatric residence or a private community psychiatric residence;

“designated medical practitioner”, in relation to any psychiatric facility, means a medical practitioner who is working in the psychiatric facility and who is designated by name or office in writing by the Director General or such public officer as he may appoint, for the purposes of this Order;

“Director General” means the Director General of Medical Services;

“friend”, in relation to a mentally disordered person, means —

- (a) a person, other than a relative, of or above 18 years of age —
 - (i) with whom the mentally disordered person had been ordinarily residing for a period of not less than 2 years; or
 - (ii) if the mentally disordered person is an in-patient in a psychiatric facility, with whom he had been ordinarily residing for a period of not less than 2 years before he was admitted there; or

(b) a body or an organisation recognised by the Minister under subsection (4);

“Government community mental health centre” means any premises appointed to be a Government community mental health centre under section 30(a);

“Government psychiatric facility” means any premises appointed to be a Government psychiatric facility under section 3(1);

“Government community psychiatric residence” means any premises appointed to be a Government community psychiatric residence under section 26(a);

“guardian”, in relation to a minor, means —

(a) the parent or parents of the minor;

(b) a person lawfully appointed by will or by an order of a court to be the guardian of the minor; or

(c) a person who has lawful custody of the minor;

“involuntary patient” means a person admitted into and detained in a psychiatric facility under section 8(1), detained in a psychiatric facility under section 7(4), 12(1) or 12(3) or admitted into a psychiatric facility by an order of the court made under section 44 or 62;

“medical practitioner” means a person who is registered as a medical practitioner under the Medical Practitioners and Dentists Act (Chapter 112);

“medical social officer” means a member of Medical Social Work Services in the Ministry of Health;

“mental disorder”, subject to subsection (2), means any mental illness, arrested or incomplete development of the mind, psychiatric disorder or any other disorder or disability of the mind, however acquired;

“mentally disordered person” means a person who suffers from a mental disorder;

“Minister” means the Minister of Health;

“nurse” means a person who is registered in the register of nurses under the Nurses Registration Act (Chapter 140);

“officer in charge” means the person responsible for the management and control of a psychiatric facility and for the supervision of the medical staff, nursing staff, technical staff and ancillary staff employed in that facility;

“private community mental health centre” means any premises appointed to be a private community mental health centre under section 30(b);

“private psychiatric facility” means any premises appointed to be a private psychiatric facility under section 4(1);

“private community psychiatric residence” means any premises appointed to be a private community psychiatric residence under section 26(b);

“psychiatric facility” means a Government psychiatric facility or a private psychiatric facility;

“psychiatrist” means a medical practitioner with such qualifications, training and experience in psychiatry as the Director General may recognise;

“Registrar” means the Chief Registrar of the Supreme Court or the Chief Registrar of the Syariah Appeal Court, as the case maybe;

“relative” means any of the following persons of or above 18 years of age —

(a) husband or wife;

(b) son or daughter;

(c) father or mother;

(d) brother or sister;

(e) grandparent;

(f) grandchild;

(g) maternal or paternal uncle or aunt;

(h) nephew or niece;

“Visitor” means any member of a Board appointed as such under regulations made under this Order;

“voluntary patient” means a person admitted into a psychiatric facility under section 6(1).

(2) Nothing in the definition of “mental disorder” in subsection (1) shall, subject to subsection (3), be construed as implying that a person may be dealt with under this Order as suffering from a mental disorder by reason only of his promiscuity or other immoral conduct, sexual deviancy, consumption of alcohol or drugs, or where he expresses, refuses or fails to express a particular political or religious opinion or belief, or of his antisocial personality.

(3) Subsection (2) does not prevent the serious physiological, biochemical or psychological effects, temporary or permanent, of alcohol or drug consumption from being regarded as an indication that a person is mentally ill.

(4) The Minister may in writing recognise a body or an organisation as a friend if he is satisfied as to the character and fitness of the members of the board of directors, committee or other governing body of that body or organisation.

(5) For the purposes of this Order —

(a) any person is physically injured if there is substantial and observable injury to any part of his body as a result of the non-accidental application of force or an agent to such person’s body that is evidenced by, amongst other things, a laceration, contusion, abrasion, scar, fracture or other bone injury, dislocation or sprain, haemorrhaging, the rupture of a viscous, a burn or scald, the loss or alteration of consciousness or physiological functioning or the loss of the hair or any teeth;

(b) any person is emotionally injured if there is substantial and observable impairment of his mental or emotional functioning that is evidenced by, amongst other things, a mental or behavioural disorder, including anxiety, depression, withdrawal, aggression or delayed development;

(c) any person is sexually abused if he has taken part, whether as a participant or an observer, in any activity which is sexual in nature for the purposes of any pornographic, obscene or indecent material, photograph, recording, film, videotape or performance or for the purpose of sexual exploitation by any person for that person’s or another person’s sexual gratification.

Appointment of Government psychiatric facility.

3. (1) The Minister may appoint the whole or any part of any premises to be a Government psychiatric facility for the admission, detention, lodging, care, treatment, rehabilitation and protection of persons who are mentally disordered.

(2) The Minister shall cause a notification of the appointment to be published in the *Gazette*.

Appointment of private psychiatric facility.

4. (1) The Minister may appoint the whole or any part of any private premises to be a private psychiatric facility for the admission, detention, lodging, care, treatment, rehabilitation and protection of involuntary patients under sections 8, 9, 10, 11, 12, 13, 44 and 62.

(2) The Minister shall cause a notification of the appointment to be published in the *Gazette*.

PART II

**ADMISSION AND DETENTION IN, AND DISCHARGE FROM,
PSYCHIATRIC FACILITIES**

Admission of patient into psychiatric facility.

5. (1) Except as otherwise provided in any other written law, no person shall be admitted into a psychiatric facility other than —

- (a) as a voluntary patient in accordance with section 6(1);
- (b) as an involuntary patient in accordance with section 8(1);
- (c) upon the order of a medical practitioner under section 7(4), 8(4)(b), 12(1) or 12(3);
- (d) upon an order of a court made under section 44(1) or 62(1);
- (e) upon an order of a court made under section 247, 315, 317 or 321 of the Criminal Procedure Code (Chapter 7) or upon an order of the relevant authority under the provisions of any other written law; or
- (f) on a transfer from another psychiatric facility, on return from leave, or on his re-apprehension after being absent without leave.

(2) Nothing in this Order shall prohibit any voluntary patient from receiving care, treatment or rehabilitation in any other Government psychiatric facility or in any private psychiatric facility.

Admission of voluntary patient into psychiatric facility.

6. (1) An officer in charge or any officer authorised by him may admit any person into a psychiatric facility as a voluntary patient —

(a) upon his own request; or

(b) in the case of a minor, upon an application made by his guardian on his behalf.

(2) The officer in charge or any officer authorised by him may refuse to admit any person as a voluntary patient if he is not satisfied that the person is likely to benefit from the care or treatment in the psychiatric facility.

Discharge of voluntary patient from psychiatric facility.

7. (1) The designated medical practitioner involved in the treatment of a voluntary patient may —

(a) grant leave of absence to the patient; or

(b) at any time discharge the patient if he is satisfied that —

(i) it is in the interest of the patient to discharge him; and

(ii) the patient is not in need of any further care and treatment in the psychiatric facility.

(2) A voluntary patient, or if the voluntary patient is a minor, his guardian, may give written notice to the officer in charge requesting his discharge from the psychiatric facility.

(3) Subject to an order made under subsection (4), a voluntary patient whose discharge has been requested under subsection (2) shall not be kept in the psychiatric facility for more than 72 hours from the time when the notice was received.

(4) A voluntary patient whose discharge has been requested under subsection (2) shall be examined by a designated medical practitioner not involved in his treatment, and if that designated medical practitioner is satisfied that —

(a) the patient is suffering from a mental disorder; and

(b) it is necessary for the health or safety of the patient or for the protection of other persons that he continues to receive further care and treatment in the psychiatric facility,

the designated medical practitioner shall make an order for the detention of the patient in the psychiatric facility for a further period not exceeding one month.

Admission of involuntary patient into psychiatric facility.

8. (1) An officer in charge or any officer authorised by him may admit into and detain in a psychiatric facility, as an involuntary patient, a person who is suspected to be suffering from a mental disorder upon —

(a) an application made by a relative or friend of that person to the officer in charge; and

(b) a recommendation by a medical practitioner based on his examination of that person made not more than 5 days before the application that —

- (i) he is suffering from a mental disorder of a nature or degree which warrants his admission into a psychiatric facility for the purposes of assessment or treatment; or
- (ii) he ought to be detained in the interest of his health or safety or for the protection of other persons.

(2) Where a patient is admitted into a psychiatric facility as an involuntary patient, the officer in charge shall, not more than 72 hours after the patient's admission, cause such examination as he may consider necessary to be conducted by a designated medical practitioner in that psychiatric facility on the patient to determine whether or not his continued detention is justified.

(3) The medical practitioner who makes the recommendation under subsection (1)(b) shall not examine the patient for the purposes of subsection (2).

(4) Where upon an examination under subsection (2) the designated medical practitioner —

(a) is not satisfied that his continued detention is justified, he shall discharge him; or

(b) is satisfied that his continued detention is justified, he shall make an order for his detention for a further period not exceeding one month.

Apprehension of mentally disordered person.

9. (1) Any police officer or medical social officer may apprehend any person whom he has reason to suspect is mentally disordered and poses a risk of danger to himself or to other persons or to any property.

(2) The police officer or medical social officer who has apprehended a person under subsection (1) shall immediately after the apprehension, bring him to a designated medical practitioner in a psychiatric facility for examination.

Suspected mentally disordered person abused etc. by person convicted under any written law.

10. Where a person has been convicted of any offence under any written law involving —

(a) abuse, assault, neglect, abandonment or exposure of another person in a manner likely to cause such other person physical or emotional injury or who causes or permits such other person to be abused, assaulted, neglected, abandoned or exposed; or

(b) sexual abuse of another person or causes such other person to be so abused,

and the court has reason to suspect that other person is a mentally disordered person and is not under proper care, the court may make an order for that other person to be sent to a designated medical practitioner in a psychiatric facility for examination.

Suspected mentally disordered person neglected or ill-treated.

11. (1) If it appears to a court, on the report of a police officer or on the information of any other person, that a person who is suspected of being a mentally disordered person —

(a) is not under proper care and control; or

(b) is neglected or being ill-treated by any relative or by any person having charge of him,

the court may send for the person who is suspected of being a mentally disordered person and summon the relative or the person having, or who ought to have, charge of him.

(2) Where the court is satisfied that the person summoned under subsection (1) has charge of the suspected mentally disordered person, it may make an order —

(a) requiring the suspected mentally disordered person to be properly cared for and treated by the person summoned; or

(b) for the mentally disordered person to be sent to a designated medical practitioner in a psychiatric facility for examination.

(3) It is the duty of every police officer not below the rank of Inspector or police officer in charge of a police station to immediately report to the court every case of neglect or cruel treatment of a suspected mentally disordered person which may come to his knowledge.

(4) If an order is made by the court under subsection (2) —

(a) any designated medical practitioner in a psychiatric facility, any police officer not below the rank of Inspector or police officer in charge of a police station, or any medical social officer shall, at such reasonable time as the court may fix, visit the suspected mentally disordered person for the purpose of ascertaining his condition; and

(b) the person who was ordered by the court to properly care for and treat the suspected mentally disordered person shall produce him for such purpose to the designated medical practitioner, police officer or medical social officer.

(5) Any person who fails to comply with an order under subsection (2) or who refuses to produce the suspected mentally disordered person under subsection (4)(b) is guilty of an offence and liable on conviction —

(a) in the case of an offence under subsection (2), to a fine not exceeding \$20,000, imprisonment for a term not exceeding 10 years or both; and

(b) in the case of an offence under subsection (4)(b), to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

Examination of suspected mentally disordered person by designated medical practitioner in psychiatric facility.

12. (1) Where a person is brought or sent before a designated medical practitioner of a psychiatric facility under section 9(2), 10, 11(2)(b), 32(3) or 62(1), the designated medical practitioner shall examine him and —

(a) if he is satisfied that he is not suffering from a mental disorder, he shall discharge him;

(b) if he is satisfied that he is suffering from a mental disorder but is not in need of care or treatment in a psychiatric facility, he shall discharge him; or

(c) if he is satisfied that he is suffering from a mental disorder and in need of care or treatment,

he shall make an order to send the person to be admitted into and detained in a psychiatric facility.

(2) No order shall be made under subsection (1)(c) by a medical practitioner who is a relative of, or stands in a fiduciary relationship to, the person to be admitted or of the person making the request for his admission, into the psychiatric facility.

(3) Where an order has been made under subsection (1)(c) —

(a) the person to whom it relates shall be admitted to the psychiatric facility; and

(b) a designated medical practitioner of the psychiatric facility shall, not more than 72 hours after his admission, conduct such examination on him as he may consider necessary to determine whether or not his continued detention is justified.

(4) Where upon an examination under subsection (3)(b) the designated medical practitioner —

(a) is not satisfied that his continued detention is justified, he shall discharge him; or

(b) is satisfied that his continued detention is justified, he shall make an order for his detention for a further period not exceeding one month.

Further continued detention of patient.

13. (1) Where a person who is detained by an order made under section 7(4), 8(4)(b) or 12(4)(b) is not sooner discharged, a designated medical practitioner of the psychiatric facility shall, before the expiration of that order, conduct such examination on him as he may consider necessary to determine whether or not his continued detention is justified.

(2) The examination of the patient shall be done by two designated medical practitioners, one of whom shall be a psychiatrist.

(3) Where upon an examination under subsection (1), the designated medical practitioners —

(a) are not satisfied that his continued detention is justified, they shall discharge him; or

(b) are satisfied that his continued detention is justified, they shall make an order for his detention for a further period not exceeding 6 months.

PART III

DISCHARGE, LEAVE OF ABSENCE AND TRANSFER OF INVOLUNTARY PATIENTS FROM PSYCHIATRIC FACILITIES

Discharge of involuntary patient by officer in charge.

14. The officer in charge or any officer authorised by him may at any time discharge an involuntary patient from a psychiatric facility if he is satisfied that —

(a) it is in the best interest of the patient to discharge him; and

(b) the patient is not in need of further care or treatment in that facility.

Discharge of involuntary patient on application.

15. (1) Subject to subsection (2), an involuntary patient or his relative or friend may make an application to the officer in charge requesting his discharge.

(2) On receipt of an application made under subsection (1), a designated medical practitioner of the psychiatric facility shall examine the patient in respect of whom the application is made and shall record his findings in a report, within one week.

(3) The officer in charge or any officer authorised by him shall not discharge the patient unless he is satisfied, based on the examination under subsection (2), that the patient —

(a) is not suffering from a mental disorder; or

(b) is suffering from a mental disorder but is not in need of further care or treatment in that facility.

(4) Any person aggrieved by the decision of the officer in charge or any officer authorised by him under subsection (3) refusing to discharge him may appeal in writing to the Board within 14 days from the date of receipt of such decision.

(5) When an appeal is made under subsection (4), the officer in charge or any officers authorised by him shall submit the report of the examination under subsection (2) to the Board.

(6) On receipt of an appeal made under subsection (4), the Board shall cause two of its members, one of whom shall be a psychiatrist, to examine the person in respect of whom the appeal is made and record their findings in a report.

(7) The Board shall not discharge the patient unless it is satisfied, based on the reports of the examinations under subsections (2) and (6) that the patient —

(a) is not suffering from a mental disorder; or

(b) is suffering from a mental disorder but is not in need of further care or treatment in that facility.

(8) Any person aggrieved by the decision of the Board under subsection (7) may appeal in writing to the Director General within 14 days from the date of receipt of the Board's refusal to discharge him.

(9) When an appeal is made under subsection (8), the Board shall submit the reports of the examinations under subsections (2) and (6) to the Director General.

(10) If, having regard to the patient's mental condition at that time and upon considering the reports of the examinations under subsections (2) and (6), the Director General is not satisfied that the continued detention of the patient is justified, he shall order that the patient be discharged.

Leave of absence.

16. (1) The officer in charge or any officer authorised by him may, if he considers it to be in the best interest of the patient, grant leave of absence to an involuntary patient allowing him to be absent from the psychiatric facility for a period of not more than one month, subject to such conditions as he considers appropriate.

(2) The officer in charge or any officer authorised by him may extend such leave of absence for a further period not exceeding 2 weeks if he is satisfied that the patient is not in need of any further care or treatment in the psychiatric facility, after conducting such examination on him as he may consider necessary.

(3) The officer in charge or any officer authorised by him may revoke any leave of absence granted to an involuntary patient and require him to return to the psychiatric facility if —

(a) the patient is in breach of any condition imposed under subsection (1); or

(b) it appears to the officer in charge or any officer authorised by him that it is necessary in the interest of the patient's health or safety or for the protection of other persons.

Apprehension of involuntary patient.

17. Where an involuntary patient ordered to be detained in a psychiatric facility —

(a) absents himself from that facility without leave of absence granted under section 16(1); or

(b) fails to return to that facility —

(i) after the expiration of any period of leave of absence granted to him under section 16(1) or (2); or

(ii) upon being required to return under section 16(3),

he may be taken into custody by any police officer, medical social officer or any person authorised in writing by the officer in charge for the purpose of bringing him to that facility.

Transfer of involuntary patient to another Government psychiatric facility or private psychiatric facility.

18. (1) The Director General or any officer authorised by him may, by order, direct the transfer of an involuntary patient from a Government psychiatric facility or a private psychiatric facility to another Government psychiatric facility or another private psychiatric facility if —

(a) he is satisfied that the transfer will be of benefit to the patient or is necessary for the patient's care or treatment; and

(b) in the case of a proposed transfer to a private psychiatric facility, the officer in charge or any officer authorised by the officer-in-charge of that facility has agreed to the transfer.

(2) Subject to subsection (1)*(b)*, the officer in charge of the Government psychiatric facility or the private psychiatric facility, as the case may be, shall in all cases comply with the order of the Director General under subsection (1) but —

(a) if the officer in charge is satisfied that it would be of benefit to an involuntary patient under his care to be transferred to another psychiatric facility other than that mentioned in the order; and

(b) arrangements for the transfer could be made or have been made with the officer in charge of the psychiatric facility to which it is proposed to transfer the involuntary patient,

the officer in charge shall communicate his views in writing to the Director General whose decision on the matter is final.

(3) An order made under subsection (1) or (2) shall be sufficient authority for the reception and detention of the patient to whom it relates in the psychiatric facility to which he is transferred.

Review of involuntary patient by officer in charge.

19. It is the duty of the officer in charge to examine, or cause to be examined, at least once a week, all involuntary patients detained in the psychiatric facility under his charge to determine whether or not their continued detention is justified.

Duty to notify court of discharge of patient detained under section 44(1) or 62(1).

20. Where a patient received into a Government psychiatric facility or private psychiatric facility by an order of the court made under section 44(1) or 62(1) is discharged from that facility, the officer in charge or any officer authorised by him shall, as soon as practicable, notify the court of the patient's discharge in such form as the Director General may determine.

PART IV

**PERSONS ADMITTED OR CONFINED IN PSYCHIATRIC FACILITIES
UNDER CRIMINAL PROCEDURE CODE**

Designation of place of safe custody.

21. The Minister may designate a Government psychiatric facility to be a place of safe custody for the purposes of the admission or confinement of persons under section 247, 315, 317 or 321 of the Criminal Procedure Code (Chapter 7) or under the corresponding provisions of any other written law.

Examination of persons remanded or confined in prison etc.

22. (1) Where an order has been made under section 247, 315, 317 or 321 of the Criminal Procedure Code (Chapter 7) or under the corresponding provisions of any other written law that a person be remanded or confined in a prison or hospital or other place of safe custody, the officer in charge of that place shall examine him or cause him to be examined within 24 hours of his admission.

(2) The officer in charge shall examine or cause to be examined at least once in every 12 months or within such shorter period as the Minister may specify, any person admitted and remanded or confined under section 317 or 321 of the Criminal Procedure Code (Chapter 7) or under the corresponding provisions of any other written law.

Review of persons confined under section 317 or 321 of Chapter 7.

23. (1) Where the officer in charge or any officer authorised by him is satisfied, after an examination under section 22, that —

(a) a person admitted and confined under section 317 or 321 of the Criminal Procedure Code (Chapter 7) or under the corresponding provisions of any other written law may be discharged; and

(b) the person is not in need of further care or treatment in that facility, he may, as soon as practicable, cause him to be brought before the Board for examination.

(2) If upon considering the report of the officer in charge or any officer authorised by him and the examination of the person, the Board is satisfied that he is not in need of further care or treatment in that facility, the Board, and the officer in charge or any officer authorised by the officer in charge, shall make such recommendation for the purposes of section 324(1) of the Criminal Procedure Code (Chapter 7) that he may, subject to such conditions as the Board may determine, be discharged.

Review of persons by Board on application of relative or friend under section 325 of Chapter 7.

24. (1) If a relative or a friend of a person confined in a place of safe custody makes an application under section 325(1) of the Criminal Procedure Code (Chapter 7) for that person to be delivered over to his care and custody, that relative or friend shall give a copy of the application to the officer in charge.

(2) Upon receiving the application or a copy of the application (as the case may be), the Board and the officer in charge or any officer authorised by him shall examine the person and make such recommendation for the purposes of section 325(1) of the Criminal Procedure Code (Chapter 7) whether in their judgment that person could be delivered over to the care and custody of the relative or friend and that he may, subject to such conditions as the Board may determine, be discharged.

PART V

COMMUNITY PSYCHIATRIC RESIDENCE

Community psychiatric residence.

25. A community psychiatric residence shall be a home for the accommodation and provision of nursing and rehabilitative care for persons suffering or convalescing from mental disorder.

Appointment of community psychiatric residence.

26. The Minister may appoint the whole or any part of any premises to be —

(a) a Government community psychiatric residence; or

(b) a private community psychiatric residence,

and a notification of the appointment shall be published in the *Gazette*.

Person in charge of community psychiatric residence.

27. (1) The Minister shall appoint in respect of each Government community psychiatric residence —

(a) a medical practitioner with qualifications or training and experience in psychiatry; or

(b) a nurse with qualifications, training and experience in psychiatry,

to be the person in charge of that Government community psychiatric residence.

(2) The appointment of the person in charge of, or a medical practitioner or nurse employed in, or engaged by, a private community psychiatric residence shall not be made without the prior written approval of the Minister.

(3) The qualifications, training and experience referred to in subsection (1) shall be qualifications, training and experience recognised by the Minister on the advice of the Director General.

Admission of patient into community psychiatric residence.

28. (1) Subject to subsection (2), a person who is suffering or convalescing from mental disorder may be admitted into a community psychiatric residence as a patient —

(a) upon his own request;

(b) upon the request of a relative or friend; or

(c) upon the request of a medical practitioner.

(2) Notwithstanding subsection (1), no person shall be admitted into a community psychiatric residence except —

(a) under the direction of a medical practitioner with qualifications in psychiatry; and

(b) for the purpose of providing him with accommodation, nursing and rehabilitative care.

(3) The patient or his relative may give notice to the person in charge requesting his discharge from the community psychiatric residence and upon such request the patient shall not be kept in the community psychiatric residence for more than 24 hours from the receipt of the notice by the person in charge of the community psychiatric residence.

(4) A patient admitted under this section shall be examined by a medical practitioner at least once every 4 months.

(5) Where a medical practitioner is satisfied that —

(a) the patient's mental condition has deteriorated; and

(b) it is necessary for the health or safety of the patient or for the protection of other persons that he receives further care and treatment,

the medical practitioner shall recommend that the patient be admitted to a psychiatric facility under section 6 or 8.

(6) If no relative of the patient is available to make an application under section 8, the person in charge of the community psychiatric residence may make an application under section 8(1)(a) as if he were a relative of the patient.

PART VI

COMMUNITY MENTAL HEALTH CENTRE

Community mental health centre.

29. A community mental health centre shall be a centre for community care treatment which includes the screening, diagnosis, treatment and rehabilitation of any person suffering from a mental disorder.

Appointment of community mental health centre.

30. The Minister may appoint the whole or any part of any premises to be —

(a) a Government community mental health centre; or

(b) a private community mental health centre,

and a notification of the appointment shall be published in the *Gazette*.

Person in charge of community mental health centre.

31. (1) The Director General shall appoint in respect of each Government community mental health centre, a medical practitioner with qualifications, training and experience in psychiatry to be the officer in charge of the government community mental health centre.

(2) The appointment of the officer in charge of a private community mental health centre shall not be made without the prior written approval of the Director General.

Community care treatment.

32. (1) An involuntary patient who has been discharged or granted leave of absence from a psychiatric facility may be required by the Board or the officer in charge or any officer authorised by him, as the case may be, to undergo community care treatment at any community mental health centre.

(2) The community care treatment at any community mental health centre shall be provided on an out-patient basis, and no patient shall be kept in any part of a community mental health centre for more than 24 hours.

(3) An involuntary patient who fails to comply with the requirement under subsection (1) may be taken into custody by any police officer, medical social officer or any person authorised in writing by the officer in charge of the psychiatric facility for the purpose of bringing him to be examined by a designated medical practitioner of the psychiatric facility.

PART VII

VISITS, EXAMINATION AND REVIEW BY BOARD OF VISITORS

Duty to visit psychiatric facility or community psychiatric residence.

33. (1) The Visitors for a psychiatric facility shall visit the psychiatric facility at least once every 4 months.

(2) The Visitors for a community psychiatric residence shall visit the community psychiatric residence at least once every 4 months.

(3) When visiting a psychiatric facility or a community psychiatric residence, the Visitors —

(a) shall inquire into —

- (i) the welfare and health of patients in the psychiatric facility or the community psychiatric residence; and
- (ii) any other matter that they consider necessary or expedient; and

(b) may inspect —

- (i) any part of the psychiatric facility or community psychiatric residence; and
- (ii) any register, book, order, certificate or other document relating to the admission and discharge of patients in the psychiatric facility or community psychiatric residence.

Report.

34. The Visitors shall, as soon as practicable, after each visit to a psychiatric facility or community psychiatric residence —

(a) enter any remark that they consider proper with regard to the physical well-being and welfare of the patients in the psychiatric facility or community psychiatric residence in a book to be kept at the facility or nursing home for that purpose; and

(b) if they consider necessary, submit to the Director General a report of that visit.

Examination of involuntary patient.

35. (1) Where an involuntary patient has been detained in a psychiatric facility pursuant to an order made in accordance with section 13(3)(b), he shall, before the expiration of the period of 6 months, be brought before the Visitors who shall examine him and make inquiries relating to his admission and detention.

(2) Where upon the examination and inquiry under subsection (1) the Visitors —

(a) are not satisfied that his continued detention is justified, the Visitors shall order that he be discharged; or

(b) are satisfied that his continued detention is justified, the Visitors shall make an order for his detention for a further period not exceeding 6 months from the date of the order or such shorter period as the Director General may specify.

Review of involuntary patient.

36. (1) Where the Visitors have made an order under section 35(2)(b) and the patient to whom the order relates is, before the expiration of the period specified in the order, still being detained in the psychiatric facility, the officer in charge of the psychiatric facility shall as soon as practicable, cause the patient to be brought before the Visitors.

(2) Where the patient is brought before the Visitors under subsection (1), the Visitors may, upon considering the report of the officer in charge or any officer authorised by him and the Visitors' examination of the patient, direct that —

(a) the patient be discharged;

(b) the patient be discharged at a future date as specified in the direction; or

(c) the patient be detained for care and treatment for a further period not exceeding one year as may be specified in the direction.

(3) Where the Visitors have made a direction under subsection (2)(c), the patient to whom the order relates, if he is not earlier discharged, shall —

(a) notwithstanding section 19, be examined by the officer in charge or any officer authorised by him at least once in 4 weeks; and

(b) be reviewed by the Visitors at least once before the end of the period of his detention in the psychiatric facility,

to determine whether or not his continued detention is necessary.

(4) At each review of a patient by the Visitors under subsection (3)(b), the Visitors may, upon considering the report of the officer in charge or any officer authorised by him and their examination of the patient, direct that —

(a) the patient be discharged;

(b) the patient be discharged at a future date as specified in the direction; or

(c) the patient be detained for care and treatment for a further period not exceeding one year as may be specified in the direction.

(5) The review under subsection (4) shall continue for as long as the patient is detained in the psychiatric facility and the provisions of subsection (3) shall continue to apply with every detention of the patient for a further period not exceeding one year.

Confidentiality of information.

37. (1) Except for any of the purposes of this Order or of any civil or criminal proceedings under this Order, no Visitor shall disclose any information which has been obtained by him in the course of his duties under this Order.

(2) A Visitor who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

PART VIII

QUALITY OF PSYCHIATRIC HEALTHCARE FACILITIES AND SERVICES

Quality of psychiatric healthcare facilities and services.

38. (1) Every psychiatric facility, community psychiatric residence and community mental health centre shall have programmes and activities to ensure the quality and appropriateness of the healthcare facilities and services provided.

(2) Information regarding such programmes and activities shall be furnished to the Director General as and when required by him.

Power of Director General to issue directives, orders or guidelines relating to quality assurance.

39. The Director General may issue directives, orders or guidelines relating to the quality and standards of psychiatric facilities, community psychiatric residence or community mental health centres as he considers necessary.

PART IX

PROCEEDINGS IN INQUIRIES INTO MENTAL DISORDER

Interpretation of this Part.

40. In this Part —

“appointed person” means the suitable person or group of persons appointed under section 47(1);

“Court” means the High Court;

“mentally disordered person” means any person found by the Court to be mentally disordered and incapable of managing himself and his affairs.

Court may order inquiry.

41. (1) The Court may, on an application made before it, make an order directing an inquiry to determine whether a person subject to the jurisdiction of the Court and alleged to be a mentally disordered person is incapable of managing himself and his affairs due to such mental disorder.

(2) The order of the Court made under subsection (1) may also contain directions for inquiries to be made concerning —

(a) the nature of the property belonging to the person alleged to be a mentally disordered person;

(b) the persons who are his relatives;

(c) the period during which he has been suffering from a mental disorder; or

(d) such other questions as the Court thinks fit and proper.

(3) The application for such an inquiry may be made by —

(a) a relative of the person alleged to be a mentally disordered person;
or

(b) any public officer appointed by the Minister for the purpose of making the application.

Notice of inquiry.

42. (1) The Court shall give reasonable notice to the applicant and the person alleged to be a mentally disordered person of the time and place for the inquiry.

(2) Where it appears to the Court that the person alleged to be a mentally disordered person is in such a state that personal service on him of the notice would be ineffective, the Court may, for the purpose of bringing the person to the inquiry, direct that the service of the notice be made on —

(a) the person having charge of him; or

(b) any adult person or the owner or occupier of the premises wherein the mentally disordered person lives.

Power to examine person alleged to be mentally disordered person.

43. (1) At any time after the application for the inquiry is made, the Court may —

(a) require the applicant to produce the person alleged to be a mentally disordered person at such time and place as the Court may appoint, for the purpose of an examination by the Court or by a psychiatrist from whom the Court may require a report to be made of his mental capacity and condition; and

(b) make an order authorising any person or persons named in the order to have access to the person alleged to be a mentally disordered person for the purpose of the examination and making the report referred to in paragraph (a).

(2) The psychiatrist making a report under subsection (1)(a) in respect of the person alleged to be a mentally disordered person shall consider —

(a) the nature and degree of his condition;

(b) the complexity of his estate;

(c) the effect of his condition upon his conduct in administering his estate; and

(d) any other circumstances the psychiatrist considers relevant to the estate, the person alleged to be a mentally disordered person and his condition.

(3) The report referred to in subsection (1)(a) shall be admissible in evidence at the inquiry to be held by the Court under this Part.

Power to send person alleged to be mentally disordered person to psychiatric facility for observation.

44. (1) The Court may *in lieu* of or in addition to its powers under section 43, and on such evidence as it thinks sufficient, make an order that the person alleged to be a mentally disordered person be admitted into a psychiatric facility for observation for a period not exceeding one month; and the Court may on subsequent application by the officer in charge or any officer authorised by him order an extension for a further period of observation not exceeding one month.

(2) The order of the Court shall also provide that if the person concerned is certified prior to the expiry of the period of observation to be not a mentally disordered person, he shall —

(a) be discharged by the officer in charge into the care of the applicant making the application under section 41(3); and

(b) appear before the Court at the time and place appointed by the Court.

(3) Upon admission of the person to the psychiatric facility under subsection (1), the officer in charge or any officer authorised by him shall keep that person under observation and shall, before the expiry of the period mentioned in the order, certify in writing to the Court his opinion as to the state of mind of that person.

(4) In making a certification under subsection (3), the officer in charge or any officer authorised by him shall consider the matters set out in section 43(2).

(5) Notwithstanding any provision of any written law to the contrary a certificate purporting to be signed by the officer in charge or any officer authorised by him shall be admitted in evidence, in any proceedings for an offence against this Order, on its production by the prosecution without proof of signature and, until the contrary is proved such certificates shall be *prima facie* evidence of all matters contained therein.

Questions to be decided by Court.

45. At the inquiry, after receiving the report under section 43 or the certification of the officer in charge under section 44 and upon hearing such evidence and arguments as it may think fit, the Court shall decide —

(a) whether the person alleged to be a mentally disordered person is, due to his mental disorder, incapable of managing himself and his affairs; and

(b) any other questions as to which an inquiry has been directed.

Order as to costs.

46. The Court may make such order as to the costs of the inquiry and may include in the order such remuneration to any medical practitioner as the Court considers reasonable, but no order for the payment of costs shall be made against the Minister or against any public officer appointed by the Minister under section 41(3).

Appointment of suitable person or group of persons.

47. (1) If the Court finds that the person who is alleged to be a mentally disordered person is incapable of managing himself and his affairs due to his mental disorder, the Court may appoint a suitable person or group of persons, of the mentally disordered person and of the estate of the mentally disordered person and may, as the Court thinks fit, make an order —

(a) as to the remuneration, if any, of the suitable person or group of persons, out of the person's estate; or

(b) as to the giving of security by the suitable person or group of persons.

(2) Where the Court finds that the mentally disordered person does not pose any risk of danger to himself or to others, the Court may appoint a suitable person or group of persons of his estate without appointing a suitable person or group of persons of his person.

(3) For the purposes of subsection (1), where the mentally disordered person is a Muslim, the Court must satisfy itself that the suitable person or group of persons is entitled in accordance with *Hukum Syara'* for appointment under that subsection.

(4) For the purposes of the subsection (3), the Court shall refer the matter to the Syariah Courts constituted under the Syariah Courts Act (Chapter 184) and shall act upon any decision of the Syariah Court.

Powers of management of estate of mentally disordered person.

48. (1) Subject to subsection (2), the Court may, on the appointment of a suitable person or group of persons under section 76(1) of the estate of a mentally disordered person, direct by the appointment or by any subsequent order that the person to whom the charge of the estate is committed shall have such powers of management of the estate as the Court considers necessary and proper, regard being had to the nature of the property, whether movable or immovable, of which the estate may consist.

(2) The powers of management conferred under subsection (1) shall not extend to the sale or charge of the estate or a part of the estate or to the letting of any immovable property for a term exceeding 3 years.

Power of Registrar to receive proposal.

49. (1) The Registrar may, without an order of reference, receive any proposal and conduct an inquiry in respect of the management of the estate of a mentally disordered person if the proposal relates to any matter which the appointed person of the estate has not been empowered under section 48 to dispose of.

(2) The Registrar may, without an order of reference, receive and inquire into any proposal relating to the sale or charge of the estate or any part of the estate of a mentally disordered person or to the letting of any immovable property for a term exceeding 3 years.

(3) The Registrar shall report to the Court on the proposal and the Court shall, subject to this Order, make an order on the report and award such costs as under the circumstances seem just.

Relatives who may attend proceedings.

50. (1) The Court shall determine which of the relatives of the mentally disordered person shall attend before the Registrar in any proceedings connected with the management of the estate of that person.

(2) Where the relative is a minor, the Court may appoint a fit and proper person to be his guardian for the purpose of the proceedings.

(3) The attendance of the relatives before the Registrar shall be at the cost of the estate.

Orders may be made on application.

51. Subject to the provisions of this Order, the Court may, on an application made to it concerning any matter connected with an inquiry, make such order in respect of the application and the costs of the application and of the consequent proceedings as under the circumstances seem just but no order for costs shall be made under this section against any public officer.

Dealing with property of mentally disordered person.

52. The Court may, if it thinks just or for the benefit of the mentally disordered person, order that any property whether in possession, reversion, remainder, contingency or expectancy, be sold, charged or otherwise disposed of (as seems most expedient) for the purpose of raising money to be applied for any of the following purposes —

(a) the payment of his debts, including any debt or expenditure incurred for his maintenance or for his benefit;

(b) the discharge of any encumbrance on his estate;

(c) the payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to any place in or outside Brunei Darussalam and all related expenses;

(d) the payment of the costs of any proceedings under this Order and of any costs incurred by order or under the authority of the Court;

(e) any other purpose which the Court thinks fit and proper.

Appointed person to execute instrument.

53. (1) The appointed person of the estate of a mentally disordered person shall, in his name and on his behalf, execute all such conveyances and instruments of transfer in relation to any sale, charge or other disposition of the estate of the mentally disordered person as the Court may order.

(2) The appointed person shall also, under the order of the Court, exercise all powers vested in a mentally disordered person, whether the powers are vested in him for his own benefit or in his capacity as a trustee or guardian.

Performance of contract.

54. Where a person who has contracted to sell or dispose of his estate or any part of his estate subsequently becomes a mentally disordered person, the Court may, if the contract is such as the Court thinks ought to be performed, direct the appointed person of the estate of the mentally disordered person to execute such conveyances and to do such other acts in fulfillment of the contract as it thinks fit and proper.

Dissolution and disposal of property of partnership.

55. (1) Where a member of a partnership is a mentally disordered person, the Court may dissolve the partnership on an application of the other partners or of any other person who appears to the Court to be entitled to require the dissolution.

(2) Upon the dissolution of the partnership under subsection (1) or by an order of Court or due course of law, the appointed person of the estate of the mentally disordered person may, in the name and on behalf of the mentally disordered person, join with the other partners in disposing of the partnership

property upon such terms, and shall do all acts for carrying into effect the dissolution of the partnership, as the Court thinks fit and proper.

Disposal of business premises.

56. Where a mentally disordered person has been engaged in business the Court may, if it appears to be for the benefit of his estate that the business premises should be disposed of, order the appointed person of the estate of the mentally disordered person to sell and dispose of the business premises, and the proceeds of the sale shall be applied in such manner as the Court directs.

Appointed person may dispose of lease.

57. Where a mentally disordered person is entitled to a lease or sub-lease, the Court may, if it appears to be for the benefit of his estate that the lease or sub-lease should be disposed of, order the appointed person of the estate of the mentally disordered person to surrender, assign or dispose of the lease or sub-lease upon such terms as the Court thinks fit and proper.

Transfer of stock, security etc. of mentally disordered person.

58. Where —

(a) any stock, Government security, share or debenture in a public company, transferable within Brunei Darussalam or the dividends of which are payable in Brunei Darussalam are standing in the name of or are vested in —

- (i) a mentally disordered person who is beneficially entitled to the stock, security, share or debenture;
- (ii) an appointed person of the estate of the mentally disordered person; or
- (iii) a trustee for him; and

(b) (i) the appointed person or trustee dies intestate or himself becomes a mentally disordered person or is out of the jurisdiction of the Court;

(ii) it is uncertain whether the appointed person or trustee is living or dead; or

(iii) the appointed person or trustee neglects or refuses —

(A) to transfer the stock, security, share or debenture;

- (B) to receive and pay the dividends to a new appointed person or trustee; or
- (C) as the mentally disordered person directs, within 14 days after being required by him to do so,

the Court may order any fit and proper person to make the transfer or to transfer the stock, security, share or debenture and to receive and pay over the dividends in such manner as it may direct, and the transfer or payment shall be valid and effectual for all purposes.

Transfer of property of mentally disordered person residing outside Brunei Darussalam.

59. Where any property situated in Brunei Darussalam is standing in the name of or vested in any person residing outside Brunei Darussalam, the Court may, if satisfied that —

(a) the person has been declared to be a mentally disordered person; and

(b) his personal estate has been vested in a curator or manager or otherwise, according to the laws of the place where he is residing,

order any fit and proper person to make such transfer of the property or of any part of the property to the curator or manager or otherwise, and also to receive and pay over any proceeds or profits of the property as the Court thinks fit; and any act done in pursuance of the order shall be valid and effectual for all purposes.

Power to order maintenance without appointing suitable person or group of persons.

60. If it appears to the Court, having regard to the situation and condition in life of the mentally disordered person and his family and other relevant circumstances of the case, to be expedient that property should be made available for his or their maintenance in a direct and inexpensive manner, the Court may, instead of appointing a suitable person or group of persons of the estate order that the property or, if of any other description, the produce thereof when realised, be paid to such other person as the Court may think fit to be applied for the maintenance of the mentally disordered person and his family and all payments so made shall be a good discharge to the person making the payment.

Temporary provision for maintenance.

61. If it appears to the Court that —

(a) the incapability of a mentally disordered person to manage himself and his affair is temporary in nature; and

(b) it is expedient to make temporary provision for the maintenance of the mentally disordered person or his family,

the Court may, in like manner as under section 60, direct that his property or a sufficient part of the property be applied for that purpose.

Order for reception of mentally disordered person.

62. (1) Where upon an inquiry under this Part a person is found by the Court to be incapable of managing himself and his affairs due to his mental disorder but the Court does not appoint an appointed person of the mentally disordered person, the Court shall make an order for the person to be sent to a designated medical practitioner in a psychiatric facility for examination and for his admission to the psychiatric facility named in the order.

(2) Notwithstanding subsection (1), if a friend or relative of the mentally disordered person satisfies the Court that he undertakes to take proper care of the person and prevent the person from injuring himself or others, the Court may, instead of making an order under the subsection (1), make an order handing him over to the care of the friend or relative.

(3) A person received into a psychiatric facility by an order of the Court made under subsection (1) shall, for the purposes of this Order, be an involuntary patient under section 12.

Annuling proceedings.

63. (1) Where a person has been found to be incapable of managing himself and his affairs due to his mental disorder and it is subsequently shown to the Court —

(a) on the application of that person;

(b) on the application of a person acting on his behalf; or

(c) on the information of any other person,

that there is reason to believe that such incapability has ceased, the Court may make an order for an inquiry to determine whether the person is now capable of managing himself and his affairs.

(2) The inquiry under subsection (1) shall be conducted in the same manner as that prescribed for an inquiry into whether a person alleged to be a mentally disordered person is incapable of managing himself and his affairs.

(3) Where upon an inquiry under this section the Court finds that the person is now capable of managing himself and his affairs, the Court shall order all proceedings in the matter to cease or to be set aside on such condition as it thinks fit and proper.

Discharge of person found on inquiry to be not capable of managing himself and his affairs.

64. Where after an inquiry into the capability of a person detained in a psychiatric facility to manage himself and his affairs, the Court has made an order under section 63(3), the officer in charge shall, immediately on the production of a copy of the order, discharge that person from the facility.

PART X

GENERAL

Giving of consent for surgery etc.

65. (1) Where a mentally disordered person is required to undergo life-sustaining medical and surgical procedures, psychosurgery or electroconvulsive therapy, consent for any of them may be given if —

(a) he is capable of giving consent as assessed by a psychiatrist, by the patient himself;

(b) the patient is incapable of giving consent —

(i) in the case of a minor, by his guardian; or

(ii) in the case of an adult, by a relative;

(c) his guardian or relative is not available or not traceable and the patient himself is incapable of giving consent, by two psychiatrists, one of whom shall be the attending psychiatrist.

(2) In the case of an emergency, consent for major medical and surgical procedures or electroconvulsive therapy may be given —

(a) by the guardian or a relative of the patient; or

(b) if his guardian or relative is not immediately available or not traceable, by two medical practitioners, one of whom shall be a psychiatrist.

(3) In determining whether or not a mentally disordered person is capable of giving consent under subsection (1)(a), the examining psychiatrist shall consider whether or not the patient understands —

(a) the condition for which the treatment is proposed;

(b) the nature and purpose of the treatment;

(c) the risks involved in undergoing the treatment;

- (d) the risks involved in not undergoing the treatment; and
- (e) whether or not his ability to consent is affected by his condition.

(4) Notwithstanding subsections (1) and (2), the requirement for consent does not apply where the patient is facing a life threatening situation that necessitates intervention.

Duty to give information to patients.

66. The officer in charge shall take such steps as are reasonably practicable to ensure that every patient in the facility and a relative of the patient, understand —

- (a) under which provision of this Order the patient is detained and the effect of the provision; and
- (b) what rights are available to him to apply for his discharge.

Copy of reception order to be sent to officer in charge of psychiatric facility.

67. A medical practitioner making an order under section 12 or 13 or a court making an order under section 44 or 62 shall immediately send a copy of the order to the officer in charge of the psychiatric facility into which the person who is the subject of the order is to be received.

Medical certificate, order etc. may be amended.

68. If upon the admission of an involuntary patient into a psychiatric facility it appears that any medical certificate, order or other documents relating to the admission are in any respect incorrect, the certificate, order or other document may, with the approval of the officer in charge, be amended by the person who signed it within 14 days of the admission of the patient for the purpose of correcting any clerical error, an obvious mistake or for any other reason acceptable to the officer in charge.

Sums payable by Government to mentally disordered person.

69. (1) Where any sum is payable in respect of pay, pension, gratuity or other similar allowance to any person by the Government, and that person is found under this Order to be a mentally disordered person, any public servant authorised to make such payment shall pay —

- (a) so much of that sum as he considers fit to the person having charge of the mentally disordered person for purposes of the maintenance of the mentally disordered person; and

(b) the surplus or such part of the surplus, if any, as he considers fit, for the maintenance of the members of the family of the mentally disordered person who are dependent on him for maintenance.

(2) Any person having charge of the mentally disordered person who fails to comply with or contravenes subsection (1)(a) is guilty of an offence and liable on conviction to a fine of \$5,000, imprisonment for a term not exceeding 5 years or both.

Neglect or ill-treatment of patient.

70. (1) Any officer or staff of, or persons otherwise employed in or engaged by, a psychiatric facility, community psychiatric residence, community mental health centre or any other government or private healthcare premises who –

(a) wilfully neglects or ill-treats a patient receiving treatment for mental disorder as an in-patient in that psychiatric facility, community psychiatric residence, community mental health centre or government or private healthcare premises; or

(b) wilfully neglects or ill-treats, on the premises of which such psychiatric facility, community psychiatric residence, community mental health centre or government or private healthcare facility forms a part, a patient receiving treatment there as an out-patient,

is guilty of an offence.

(2) A person who ill-treats or wilfully neglects a mentally disordered person who is in his custody or under his care and protection is guilty of an offence.

(3) A person guilty of an offence under this section is liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 10 years or both, and whipping.

Abetment of escape of patients.

71. (1) Any person who permits or abets the escape or attempted escape of any patient is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both.

(2) Any person employed in, or engaged by, any psychiatric facility who permits or abets the escape or attempted escape of any patient is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

Penalty for improper reception and detention.

72. Subject to section 73, any person who —

(a) otherwise than in accordance with the provisions of this Order or any other written law, admits or detains in a psychiatric facility a person who is or is alleged to be a mentally disordered person; or

(b) for gain, detains in any place, not being a psychiatric facility, any mentally disordered person,

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 7 years or both.

Limitation of liability.

73. No action shall be brought against the Director General, any member of a Board of Visitors, officer in charge, person in charge, medical practitioner, police officer or any other person acting under the direction of the Director General or the officer in charge in respect of anything done or omitted to be done by any of them in good faith in the exercise, performance or purported exercise or performance, of any powers or duties under this Order.

Code of practice.

74. (1) For the purpose of providing practical guidance with respect to the requirements of this Order relating to the admission, detention, lodging, care, treatment, rehabilitation, and protection of persons who are mentally disordered, the Minister may —

(a) issue one or more codes of practice;

(b) approve as a code of practice any document prepared by any person if he considers the document as a suitable document for this purpose; and

(c) amend or revoke any code of practice issued or approved under this section.

(2) The power of the Minister under subsection (1)(a) or (b) to issue or approve as a code of practice shall include the power to issue or approve a part of such a code of practice or document.

(3) Where a code of practice is issued, approved, amended or revoked by the Minister under subsection (1), the Minister shall —

(a) publish a notice of such issue, approval, amendment or revocation, as the case may be, in such manner as will secure adequate publicity for such issue, approval, amendment or revocation;

(b) specify in the notice referred to in paragraph (a) the date of issue, approval, amendment or revocation, as the case may be;

(c) ensure that, so long as the code of practice remains in force, copies of that code, and of all amendments to that code, are available —

(i) for inspection by members of the public free of charge; and

(ii) for purchase by members of the public at a reasonable price.

(4) No code of practice, no amendment to an approved code of practice, and no revocation of any approved code of practice, shall have any force or effect as a code of practice until the notice relating thereto is published in accordance with subsection (3).

(5) If any provision of any code of practice is inconsistent with any provision of this Order, such provision, to the extent of the inconsistency —

(a) shall have effect subject to the provisions of this Order; or

(b) having regard to the provisions of this Order, shall not have effect.

(6) Any code of practice shall be deemed not to be subsidiary legislation.

Use of codes of practice in criminal proceedings.

75. (1) A person shall not be liable to any criminal proceedings by reason only that he has failed to observe any code of practice.

(2) In any proceedings for any offence against this Order, a code of practice that is relevant to any matter which it is necessary for the prosecution to prove in order to establish the commission of the offence shall be admissible in evidence in the proceedings.

(3) Without affecting any other method of proof, in any proceedings for an offence against this Order —

(a) the production of a document purporting to be a copy of a notice published by the Minister under section 74(3)(a) shall be taken to be such a notice until the contrary is proved; and

(b) the production of a code of practice, or an amendment or a revocation of a code of practice, purporting to be the subject of a notice

under section 74(3)(a) shall be taken to be the subject of that notice until the contrary is proved.

(4) In determining for the purpose of any provision of this Order as to whether any psychiatric facility, community psychiatric residence or community mental health centre is of good standard or in accordance with the generally accepted principles of safe and sound practice regard shall be had to any relevant standards, codes of practice or guidance acceptable to the Minister.

Court for trial of offences.

76. Unless the context otherwise requires, any offence under this Order may be tried by a Court of a Magistrate or a Syariah Subordinate Court, as the case may be, and such Court shall, notwithstanding the provisions of the Criminal Procedure Code (Chapter 7) and any other written law, have jurisdiction to impose the maximum penalty provided for by this Order.

Regulations.

77. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as appear to him to be necessary or expedient for giving effect to and carrying out the provisions of this Order and for the due administration thereof.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations may be made for all or any of the following purposes –

(a) to prescribe the standards and specifications in respect of the siting, design and construction of psychiatric facility, community psychiatric residence and community mental health centres;

(b) to prescribe the standards of the apparatus, appliance, equipment, instrument, substance, furnishing and other things to be provided by psychiatric facility, community psychiatric residence and community mental health centres;

(c) to prescribe the standards of accommodation, sanitation or other amenities in psychiatric facility, community psychiatric residence and community mental health centres;

(d) to prescribe the standards for the maintenance, administration or staffing of, and the provisions of facilities and services by, psychiatric facility, community psychiatric residence and community mental health centres;

(e) to provide for acceptable quality assurance and quality control in respect of psychiatric facility, community psychiatric residence and community mental health centres;

(f) to prescribe the management, control, superintendence and care of psychiatric facility, community psychiatric residence and community mental health centres, including the functions, responsibilities, duties and powers of officers in charge of the psychiatric facility, community psychiatric residence and community mental health centres;

(g) to prescribe all matters relating to the rights and privileges of patients;

(h) to prescribe all matters relating to the issue of communication by and with patients in psychiatric facility;

(i) to prescribe the conditions and circumstances under which physical and chemical means of restraint or seclusion may be applied to patients in psychiatric facility;

(j) to prescribe the appointment of members to, the constitution, duties and powers of, and the procedure to be followed by, a Board;

(k) to prescribe the type of unforeseeable or unanticipated incidents to be reported, the procedure for reporting, the manner of investigation to be conducted, the report and statistical data to be submitted;

(l) to prescribe all matters relating to policy statements and matters relating to grievance mechanism;

(m) to regulate the keeping of such books, records, registers or other documents or the furnishing of such reports or statistics as may be necessary for the purposes of this Order;

(n) to prescribe anything required to be or which may be prescribed under this Order.

Repeal of Chapter 48.

78. The Lunacy Act is repealed.

Construction of other written laws.

79. Unless a contrary intention appears, a reference in any other written law —

(a) to a lunatic or mental person shall be construed as a reference to a mentally disordered person;

(b) to lunacy shall be construed as a reference to mental disorder;

(c) to an asylum, a lunatic asylum, a mental hospital, a mental facility or any other medical facility for the purpose of admitting, remanding, confining or detaining a mentally disordered person shall be construed as a reference to a psychiatric facility.

Amendment of Chapter 51.

80. Section 2 of the Prisons Act is amended by deleting the definition of “mental hospital” and by substituting the following new definition therefor —

“ “mental hospital” includes any Government psychiatric facility for the reception of persons ordered to be detained therein under the Mental Health Order, 2014;”.

Amendment of Chapter 18.

81. Section 7 of the Old Age and Disability Pensions Act is amended by deleting paragraph *(d)* and by substituting the following new paragraph therefor —

(d) allowances for a mentally disordered person who is under the provisions of the Mental Health Order, 2014, either detained in a psychiatric facility or committed to the care of any relative or friend, or his dependants;”.

Amendment of Old Age and Disability Pensions Regulations in Chapter 18.

82. The Old Age and Disability Pensions Regulations are amended by repealing regulation 7 and by substituting the following new regulation therefor —

“Allowance in respect of mentally disordered persons.

7. An allowance to be called a “mental disordered persons allowance” shall, whenever the Pensions Officer is satisfied that there is need for such an allowance, be payable at the rate specified, to, or for the benefit of, a mentally disordered person or his dependants, the mentally disordered person being a person who the Pensions Officer is satisfied —

(a) has attained the age of 15 years;

(b) is a mentally disordered person;

(c) is under the provisions of the Mental Health Order, 2014, either detained in a psychiatric facility or committed to the care of any relative or friend; and

(d) resided in Brunei Darussalam for a period of at least 10 years preceding the date upon which he was detained or committed.”

Savings.

83. Notwithstanding the repeal of the Lunacy Act (Chapter 48) by section 78 —

(a) any order made under that Act and in force immediately prior to the commencement of this Order shall, so far as it is not inconsistent with the provisions of this Order, continue to be in force and have effect as if it had been made under this Order until it is amended or repealed;

(b) any inquiry or proceedings commenced under that Act prior to the commencement of this Order shall be continued or concluded under and in accordance with the corresponding provisions of this Order.

Made this 17th. day of Rejab, 1435 Hijriah corresponding to the 17th. day of May, 2014 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM