

THE MENTAL HEALTH ACT, 2008

ARRANGEMENT OF SECTIONS

PART I PRELIMINARY PROVISIONS

| <i>Section</i> | <i>Title</i> |
|----------------|-------------------------------|
| 1. | Short title and commencement. |
| 2. | Application. |
| 3. | Interpretation. |

PART II ADMISSION OF VOLUNTARY AND TEMPORARY PATIENTS INTO MENTAL HEALTH CARE FACILITIES

4. Voluntary admission to a mental health care facility.
5. Voluntary patients who become incapable of expression.
6. Provision for temporary treatment etc.

PART III MANAGEMENT OF PERSONS WITH MENTAL DISORDER

7. Jurisdiction of the Court.
8. Application for reception order.
9. Mentally disordered person to be taken to a mental health care facility or reported to social welfare authorities.
10. Procedure upon inquiry by court into mental disorder.
11. Involuntary admission of persons with mental disorder.
12. Powers of bodies other than the court in relation to mentally disordered persons.
13. Reception order.
14. Medical certificates.
15. Appeals.

PART IV MENTAL HEALTH BOARD

16. Establishment of the Board.
17. Functions of the Board.
18. Operations of the Board.

PART V
MANAGEMENT AND ADMINISTRATION OF ESTATES
OF PERSONS WITH MENTAL DISORDER

19. Application for order of management and administration of estate.
20. Service of notice of application.
21. Attendance by person whom application is made.
22. Discretion of court to make orders relating to estate.
23. Proof of mental capacity and conditions.
24. Disposal of movable property.
25. Powers and duties of manager.
26. Petition for court to make necessary order on estates.

PART VI
GENERAL PROVISIONS

27. Establishment of mental health care facilities.
28. Special care for admitted patients.
29. Patient Welfare Board.
30. Establishment of a National Council for Mental Health.
31. Functions of the National Council for Mental health;
32. Operations of the Council.
33. Execution of bond for care and custody of persons with mental disorder.
34. Re-admission after absconding from the ward.
35. Proceedings may be held in camera.
36. Reception of persons certified by institutions outside Tanzania.
37. Penalty and offences.
38. Minister may make regulations.
39. Application of the Criminal Procedure Act.
40. Protection of persons acting in good faith.
41. Repeal.

SCHEDULES

THE UNITED REPUBLIC OF TANZANIA



No. 21 OF 2008

I ASSENT,

A handwritten signature in black ink, appearing to read 'Jakaya Kikwede'.

President

06 December, 2008

An Act to provide for the care, protection and management of persons with mental disorders and to provide for their voluntary or involuntary admission in mental health care facility and other related matters.

ENACTED by Parliament of the United Republic of Tanzania.

**PART I
PRELIMINARY PROVISIONS**

Short title and commencement

1.-(1) This Act may be cited as the Mental Health Act, 2008.

(2) This Act shall come into operation on the date the Minister may by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to Mainland Tanzania.

Interpretation

3. In this Act, unless the context requires otherwise-
 "administrative officer" means the District Administrative Secretary or Regional Administrative Secretary;
 "Board" means the Mental Health Board established under section 16 of this Act.

“health care” means diagnostic or therapeutic interventions for the benefit of health and includes institutions-based treatment, community-based treatment and social rehabilitation;

“Medical Officer” means a medical officer and a registered medical practitioner duly authorized to practice as such;

“medical practitioner” has the meaning ascribed to it under the Medical Practitioners and Dentists Act;

“medical disorder” means a significant occurrence of a mental or behaviourable disorder classified in the International Classification of Diseases published by the World Health Organization;

“mental health care facility” means a health facility and includes a forensic psychiatric hospital, rehabilitation centre, boarding houses or community houses providing care for persons with mental disorders;

“mental health practitioner” means a person who has undergone a mental health training in a recognized training institution and so designated for the purpose of administration of this act;

“mentally disorder offender” means-

(a) a person confined for a crime proven or suspected to have been committed by reason of mental disorder; or

(b) a prisoner who develops mental disorder for which he is moved to a mental hospital for proper management;

“Minister” means a minister responsible for health matters;

“patient” means a person suffering or deemed to be suffering from mental disorder;

“reception order” means a written authority for the reception of any mentally disordered person into a hospital;

“senior medical officer” means a person designated amongst the medical officers to head and supervise clinical matters in a mental health care facility;

“substance abuse” means a maladaptive pattern of substance use such as alcohol, tobacco and other drugs of addition leading to clinically significant impairment or distress, causing life adjustment problems, physical hazards, interpersonal and social problems;

“temporary patient” means a person who is suffering from mental disorder or mental defect and is likely to benefit by temporary treatment in a mental hospital but is for the time being incapable of expressing himself as willing or unwilling to receive treatment;

“Voluntary patient” means a patient with mental disorder who submits himself for admission at a mental health care facility.

PART II
ADMISSION OF VOLUNTARY AND TEMPORARY PATIENTS INTO
MENTAL HEALTH CARE FACILITIES

Voluntary admission to a medical health care facility

4.-(1) Any person who has attained the apparent age of eighteen years and voluntarily submit himself for mental disorder treatment, shall be accepted to such mental health care facility.

(2) A person who has not attained the apparent age of eighteen ears whose parent or guardian is desirous of submitting him for mental disorder treatment may be accepted if the parent or guardian submits such person to the officer in-charge of a mental health care facility.

(3) Any person received as a voluntary patient and assessed by the officer in-charge of a mental health care facility that he is no longer dangerous to himself, the community or property and is capable of taking care of himself may leave the mental health care facility subject to the procedures available to other patients not suffering from mental disorder.

(4) Notwithstanding subsection (3) the officer in-charge of the mental health care facility shall ensure the continuity of care on such person on an outpatient basis.

(5) Where a person who is voluntarily admitted has not attained the apparent age of eighteen years, his parent or guardian may facilitate the process of leaving the mental health care facility on medical advice.

(6) A person received as voluntary patient in a mental health care facility and assessed by the officer in-charge of a mental health care facility to be a danger to himself, the community, property or his incapable of taking care of himself, shall be admitted for treatment and care using involuntary admission procedures.

(7) For the purpose of this section "guardian", means any person having the charge of a person with mental disorder.

Voluntary patients who become incapable of expression

5.-(1) Any person who is received into a mental health care facility as a voluntary patient and becomes incapable of expressing himself willingly or unwilling to continue receiving treatment shall-

- (a) not be kept as a voluntary patient for a longer period than thirty days; or
- (b) be discharged on or before the expiration of thirty days, except if he becomes capable of expressing himself or he has been made the subject of an application in relation to involuntary admission or voluntary admission.

(2) Where a person who has not attained the apparent age of eighteen years has been received in a mental health care facility, has no parent or guardian or his parent or guardian is incapable of performing or refused to perform his duty, the officer in charge of the mental health care facility shall inform the District Social Welfare Officer of that fact.

(3) The District Social Welfare Officer shall, after receiving that information, give directions for the continued admission or discharge of such patient as may be necessary.

Provision
for
temporary
treatment
etc.

6. Any person who is suffering from mental disorder and is likely to benefit from temporary treatment in a mental health care facility but is incapable of expressing himself willingly or unwillingly to receive treatment, shall be received into a mental health care facility as a temporary patient for treatment and care.

PART III

MANAGEMENT OF PERSONS WITH MENTAL DISORDER

Jurisdiction
of the Court

7. The Resident Magistrate's Court and the District Court shall have a concurrent jurisdiction in matters relating to mentally disordered persons.

Application
for
reception
order

8.-(1) An application for the reception of a person with mental disorder into a mental health care facility may be made to the court by way of petition as specified in the Second Schedule to this Act.

(2) Every petition shall disclose full particulars of the person in respect of whom the application is made and shall state the reasons why it is presented and the relation of the petitioner with that person.

Mentally disordered
person to be taken
to a mental health
care facility or
reported to social
welfare authorities

9.-(1) Every police officer, justice of peace, social welfare officer, a religious leader, ward executive officer or village executive officer, who has reason to believe that any person within the area under his jurisdiction is mentally disordered and is not under proper care or control, shall immediately cause that person to be brought to a mental health facility.

(2) The Police officer or any other person shall where there is mentally disordered person who is in stable condition but is cruelly treated or neglected by an person having charge of him immediately report that fact to the District Social Welfare Officer.

(3) The District Social Welfare Officer may, after receiving the report, cause a social assessment to be conducted and work with available mental health care facilities to improve social support structures for the mentally disordered person.

Procedure
upon inquiry
by court
into mental
disorder

10.-(1) Any mental health care facility shall, where it receives a petition for a reception order, conduct an immediate inquiry on behalf of the court and shall cause two copies of medical certificates as prescribed in the Second schedule to be issued by an approved medical officer, and an approved mental health practitioner.

(2) Medical certificates issued under subsection (1) shall be submitted to the court within forty eight hours from the day of issue.

(3) Where medical certificates are brought before the court in pursuant to the provisions of sub-section (2) the court shall examine the recommendations made and if it thinks that there are ground for proceeding further, the court may conduct other inquiries as may be necessary.

(4) Where the medical officer, social welfare officer or mental health practitioner has examined a person, shall give medical certificate as set out in the prescribed form and submit it to the court.

(5) Where the court is satisfied that the person-

- (a) is mentally disordered; and
- (b) is a proper person to be admitted,

it shall make and record a finding to that effect and make an order for the admission of that person to the mental health care facility.

(6) The court may, instead of making a reception order, make an order of surrendering a person with a mental disorder where a friend or a relative of a mental disordered person enters into a bond with or without sureties for a sum of money as the court may determine and on condition that, a mentally disordered person shall-

- (a) be properly taken care of; and
- (b) be prevented from doing injury to himself or to others.

(7) Where the court is not satisfied with the contents of medical certificates presented before it, the court shall record its reasons and shall discharge him after having caused that person to be brought before it.

(8) The court shall, when making a reception order, ascertain such particulars in respect of the person to whom the reception order relates as are mentioned in Form 1 set out in the Second Schedule to this Act and shall make a statement to be transmitted together with the reception order to the officer in-charge of the mental health care facility specified in the order.

Involuntary
admission
of a
person
with mental
disorder

11.-(1) When a petition for a reception order is accompanied by medical certificates of a person alleged to be mentally disordered is brought before the court, the court may, by an order in writing, authorize involuntary admission of that person in a mental health care facility for a period not exceeding thirty days, or as may be necessary to enable the mental health practitioner to assess the nature of the mental disorder and provide treatment and care.

(2) The court may, by an order in writing authorize further admission to the mental health care facility of that person for a period not exceeding thirty days.

(3) Notwithstanding subsection (2), a person shall not be admitted to a mental health care facility in accordance with the provisions of this section for a period exceeding ninety days from the date on which a reception order was issued by the court.

(4) Notwithstanding the provisions of subsection (3), the court may extend the period of treatment of the patient on certification by the attending mental health practitioner.

(5) A member of the family of a person who has been involuntarily admitted in a mental health care facility in contravention of the provisions of this Act may petition to the court against continued admission of that person in a mental health care facility.

(6) The court shall, where is satisfied that a person in respect of whom a petition has been filed is unlawfully admitted, issue an order discharging that person immediately from a mental health care facility.

(7) A person may-

- (a) be admitted involuntarily to a mental health care facility as a patient; or
- (b) if admitted voluntarily as a patient, be admitted as an involuntary patient in the mental health care facility, where a mental health practitioner determines in accordance with international accepted medical standards.

Powers
of bodies
other than the
court in
relation to
the mentally
disordered persons

12.-(1) Where in the absence of a patient's relative the Social Welfare Officer or mental health care facility is required to submit a petition for a reception order with medical certificates to the court and there is no magistrate to preside over the court having jurisdiction in mentally disordered persons, the officer shall make a report or take such documents to an administrative officer.

(2) Where an administrative officer authorizes a person's admission to a mental health care facility under this section, he may exercise the powers of admission conferred on a court under subsections (2) and (3) of section 10, and shall have effect as if the period of ninety days were computed from the date of the authorization.

(3) At the end of the period of admission, a medical report for the person admitted under this section shall be brought before the court, and any further proceedings in respect of such person shall be continued before the court, as if the order for admission to a mental health care facility had been made by the court under section 10.

(4) The provisions of section 10 shall apply to proceedings under this section as they apply to proceedings in the court.

(5) An order made by a magistrate or an administrative officer shall have effect as an order of the court and the provisions of section 10 shall apply in relation to such order, and the magistrate or administrative officer shall be under the same duty to inform any person aggrieved by this order of the right of appeal.

Reception order

13.-(1) The reception order which is in conformity with this Act shall be sufficient authority for the person authorized by court in that behalf to admit the person named in the order at the place mentioned or in any other mental health care facility.

(2) The order may be acted upon without further evidence as to the signature or jurisdiction of the person making the order.

(3) The court making a reception order shall immediately send a certified copy of the order to the officer in-charge of the mental health care facility into which that person is admitted.

Medical certificates

14.-(1) Every medical certificate specified in the Second Schedule to this Act shall be signed by a mental health practitioner.

(2) Every certificate shall state the facts upon which the person certifying it has formed an opinion that the person to whom it relates-

- (a) is mentally disordered and constitutes a danger to himself, the community or property;
- (b) is incapable of taking care of himself; and
- (c) may contain such distinguishing facts as observed by him and as communicated by any other person.

(3) A medical certificate issued under this Act which purports to be founded wholly on facts communicated by third parties shall not have any effect.

(4) A recommendation for the involuntary admission of a person with a mental disorder shall not be made to a health care facility that does not have the facilities to provide adequate treatment and care for mentally disordered persons.

Appeals

15.-(1) An appeal shall lie to the High Court for an order of the court made under this Act in accordance with the procedure for the time being in force relating to appeals in civil suits.

(2) The court shall, upon making an order under this Act, inform any interested person who is present in court or any other person aggrieved with such order of his right to appeal.

PART IV
MENTAL HEALTH BOARD

Establishment
of the
Board

16.-(1) There is established a Board to be known as the Mental Health Board.

- (2) The Board shall be composed of-
- (a) a Chairman who shall be appointed by the Minister;
 - (b) Commissioner of Social Welfare;
 - (c) the Attorney General or his representative;
 - (d) the Director of Hospital Services;
 - (e) the Medical Officer in-charge of the forensic psychiatric hospital;
 - (f) the head of the Mental Health Section of the Ministry responsible for Health;
 - (g) the Medical Superintendent of leading Mental Hospital in Mainland Tanzania;
 - (h) two members representing the Patient Welfare Boards;
 - (i) the legal officer of the Ministry responsible for Health; and
 - (j) Two members from private sector to be appointed by the Minister.
- (3) Members of the Board shall be appointed by the Minister.

Functions
of the
Board

17.-(1) The Board shall-

- (a) review individual detailed reports on selected patients of the forensic psychiatric hospital in order to ensure that individual patients have active rehabilitation and care programmes that are regularly reviewed and updates;
- (b) afford audience to patients, their relatives and any concerned person on any matter related to the patient's welfare;
- (c) deliberate and decide on issues of the patients brought to the Board's attention and to take appropriate measures;
- (d) consider and decide on the recommendations of the medical officer in-charge relating to the discharge or otherwise of offenders with mental disorder after due treatment;
- (e) deliberate and recommend ways and means of improving the conditions of a mental health care facility and services for the welfare of patients and the staff;
- (f) to receive, deliberate and decide on reports submitted to it by the Patient Welfare Board;
- (g) supervise and monitor the provision of mental health care , services and assurance of quality by inspecting facilities within the mental health care facilities in Mainland Tanzania; and
- (h) undertake any other related functions as may be assigned to it by the Minister.

Operations
of the
Board

18.-(1) At any meeting of the Board half of the total number of members shall constitute a quorum.

(2) The members of the Board shall be paid allowances as may be determined by the Board and approved by the Minister.

(3) The Board shall meet at least four times in every year and all meetings of the Board shall be convened by the Chairman.

(4) A person who is a member by virtue of his office shall so remain as long as he continues to hold that position, other members shall hold that office for a period of three years and shall be eligible for re-appointment.

(5) At any meeting of the Board a decision of the majority of the members present and voting shall be deemed to be a decision of the Board and in the event of an equality of votes the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.

PART V

MANAGEMENT AND ADMINISTRATION OF ESTATES OF PERSONS WITH MENTAL DISORDER

Application
for order of
management
and
administration
of estate

19.-(1) Application for an order for the management and administration of the estate of a person with mental disorder may be made by a parent, a child who has attained the age of eighteen, friend relative or any interested person under whose care or charge such person is.

(2) Every application shall be accompanied by an affidavit setting out the grounds upon which it is made and shall give full particulars as to the property and kindred of the person to whom it relates.

(3) Where the application relates to a person lawfully admitted as a person with mental disorder, the application shall be accompanied by a certified true copy of the appropriate admission and particulars in respect of that person

Service of notice
of application

20.-(1) The notice of an application shall, unless the court considers that, its service is impracticable, inexpedient or would be ineffectual, be served upon the person in respect of whom the application is made in such manner as the court may direct.

(2) The court may direct a copy of such notice to be served upon any relative of the person with a mental disorder or upon any other person to whom in the opinion of the court notice of the application should be given.

Attendance by
person whom
application
is made

21.-(1) The court may require the person in relation to whom the application is made to attend at a place and time as it may appoint for the purpose of being personally examined by the court, or by a registered medical practitioner or any other person from whom the court may desire to have a report of the mental capacity and condition of such person.

(2) The court may make an order authorizing any person or persons named in the order to have access to such person for the purpose of a personal examination as to his mental capacity.

Discretion of court to make orders relating to estate

22. The court may, upon application for the benefit of any person with mental disorder.

- (a) order that any property belonging to such person be sold, charged or disposed of in any way that may seem most expedient; and
- (b) order that, property or the proceeds thereof be delivered to such person.

Proof of Mental capacity and condition

23.-(1) The court shall receive evidence on affidavit or otherwise and consider any report submitted to it under the provisions of this Act as to the mental capacity and condition of the person to whom the application relates as may be produced before it.

(2) The court may take judicial notice of any reception order or medical certificate duly made or given in accordance with the provisions of this Act.

Disposal of movable property

24.-(1) The court may in any proceedings under this Act make inquiries into the property belonging to a person alleged to be mentally disordered.

(2) The court may, after being satisfied with the inquiry make such orders regarding the disposal of any movable property not exceeding three million shillings in value belonging to a person in respect of whom a reception order is made.

(3) The court may make such order as it thinks fit for the administration and management of the estate of any person with mental disorder for the purpose of making provision for his maintenance and that of members of his family who are dependent upon him and the payment of his debts.

(4) Subject to subsection (3), the cost for inquiry or other proceedings in the administration and management of the estate of any patient shall be borne by the Government or by the person who requested the inquiry or the proceedings.

(5) The court may appoint a fit and proper person to be the manager of the estate of any person with mental disorder for the purposes of safeguarding the property of the patient until such time as he is able to leave the hospital.

(6) The Court shall ensure that the property and money belonging to a mentally disordered person are protected and, shall endeavor to find a relative or a guardian of that person for purposes of placing such property and money in his custody.

(7) Without prejudice to the provisions of this Section, the Court shall, by notice inform the public on the appointment of a manager under this Section and where necessary allow any member of public to lodge an objection over the appointment.

Powers
and
duties of
manager

25.-(1) A manager appointed under the provisions of section 24 shall act under the directions of the court and shall exercise powers for the management of the estate as may be expressly conferred upon him either specifically or generally by any order or direction of the court.

(2) A manager shall not, without the express permission of the court, mortgage, charge, transfer any immovable property or lease that property for a term exceeding five years

(3) The manager shall-

- (a) execute all such conveyance and other instruments relating to the estate of the mentally disordered person as the court may order;
- (b) exercise all powers vested in him in the character of trustee or guardian of the person for the benefit in regards to whom he was appointed to be a manager; and
- (c) submit to the Court a quarterly report as regards to the capital and expenditure of the estates of a mentally disordered person.

(4) Every conveyance or other instrument made in pursuant to an order of the court shall be valid and have effect as if it were made by the person, being of sound mind and in respect of whose estate the order is made.

Petition for court
to make
necessary order
on estates

26. The court may, on application made by way of petition concerning any matter relating to the estate of a mentally disordered person, make an order as circumstances may require.

PART VI GENERAL PROVISIONS

Establishment
of mental
health care
facilities

27.-(1) The Minister may, by an order published in the *Gazette*, establish at a place he deems fit, mental health care facilities of varying degrees of specialization for the care and treatment of mentally disordered offender and persons with mental disorders.

(2) A person shall not receive an offender deemed as such in accordance with the Criminal Procedure Act with mental disorder into any hospital, clinic, home or other premises for treatment, unless that hospital, clinic, home or premises has been established in accordance with this Act.

(3) Every officer in-charge of the hospital, clinic, home or premises who contravenes the provisions of sub-section (2) commits an offence and on conviction shall be liable to a fine of not less than one hundred thousand shilling or to imprisonment for a term of three months or to both.

Special
care for
admitted
patients

- 28.**-(1) Any person taking care of a mentally disordered person shall-
- (a) ensure rights of that person, treatment and care received at a mental health care facility are adequate; and
 - (b) ensure that the person does not abscond from treatment and care in that mental health care facilities.

(2) There shall be a medical personnel in-charge with the responsibility to put in place procedures for investigating all incidents of absconding persons and appropriate punitive actions for staff where it is established that negligence is the cause of absconding.

(3) Every mental health care facility shall put in place measures to ensure family and community involvement in the care and management of mentally disordered persons in the mental health care facility, and establish strategies for continuity of care.

Patient
Welfare Board

29.-(1) The Minister may, by order published in the Gazette, establish a Patient Welfare Board in respect of every administrative area of a region.

(2) The provisions of the First Schedule to this act shall have effect as to the constitution, tenure of office, functions and proceedings of the Board.

(3) The Minister may, by order published in the *Gazette* delegate some of the functions of the Patient Welfare Board to District Health Services Board and facilities Governing Committee.

(4) Members of the Patient Welfare Board shall be appointed by the Minister.

Establishment of a
National Council
for Mental
Health

30.-(1) There is established a National Council for Mental Health.

(2) The Council shall be composed of-

- (a) Director of Hospital Services who shall be the Chairman;
- (b) the head of the Mental Health Division in Ministry responsible for health who shall be the Secretary;
- (c) a senior psychiatrist;
- (d) the Director of a Mental Hospital appointed from among hospitals which have a mental health care facility;
- (e) Director of preventive services;
- (f) the Head of an academic institution providing post-graduate training in psychiatry;
- (g) a representative from Non-Governmental Organizations dealing with human rights matters;
- (h) senior prisons officer;
- (i) a senior police officer;

- (j) a senior representative from the Ministry responsible for Regional Administration and Local Government;
- (k) the Director of Primary Education;
- (l) a senior representative from the Ministry responsible for youth development;
- (m) a senior psychiatry nurse;
- (n) a senior official from the department of social welfare
- (o) a senior representative of a Non-Governmental Organization whose objectives include the protection and care of mentally disordered persons; and
- (p) a representative of the Disaster Management Department in the Prime Minister's Office.

(3) Members of the National Council for Mental Health shall be appointed by the Minister.

Functions
of the National
Council for
Mental Health

31.-(1) Subject to this Act, the functions of the National Council for Mental Health shall be to-

- (a) review and monitor the status of mental health in Mainland Tanzania and related problems, mental health promotion, prevention programmes for substance abuse and advise the Minister;
- (b) form working links between various sectors and disciplines for the purpose of coordination and promotion of mental health;
- (c) encourage and facilitate community involvement and non governmental organizations in the promotion of mental health and prevention of substance abuse and mental disorders;
- (d) encourage and facilitate research on substance abuse and mental health issues;
- (e) facilitate the mobilization of resources for the development of mental health services in collaboration with Ministry responsible for health; and
- (f) evaluate regularly the functioning of the mental health legislation with appropriate recommendations for review and implementation.

Operations
of the
Council

32.-(1) The Council shall be responsible for making its own procedures and rules.

(2) The Council shall meet four times a year and such other time as may be necessary for the transaction of its business.

(3) A person who is a member by virtue of office shall remain a member so long as he continues to hold that office and other members shall hold office for three years and shall be eligible for re-appointment.

(4) The members of the Council shall receive allowances as may be determined by Minister upon recommendation of the Council.

(5) Half of the total number of members shall constitute a quorum at a meeting of the Council and at any meeting a decision of the majority of members present and voting shall be deemed to be a decision of the council and in the event of an equality of votes the chairman shall have a casting vote.

Execution of bond for care and custody of persons with mental disorder

33.-(1) Any relative or friend of a person admitted in a mental health care facility may make application to the court seeking that such person be delivered to his care and custody.

(2) The court may, after consultation with the officer in-charge of mental health facility where such person is admitted and upon the applicant entered into a bond either with or without sureties, make an order for admitted person to be discharged.

Re-admission after absconding from the ward

34. Every person duly certified and received into a mental health care facility may be admitted until he is removed or discharged lawfully, and in case that person absconds from the ward, that person may be re-admitted and conveyed to such mental health care facility.

Proceedings may be held in camera

35. Any proceedings commenced under this Act may, where the court thinks fit, be held in camera and the court may allow the person to whom the proceedings relate to be represented by any suitable person or may itself appoint a fit and proper person to represent that person.

Reception of persons certified by institutions outside Tanzania

36. Where a citizen of the United Republic of Tanzania is found to be mentally disordered in accordance with applicable laws of another country and received by any person or Institution within Tanzania shall be admitted forthwith to a mental health care facility and be dealt with in accordance with the provisions of this Act.

Penalty and offences

37. Any person who by act or omission-

- (a) participates in wrongful admission of someone in a mental health care facility;
- (b) assists or permits a mentally disordered offender admitted involuntarily to a mental health care facility to escape;
- (c) commits any act of cruelty, abuse or neglect towards a mentally disordered person,

commits an offence and shall on conviction be liable to one year imprisonment or to a fine of not less than five hundred thousand shillings or to both.

Minister
may make
regulations

38. The Minister may make regulations for the better carrying out of the provisions of this Act, and in particular, may make regulations prescribing-

- (a) forms that may be used under this Act;
- (b) payment by the relatives or out of the estate of the cost of maintenance of any person admitted under the provisions of this Act;
- (c) the establishment of mental health care facility and the admission for treatment of persons with mental disorder including substance abuses;
- (d) the appointment of guardians of persons found with mental disorder;
- (e) the management and control of mental health care facility and the treatment of mental in-patients and substance abusers;
- (f) the admission care and discharge of offenders with mental disorders and the involuntary admission and care of persons with mental disorder or substance use disorder;
- (g) the duties of the Patient Welfare Board and Mental Health Board;
- (h) the records to be kept by officers in-charge of mental healthcare facility;
- (i) the care and treatment of persons with mental disorders or substance dependence;
- (j) the care and treatment of voluntary and temporary patients;
- (k) the manner in which the community can be involved in the care of mentally disordered persons and substance abusers; and
- (l) anything or matter for purposes of furtherance and promotion of objectives of this Act.

Application
of the Criminal
Procedure Act
Cap. 20

39. The provisions of the Criminal Procedure Act, in so far as they relate to the taking of bonds, summons and attendance of witnesses, shall apply in relation to the proceedings commenced under this Act.

Protection of
persons acting
in good faith

40. No civil or criminal proceedings shall be brought against any person in any court in respect of anything done under the authority or purported authority of this Act if it is done in good faith in execution or purported execution of the function under this Act.

Repeal
Cap. 98

41.-(1) The Mental Diseases Act is repealed.

(2) Notwithstanding subsection (1) any subsidiary legislation, permits issued, decisions made, powers exercised or delegated appointment made directions or any other act done under the repealed Act shall continue to be enforced until revoked, replaced or cancelled by subsidiary legislation made under this Act.

PART VII
CONSEQUENTIAL AMENDMENTS

Construction
Cap. 20

42. This Part shall be read as one with the Criminal Procedure Act hereinafter referred to as "the principal Act."

Amendment of
section 216

43. The principal Act is amended in section 216.

- (a) in subsection (2) by deleting the phrase "Mental Diseases Act" wherever it appears and substituting for it the phrase "Mental Health Act."**
- (b) in subsection (6) by deleting the words "criminal lunatic" wherever it appears and substituting for it the phrase "mentally disorder defender."**

 FIRST SCHEDULE

Made under section 29(2)

- | | |
|--|--|
| Patient Welfare Board | <p>1. The Patient Welfare Board shall be composed of:</p> <ul style="list-style-type: none"> (a) the Regional Administrative Secretary of the region in which the hospital is located who shall be the Chairman; (b) the Regional Medical Officer who shall be the Secretary; (c) the Regional Social Welfare Officer; (d) a member of Parliament of one of the constituencies within the catchments of the Hospital; (e) Regional Prisons Officer; (f) Regional Nursing Officer; (g) a local mental health co-ordinator; (h) one person representing the community; (i) a representative of the Association of Private Health Facilities of Tanzania; and (j) a representative of human rights organizations. |
| Functions of the Patient Welfare Board | <p>2. The Patient Welfare Board shall be charged with the following functions:</p> <ul style="list-style-type: none"> (a) to visit and receive reports from the medical officer in charge of psychiatric inpatients of the hospital at least once every six months; (b) to receive complaints from individual patients, their relatives or any concerned third party relating to the affairs of the patients; (c) to help in the resolution of issues pertaining to patients through various means including advice to the hospital management and by submission of reports to other authorities; (d) in collaboration with other agencies, ensure that human rights and dignity of patient is always paramount in the health care facility and to help improve the quality of life of the patients. |
| Meetings of the Board | <p>3. The Patient Welfare Board shall meet twice in every six months and at any other time as the Chairman may find necessary.</p> |
| Quorum of the Board | <p>4. Half of the members shall constitute a quorum of the Board.</p> |
| Procedures | <p>5. Patient Welfare Board shall make its own procedures for the conduct of its business.</p> |
| Sitting allowances | <p>6. Every member of the Patient Welfare Board shall be entitled to a sitting allowance as may be determined by the Minister.</p> |
| Tenure | <p>7. The tenure office for member other than ex-officio shall be three years renewable for a further one term and the ex-officio member shall remain in the Board for as long as he continues to hold his official position.</p> |

SECOND SCHEDULE

Made under section 8

The Mental Health Act, 2008

APPLICATION FOR A RECEPTION ORDER

IN THE DISTRICT/RESIDENT MAGISTRATES COURT OF..... at

The Petition ofof

1. make application for the reception at a mental hospital of

2. I am (here state connection with person who is the subject of application)

3. The grounds upon which this application is presented are as follows:-

.....The petitioner therefore prays that the court may be pleased to make a reception order as prayed.

Dated this..... day of..... 20.....

STATEMENT OF PARTICULARS

- Notes: 1. If any of the particulars in this statement are not known, that fact should be so stated.
 2. Where the applicants is unable of his own knowledge to prove any of the particulars in this statement, he should state the grounds of his belief.

The following is a statement of particulars relating to the said persons:-

Name of patient in full

Age and Sex

Married/Single/Widowed/Divorced

Occupation

Tribe and religious belief as far as known

Residence

Names of relatives

When first showed signs of unsoundness of mind

Age (if known) on first attack

Whether previously under care and treatment

Supposed cause

Whether previously under care and treatment

Whether suicidal

Whether suffering from mental illness/Behavioural disorders/mental disability

Whether dangerous to others and in what way

Whether he is capable of looking after himself

With whom he has been living

Whether the patient is addicted to the user of any drug or intoxicant

Whether any near relative (standing the relationship) has been afflicted with mental disorder/illness.

I
the above-named practitioner do hereby affirm/make oath and state that the statements contained in the above petition are true to the best of my knowledge and belief.

.....
(Signature and Qualification)

The Mental Health Act, 2008

MEDICAL CERTIFICATE

In the matter of.....in the district of

I.....do hereby certify as follows:

1. The said..... has been under my observation for..... days during which time have visited him on..... occasions

2. On the..... day of.....20..... at..... in the district of..... I personally examined the said..... and I am of the opinion that the said..... is mentally dissolved (mental disorder of itself is not a good reason-need risk to self or others, or risk of deterioration) and a proper person to be taken charge of and detained under care.

- 3. I formed this conclusion on the following grounds: (a) Facts indicating mental disorder observed by myself; (b) Other facts, if any indicating insanity communicated to me by others. (Here state the information and from whom):

(Signature:)

* Here state whether the person giving the certificate is a Government medical officer or a mental health practitioner duly authorized to give certificate under the Act.

The Mental Health Act, 2008

RECEPTION ORDER

In the District/Resident Magistrate's Court of..... at

Whereas

has been brought before this court on the position of.....

under the provision of section..... of this Act:

Now I Magistrate of the

District/Resident Magistrate at having caused the

Said and to be examined by.....

..... and being satisfied that the said

..... is mentally disordered:-

- (a) dangerous
- (b) not under proper care and control or
- (c) at risk to self or others
- (d) risk of deterioration

(c) Cruelly treated or neglected by the person having the care or charge of him and is a proper person to be taken charge of and detained under care hereby direct you to

receive the said..... admitted into your hospital..... into your mental hospital.

Dated this..... day of..... 20.....

To the Officer in charge of the mental hospital at.....

* Here state whether the person giving the certificate is a Government medical officer or a registered medical practitioner duly authorized to give certificate under this Act.

The Mental Health Act, 2008

BOND ON THE TAKING OVER OF A PERSON WITH MENTAL DISORDER TO THE CARE OF A RELATIVE OR A FRIEND

Whereas has been brought before the DM/RMs Court of.....at

.....and has been found to be of unsound mind:

Now, I.....do hereby bind myself that on the saidbeing made over to my care,

I will have the said..... properly taken care of and prevented from doing injury to himself or to others; and in case of my making default therein, I hereby bind myself to forfeit to the Government the sum of..... Shillings.

Dated this..... day of.....20.....

(Signature).....

(Where a bond with sureties is to be executed add):-

We do hereby declare ourselves sureties for the above-named.....

..... that he will, on the aforesaid.....

being made over to his care, have the said.....

properly taken care of and prevented from doing injury to himself or to others: and in case of the said..... making

default therein, we bind ourselves, jointly and severally, to forfeit to the Government the sum of..... Shillings.

Dated this..... day of..... 20.....

(Signature).....

The Mental Health Act, 2008

BOND ON THE DISCHARGE OF A PERSON WITH MENTAL DISORDER FROM A MENTAL HEALTH CARE FACILITY INTO THE CARE OF A RELATIVE

Whereas of is now detained in the health care facility hospital at under an order made by the Magistrate of the District/Resident Magistrate Court at and whereas I have applied that the said may be delivered to my care and custody;

I here by bind myself that on the said Being made over to my care and custody, I will have him properly taken being care of and prevented from doing injury to himself or to others: and in case of my making default therein I hereby bind myself to forfeit to the Government the sum of Shillings.

Dated this day of 20 (Signature).....

(Where a bond with sureties is to be executed, add):-

We do hereby declare ourselves sureties for the above named that he will, on the aforesaid being delivered to his care and custody, have the said- properly taken care of and prevented from doing injury to himself or to others: and in the case of the saidmaking default therein, we bind ourselves, jointly and severally, to forfeit to the Government the sum of Shillings.

Dated this day of 20 (Signature).....

The Mental Health Act, 2008

FORM OF APPLICATION FOR ADMISSION OF TEMPORARY PATIENT TO A MENTAL HEALTH CARE FACILITY

1. I,..... of..... hereby request you to receive.....of.....as a temporary patient into..... a mental health care facility.

2. I am related to the said in the following manner:- or

There is no relative of the said.....and I am the Police In-Charge of Station/Social Welfare Work/Religious Leader/ Ward/Village Executive Officer of.....

or There is no relative of the saidand no Application in this behalf has been made by the Attorney-General. I am not related to the said The reasons why his application is not made as provided in paragraphs (a) and (b) of subsection (2) of section 10 of the Mental Health Act and that my connection with him/her, and the circumstances in which I make this application, are as follows:

(Signature).....

Dated this..... day of.....20.....

Delete paragraphs which do not apply.

Note: This application must be submitted in duplicate and accompanied by a medical recommendation in duplicate which must be signed by a registered or licensed medical practitioner.

FORM 7

The Mental Health Act, 2008

**RECOMMENDATION FOR TREATMENT AS A TEMPORARY
PATIENT AT A MENTAL HEALTH CARE FACILITY**

Recommendation for the treatment at a mental health care facility as a temporary patient of
.....of

I.....of..... hereby declare that:-

1. I am a registered/licensed medical practitioner/mental health practitioner:
2. My professional qualifications are
3. I examined the said..... on the..... day
of..... 20.....

*4. I have formed the conclusions stated below on the following grounds. I further declare that:

- (a) the said.....
 - (i) is suffering from mental disorder;
 - (ii) is likely to benefit by treatment in a mental health care facility as a temporary patient; and
 - (iii) is for the time being incapable of expressing himself/herself as willing or unwilling to receive such treatment.
- (b) it is expedient with a view to the said.....'s recovery that he/she should be received into..... Hospital for a period not exceeding twelve months.

Dated this..... day of.....20.....

(Signature).....

* A person specifying the grounds on which his conclusions are based must carefully distinguish between statements of facts which are based upon his own observations and statements of facts which are based upon communications made to him by others.

Passed in the National Assembly on the 6th November, 2008.

.....
Acting Clerk of the National Assembly