

THE MENTAL HEALTH CARE (AMENDMENT) BILL
(No. II of 2021)

Explanatory Memorandum

The main object of this Bill is to amend the Mental Health Care Act to provide that the duty, which is mainly a medical duty, of reviewing mental patients who are suspected of having committed a criminal offence or who are in the custody of the police or who are detainees in a reform institution referred to in the Reform Institutions Act shall, be performed by the Managerial Committee instead of the Commission. This will allow the Commission to devote more time to, and discharge more efficiently, its more important functions such as investigation into complaints and cases of breach of discipline.

2. In addition, the Bill makes provisions for certain criminal offences such as failure to attend the Commission when required to do so or giving false or misleading evidence before the Commission.

3. Opportunity is also being taken to clarify some provisions of the Mental Health Care Act, and to provide for matters related thereto.

K. K. S. JAGUTPAL
Minister of Health and Wellness

10 March 2021

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. Section 6 of principal Act amended
4. Section 6B of principal Act amended
5. Section 11 of principal Act amended
6. Section 15 of principal Act amended
7. Section 21 of principal Act amended
8. Section 27 of principal Act amended
9. Section 28 of principal Act amended
10. New section 43A inserted in principal Act
11. Section 44 of principal Act amended
12. Commencement

A BILL

To amend the Mental Health Care Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Mental Health Care (Amendment) Act 2021.

2. Interpretation

In this Act –

“principal Act” means the Mental Health Care Act.

3. Section 6 of principal Act amended

Section 6 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “15,”;
- (b) by inserting, after subsection (1), the following new subsection –

(1A) (a) The Commission shall conduct the review of the security patients referred to in subsection (1)(g) at the intervals specified in section 15(1).

(b) The Commission shall, when conducting a review, apply the procedure as is set out in section 15(2) and (3) and may call for such medical and other reports as it considers necessary to assist it in conducting the review.

4. Section 6B of principal Act amended

Section 6B is amended by adding the following new paragraph, the full stop at the end of paragraph (c) being deleted and replaced by a semicolon –

(d) pursuant to section 15, review the case of every patient in accordance with section 15.

5. Section 11 of principal Act amended

Section 11 of the principal Act is amended, in subsection (1)(d), by deleting the word “Commission” and replacing it by the words “Managerial Committee”.

6. Section 15 of principal Act amended

Section 15 of the principal Act is amended –

(a) in subsection (1), by deleting the words “The Commission” and replacing them by the words “Subject to section 6, the Managerial Committee”;

(b) in subsection (2), by deleting the words “the Commission” and replacing them by the words “the Managerial Committee”.

7. Section 21 of principal Act amended

Section 21 of the principal Act is amended –

(a) in subsection (1), by inserting after the word “where the Commission”, the words “or the Managerial Committee”;

(b) in subsection (2), by inserting, after the words “The Superintendent may”, the words “, with the approval of the Commission or the Managerial Committee, as the case may be,”;

- (c) in subsection (3), by inserting, after the word “Commission”, the words “or the Managerial Committee, as the case may be”.

8. Section 27 of principal Act amended

Section 27 of the principal Act is amended, in subsection (1) –

- (a) by deleting the word “significant”;
- (b) by deleting the words “the Commission” and replacing them by the words “the Managerial Committee shall submit its views to the Commission which”.

9. Section 28 of principal Act amended

Section 28 of the principal Act is amended, in subsection (1)(b), by deleting the words “believed to be”.

10. New section 43A inserted in principal Act

The principal Act is amended by inserting, after section 43, the following new section –

43A. Offences

- (1) Any person who –
 - (a) fails to attend the Commission after having, in writing, been required to do so;
 - (b) knowingly gives false evidence, or evidence which he knows to be misleading, before the Commission;
 - (c) conceals, destroys, alters, tampers with, or otherwise disposes of, any document or article, stored electronically or otherwise, which he has been summoned or required to produce;
 - (d) procures the false testimony of a witness, or interferes with a witness on account of his testimony, before the Commission;

- (e) knowingly makes or causes to be made a false complaint before the Commission;
- (f) at any sitting of the Commission –
 - (i) insults a member; or
 - (ii) interrupts the proceedings;
- (g) obstructs or assaults a member in the discharge of his functions or exercise of his powers under this Act; or
- (h) impersonates a member of the Commission,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Any person who otherwise contravenes this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

11. Section 44 of principal Act amended

Section 44 of the principal Act is amended, in subsection (3), by deleting the words “5,000 rupees” and “6 months” and replacing them by the words “50,000 rupees” and “one year”, respectively.

12. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.
