

CAYMAN ISLANDS



MENTAL HEALTH ACT

(2022 Revision)

Supplement No. 6 published with Legislation Gazette No. 5 dated 25th January, 2022.

PUBLISHING DETAILS

Law 10 of 2013 consolidated with Law 40 of 2020 and as amended by Act 56 of 2020.

Revised under the authority of the *Law Revision Act (2020 Revision)*.

Originally enacted —

Law 10 of 2013-25th March, 2013

Law 40 of 2020-4th September, 2020

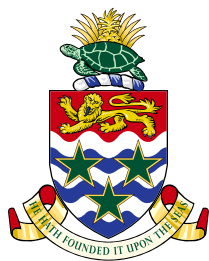
Act 56 of 2020-7th December, 2020.

Consolidated and revised this 31st day of December, 2021.

Note (not forming part of the Regulations): This revision replaces the 2021 Revision which should now be discarded.



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Arrangement of Sections

| Section | Page |
|--|------|
| 1. Short title | 5 |
| 2. Interpretation | 5 |
| 3. Application..... | 8 |
| 4. Guardian's authority takes precedence | 8 |
| 5. Request for review..... | 8 |
| 6. Emergency detention order..... | 9 |
| 7. Apprehension of a person suspected to be a danger | 10 |
| 8. Observation order | 10 |
| 9. Treatment order | 11 |
| 10. Temporary holding power | 11 |
| 11. Emergency medical treatment order | 11 |
| 12. Assisted outpatient treatment order | 11 |
| 13. Prisoners remanded but unfit to plead | 12 |
| 14. Treatment outside the Islands..... | 12 |
| 15. Enforcement of orders | 12 |
| 16. Postal restrictions | 13 |
| 17. Power of Youth Court | 13 |
| 18. Jurisdiction of the Grand Court over the property of patients and persons under guardianship | 13 |
| 19. Powers of the Grand Court exercising jurisdiction under section 18..... | 14 |
| 20. Regulations | 14 |
| 21. Penalties..... | 14 |
| 22. Effects of certain provisions of the Criminal Procedure Code | 15 |
| 23. <i>Repeal</i> | 15 |



| | |
|------------------------------------|-----------|
| ENDNOTES | 17 |
| Table of Legislation history:..... | 17 |



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MENTAL HEALTH ACT

(2022 Revision)

Short title

1. This Act may be cited as the *Mental Health Act (2022 Revision)*.

Interpretation

2. (1) In this Act —

“**assisted outpatient treatment**” means outpatient treatment ordered by a responsible medical officer, or by a court on the recommendation of a responsible medical officer;

“**Chief Medical Officer**” means the Chief Medical Officer appointed under the *Public Health Act (2021 Revision)*;

“**civil partner**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

“**Commissioner**” means the Commissioner of Police appointed under section 8 of the *Police Act (2021 Revision)*;

“**common law partner**” means a man or woman who cohabits with another person of the opposite sex as if they were legally married;

“**confinement**”, in relation to a patient, means the detention of the patient in a —

- (a) hospital;
- (b) prison; or
- (c) other place of safety;

“**constable**” means a police officer of the rank of constable of any grade and includes a recruit constable, auxiliary constable and community support officer;

“**developmental disability**” means a disability attributable to —

- (a) brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, intellectual disability; or
- (b) other neurological condition closely related to intellectual disability; or
- (c) requiring treatment similar to that required for individuals with intellectual disability,

which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual but does not include dementia.

“**guardian**” means a person appointed as such by an order of the Grand Court made under section 14 of the *Grand Court Act (2015 Revision)*;

“**hospital**” means a building or place where beds are available for the admission of persons requiring treatment for any sickness, injury or infirmity, who are given —

- (a) medical or surgical treatment; or
- (b) nursing care;

“**medical doctor**” means a medical doctor registered under Schedule 4 of the *Health Practice Act (2021 Revision)*;

“**medical officer**” means —

- (a) a psychiatrist registered under Schedule 4 of the *Health Practice Act (2021 Revision)*; or
- (b) clinical psychologist who is registered under Schedule 6 of the *Health Practice Act (2021 Revision)* and, in addition, has a doctoral qualification in that discipline from a country or institution referred to in regulation 6 of the *Health Practice Regulations (2021 Revision)*,

and is employed by, or is allowed to use the medical facilities of, the Government of the Islands, a statutory body or government company;

“**Mental Health Commission**” means such Mental Health Commission as may be established under any Law;

“**mental impairment**” means a state of arrested or incomplete development of mind, which may or may not be due to a trauma or injury and includes significant impairment of intelligence and social functioning and which may or may not manifest itself in abnormally aggressive or seriously irresponsible conduct;

“**mental health professional**” means a practitioner registered in a mental health category under the *Health Practice Act (2021 Revision)*;



“**Minister**” means the Member of Cabinet charged with responsibility for health;

“**nearest relative**” means a person of at least eighteen years of age, whether or not living in the Islands, who is, in relation to the person concerned —

- (a) a spouse, a civil partner or a common law partner;
- (b) a son or daughter;
- (c) a parent or legal guardian;
- (d) a brother or sister;
- (e) a grandparent;
- (f) a grandchild;
- (g) an uncle or aunt;
- (h) a nephew or niece;
- (i) a social worker or probation officer employed in that capacity in government or a statutory body;
- (j) the attorney at law representing the person;
- (k) the mental health professional treating the person; or
- (l) a close friend;

“**patient**” means a person who is suffering from or is suspected to be suffering from a serious mental illness or mental impairment;

“**place of safety**” means a place declared under section 20 for purposes of receiving and caring for persons;

“**responsible medical officer**” means the medical officer who is responsible for the observation, care, treatment of a patient;

“**serious mental illness**” means a substantial disorder of thought, mood, perception, orientation or memory which —

- (a) grossly impairs a person’s —
 - (i) judgment;
 - (ii) behaviour;
 - (iii) capacity to recognise reality; or
 - (iv) ability to meet the ordinary demands of life; or
- (b) poses a danger to the person concerned or others,

but does not include a sole diagnosis of alcoholism or drug abuse, that is, a diagnosis of alcoholism or drug abuse without any other ailment of a mental nature; and

“**treatment**” means —

- (a) care;

- (b) diagnostic and therapeutic services, including the administration of drugs; and
 - (c) provision of medication;
 - (d) periodic blood tests or urinalysis to determine compliance with prescribed medications;
 - (e) individual or group therapy;
 - (f) day or partial day programming activities;
 - (g) vocational, educational or self- help training;
 - (h) vocational, educational or self-help activities;
 - (i) assertive community treatment team services;
 - (j) alcohol or substance abuse alleviation and counseling;
 - (k) periodic tests for the presence of alcohol or illegal drugs;
 - (l) supervision of living arrangements; and
 - (m) any other services within a local or unified services plan developed under this Act.
- (2) Wherever in this Act mention is made of a medical review or direction, or both, in relation to an assisted outpatient treatment order, the medical review or direction, or both, shall be provided under the supervision of a medical officer responsible for the patient concerned.

Application

3. (1) This Act does not apply to a person on the sole ground that —
- (a) that person has voluntarily sought treatment for a mental illness, serious mental illness or mental impairment; or
 - (b) that person is acutely intoxicated.
- (2) For purposes of clarification it is declared that this Act shall apply to a person referred to in subsection (1) only if that person is certified as having mental impairment or serious mental illness under this Act.

Guardian's authority takes precedence

4. The authority of a guardian over a patient takes precedence over the authority of any other person.

Request for review

5. Where a guardian or nearest relative is of the opinion that a person may be suffering from a mental impairment or serious mental illness, or is not compliant with treatment related to that person's mental illness, the guardian or nearest relative may report the matter to a medical officer.



Emergency detention order

6. (1) If the medical officer is of the opinion that the person is or may be suffering from mental impairment or serious mental illness, the medical officer may order the detention of that person in a hospital or other place of safety for up to 72 hours and, if the medical officer does so, shall in writing as soon as practicable thereafter inform the Mental Health Commission, supply it with a copy of this professional opinion and otherwise comply with any regulations that may be made in that regard.
- (2) The patient or nearest relative may within 24 hours of the order being made request a second opinion from another medical officer and if the second opinion does not recommend the issuance of an emergency detention order, the order shall not be made and the medical officer who issues the first opinion shall refer the matter, together with all records, to the Commission, which shall make such decision as it thinks fit.
- (3) A patient who is detained under this section but who is of the opinion that there were no reasonable grounds for making the emergency detention order may, at any time after the making of the order and up to 14 days from the expiration of the order, personally or through a nearest relative, file an appeal with the Mental Health Commission and the Commission may affirm or expunge the order.
- (4) Where a patient has been detained and released under an emergency detention order three or more times in thirty days, the Mental Health Commission may, on its initiative or that of the patient personally or by a nearest relative, review the patient's files and related records and make such recommendation in relation to the care of the patient as it thinks fit.
- (5) After an emergency detention order has been made, the medical officer —
- (a) may, if the medical officer forms the opinion that there is no need to further detain the person concerned, order the release of that person; or
 - (b) shall, where the medical officer forms the opinion that the person is in need of further assessment to determine whether the person needs to undergo treatment for mental impairment or a serious mental illness, make an observation order under section 8.
- (6) Where a person is under an emergency detention order, treatment may be administered to that person without that person's consent if that is in that person's best interest.
- (7) In this section "**emergency detention order**" means an order made under subsection (1).

Apprehension of a person suspected to be a danger

7. (1) Where it appears to any constable that any person is, by reason of mental impairment or serious mental illness, an immediate danger, or is likely to become a danger to themselves or others, that constable may take such person into protective custody and with all reasonable despatch but in any case not longer than twelve hours bring the person before a government medical doctor registered under the *Health Practice Act (2021 Revision)*.
- (2) The medical doctor referred to in subsection (1) shall examine that person, and if the medical doctor considers that the person should be further detained the medical doctor shall, within twelve hours of receiving the patient, make an emergency detention order under section 6 after consultation with a medical officer.

Observation order

8. (1) At any time during an emergency detention order or whenever it comes to the attention of a medical officer by information from a nearest relative that any person appears to be in need of assessment to determine whether they need to undergo treatment for mental impairment or a serious mental illness, the medical officer may make an observation order.
- (2) An observation order shall allow the person concerned to be detained in a hospital or prescribed place of safety for up to fourteen days to facilitate the assessment of that person.
- (3) Before making an observation order, the medical officer may consult with —
- (a) a mental health professional;
 - (b) or a social worker employed in that capacity in the government or a statutory authority;
 - (c) a probation officer employed in that capacity in the government or a statutory authority; or
 - (d) a nearest relative.
- (4) A patient who is detained under an observation order may, at any time after the making of the order and up to 7 days after expiry of the observation order, appeal to the Mental Health Commission.
- (5) Where a person is under an observation order, treatment may be administered to that person without that person's consent if that is in that person's best interest.



Treatment order

9. (1) Where a person under an observation order persists in that person's mental impairment or serious mental illness to an extent calling for further detention or violates an assisted outpatient treatment order, a responsible medical officer may, after consultation with another medical officer, make a treatment order.
- (2) A treatment order shall be made for a defined period of time not exceeding six months but may be renewed for as often as necessary until the desired objective is achieved.
- (3) The responsible medical officer making or renewing a treatment order shall as soon as practicable inform the Mental Health Commission of the making of the order and any supporting evidence and reasoning relating to the same and the Commission may affirm, revoke or vary the order, or make such other order as it thinks fit.
- (4) Where a person is under a treatment order, treatment may be administered to that person without that person's consent if that is in that person's best interest.
- (5) A person detained under a treatment order may, at any time after the making or renewal of the order and up to 30 days after expiry of the order, appeal to the Mental Health Commission.

Temporary holding power

10. Where a registered nurse in charge is of the view that a voluntary patient is suffering from mental impairment or a serious mental illness and appears likely to leave the hospital premises, the registered nurse in charge may detain such person for a period no longer than six hours so that a formal assessment can be made by a medical doctor.

Emergency medical treatment order

11. Where a medical doctor is of the view that a patient undergoing treatment for mental impairment or a serious mental illness requires urgent treatment for a medical condition but the patient is unable or unwilling to give consent, the medical doctor may, after consultation with the responsible medical officer, administer the minimum necessary treatment to prevent the patient being a danger to themselves or others.

Assisted outpatient treatment order

12. (1) Where, following a period of hospitalisation, a patient is unlikely to participate in treatment voluntarily or does not comply with recommended treatment, the responsible medical officer may make an assisted outpatient treatment order in relation to that patient.
- (2) An assisted outpatient treatment order allows the responsible medical officer to provide treatment, with or without the patient's consent.

- (3) An assisted outpatient treatment order shall be made for a fixed time not exceeding one year and may be renewed as often as necessary to achieve its intended objective.
- (4) The responsible medical officer shall inform the Mental Health Commission of the making of the order as well as providing the reasoning and evidence relied upon.
- (5) If the patient violates an assisted outpatient treatment order, a constable shall take such person into protective custody and with all reasonable despatch bring such person before a government medical doctor.
- (6) The medical doctor shall examine the person referred to in subsection (5) and if the medical doctor considers that that person should be further detained the medical doctor shall direct that the person be detained in a hospital or other place of safety able to receive and care for that person, there to await the decision of a medical officer who may make an observation order under section 8.
- (7) A patient or legal representative of a patient who is dissatisfied with the making of an assisted outpatient treatment order under this section may appeal to the Mental Health Commission and the Commission may affirm, revoke, vary or make such other order as it thinks fit.

Prisoners remanded but unfit to plead

- 13.** Nothing in this Act derogates from the power of the court to deal with remanded prisoners in such manner as it thinks fit.

Treatment outside the Islands

- 14.** (1) Where it is not reasonably practicable to continue treatment in the Islands, the Chief Medical Officer may recommend to the Cabinet that a patient be transferred to a hospital outside the Islands specialising in the treatment of mental impairment or serious mental illness, there to continue undergoing treatment, subject to the laws of the country in which such hospital is situated, and the Cabinet may make an order accordingly in the prescribed form.
- (2) The Cabinet may provide for the reception outside the Islands of persons subject to an order made under subsection (1).

Enforcement of orders

- 15.** An order made under this Act is sufficient to the person or persons to whom it is directed to apprehend the person referred to therein and convey that person to a hospital or other place as directed in such order and there detain that person or cause that person to be detained.



Postal restrictions

- 16.** (1) Postal packets addressed to a patient detained under this Act may be withheld if, in the opinion of a medical officer having care of that patient, the receipt thereof might have an adverse effect upon that patient and any such packet so withheld shall be returned to the sender if the sender can be identified and located.
- (2) Postal packets addressed by a patient detained under this Act for despatch by the post office may be withheld therefrom —
- (a) if the addressee has given notice in writing to the medical officer requesting that communications addressed to that addressee by the patient should be withheld; or
 - (b) it appears to the medical officer that the packet would be unreasonably offensive to the addressee, is defamatory to other persons (other than persons having care of the patient) or would be likely to prejudice the interests of the patient.
- (3) Where a postal packet has been withheld under this section, the patient concerned or that patient's nearest relative may within 7 days after being informed of the decision appeal to the Mental Health Commission.

Power of Youth Court

- 17.** Before making an order under section 20 of the *Youth Justice Act (2021 Revision)*, the Youth Court, if it suspects that the juvenile subject to such order, is suffering from mental impairment or serious mental illness, may order such juvenile to be held in detention for examination by the medical officer who may, after making such examination, detain such juvenile for a period of observation under section 8 and shall in any event report to the Juvenile Court that medical officer's opinion of the juvenile's mental condition.

Jurisdiction of the Grand Court over the property of patients and persons under guardianship

- 18.** In the case of —
- (a) a patient under this Act; or
 - (b) a person in respect of whom the Grand Court has appointed a guardian under section 14 of the *Grand Court Act (2015 Revision)* and has thereafter found upon examination to be a person incapable of managing their own affairs,
- the Grand Court may, with respect to the property and affairs of such person, do or secure the doing of all such things as appear desirable for the maintenance or benefit of such person, of such person's family, of those for whom such person might be expected to provide if such person were not suffering from mental impairment or serious mental illness and for otherwise administering such

person's affairs but shall, in so doing, have regard to the interests of creditors and obligees and to the making of provision for them, notwithstanding that the relevant debts and obligations may not be legally enforceable.

Powers of the Grand Court exercising jurisdiction under section 18

19. In the exercise of its jurisdiction under section 18, the Grand Court may on behalf of a patient or person under guardianship —

- (a) arrange for a person or persons to —
 - (i) manage, sell, acquire, charge or deal with property;
 - (ii) enter into any settlement;
 - (iii) provide for the management of a business;
 - (iv) dissolve a partnership;
 - (v) complete a contract;
 - (vi) conduct legal proceedings; and
 - (vii) act as trustee; or
- (b) appoint a receiver.

Regulations

20. The Cabinet may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act and, in particular —

- (a) declaring a place to be a place of safety;
- (b) prescribing the forms to be used for anything done under this Act; and
- (c) prescribing procedures to be used for anything done under this Act.

Penalties

21. Without prejudice to the operation of any other law, whoever —

- (a) for the purpose of procuring any person to be detained under this Act makes a statement in any form in the truth of which that person does not believe; or
- (b) intermeddles with or deals or offers to deal with any property falsely claiming authority so to do under this Act,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year and may be ordered to make restitution of any property involved and missing.



Effects of certain provisions of the Criminal Procedure Code

- 22.** Sections 46, 47, 48, 156 and 157 of the *Criminal Procedure Code (2021 Revision)* are to be read together with this Act as if they formed part thereof but where any provision of that Code is in conflict with any specific provision of this Act the Code shall prevail.

Repeal

- 23.** The *Mental Health Law (1997 Revision)* is **repealed**.

Publication in consolidated and revised form authorised by the Cabinet this 11th day of January, 2022.

Kim Bullings
Clerk of the Cabinet

ENDNOTES

Table of Legislation history:

| SL # | Law/Act # | Legislation | Commencement | Gazette |
|---------|-----------|--|--------------|--------------|
| E4/2021 | | <i>Erratum</i> - Mental Health Act (2021 Revision) | 30-Nov-2021 | LG68/2021/s2 |
| | | Mental Health Act (2021 Revision) | 12-Feb-2021 | LG14/2020/s3 |
| | 56/2020 | Citation of Acts of Parliament Act, 2020 | 3-Dec-2020 | LG89/2020/s1 |
| | 40/2020 | Mental Health (Amendment) Law, 2020 | 4-Sept-2020 | LG64/2020/s6 |
| 37/2013 | | Mental Health Law, 2013 (Commencement) Order, 2013 | 1-Nov-2013 | GE87/2013/s2 |
| | 10/2013 | Mental Health Law, 2013 | 1-Nov-2013 | GE41/2013/s4 |



(Price: \$4.00)

