

THE MENTAL HEALTH ACT, 1987

Aim: To consolidate and amend the law relating to the treatment and care of mentally ill person, to make better provisions with respect to their property and affairs and for matters connected therewith or incidental thereto.

It has 10 chapters

- Chapter I : Preliminary
- Chapter II : Mental Health Authorities
- Chapter III : Psychiatric Hospitals and Psychiatric Nursing Homes
- Chapter IV : Admission and Detention in Psychiatric Hospital or Psychiatric Nursing Home
- Chapter V : Inspection, Discharge, Leave of Absence and Removal of Mentally Ill persons.
- Chapter VI : Judicial Inquisition Regarding Alleged Mentally Ill person Possessing Property, custody of his Person & Management of his Property.
- Chapter VII : Liability to meet cost of maintenance of Mentally Ill persons detained Psychiatric Hospital or Psychiatric Nursing Home.
- Chapter VIII : Protection of Human Rights of Mentally Ill Persons.
- Chapter IX : Penalties and Procedure.
- Chapter X : Miscellaneous.

- I. It is called the Mental Health Act 1987 & came into force with effect from 1.4.93 in all the States and Union Territories.
- II. Mental Health Authorities:
 - (i) Central Authority for Mental Health Services: - established by the Central Government.
 - (ii) State Authority for Mental Health Services – established by the State Government.

Authority shall-

- 1) Be in charge of regulation development, direction and Coordination with respect to Mental Health Services under the Central Government and all other matters Concerning Central Government / authority / sub. ordinate to Central Government.
- 2) Supervise Psychiatric Hospital / Psychiatric Nursing Homes / other Mental Health Service agencies under the Control of Central Government / State Government respectively.
- 3) Advice the Central Government / State Government in all matters relating to Mental Health.

- 4) Discharge such other functions with respect to matters relating to mental health as the Central Government / State Government may require.

III. Psychiatric Hospitals and Psychiatric Nursing Homes:

- (i) Establishment or maintenance of psychiatric hospital / nursing home by the Central Government / State Government. Within the limits of its jurisdiction for the admission, treatment and care of mentally ill persons at such places as it may think fit.
- (ii) Establishment or maintenance of psychiatric hospital / nursing home only with license under this Act.
- (iii) Application for license:
 - 1) Every person holding a license under this act; if wishes to continue after the expiry of person the nursing home / hospital should apply at least one month before the date of expiry to issue a fresh license.
 - 2) A person who intends to establish or maintain such nursing home / hospital shall apply to the licensing authority for the grant of license.
 - 3) Every application should be of the prescribed format with the prescribed fee.

- (iv) Grant or refusal of license:

The licensing authority should be satisfied in matters relating to

- 1) Establishment / maintenance
- 2) Minimum facilities provided which are proscribed for the admission, treatment and care for mentally ill persons &
- 3) The hospital / nursing home should be under the control of medical officers.

If not satisfied on the above aspects the licensing authority can cancel the orders after giving a reasonable chance for hearing.

Duration of renewal of license:

The psychiatric hospital / nursing home shall be maintained in accordance with conditions laid down in the Act.

The licensing authority can revoke the license by an order in writing if it is satisfied that the hospital / nursing home is not maintained in accordance with the Act. If it is against

the moral, mental or physical well being of the inpatients thereof after giving a reasonable opportunity of being heard.

An appeal can be made on such revocation with such period of time.

The appeal can be made in a prescribed format with a prescribed fee.

IV. It has got 3 parts. The first part being admission

- a) On voluntary basis – Requisition by major for admission as voluntary patient. So any person who considers himself as mentally ill can apply to a medical officer-in-charge for being admitted as voluntary patient in the hospital / nursing home.
- b) Requisition made by the Guardian for admission of a ward whom he considers as mentally ill to be admitted in a hospital or nursing home. In both the cases the medical officer on receipt of such application conduct an enquiry within a period of 24 hrs may admit such an applicant. The patient should abide by the regulations made by the medical officer.

- I. Admission under special circumstance:- So if a mentally ill person is unable to express his willingness for admission, he may be admitted on an application made by a relative of such a person in a prescribed format accompanied by two medical certificates by two medical practitioners.
- II. Reception orders on application – A medical officer in charge of a hospital / nursing home, husband, wife or any relative of such person shall apply to the magistrate for the detention of such a person and a reception order.

Chapter V deals with inspection, discharge, leave of absence and removal of mentally ill person.

The State government/Central Government shall appoint not less than five visitors for the inspection of hospital/nursing home. Not less than 3 visitors shall make a joint inspection of every part of the hospital/nursing home at least once in every month. If such a visitor does not participate in such an inspection for 3 consecutive months, he shall cease to hold the office.

In case of inspection of mentally ill prisoners all the 3 visitors should visit at least once in three months in the place where he is detained.

Part II deals with discharge of mentally ill person.

The medical officer in charge may direct the discharge of any person other than a voluntary patient by an order in writing based on the recommendations made by two medical practitioners. In case if a person is admitted by the application made under this Act, shall be discharged only if an application is made to the medical officer by the concerned person.

Any person not being ill prisoner who feels that he has recovered from his mental illness may make an application for his discharge.

Part III deals with leave of absence of medically ill person from a psychiatrist hospital may be made by an application by the husband or wife or relatives or any other person related to the medical officer. If the medical officer refuses to grant leave of absence, the applicant may apply to the magistrate within the local limit.

The application should be of the prescribed format.

Chapter VI deals with the property of the mentally ill person.

If a mentally ill person possess a property, it can be taken care of by any of his relatives or by public curator or by the advocate general of the state concerned or by the collector of the district in case the property is a land, by means of an application to the district court which shall pass order after examining the concerned mentally ill person personally. If the district court finds the mentally ill person incapable of maintaining his property may appoint a guardian to take care of the person and a manager for his property who shall within a period of six months from the date of appointment gives a statement of all claims due and all debts and liabilities due by such mentally ill person. He should also within a period of three months from the close of the financial year an account of property, sums received and disbursed.

Chapter VII deals with the cost of maintenance of a mentally ill person.

The cost of maintenance unless otherwise provided by the law should be borne by the state. In case of a mentally il person having an estate or the person bound to maintain a mentally ill person has a means to maintain shall apply to the concerned government or to the district court for a direction to tear the cost of maintenance of such mentally ill person.

Chapter VIII deals with the protection of human rights of mentally ill person.

No mentally ill person should be treated with indignity or cruelty during the treatment. No mentally ill person shall be used for research unless otherwise for the benefit of such person or with the acceptance of such person in writing. In case of the person is incompetent because of minority or otherwise, with the consent of the guardian.

Chapter IX deals with penalties and procedures:

Any person establishes or maintains such nursing home or hospital in contravention of the Act, shall be punishable with an imprisonment of 3 months or with fine or with both.

Any person who detains mentally ill person otherwise than in accordance with the Act, shall be punishable with imprisonment for two years or with a fine of Rs. 1000/- or with both.

Any other person who contravenes any of the provision of the Act for which no penalty is expressly provided shall be punishable with an imprisonment for a period of 6 months or with a fine of Rs. 500/- or with both.