

THE JAMMU AND KASHMIR LUNACY ACT,1977

(Act No XXV of 1977)

[Dated 1st of April, 1977]

An Act to consolidate and amend the law relating to Lunacy.

Whereas it is expedient to consolidate and amend the law relating to lunacy; It is hereby enacted as follows:-

PART 1

PRELIMINARY

CHAPTER 1

1. (1) This Act may be called as the Jammu and Kashmir Lunacy Act, 1977.
(2) It extends to the whole of the Jammu and Kashmir state. It shall come into force at once.

2. Savings

Nothing contained in part II shall be deemed to effect the powers of the High Court over any person found to be a lunatic by inquisition or over the property of such lunatic, or the rights of any person appointed by such Court as guardian of the person or manager of the estate of such lunatic.

3. Definitions

In this Act unless there is anything repugnant in the subject or context,-

- (i) “asylum” means as asylum for lunatics established or licensed by Government;
- (ii) “cost of maintenance” in an asylum includes the cost of lodging ,maintenance ,clothing ,medicine and care of a lunatic and any expenditure incurred in removing such lunatic to and from an asylum;
- (iii) “District Court” means the Principal Civil Court of original jurisdiction in any area;
- (iv) “Criminal Lunatic” means any person for whose in or removal from an asylum ,jail or other place of safe custody, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, or section 30 of the Prisoners Act;
- (v) “Lunatic” means an idiot or person of unsound mind;
- (vi) “Magistrate” means a District Magistrate or sub-divisional Magistrate or a Magistrate of first class specially empowered by the Government to perform the functions of a Magistrate under this Act;

- (vii) “Medical Officer” means a Gazetted medical officer of Government and includes a Medical practitioner declared by special order of the Government to be a medical officer for the purpose of this Act;
- (viii) “ Medical Practitioner” means a holder of qualification to practice medicine and surgery which can be registered n the United Kingdom in accordance with the law for the time being in force;
- (ix) “prescribed” means prescribed by this Act or by rules made thereunder;
- (x) “reception order” means an order made under the provisions of this Act for the reception into an asylum of a lunatic other than a lunatic so found by inquisition;
- (xi) “relative” means any person related by blood, marriage or adoption; and
- (xii) “rule” means a rule made under this Act.
- (xiii)

PART II

RECEPTION, CARE AND TREATMENT OF LUNATIC

CHAPTER II

RECEPTION OF LUNATICS

4. Reception of persons in asylum

- (1) no person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum without a reception order save as provided by sections 8 and 16;
- (2) A boarder received in an asylum under the proviso to sub-section(1) shall not be detained in an asylum for more than twenty –four hours after he has given it to the person in charge of the asylum notice in writing of his desire to leave the asylum.

RECEPTION ORDERS ON PETITION

5. Application for Reception Order

- (1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of papers , on of which certificates shall be from a medical officer.
- (2) If either of the medical certificates is signed by any relative, partner or assistant of a lunatic or of the petitioner, the petition shall states the fact , and where, the person signing is a relative , the exact manner in which he is related to the lunatic or petitioner.

- (3) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any court ; and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.
- (4) No application for a reception order shall be entertained in any area unless the Government has, by notification in the Government Gazette ,declared such area in which reception orders may be made.

6. Application by whom to be presented

- (1) Subject to the provisions of sub-sections(3), the petition shall be presented by the husband or wife of the alleged lunatic, or if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from the state or otherwise from making the presentation , by the nearest relative of the alleged lunatic, who is not so prevented.
- (2) If the petition is presented by the husband or wife of the alleged lunatic, or if there is no husband or wife or the husband or wife or by by the nearest relative of the alleged lunatic,, the petition shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner of the alleged lunatic, and the circumstances under which he presents the petition.
- (3) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject, and has within fourteen days before the presentation of the petition, personally seen the said lunatic.
- (4) The petition shall be signed and verified by the petitioner, and the statement of the prescribed particulars by the person making such statement.

7. Procedure upon petition for reception order

- (1) Upon the presentation of the petition the Magistrate shall consider the allegations in the petition and the evidence of the lunacy appearing by the medical certificates.
- (2) If he considers that there are grounds for proceeding further, he shall be personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it is unnecessary or in expedient so to do.
- (3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.
- (4) If he is not so satisfied , he shall fix a date for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

8. Detention of alleged lunatic pending inquiry

Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending the conclusion of the inquiry.

9. Consideration of Petition

The Petition shall be considered in private, in the presence of the Petitioner, the alleged lunatic, any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit.

10. Order

- (1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same for further evidence or inquiry by the person upon whose application it was made or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit.
- (2) If the petition is dismissed the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

11. Further provisions as to reception orders on petitions

No reception order shall be made under section 7 or section 10, save in the case of a lunatic who is dangerous and unfit to be at large, unless –

- (a) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and
- (b) the Petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

12. Copy of Reception order to be sent to person in charge of Asylum

Any authority making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum into which such lunatic is to be admitted.

13. Omitted.

DETENTION OF LUNATICS PENDING REMOVAL TO ASYLUM

14. Detention of lunatics pending to removal to asylum

When any reception order has been made under section 7,10, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to an asylum, be detained in suitable custody, in such place as the Magistrate thinks fit.

RECEPTION AFTER INQUISTITION

15. Reception after Inquisition

A lunatic so found by inquisition may be admitted into an asylum-

(1) in the case of an inquisition under chapter IV, on an order made by, or under the authority of, the High Court;

(2) in the case of an inquisition under chapter IV, on an order made by the District Court.

16. Control over Proceedings of Collector

All proceedings of the collector in regard to the person or estate of a lunatic under this Chapter shall be the subject to the control of the Government or of such authority as it may appoint in this behalf.

17. Appeals

An appeal shall lie to the High Court from any order made by a District Court, under this chapter.

PART IV

MISCELLANEOUS

CHAPTER IV ESTABLISHMENTS OF ASYLUMS

18. Government may establish or license the establishment of asylums

The Government may establish or license the establishment of asylums at such places as it thinks fit.

19. Power to make Rules

The Government may make rules for all or any of the following purposes, namely –

- (a) to prescribe forms for any proceedings under this Act;
- (b) to prescribe places for detention and regulate the care and treatment of persons detained under section 8 or section 16;
- (c) to regulate the care, treatment and discharge of criminal lunatics;
- (d) to regulate the management of asylums and the care and custody of the inmates thereof and their transfer from one asylum to another;
- (e) to regulate the transfer of criminal lunatics to asylums;

- (f) to prescribe conditions subject to which asylums may be licensed;
- (g) save as otherwise provided in this Act, generally to carry into effect the provisions of this Act.

20. Protection to person acting under Act

No suit, prosecution or other legal proceeding shall lie against the person for anything which is in the good faith done or intended to be done under this Act.