

Ordinance 39 of 2014

Published in Gazette No. 1761 of 18 December 2014

**MENTAL PATIENTS (AMENDMENT) ORDINANCE
2014**

An Ordinance to amend the Mental Patients Ordinance

P.E. RUSHBROOK
DEPUTY ADMINISTRATOR

18 December 2014

Be in enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

Short title

1. This Ordinance may be cited as the Mental Patients (Amendment) Ordinance 2014.

Commencement

2. This Ordinance comes into force on 5 January 2015.

Amendment to the Mental Patients Ordinance

3. The Mental Patients Ordinance(a) is amended in accordance with sections 4 and 5.

Section 2 amended (Interpretation)

4. In section 2,—

- (a) repeal the definition of “medical practitioner” and substitute the following—

““medical practitioner” means any person who, under the Medical Practitioners Ordinance 1964(b), is entitled to practise medicine in the Areas;”;

- (b) at the appropriate place, insert—

““mental health practitioner” means a medical practitioner who—

(a) is accredited as being a neurologist-psychiatrist under the Republic’s Medical Practitioners (Special Qualifications) Regulations 1979(c) (as amended, modified or replaced from time to time) or accredited under those Regulations as possessing a specialism in mental health; or

(b) is approved by the Chief Officer as competent to deal with persons of unsound mind;”.

Repeal and substitution of section 11 and new sections 11A and 11B

5. Repeal section 11 (including the heading) and substitute the following—

“Power to take person of unsound mind into legal custody and detain

11.—(1) A relevant officer may, other than under the authority of the court and in accordance with this section,—

- (a) take a person (“P”) into legal custody; and
(b) detain P.

(2) Before exercising the powers in subsection (1), the relevant officer must have reasonable grounds for believing that P—

- (a) is of unsound mind; and
(b) is in immediate need of care and control—
(i) in the interests of P’s own health and safety; or
(ii) for the protection and safety of other persons.

(3) Where P is taken into legal custody under subsection (1), P must be detained at a place approved by a medical practitioner which may include the place in which P is found.

(4) The maximum period for which P may be detained under this section is 72 hours.

(5) Where the relevant officer exercising the power under subsection (1) is not a mental health practitioner, a mental health practitioner must, as soon as reasonably practicable after P is taken into legal custody, confirm that there are reasonable grounds for believing the matters set out in subsection (2)(a) and (b).

(6) Whilst P is detained under this section, a relevant officer must ensure that arrangements are in place to provide P with adequate care and supervision and, where necessary, such arrangements may include measures to protect P or any other person from harm.

(a) Cap. 252, Statue Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (S.I. 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

(b) Ordinance 10/1964.

(c) Republican P.I. 54/1979 (as amended) – Republic of Cyprus Gazette No. 1509 or 23 March 1979.

(7) Where P is detained under this section—

- (a) an assessment of P’s mental health may be carried out by a mental health practitioner;
- (b) P may be treated in accordance with instructions received from a mental health practitioner.

(8) As soon as reasonably practicable, the relevant officer must inform a person falling within paragraphs (a) to (c) that P has been taken into legal custody, the place at which P is, or is to be, detained and the reasons why P has been taken into legal custody—

- (a) a family member of P with whom P normally resides;
- (b) where there is no person falling within paragraph (a) or such a person cannot be found, a relative of P;
- (c) where there is no person falling within paragraph (a) or (b) or such a person cannot be found, any other person that the relevant officer considers it appropriate to inform.

(9) Subsection (8) does not apply if, following reasonable enquiries, it has not been possible to identify a person falling with paragraphs (a) to (c) of that subsection.

(10) For the purposes of this section a “relevant officer” means a police officer not below the rank of inspector or a medical practitioner.

Power to move person from original place of detention to another place

11A.—(1) A person (“P”) who is detained in accordance with section 11 may be moved, under the authority of the Chief Officer, from the original place of detention to another place for one or more of the following purposes—

- (a) to assess P’s mental health;
- (b) to provide care (including supervision) to P;
- (c) to provide treatment to P.

(2) Before authorising the move of a person under subsection (1), the Chief Officer must consult a mental health practitioner and be reasonably satisfied that—

- (a) P is of unsound mind;
- (b) it is in the interests of P’s own health and safety, or necessary for the protection and safety of any other person, that P continues to be detained;
- (c) it is necessary to move P to another place for one or more of the purposes mentioned in subsection (1)(a) to (c);
- (d) a person responsible for, or who has control over, the place to which P is to be moved is willing to receive P; and
- (e) the place is suitable for the purpose for which P is to be moved.

(3) Despite any other provision in this Ordinance, the place to which P may be moved under this section—

- (a) need not be a mental hospital or a place in respect of which a licence has been issued under section 21; and
- (b) may be a place outside the Areas.

(4) As soon as reasonably practicable, the Chief Officer must inform the person notified (if any) under subsection 11(8) of the decision to move P, the place to which P is to be, or has been, moved and the reasons why P has been moved.

(5) This section does not affect the period of time for which P may be detained under section 11.

(6) The functions of the Chief Officer in this section are general delegated functions under the Delegation of Functions to the Republic Ordinance 2007(a).

Sections 11 and 11A: supplementary

11B.—(1) Reasonable force may be used for the purpose of the exercise of a function under section 11 or 11A where the use of such force is necessary—

- (a) in the interests of P's own health and safety; or
- (b) for the protection and safety of any other person.

(2) Without limit to the power in subsection (1), reasonable force may be used to move P from the original place of detention to another place in accordance with section 11A(1).”

(a) Ordinance 17/2007 (as amended by Ordinance 8/2012).

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Mental Patients (Amendment) Ordinance 2014 (the “Ordinance”). It has been prepared by the Office of the Attorney-General and Legal Adviser in order to assist the reader of the Ordinance. This note should be read in conjunction with the Ordinance.
2. The Ordinance amends the Mental Patients Ordinance (Cap. 252) (the “principal Ordinance”).
3. Section 4 of the Ordinance extends the definition of “medical practitioner” in section 2 of the principal Ordinance to ensure that a medical practitioner in the service of or employed by the Crown is also captured by that definition. Section 2 also inserts a definition of “mental health practitioner”.
4. Section 5 of the Ordinance replaces section 11 of the principal Ordinance with a new section 11. The new section 11 retains the test that must be satisfied before a person (“P”) can be taken into legal custody and detained under that section (i.e. without a court order) but dispenses with the previous requirement for P to be detained in a mental hospital or in an “observation ward” designated by the Chief Officer. P may now be detained under section 11 for a maximum of 72 hours at any place approved by a medical practitioner. This includes the place at which P is found.
5. The new section 11 also includes an additional safeguard, namely a requirement for a family member with whom P lives or, in the absence of such a person, another relative or other appropriate person to be informed of P’s detention, the reasons for it and the place of detention. This obligation need not be complied with where such a person cannot be identified.
6. Section 5 of the Ordinance also inserts sections 11A and 11B into the principal Ordinance. Section 11A enables P to be moved from the original place of detention to another place for the purposes of assessment, care and/or treatment. Any such move must be authorised by the Chief Officer. P may be moved under section 11A to a place outside the Areas. The intention is to provide some flexibility in ensuring that a person suffering from a mental illness is assessed, cared for and treated at an appropriate and suitable place.
7. Section 11A contains a number of safeguards including the requirement for the Chief Officer to consult a mental health practitioner before authorising a person’s move under that section. The Chief Officer must also be reasonably satisfied that the move is necessary for the purposes of assessing, caring for or treating P and that the move is in the interests of P’s health and welfare or is necessary to protect any other person from harm. In addition, any person informed of P’s detention under section 11 (i.e. family member, other relative, etc.) must also be informed of P’s move to another place.
8. The functions of the Chief Officer under section 11A are delegated to the Republic and may be exercised by Republican official in accordance with the Delegation of Functions to the Republic Ordinance 2007.
9. Section 11B expressly provides for reasonable force to be used when exercising powers under sections 11 and 11A where the use of such force is necessary for P’s health and safety or to protect any other person from harm.

SBAA/AG/2/MI/197