

# **MENTAL HEALTH ACT 1987**

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# **MENTAL HEALTH ACT 1987**

## **□ HISTORY:**

- Mental health act was drafted by parliament in 1987
- Came into effect in all the states and union territories of India in April 1993
- Replaces the Indian lunacy act of 1912
- Which had earlier replaced the Indian lunatic asylum act of 1858

# **MENTAL HEALTH ACT 1987**

## **□ Definition of the Act**

“An act to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto”

# SALIENT FEATURES OF THE ACT

Mental health act is divided into 10 chapters consisting of 98 sections

- Chapter I: Deals with preliminaries of the act
- Chapter II: Deals with establishment of mental health authorities at central and state levels
- Chapter III: Deals with establishment and maintenance of psychiatric hospitals and nursing homes

- Chapter IV: Deals with the procedures of admission and detention of mentally ill in psychiatric hospitals
- Chapter V: It deals with the inspection, discharge, leaves of absence and removal of mentally ill persons
- Chapter VI: It deals with the judicial inquisition regarding alleged mentally ill persons possessing property and its management.

- Chapter VII: It deals with the maintenance of mentally ill persons in a psychiatric hospital or psychiatric nursing homes
- Chapter VIII: It deals with the protection of human rights of mentally ill persons
- Chapter IX: It deals with the penalties and procedures for infringement of guidelines of the act
- Chapter X: It deals with miscellaneous matters not covered in other chapters of the act

# **OBJECTIVES OF THE ACT**

1. To establish central and state authorities for licensing and supervising the psychiatric hospitals
2. To establish such psychiatric hospitals and nursing homes
3. To provide a check on working of these hospitals
4. To provide for the custody of mentally ill persons who are unable to look after themselves and are dangerous for themselves and or, others
5. To protect the society from dangerous manifestations of mentally ill

6. To regulate procedure of admission and discharge of mentally ill persons
7. To safeguard the rights of these detained individuals
8. To protect citizens from being detained unnecessarily
9. To provide the maintenance charges of mentally ill
10. To provide legal aid to poor mentally ill criminals at state expenses
11. To change offensive terminologies of Indian Lunacy act to new soother ones



# CHAPTER I - PRELIMINARY

## ❑ TERMS USED

- **DISTRICT COURT:**

a city Civil Court, the principal Civil Court of original jurisdiction, or any other Civil Court competent to deal with all or any of the matters specified in this Act

- **INSPECTING OFFICER:**

means a person authorized by the State Government or by the licensing authority to inspect any psychiatric hospital or psychiatric nursing home

- **LICENSE:** means a license granted under Sec.8

- **LICENSEE:** means the holder of a licence

- **MAGISTRATE:** - Metropolitan Magistrate; the Chief Judicial Magistrate, Sub-Divisional Judicial Magistrate or such other Judicial Magistrate of the first class
- **MEDICAL OFFICER:** means a gazetted medical officer in the service of Government
- **MENTALLY ILL PERSON:** means a person who is in need of treatment by person of any mental disorder other than mental retardation
- **MINOR:** person who has not completed the age of 18 years

- **MENTALLY ILL PRISONER:** Is a mentally ill person, ordered for detention in a psychiatric hospital, jail or other places of safe custody
- **PSYCHIATRIC HOSPITAL / NURSING HOME:** hospital or nursing home established or maintained by the Government or any other person for the treatment and care of mentally ill

#### **NEW TERM**

#### **PREVIOUSLY USED TERMS**

Psychiatric hospital/Nursing home

Asylum

Mentally ill person

Lunatic

Mentally ill prisoner

Criminal Lunatic

# **Chapter II - Mental Health Authorities**

Deals with the procedures for establishment of mental health authorities at central and state levels

# CENTRAL AUTHORITY

- Shall be subject to the superintendence, direction and control of the central government
- Shall be in charge of regulation, development, direction and co-ordination with respect to mental health services under the central government
- Supervise the psychiatric hospitals and psychiatric nursing homes and other mental health service agencies under the control of the central government
- Advise the central government on all matters relating to mental health

# STATE AUTHORITY

- Shall be subject to the superintendence, direction and control of the state government
- Shall be in charge of regulation, development, direction and co-ordination with respect to mental health services under the state government
- Supervise the psychiatric hospitals and psychiatric nursing homes and other mental health service agencies under the control of the state government
- Advise the state government on all matters relating to mental health

## **CHAPTER III - PSYCHIATRIC HOSPITALS AND PSYCHIATRIC NURSING HOMES**

It lays down the guidelines for

- Establishment and maintenance of psychiatric hospitals and nursing homes
- Provision for licensing authorities to process applications for license

❑ The Central Government may established or maintain psychiatric hospitals or psychiatric nursing homes for:

- the admission and care of mentally ill persons

❑ Separate psychiatric hospitals and psychiatric nursing homes may be established or maintained for:

- those who are under the age of sixteen years
- those who are addicted to alcohol or other drugs which lead to behavioral changes in a persons
- those who have been convicted of any offence



## □ LICENCE

- no person shall established or maintain a psychiatric hospital or psychiatric nursing home
- unless he holds a valid licence granted to him
- by Central Government or State Government

- **Application for licence**

A person, who intends to establish or maintain a psychiatric hospital or psychiatric nursing home, shall, unless the said person already holds a valid licence, make an application to the licence authority for the grant of a licence

- **Duration and renewal of licence**

- A licence shall not be transferable or heritable
- Every licence shall, unless revoked earlier, be valid for a period of five years from the date on which it is granted

## **CHAPTER IV : ADMISSION AND DETENTION IN PSYCHIATRIC HOSPITAL**

- **ADMISSION ON VOLUNTARY BASIS**
- **ADMISSION UNDER SPECIAL CIRCUMSTANCES**
- **RECEPTION ORDERS**

## ❑ **ADMISSION ON VOLUNTARY BASIS**

- **Request by major for admission as voluntary patient**
- **Request by guardian for admission of a ward**

### ❖ **Regulation with respect to, voluntary patient:**

- On receipt of a request, the medical officer-in-charge shall make an inquiry within a period of 24 hours and if satisfied, he may admit such application as a voluntary patient
- Every voluntary patient admitted shall be bound to abide by regulations as may be made by the medical officer

## ❑ **DISCHARGE OF VOLUNTARY PATIENTS**

- The medical officer-in-charge on a request made in that behalf :
  - ✓ by any voluntary patient
  - ✓ by the guardian, if he is a minor
- Discharge the patient within 24 hours of the receipt of such request
- If medical officer-incharge is satisfied that the discharge will not be in the interest of the patient, he shall:
  - within 72 hours of a request constitute a Board consisting of two medical officers and seek its opinion
  - if the Board is of the opinion that patient needs further treatment
  - medical officer should continue his treatment for a period not exceeding ninety days at a time

## ❑ **ADMISSION UNDER SPECIAL CIRCUMSTANCES:**

- Any mentally ill persons who does not, or is unable to, express his willingness for admission
- may be admitted and kept as an in-patient in a psychiatric hospital
- on an application made in that behalf by a relative or a friend of the mentally ill persons
- if the medical officers-in-charge is satisfied that in the interest of the mentally ill persons it is necessary so to do

## ❑ RECEPTION ORDERS

### ➤ Application for reception order:

- An application for a reception order may be made by
  - the medical officer-in-charge
  - the spouse or other relative of the mentally ill

### ➤ Where a medical officer-in-charge is satisfied that :

- the treatment in the psychiatric hospital is required to be continued for more than six months
- It is in the interests of the health & safety of the mentally ill person or for the protection of others

- The application is to be made to magistrate within the local limits of jurisdiction of the psychiatric hospital

➤ **Every application shall be:**

- Signed and verified in the prescribed manner
- Shall be accompanied by two medical certificates
- From two medical practitioners of whom one shall in the service of government



## **□ Duties of police officers in respect of certain mentally ill persons:**

**Every officer in charge of a police station –**

- May take into protection any person found wandering within the limits of his station whom he believes to be mentally ill & incapable of taking care of himself, and dangerous by reason of mental illness
- No person shall be detained without being informed, his relatives or friends, if any
- Every person shall be produced before the nearest Magistrate within a period of twenty-four hours

## **❑ Admission after Inquisition:**

- If any district court holding an inquisition regarding any person who is found to be mentally ill
- By order such person shall be admitted and kept as an in-patient in a psychiatric hospital

## **❑ Admission and detention of mentally ill prisoner:**

- An order under Sec. 30 of the Prisoners Act, Sec. 330 or Sec. 335 of the Code of Criminal Procedure 1973
- directing the reception of a mentally ill
- shall be sufficient authority for the admission of such person into any psychiatric hospital

# **CHAPTER V - INSPECTION, DISCHARGE, LEAVE OF ABSENCE AND REMOVAL OF MENTALLY ILL PERSONS**

## **□INSPECTION:**

- Not less than three visitors shall at least once in every month
- Make a joint inspection of every part of the psychiatric hospital
- Shall enter in a book kept for that purpose such remarks as they deem appropriate in regard to the management and condition
- The visitors shall not be entitled to inspect any personal records of an in-patient of confidential nature

## **□ DISCHARGE:**

- **Discharge by medical officer**
- **Discharge on application**
- **Discharge on request**
- **Discharge of person subsequently found on inquisition to be of sound mind**

## **❑ Discharge by medical officer:**

- On the recommendation of two medical practitioners one of whom shall preferably be a psychiatrist
- By order in writing, the medical officer shall direct the discharge of any person from the psychiatric hospital
- Other than a voluntary patient

## **□ Discharge on application**

- Any person detained in a psychiatric hospital under an order and in pursuance of an application
- shall be discharged on an application made in that behalf to the medical officer in charge
- Provided that no person shall be discharged if the medical officer in charge certifies in writing that the person is dangerous and unfit to be at large

## ❑ Discharge on request

- Any person (not being a mentally ill prisoner) detained in pursuance of an order, who feels that he has recovered from his mental illness, may make an application to the Magistrate, for his discharge from the psychiatric hospital
- The application made shall be supported by a certificate either from the medical officer in charge or from a psychiatrist
- The Magistrate may, after making such inquiry as he may deem fit, pass an order discharging the person or dismissing the application.

## **❑ Discharge of person subsequently found on inquisition to be of sound mind**

- If any person detained in a psychiatric hospital in pursuance of a reception order is subsequently found
- on an inquisition to be of sound mind or
- capable of taking care of himself and
- managing his affairs
- The medical officer-in-charge shall discharge such person from such hospital or nursing home



- **LEAVE OF ABSENCE**

- An application for leave of absence may be made to the medical officer-incharge:-
  - by the husband or wife of the mentally ill
  - relative of the mentally ill person duly authorized by the husband or wife or
  - by the person on whose application the mentally ill person was admitted

- Every application shall be accompanied by a bond undertaking :-
  - To take proper care of the mentally ill person
  - To prevent the mentally ill person from causing injury to himself or to others, and
  - To bring back the mentally ill person to the psychiatric hospital on the expiry of leave
- The medical officers-in-charge may grant leave of absence for such period as deemed necessary
  - The total number of days shall not exceed sixty days

## ❑ REMOVAL

- Any mentally ill person other than a voluntary patient subject to any general or special order of the state government
- Be removed from any psychiatric hospital or psychiatric nursing home to any other psychiatric hospital or psychiatric nursing home
- Within the state, or to any other state with the consent of the government of that other state

