



# Lunacy Regulation (Ireland) Act 1871

## 1871 CHAPTER 22

### *Traverse*

#### **97 Petitions for traverse to be presented within a limited time.**

Any person desiring to traverse may, within the three months next after the day of the return of the inquisition, present a petition for that purpose to the Lord Chancellor intrusted as aforesaid, who is hereby required to hear and determine the petition, and shall, in his order upon it for a traverse, 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, are to proceed to trial of the traverse, and who may by the same or any other order direct that the person desiring to traverse, not being the person the object of the inquisition, shall, within the three weeks next after the date of the order, give sufficient security to and to the satisfaction of the' master for all proper parties proceeding to trial within the time to be limited as aforesaid,

#### **98 Persons not petitioning or not proceeding to trial within limited time barred**

Every person having right to traverse who shall not within the time herein-before limited present his petition for that purpose, or who shall refuse or neglect to give such security as aforesaid, or who shall not proceed to trial within the time to be limited as aforesaid, and his heirs, executors, and administrators, and all others claiming by, through, or under him, shall be absolutely barred of his and their right of traverse, unless the Lord Chancellor intrusted as aforesaid shall, under the special circumstances of any particular case, think fit, upon petition for that purpose, to allow the traverse to be had or tried after the time by this Act limited, in all which special cases the Lord Chancellor intrusted as aforesaid may make such orders as to him shall seem just.

#### **99 Lord Chancellor may direct new trials.**

If the Lord Chancellor intrusted as aforesaid he dissatisfied with the verdict returned upon a traverse, he may order one or more new trial or trials thereon, as to him shall seem meet, and as is usual in cases of issues directed by the Court of Chancery, but no person shall be admitted to traverse oftener than once.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

**100 Lord Chancellor may, notwithstanding traverse, make orders for management of person and estate.**

The Lord Chancellor intrusted as aforesaid may from time to time, after the return of the inquisition, or the issue directed pursuant to the power contained in the sixteenth section of this Act, and notwithstanding a petition or order depending relative to a traverse or new trial, make such orders and do such acts relative to the custody and commitment of the person, and the commitment, management, and application of the estates and effects of the person, the object of the inquisition, as he shall think necessary or proper (inclusive of the imposition and levying of fees and per-centage as herein provided) ; and all things done by any person appointed committee of the person or estate, or by any other person, shall be as valid and effectual, and all committees and other persons respectively, and their respective heirs, executors, and administrators, are hereby indemnified in respect of all such things as aforesaid from and against all actions, suits, and proceedings, damages, costs, charges, and expenses, to be brought, commenced, had, or recovered by the person the object of the inquisition, his heirs, executors, or administrators, or any other person whomsoever, as fully and effectually as if the inquisition had not been traversable, but no further or otherwise.

**101 No traverse of an inquisition made by one of the judges of the superior courts and by a jury to be granted, but new trial may be ordered by the Lord Chancellor.**

No person shall be entitled to a traverse of any inquisition made pursuant to the power contained in the sixteenth section of this Act, under any such order as aforesaid had upon the oath of a jury; but it shall be lawful for the Lord Chancellor intrusted as aforesaid, if he shall think fit, upon a petition being presented to him within three months next after the trial of any such issue, to order that a new trial shall be had of such issue or a new inquiry made as to the insanity of such person, subject to such directions and upon such conditions as to the Lord Chancellor intrusted as aforesaid may seem proper.

**102 Commission may be superseded on conditions.**

If it shall appear to the Lord Chancellor that it is not expedient or for the benefit of the lunatic that the Commission, should be unconditionally superseded, but that same should be superseded on terms and conditions, he may, upon the consent of the lunatic and such other persons, if any, whose consent he may deem necessary, order the Commission to be superseded upon such terms and conditions as he shall think proper.

**103 Power to appoint a guardian of person of weak mind.**

When it is established to the satisfaction of the Lord Chancellor intrusted as aforesaid that any person is of weak mind and temporarily incapable of managing his affairs, and two certificates to that effect shall have been given, each of which shall be signed by a legally qualified medical practitioner, the Lord Chancellor intrusted as aforesaid may, in a summary way, and without directing any inquiry under a commission of lunacy, by an order to be made in the matter of such person of weak mind, appoint a guardian of the person and property or of the property of such person of weak mind, and shall, in and by such order, specify the nature and extent of the powers to be exercised by such guardian in respect of the person and property of such person of weak mind, and may generally make such order as he may consider expedient for the purpose of rendering the property of such person or the income thereof available for

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

the maintenance or benefit, or for carrying on the trade or business, or for the support, maintenance, or education of the family of such person of weak mind, and to provide for the costs incident to such petition and the proceedings to be had thereon, provided that the alleged person of weak mind shall have such personal notice of the application for such order as aforesaid, and every application for any such order shall be supported by such evidence as the Lord Chancellor intrusted as aforesaid shall, by any general order to be made as herein-after mentioned, direct.

**104 No order to have validity for more than six months.**

No order, when made under the preceding section, shall be of any force and validity beyond the period of six calendar months from the date thereof, nor shall any such order be by the Lord Chancellor intrusted as aforesaid renewed more than once, and every such order shall contain a direction to the medical visitor to visit such person of weak mind, as being an alleged lunatic, at such times and such manner as to the Lord Chancellor intrusted as aforesaid may seem fit and necessary, and the report of the medical visitor to be made pursuant to such direction shall be filed, and may be proceeded upon according to the provisions to that effect herein-before contained.

**105 Guardian to file monthly accounts.**

Every guardian to be appointed under the two preceding sections by the Lord Chancellor intrusted as aforesaid shall file in the office of the registrar a monthly account and report of all the moneys, rents, dividends, and other property of the person of weak mind by him received or expended, and how the same was applied, and of every act, deed, and thing done by him as such guardian in relation to the person or property of such person, and every such guardian may be compelled to account and to pay the balance to be found due by him in any such account in the same manner as if he had been appointed to be a receiver, regularly appointed in a matter of lunacy by the Lord Chancellor intrusted as aforesaid ; provided always, that all such accounts shall be taken and vouched by and before the registrar, unless the Lord Chancellor intrusted as aforesaid shall by any order specially direct that any such account shall be taken and vouched by or before the master.

**106 Hearing of petition for guardian to be in camera.**

The hearing of any petition presented under the one hundred and third section of this Act, and every proceeding to be subsequently had in any such matter, whether before the Lord Chancellor intrusted as aforesaid, or the master, shall be heard and disposed of privately in camera.

**107 Conveyances, transfers, &c. executed by guardian to be valid.**

Every conveyance, transfer, charge, or other disposition, made or executed by any guardian of a person of weak mind in pursuance of any order to be made by the Lord Chancellor, intrusted as aforesaid, under and by virtue of the powers contained in the one hundred and third section of this Act, shall be valid to all intents, and binding upon all persons whatsoever; and this Act shall be full indemnity and discharge to the Governor and Company of the Bank of Ireland, their officers and servants, and all other officers respectively, for all acts and things done or permitted to be done in pursuance of any order of the Lord Chancellor, intrusted as aforesaid, made or purporting to be made under the said one hundred and third section of this Act; and such acts and things,

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

respectively, shall not be questioned or impeached in any court of law or equity, to their detriment.

**108 Appointment of future registrars.**

After the death, dismissal, resignation, or retirement from office of the present registrar, or any future registrar, the Lord Chancellor intrusted as aforesaid may by writing under his hand appoint a fit and proper person to fulfil the office and to be the registrar, and such person when, as aforesaid, appointed to be registrar, shall hold his office during good behaviour, and may be removed therefrom by the Lord Chancellor in case of misconduct or neglect in the discharge of his duties, or being disabled from performing the same.

**109 Annual percentage to be charged on estates of lunatics.**

And whereas it would greatly facilitate and simplify the practice in lunacy and would be attended with convenience that the charges incident to the lunacy office and the administration of the estates of lunatics should be defrayed, except as herein-after mentioned, by means of a per-centage graduated in an equitable manner as between richer and poorer estates in part : Be it enacted as follows :—

A percentage on the respective clear annual incomes of all lunatics shall be paid according to the several rates following ; that is to say,—

1. The rate of two pounds ten shillings per centum for each annual income amounting to one hundred pounds and not amounting to five hundred pounds, but so that no larger sum be payable in any such case in any one year than ten pounds:
2. The rate of three pounds per centum for each annual income amounting to five hundred pounds and not amounting to one thousand pounds, but so that no larger sum be payable in such case in any one year than twenty pounds :
3. The rate of four pounds per centum for each annual income amounting to one thousand pounds or upwards, but so that no larger sum be payable in such case in any one year than one hundred and fifty pounds :

And in every case the fractional parts less than one moiety of the pound sterling shall be disregarded in the calculation of the amount of the per-centage and shall not be levied or paid.

**110 Master to certify the amount of the clear annual income of each lunatic.**

The master shall from time to time certify in each case what is the amount of each such clear annual income as aforesaid, and of the per-centage payable thereon, and such certificate shall thereupon be filed in the office of the registrar, and the registrar shall thereupon cause an office copy of such order to be deposited in the office of the Accountant General of the Court of Chancery, and the Accountant General of the Court of Chancery shall thereupon and without further order transfer, or cause to be transferred in the books of the Governor and Company of the Bank of Ireland, such sum or amount of the cash or stock then or next after standing, or to stand, in the books of the Governor and Company of the Bank of Ireland to the credit of the Accountant General of the Court of Chancery and the separate credit of the matter of the lunatic, as shall be equal to the amount of the per-centage specified in the certificate of the master aforesaid from such credit as aforesaid to the credit of the said Accountant General of the Court of Chancery and the separate credit of the lunacy fund.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

**111 Percentage to be paid notwithstanding death, &c. before payment.**

The per-centage aforesaid, or a proper proportionate part thereof (as the case may require), shall be chargeable and charged upon the estate of a lunatic, and be payable thereout, although before payment thereof he die, or the inquisition in his case be superseded, or be vacated and discharged on a traverse; but in either of the two cases last aforesaid the Lord Chancellor intrusted as aforesaid may, if he see fit, remit or reduce the amount of the sum to be paid; and the payment of the amount in every case shall be enforced in such manner and under such regulations as the Lord Chancellor intrusted as aforesaid shall from time to time direct.

**112 Power to Lord Chancellor to alter per-centage and fees.**

The Lord Chancellor may, by order, from time to time reduce the several rates of per-centage aforesaid or any of them, and again, if it shall seem to him expedient, from time to time raise the same several rates or any of them, but not to rates higher than those respectively herein-before prescribed, and also may, by order, from time to time vary or abolish the fees now received in the lunacy office, or any of them, or other the fees for the time being payable in relation to proceedings in lunacy, or any of them, and, if and when it shall seem to him necessary or expedient, fix and impose other fees, or fees of altered amount, and make such orders, rules, and regulations relative to the mode of levying, receiving, and accounting for and generally in respect of such per-centage and fees as to him at any time or from time to time may seem fit; provided always, that the fees receivable in the lunacy office shall not nor shall any of them be increased beyond their present scale.

**113 Power to exempt small properties.**

Where it is made to appear to the Lord Chancellor intrusted as aforesaid that the net amount or net estimated value of the property of a lunatic does not exceed the sum of seven hundred pounds sterling in respect of the corpus thereof, or the sum of fifty pounds sterling per annum in respect of the income thereof, he may order (if he shall think fit) that no fee shall be taken or paid, or per-centage be levied or paid, in relation to the proceedings in the matter or the property, as from the date of the order or such other time as he shall direct, during the continuance of the lunacy or until further order.

**114 Provisions respecting per-centage and fees to apply to cases under 8 & 9 Vict. c.100 and to certain cases where lunatic is out of jurisdiction.**

All the foregoing provisions respecting fees and per-centage shall be applicable to the proceedings in the matter of and to the property of a lunatic under the protection of the Lord Chancellor intrusted as aforesaid, by virtue of proceedings taken under the provisions of this Act relative to the protection of persons of weak mind, and also to the proceedings in the matter of and to the property of a lunatic under the protection of the Lord Chancellor intrusted as aforesaid by virtue of the transmission of the record of an inquisition from England, and its entry of record in the Chancery of Ireland, and also to the proceedings in the matter of and to the property of a person residing out of Ireland, and declared idiot, lunatic, or of unsound mind, according to the laws of the place where he is residing, where the Lord Chancellor intrusted as aforesaid makes an order affecting the stock or any portion of the capital stock or shares of such person as last aforesaid or dividends thereof; and the aforesaid provisions shall be applied to the several classes of cases mentioned in this present section in such manner and under such regulations as the Lord Chancellor shall from time to time

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

order, but so that no per-centage be levied or paid in either of the two last-mentioned cases, except in respect of income arising from property being within the jurisdiction of the Lord Chancellor intrusted as aforesaid, and being administered by him or under his authority and direction.

**115 Lord Chancellor may-direct annul ties to be paid to registrars, &c.**

The Lord Chancellor intrusted as aforesaid may, by any general order, declare that annuities or salaries of such amount, upon such terms and subject to such conditions as are therein specified, shall be paid to the registrar and the clerks and officers employed or to be employed in the lunacy office, and also that such compensation for services rendered, and costs and expenses of any such proceedings to be instituted pursuant to the provisions of this Act as shall be therein specified, and upon the terms and subject to the conditions therein mentioned, shall be paid to the medical visitors, and the legal visitors, and the solicitor for minors and lunatics, and shall and may by any special order, if he shall so think fit, order, but subject to such conditions as to him shall seem fit, to be paid to any registrar, officer, or clerk who shall have served for twenty years in the office of lunacy, and who shall be above sixty years of age and shall be desirous of retiring, or who shall be disqualified by permanent infirmity from the performance of his duties, such superannuation allowance, not exceeding two thirds of the annuity or salary payable to such registrar, officer, or clerk at the time of his resignation, as the Lord Chancellor intrusted as aforesaid may approve: Provided always, that each of the clerks and officials of the lunacy office, until and unless the Lord Chancellor intrusted as aforesaid declare that an annuity or salary shall be paid to him, shall have, enjoy, and receive the fees, emoluments, and profits previous to the passing of this Act enjoyed and received by him; and provided also, that until and unless the Lord Chancellor intrusted as aforesaid shall declare that an annuity or salary shall be paid to him, the registrar shall have, receive, take, and enjoy all the fees, profits, payments, and emoluments now received, taken, and enjoyed by the clerk of the custodies of lunatics and idiots.

**116 Annuities and salaries to be in lieu of fees.**

All annuities and salaries ordered to be paid in pursuance of the preceding section of this Act shall be payable out of the lunacy fund mentioned in the one hundred and tenth section of this Act, and at the times and in the manner to be specified in any general or special order directing the payment: Provided always, that every such annuity or salary payable by virtue of any general or special order to be made in virtue of the last preceding section shall be paid to and received by the person to whom the same shall be payable in substitution for and in lieu of such fees (if any) which he at the date of such order was in virtue of his office entitled to receive, and thenceforward, from the date of such general or special order, the fees which the person to whom such annuity or salary as aforesaid shall have been granted would have been entitled to receive shall by him from time to time, and at such time and manner as in the order granting him such salary shall direct, be paid in by him into the bank of the Governor and Company of the Bank of Ireland, to the credit of the Accountant General of the Court of Chancery and the separate credit of the lunacy fund.

**117 Lord Chancellor may direct office expenses, &c. to be paid, out of the fees.**

Notwithstanding anything herein-before contained, the Lord Chancellor intrusted as aforesaid may, by any general or special order, direct that any expenses incident to the

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

lunacy office other than any annuity or salary to be granted pursuant to the powers in the two last preceding sections of this Act contained, be paid out of the fees of the lunacy office, and also that any remuneration for services to be rendered by the medical visitors or legal visitors, the solicitor for minors and lunatics, in connexion with any lunatic, or any expenditure connected with the management of the estate of any lunatic, shall be paid out and borne by the estate of such lunatic.