CAYMAN ISLANDS

MENTAL HEALTH ACT

(2023 Revision)

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PUBLISHING DETAILS

Law 10 of 2013 consolidated with Law 40 of 2020 and Act 8 of 2022 and as amended by the Citation of Acts of Parliament Act, 2020 [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Originally enacted —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
Act 8 of 2022-10th October, 2022.

Originally made —

SL 1 of 2023-25th January, 2023.

Consolidated and revised this 28th day of January, 2023.

Note (not forming part of the Regulations): This revision replaces the 2022 Revision which should now be discarded.

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MENTAL HEALTH ACT

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Arrangement of Sections

CAYMAN ISLANDS

MENTAL HEALTH ACT

(2023 Revision)

Short title

1. This Act may be cited as the *Mental Health Act (2023 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.

"**emergency detention order**" means an order made by a medical officer under section 6(1B), under section 7(4) or under section 12(6A);

"**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, 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 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;

"**observation order**" means an order made by a medical officer under section 8(1);

"**order for protective custody**" means an order made by a medical officer under section 6(1) or by a responsible medical officer under section 12(5);

"**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;

"**protective custody**" means an arrangement where a person is being safeguarded by, or under the care and protection of, law enforcement authorities;

"**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;

"**spouse**", in relation to a person, means —

(a) the husband or wife of that person; or

(b) the civil partner of that person;

"**treatment order**" means an order made by a responsible medical officer under section 9(1); 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 a medical officer is of the opinion that a person is or may be suffering from a mental impairment or serious mental illness, the medical officer may make an order for protective custody in the prescribed form, authorising a constable to —

(a) take the person into protective custody; and

(b) with all reasonable despatch, but no later than twelve hours after the person is taken into protective custody, bring the person before a medical doctor employed by the Government to be examined.

(1A) The medical doctor who examines a person under subsection (1)(b)shall, after conducting the examination —

(a) complete the prescribed form to be used in the assessment of the person; and

(b) consult the medical officer under subsection (1).

(1B) If, after consultation with the medical doctor who examined the person under subsection (1)(b), the medical officer considers that the person should be further detained, the medical officer shall make an emergency detention order in the prescribed form, directing the detention of that person for up to seventy-two hours in a hospital or other place of safety able to receive and care for that person.

(1C) If the medical officer forms the opinion that there is no need to further detain the person, the medical officer shall not make an emergency detention order under subsection (1B) and shall order the release of that person.

(1D) If the medical officer makes an emergency detention order under subsection (1B), the medical officer shall —

(a) in writing, as soon as practicable thereafter, inform the Mental Health Commission of the detention of the person;

(b) supply the Mental Health Commission with a copy of the prescribed form under subsection (1A); and

(c) otherwise comply with any regulations that may be made under this Act in that regard

(2) A patient or the nearest relative of a patient, within twenty-four hours of an emergency detention order being made, may request a second opinion from another medical officer and if that medical officer recommends that an emergency detention order should not have been made —

(a) the emergency detention order shall be revoked; and

(b) the medical officer who made the emergency detention order shall —

(i) order the release of the person in respect of whom the emergency detention order was made; and

(ii) refer the matter, together with all records, to the Mental Health Commission, which shall make such decision as it thinks fit.

(3) A patient who is detained pursuant to an emergency detention order 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.

(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.

Apprehension of a person suspected to be a danger

7. (1) Where it appears to a constable that a person —

(a) is, by reason of mental impairment or serious mental illness, an immediate danger, or is likely to become a danger, to themselves or other persons; or

(b) is threatening, attempting or preparing to inflict self-harm,

the constable shall take the person into protective custody and, with all reasonable despatch but no later than twelve hours after the person is taken into protective custody, bring the person before a medical doctor employed by the Government to be examined.

(2) A constable shall, upon taking the person to a medical doctor in accordance with subsection (1), immediately complete and file the prescribed form with the receiving medical doctor, and shall indicate in the prescribed form the grounds for the constable's actions under subsection (1).

(3) The medical doctor referred to in subsection (1) shall, after conducting the examination —

(a) complete the prescribed form to be used in the assessment of the person; and

(b) consult a medical officer.

(4) If the medical officer referred to in subsection (3)(b) considers that the person should be further detained, the medical officer shall make an emergency detention order in the prescribed form, directing that the person be detained for up to seventy-two hours in a hospital or other place of safety able to receive and care for that person.

(5) If the medical officer referred to in subsection (3)(b) makes an emergency detention order under subsection (4), the medical officer shall —

(a) in writing, as soon as practicable thereafter, inform the Mental Health Commission of the detention of the person;

(b) supply the Mental Health Commission with a copy of the prescribed form under subsection (3)(a); and

(c) otherwise comply with any regulations that may be made under this Act in that regard.

(6) If the medical officer referred to in subsection (3)(b) forms the opinion that there is no need to further detain the person, the medical officer shall not make an emergency detention order and shall order the release of that person.

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 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, the responsible medical officer may make an order for protective custody in the prescribed form, authorising a constable to —

(a) take the patient into protective custody; and

(b) with all reasonable despatch, but no later than twelve hours after the person is taken into protective custody, bring the patient before a medical doctor employed by the Government or a medical officer to be examined.

(6) The medical doctor employed by the Government or medical officer who examines the patient under subsection (5)(b) shall, after conducting the examination, complete the prescribed form to be used in the assessment of the patient.

(6A) Where a medical officer conducts the examination under subsection (5)(b) and the medical officer considers that the patient should be further detained, the medical officer shall make an emergency detention order in the prescribed form, directing that the patient be detained for up to seventy-two hours in a hospital or other place of safety able to receive and care for that patient.

(6B) Where a medical doctor employed by the Government conducts the examination under subsection (5)(b) —

(a) the medical doctor employed by the Government shall consult a medical officer; and

(b) if the medical officer under paragraph (a) considers that the patient should be further detained, the medical officer shall make an emergency detention order in the prescribed form, directing that the patient be detained for up to seventy-two hours in a hospital or other place of safety able to receive and care for that patient.

(6C) If the medical officer referred to in subsection (6A) or (6B) makes an emergency detention order under subsection (6B)(b), the medical officer shall —

(a) in writing, as soon as practicable thereafter, inform the Mental Health Commission of the detention of the person;

(b) supply the Mental Health Commission with a copy of the prescribed form under subsection (6); and

(c) otherwise comply with any regulations that may be made under this Act in that regard.

(6D) If the medical officer referred to in subsection (6A) or (6B) forms the opinion that there is no need to further detain the person, the medical officer shall not make an emergency detention order and the patient shall continue to be treated under the assisted outpatient treatment order.

(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.

Restrictions on access to post and electronic networks

16. (1) If, in the opinion of a responsible medical officer, the receipt of postal packets addressed to a patient detained under this Act or access to any electronic network directly or indirectly by a patient detained under this Act may have an adverse effect on the patient —

(a) the receipt of any such postal packet may be withheld; and

(b) access to any electronic network directly or indirectly by the patient may be denied.

(2) Postal packets addressed by a patient detained under this Act for despatch by the post office or any outgoing electronic communication may be withheld —

(a) if the addressee has given notice in writing to a responsible medical officer requesting that postal packets or electronic communication addressed to the addressee by the patient should be withheld; or

(b) if in the opinion of a responsible medical officer, the postal packet or electronic communication —

(i) would be unreasonably offensive to the addressee;

(ii) is defamatory to other persons, other than the responsible medical officer or persons having care of the patient; or

(iii) would be likely to prejudice the interests of the patient.

(3) Where a postal packet is —

(a) withheld under subsection (1)(a), it shall be dealt with in accordance with section 16A(1); and

(b) withheld under subsection (2), it shall be dealt with in accordance with section 16A(2).

(4) Where —

(a) a postal packet or any outgoing electronic communication has been withheld under subsection (1)(a) or (2), respectively; or

(b) access to any electronic network has been denied under subsection (1)(b),

the responsible medical officer shall, subject to subsection (5),inform the patient concerned or the patient's nearest relative of the decision, and the patient concerned or the patient's nearest relative may, within seven days after being so informed, appeal to the Mental Health Commission.

(5) Notwithstanding subsection (4), if in the opinion of the responsible medical officer, informing the patient concerned of the decision under subsection (4) would be detrimental to the interests of the patient and to the patient's treatment, the responsible medical officer shall inform the patient's nearest relative of the decision.

Procedure where postal packets withheld

16A.(1) Where a responsible medical officer withholds a postal packet in accordance with section 16(1)(a), the responsible medical officer shall ensure that —

(a) if the address of the sender is known to the responsible medical officer, the postal packet is returned to the sender; or

(b) if the address of the sender is not known to the responsible medical officer, the postal packet is —

(i) posted to the Mental Health Commission; or

(ii) produced to a member of the Mental Health Commission who next visits the hospital after the receipt of the letter or article.

(2) Where a responsible medical officer withholds a postal packet in accordance with section 16(2), the responsible medical officer shall ensure that the postal packet is —

(a) posted to the Mental Health Commission; or

(b) produced to a member of the Mental Health Commission who next visits the hospital after the receipt of the letter or article.

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 47, 48, 49, 158 and 159 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** by section 23 of the *Mental Health Law, 2013 [Law of 2013]*.

Publication in consolidated and revised form authorised by the Cabinet this 10th day of January, 2023.

Kim Bullings
Clerk of the Cabinet

ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
1/2023		Mental Health (Amendment) Act, 2022 (Commencement) Order, 2023	25-Jan-2023	LG5/2023/s1
	8/2022	Mental Health (Amendment) Act, 2022	26-Jan-2023	LG41/2022/s2
		Mental Health Act (2022 Revision)	25-Jan-2022	LG5/2022/s6
E4/2021		*Erratum* - Mental Health Act (2021 Revision)	12-Feb-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

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