

## CHAPTER 157.

## LUNACY.

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## SCHEDULE.

## CHAPTER 157.

## LUNACY.

**An Ordinance to consolidate and amend the Ordinances relating to lunacy.**

[14TH APRIL, 1902.]

6 of 1902.  
21 of 1922.  
Sec. 10 of No.  
12 of 1924.  
5 of 1944.  
9 of 1947.  
21 of 1954.  
26 of 1957.

Short title.\*

1. This Ordinance may be cited as the Lunacy Ordinance.

Interpreta-  
tion.

Cap. 151.

2. In this Ordinance the expression "qualified medical practitioner" means a person registered as a medical practitioner under the Medical Practitioners, Dentists and Druggists Ordinance.

Jurisdiction  
in lunacy  
vested in the  
Supreme  
Court.

3. The Supreme Court shall have power and authority to do, exercise and perform all such acts, matters and things as can and may be done by the Lord High Chancellor of England in the exercise, as well of equitable and common law jurisdiction, as of jurisdiction to him belonging by virtue of commission from the Crown or otherwise, within the realm of England, and to appoint guardians and committees of the persons and estates of lunatics and persons deprived of understanding and unable to govern themselves or their estates, and for that purpose to enquire into, hear and determine, by inspection of the person, the subject of such enquiry, or by examination, on oath or otherwise, of the party in whose custody or charge such person may be, or of any other person or by such other ways and means by which the truth may be best discovered and to act in all cases whatsoever as fully and amply to all intents and purposes as the said Lord High Chancellor or the grantee from the Crown

\* The short title has been, hitherto, the Lunacy Regulation Ordinance.

of the persons and estates of lunatics, and persons deprived of understanding as aforesaid, may now lawfully do, and all the powers hereby vested in the said Court may be exercised by any one of the Judges thereof.

4. Where there is no reasonable doubt, the Court may, on sufficient evidence, declare a person a lunatic without the delay or expense of issuing a commission to enquire into the alleged lunacy. In the case of pauper lunatics, it shall be sufficient to follow the procedure prescribed by section 18 of this Ordinance.

Commissions of lunacy may be dispensed with.

5. When a commission has been issued (which shall be under the hand of one of the Judges and the seal of the Court), and an inquisition thereupon returned into Court, by which a person is found lunatic, in case anyone entitled to traverse the inquisition desires to do so, he may within three months from the day of the return and filing of the inquisition present a petition for that purpose to the Court, and the Court shall hear and determine the petition subject to the following provisions—

Traverse of inquisition of lunacy.

(1) In every order giving effect to such petition, the Court shall limit a time, not exceeding six months from the date of the order within which the person desiring to traverse, and all other proper parties, shall proceed to the trial of the traverse, but the Court may, under the special circumstances of any case, and upon a petition being presented for that purpose, and upon the circumstances being substantiated upon affidavit, allow the traverse to be had or tried after the time limited; and in such special case the Court may make such orders as seem just.

Limitation of time.

(2) The trial may be ordered to take place in the Supreme Court according to the circumstances of the case and the situation of the parties, at such time as shall be ordered by the Court.

Trial in the Supreme Court.

(3) The Court may order that the person to traverse, if he is not the party who has been found lunatic, shall, within one month after the date of the order, file with the Master of the Court a bond, with one or more sureties, in favour of the Master for the time being, and conditioned for all proper parties proceeding to the trial of the traverse within the time limited, such bond before the filing thereof being approved of, and certified to be sufficient, by the Master.

Security to be given by traverser.

(4) Every person who does not present his petition, or who neglects to give the security, or who does not proceed to the trial of the traverse within the times respectively limited

When the traverser barred.

therefor, and the heirs, executors, and administrators of every such person, and all others claiming through him, shall be absolutely barred of the right of traverse.

Proceedings  
in lieu of  
traverse  
when no  
commission  
has issued.

6. In case the Court declares a person a lunatic without issuing a commission, any person who might traverse an inquisition to the same effect may move against the order containing the declaration, or may appeal therefrom, as the case requires; and the right so to move or appeal shall, as to time, be subject to the same rules as the right to traverse.

Property of  
lunatics.

7. In order to afford due protection to the property of lunatics, the following provisions shall in every case be observed—

Security  
given by  
Committee.

(1) The Committee of the estate shall give two or more responsible persons as sureties, in double the amount of the personal estate, and of the annual rents and profits of the real estate, for duly accounting for the same once in every year, or oftener if required by the Court, and the security shall be taken by bond or recognisance in the name of the Master of the Court for the time being, in such manner as the Court or the Master thereof may direct, and the same shall be filed in the Office of the Master.

Inventory to  
be filed by  
the  
Committee.

(2) The Committee of the estate shall, within six months after being appointed, file in the Office of the Master a true inventory of the whole real and personal estate of the lunatic, stating the income and profits thereof, and setting forth the debts, credits, and effects of the lunatic, so far as the same have come to the knowledge of the Committee.

Subsequently  
discovered  
property.

(3) If any property belonging to the estate be discovered after the filing of an inventory, the Committee shall file a true account of the same from time to time, as the same is discovered.

Verification  
of inventory.

(4) Every inventory shall be verified by the oath of the Committee.

Where estate  
not sufficient  
to pay debts.  
Leave to  
mortgage or  
sell.

8. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts, the following steps may be taken—

Contents of  
petition.

(1) The Committee of the estate shall petition for authority to mortgage, lease, or sell so much of the real estate as may be necessary for the payment of such debts.

(2) Such petition shall set forth the particulars and amount of the estate, real and personal, of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate.

(3) The Court shall, by the Master or otherwise, enquire into the truth of the representations made in the petition, and hear all parties interested in the real estate.

Enquiry into truth of petition.

(4) If it appears to the Court that the personal estate is not sufficient for the payment of debts, and that the same has been applied to that purpose as far as the circumstances of the case render proper, the Court may order the real estate, or a sufficient portion of it, to be mortgaged, leased, or sold either by the Committee or otherwise.

Disposal of real estate if personal insufficient.

(5) The Court shall direct the Committee to discharge such debts out of the money so raised, and the Court may order the Committee to execute conveyances of the estate, and to give security for the due application of the money, and to do such other acts as may be necessary in such manner as the Court may direct.

Payment of debts out of proceeds.

(6) In the application of any moneys so raised, the debts shall be paid in equal proportion without giving any preference to those which are secured by sealed instruments.

Rateably and without preference.

9. When the personal estate, and the rents, profits, and income of the real estate of the lunatic, are insufficient for his maintenance or that of his family, or for the education of his children, an application may be made by the Committee or by any member of the family of the lunatic, that the Committee be authorised or directed to mortgage or sell the whole or part of the real estate, as may be necessary, upon which the like reference and proceedings shall be had, and a like order made as for the payment of debts.

Application of realty if personalty insufficient to maintain lunatic.

10. In case of any mortgage, lease, or sale being made, the lunatic and his heirs, next of kin, devisees, legatees, executors, administrators and assigns, shall have the like interest in the surplus which remains of the money raised as he or they would have in the estate if no mortgage, lease or sale had been made, and such money shall be of the same nature and character as the estate mortgaged, leased or sold, and the Court may make such orders as are necessary for the due application of the surplus.

Application of surplus sums.

11. When a lunatic is seised or possessed of real estate by way of mortgage, or as a trustee for others in any manner, the Committee may apply to the Court for authority to convey such real estate to the person entitled thereto in such manner as the Court may direct; and thereupon the like proceedings shall be had as in the case of an application to sell the real estate; and

Practice when a lunatic is a trustee.