

UNEDITED

# *The Lunacy Act*

*being*

Chapter 310 of *The Revised Statutes of Saskatchewan, 1953*  
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER 310

### An Act respecting Lunatics and their Estates

#### Short title

1 This Act may be cited as *The Lunacy Act*.

R.S.S. 1953, c.310, s.1.

#### Interpretation

2 In this Act:

##### “contingent right”

1 “**contingent right**” as applied to land, includes a contingent and an executory interest; a possibility coupled with an interest whether the object of the gift or limitation or such interest or possibility is or is not ascertained, and a right of entry whether immediate or future and whether vested or contingent;

##### “convey” and “conveyance”

2 “**convey**” and “**conveyance**” applied to any person, mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seized, or in which he is entitled to a contingent right, either for the whole estate of the person conveying or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance;

##### “court”; “judge”

3 “**court**” means the Court of Queen’s Bench; and “**judge**” means a judge of that court;

##### “land”

4 “**land**” includes messuages, tenements and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein and whether entire or undivided;

##### “lunatic”

5 “**lunatic**” includes an idiot and a person of unsound mind;

##### “lunacy”

6 “**lunacy**” includes idiocy and unsoundness of mind;

##### “mortgage”

7 “**mortgage**” includes every interest or property in real or personal estate which is a security for money or money’s worth;

##### “possessed”

8 “**possessed**” is applicable to any vested estate less than a life estate, in law or in equity, in possession or in expectancy, in any land;

##### “seized”

9 “**seized**” is applicable to any vested interest for life or of a greater description, and extends to estates at law and in equity, in possession or in futurity, in land;

##### “stock”

10 “**stock**” includes shares and any fund, annuity or security transferable in books kept by a company or society, or by instrument of transfer alone, or by instrument of transfer accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Acts relating to merchant shipping;

**“trust” and “trustee”**

11 “**trust**” and “**trustee**” include implied and constructive trusts and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of the deceased person.

R.S.S. 1940, c.239, s.2; R.S.S. 1953, c.310, s.2.

**JURISDICTION OF COURT****Powers of judge in chambers**

3 The court may, subject to the provisions of *The Administrator of Estates of the Mentally Incompetent Act*, make orders for committing the custody of lunatics and the management of their estates, and every such order shall take effect as to the custody of the person immediately, and as to the custody of the estate upon the completion of the committee’s security.

R.S.S. 1940, c.239, s.3; R.S.S. 1953, c.310, s.3.

**Powers of judge in chambers**

4 The powers by this Act conferred upon the court may be exercised by a judge in chambers.

R.S.S. 1940, c.239, s.4; R.S.S. 1953, c.310, s.4.

**DECLARATION OF LUNACY****Declaration of lunacy**

5(1) The court, upon application supported by evidence, may by order declare a person a lunatic if satisfied that the evidence establishes beyond reasonable doubt that he is a lunatic.

**Application**

(2) The application may be made by the Attorney General, by any one or more of the next of kin of the alleged lunatic, by his or her wife or husband, by a creditor or by any other person.

**Appeal**

(3) The alleged lunatic and any person aggrieved or affected by the order shall have the right to appeal therefrom.

**Procedure**

(4) The practice and procedure on the appeal shall be the same as on an appeal from a final order made by a judge in an action.

R.S.S. 1940, c.239, s.5; R.S.S. 1953, c.310, s.5.

**Issue to try the alleged lunacy**

6(1) Where in the opinion of the court the evidence does not establish beyond a reasonable doubt the alleged lunacy, or where for any other reason the court deems it expedient to do so, instead of making an order under subsection (1) of section 5, the court may direct an issue to try the alleged lunacy.

**Method of trial**

(2) Subject to section 7 the issue shall be tried with or without a jury as the court directing it or the judge presiding at the trial may order.

**Time and place**

(3) The trial shall take place at such time and place as the court directs.

**Production of lunatic**

(4) On the trial of the issue the alleged lunatic, if within the jurisdiction of the court, shall be produced, and shall be examined at such time and in such manner, either in open court or privately, and where the trial is with a jury before the jury retire to consider their verdict, as the presiding judge directs, unless the court by the order directing the issue or the judge presiding at the trial dispenses with the production of the lunatic or with his examination.

**Scope of inquiry**

(5) On the trial of the issue the inquiry shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of the inquiry of unsound mind and incapable of managing himself or his affairs, and the presiding judge shall make an order in accordance with the result of the inquiry.

**Procedure**

(6) The practice and procedure as to the preparation, entry for trial and trial of the issue, and all the proceedings incidental thereto, shall be the same as in the case of any other issue directed by the court or a judge.

**Appeal**

(7) The alleged lunatic and any person aggrieved or affected thereby shall have the like right to move against a verdict or to appeal from an order made upon or after the trial as a party to an action in the Court of Queen's Bench including the right of appeal; and the court hearing such motion or appeal shall have the same powers as upon a motion against a verdict or an appeal from a judgment entered at or after the trial of an action.

**Finality**

(8) Subject to section 9 the order or judgment of the court or, where the issue is tried by a jury, the verdict of the jury shall be final unless set aside upon appeal or motion under subsection (7).

R.S.S. 1940, c.239, s.6; R.S.S. 1953, c.310, s.6.

**Right of alleged lunatic to have issue tried by jury**

7 An alleged lunatic shall be entitled to demand, by notice in writing given to the person applying for the declaration of his lunacy, and filed in the proper office of the court, at least ten days before the first day of the sittings at which the issue is directed to be tried, that any issues directed to determine the question of his lunacy shall be tried with a jury, and, unless he withdraws such demand before the trial, or the court is satisfied by personal examination of the lunatic that he is not mentally competent to form and express a wish for a trial by jury and so declares by order, the issue shall be tried by a jury.

R.S.S. 1940, c.239, s.7; R.S.S. 1953, c.310, s.7.

**Examination of alleged lunatic**

8(1) For the purpose of the examination mentioned in section 7, or where it is deemed proper for any other purpose, the court may require the alleged lunatic to attend at such convenient time and place as the court may appoint.

(2) The court may by order require an alleged lunatic to attend and submit to examination by one or more medical practitioners at such time and place as the order directs.

R.S.S. 1940, c.239, s.8; R.S.S. 1953, c.310, s.8.

## SUPERSEDING DECLARATION OF LUNACY

**Application to supersede declaration of lunacy**

9(1) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared a lunatic, or sooner by leave of the court, the court, if satisfied that such person has become of sound mind and capable of managing his own affairs, may make an order so declaring.

(2) The order shall be subject to appeal as provided by subsections (3) and (4) of section 5.

(3) Instead of making an order under subsection (1) of this section the court may direct an issue to try the question of the restoration to sanity of the person so formerly declared or adjudged a lunatic.

(4) An issue so directed shall be subject to the provisions of sections 6 and 7.

(5) Where a person formerly declared a lunatic has been found to be of sound mind and capable of managing his own affairs and the time for appealing from or moving against the order or verdict has expired, or if an appeal be taken or a motion made, when the same has been finally dismissed, an order may be issued superseding, vacating, and setting aside the order declaring the lunacy of such person for all purposes except as to acts or things done in respect of the person or estate of the lunatic while such order was in force.

R.S.S. 1940, c.239, s.9; R.S.S. 1953, c.310, s.9.

## COMMITTEES OF ESTATES OF LUNATICS

**Inventory of property**

10(1) Where a committee of the estate of a lunatic has been appointed:

(a) the committee shall, within six months after being appointed, file in the office of such officer as may be appointed for that purpose, a true inventory of the whole real and personal estate of the lunatic, stating the income and profits thereof, and setting forth the debts, credits, and effects of the lunatic, so far as the same have come to the knowledge of the committee:

(b) if any property belonging to the estate is discovered after the filing of an inventory, the committee shall file a true account of the same as it is discovered;

(c) every inventory and account shall be verified by the oath of the committee;

(d) the committee shall give security with two or more sureties in double the amount of the personal estate and of the annual rents and profits of the real estate, or in such less amount as the court may direct, for duly accounting for the same once in every year, or oftener if required by the court, for filing the inventory and for the payment into court of the balances in his hands forthwith after the same have been ascertained or otherwise as the court directs; and

(e) the security shall be taken by bond in the name of the local registrar of the Court of Queen's Bench and his successors in office or legal assigns, and shall be filed in his office.

(2) The court may reduce or increase the amount of security to be given by the committee.

R.S.S. 1940, c.239, s.10; R.S.S. 1953, c.310, s.10.

## MANAGEMENT AND ADMINISTRATION

### Maintenance of lunatic or his family

**11** The powers conferred by this Act as to the management and administration of a lunatic's estate shall be exercisable in the discretion of the court for the maintenance or benefit of the lunatic or of his family, or, where it appears to be expedient, in the due course of management of the property of the lunatic.

R.S.S. 1940, c.239, s.11; R.S.S. 1953, c.310, s.11.

### Rights of creditors

**12** Nothing in this Act subjects a lunatic's property to claims of his creditors further than the same is now subject thereto by due course of law.

R.S.S. 1940, c.239, s.12; R.S.S. 1953, c.310, s.12.

### Power to raise money

**13(1)** The court may order that any property of the lunatic, whether present or future, be sold, charged, mortgaged, dealt with or disposed of, as may be deemed most expedient for the purpose of raising or securing or repaying, with or without interest, money which is to be or has been applied to:

- (a) payment of the lunatic's debts or engagements;
- (b) discharge of any encumbrance on his property;
- (c) payment of any debt or expenditure incurred for the lunatic's maintenance or that of his family or otherwise for his benefit;
- (d) payment of or provision for the expenses of his future maintenance or that of his family.

(2) Where a charge or mortgage is made under this Act for the expenses of future maintenance, the court may direct the same to be payable either contingently if the interest charged is contingent or future, or upon the happening of the event if the interest is dependent on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as is deemed expedient.

R.S.S. 1940, c.239, s.13; R.S.S. 1953, c.310, s.13.

### Permanent improvements

**14(1)** The court may order that the whole or any part of moneys expended or to be expended under an order of the court for the permanent improvement, security or advantage of the property of the lunatic, or of any part thereof, shall, with interest, be a charge upon the improved property or any other property of the lunatic, but so that no right of sale or foreclosure during the lifetime of the lunatic is conferred by the charge.

(2) The interest shall be paid during the lunatic's lifetime out of the income of his general estate, as far as the same is sufficient to bear it.

(3) The charge may be made either to some person advancing the money or, if the money is paid out of the lunatic's general estate, to some person as trustee for him as part of his personal estate.

R.S.S. 1940, c.239, s.14; R.S.S. 1953, c.310, s.14.

**Powers of committee under order of court**

**15** The court may, by order, authorize and direct the committee of the estate of a lunatic to do all or any of the following things:

- (a) to sell any property belonging to the lunatic;
- (b) make exchange or partition of any property belonging to the lunatic, or in which he is interested, and give or receive any money for equality of exchange or partition;
- (c) carry on any trade or business of the lunatic;
- (d) grant leases of any property of the lunatic for building, agricultural, or other purposes;
- (e) grant leases of minerals forming part of the lunatic's property, whether the same have been already worked or not, and either with or without the surface or other land;
- (f) surrender any lease and accept a new lease;
- (g) accept a surrender of any lease and grant a new lease;
- (h) execute any power of leasing vested in a lunatic having a limited estate only in the property over which the power extends;
- (i) perform any contract relating to the property of the lunatic entered into by him before his lunacy;
- (j) surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the lunatic;
- (k) exercise any power or give any consent required for the exercise of any power where the power is vested in the lunatic for his own benefit or the power of consent is in the nature of a beneficial interest in the lunatic;
- (l) exercise a right or obligation to elect belonging to or imposed upon the lunatic;
- (m) give consent to the transfer or assignment of a lease where the consent of the lunatic to the transfer or assignment thereof is requisite.

R.S.S. 1940, c.239, s.15; R.S.S. 1953, c.310, s.15.

**Property exchanged and renewed lease**

**16** Property taken in exchange and a renewed lease accepted on behalf of a lunatic under the powers of this Act, shall be to the same uses and subject to the same trusts, charges, encumbrances, dispositions, devises and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to.

R.S.S. 1940, c.239, s.16; R.S.S. 1953, c.310, s.16.



**Extent of leasing power**

**17(1)** Where a lease of a lunatic's estate has been granted under the provisions of this Act, every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the lunatic shall have the same rights and remedies against the lessee, his executors, administrators and assigns as the lunatic or his committee would have had.

(2) Leases authorized to be granted or accepted by or on behalf of a lunatic under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants and conditions as the court approves.

(3) Premiums or other payments on the renewal of leases may be paid out of the lunatic's estate, or charged with interest on the leasehold property.

R.S.S. 1940, c.239, s.17; R.S.S. 1953, c.310, s.17.

**Proceeds of sale and mortgage, etc.**

**18(1)** The lunatic, his heirs, executors, administrators, next of kin, devisees, legatees and assigns, shall have the same interest in any money arising from any sale, mortgage or other disposition, under the powers of this Act, which may not have been applied under such powers, as he or they would have had in the property the subject of the sale, mortgage or disposition, if no sale, mortgage or disposition had been made, and the surplus money shall be of the same nature as the property sold, mortgaged or disposed of.

(2) Money received for equality of partition or exchange, or under any lease of unopened mines, and all premiums and sums of money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange or lease was land of the lunatic, shall, subject to the application thereof for any purposes authorized by this Act, as between the representatives of the real and personal estate of the lunatic, be considered as real estate, except in the case of premiums and sums of money received upon the grant or renewal of leases of property of which the lunatic was tenant for life, in which case the premiums and sums of money shall be personal estate of the lunatic.

(3) In order to give effect to this section the court may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as is deemed expedient.

R.S.S. 1940, c.239, s.18; R.S.S. 1953, c.310, s.18.

**Power to carry orders into effect**

**19** The committee of the estate, or such person as the into effect court approves, shall, in the name and on behalf of the lunatic, execute and do all such assurances and things for giving effect to any order under this Act as the court directs, and every such assurance and thing shall be valid and effectual and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject.

R.S.S. 1940, c.239, s.19; R.S.S. 1953, c.310, s.19.

**Powers vested in lunatic as trustee or guardian**

**20** Where a power is vested in a lunatic in the character of trustee or guardian, or the consent of a lunatic to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the court to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the lunatic, under an order of the court made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs.

R.S.S. 1940, c.239, s.20; R.S.S. 1953, c.310, s.20.

**Exercise of lunatic's right to appoint trustees**

**21** Where the court exercises, in the name and on behalf of the lunatic, a power vested in the lunatic of appointing new trustees, the court, where it seems to be for the lunatic's benefit and also expedient, may make any order respecting the property subject to the trust which might have been made in the same case under *The Trustee Act*, on the appointment thereunder of a new trustee or new trustees.

R.S.S. 1940, c.239, s.21; R.S.S. 1953, c.310, s.21.

## PROVISIONS FOR TEMPORARY UNSOUNDNESS

**Provision for maintenance**

**22(1)** Where it appears to the court that there is reason to believe that the unsoundness of mind of a lunatic so found is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to the lunatic, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the court may:

- (a) allow thereout such amount as may be deemed proper for the temporary maintenance of the lunatic or of the lunatic and the members of his immediate family who are dependent upon him for maintenance; and may
  - (b) instead of proceeding to order a grant of the custody of the estate, order or allow the payment of such sum of money, or any part thereof, to such person as under the circumstances of the case it is thought proper to entrust with the application thereof; and may
  - (c) direct the same to be paid to such person accordingly, and when received to be applied and the same shall accordingly be applied in or towards such temporary maintenance.
- (2) The receipt in writing of the person to whom payment is made for any money payable to him by virtue of an order under this section shall be a good discharge.
- (3) The person receiving any money by virtue of an order under this section shall pass an account thereof when and as the court directs.

R.S.S. 1940, c.239, s.22; R.S.S. 1953, c.310, s.22.

## VESTING ORDERS

### Power to transfer stock

**23** Where stock is standing in the name of or is vested in a lunatic beneficially entitled thereto, or is standing in the name of or vested in the committee of the estate of a lunatic so found, in trust for the lunatic, or as part of his property, and the committee dies intestate, or himself becomes a lunatic, or is out of Saskatchewan, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, or to receive or pay over the dividends thereof as directed by an order of the court, then the court may order some fit person to transfer the stock to or into the name of a new committee, or otherwise, and also to receive and pay over the dividends in such manner as the court directs.

R.S.S. 1940, c.239, s.23; R.S.S. 1953, c.310, s.23.

### Stock in name of lunatic out of jurisdiction

**24** Where stock is standing in the name of or vested in a person residing out of Saskatchewan, the court upon proof that he has been declared a lunatic and that his personal estate has been vested in a person appointed for the management thereof according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends thereof as the court directs.

R.S.S. 1940, c.239, s.24; R.S.S. 1953, c.310, s.24.

### Power to vest land of lunatic trustee

**25(1)** Where a lunatic is solely or jointly seized or possessed of land upon trust, the court may by order vest the land in such person or persons for such estate and in such manner as the court directs.

(2) Where a lunatic is solely or jointly entitled to a contingent right in land upon trust, the court may by order release the land from the contingent right and dispose of the same to such person as the court directs.

(3) An order made under subsections (1) and (2) shall have the same effect as if the trustee had been sane and had executed a deed conveying the land for the estate named in the order, or releasing or disposing of the contingent right.

(4) Where an order may be made under this section the court may, if it is more convenient, appoint a person to convey the land or release the contingent interest, and a conveyance or release by such person in conformity with the order shall have the same effect as an order under subsections (1) and (2).

R.S.S. 1940, c.239, s.25; R.S.S. 1953, c.310, s.25.

### Lunatic trustee of stock or chose in action

**26(1)** Where a lunatic is solely entitled to any stock or chose in action upon trust, the court may by order vest in any person the right to transfer or to call for a transfer of the stock or to receive the dividends thereof, or vest in any person the chose in action, or any interest in respect thereof.

(2) Where a person is jointly entitled with a lunatic to any stock or chose in action upon trust the court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof either in such person alone or jointly with any other person.

(3) Where stock is standing in the name of a deceased person whose personal representative is a lunatic or where a chose in action is vested in a lunatic as the personal representative of a deceased person, the court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or for vesting the chose in action or any interest in respect thereof in any person whom the court appoints.

(4) Where an order may be made under this section the court may if it is more convenient appoint some fit person to make or join in making the transfer.

R.S.S. 1940, c.239, s.26; R.S.S. 1953, c.310, s.26.

#### **Execution of powers of attorney and transfers**

**27(1)** The person in whom the right to transfer or to call for a transfer of stock is vested may execute powers of attorney and assurances and do all things necessary to complete the transfer, according to the order, and the transfer shall be valid and effectual to all intents and purposes; and banks and other companies and their officers and all other persons shall be bound to obey every such order according to its terms.

(2) After notice in writing of an order under this Act, it shall not be lawful for a bank or other company to transfer stock to which the order relates or pay any dividends except in accordance with the order.

R.S.S. 1940, c.239, s.27; R.S.S. 1953, c.310, s.27.

#### **Order a complete discharge**

**28** This Act and every order purporting to be made thereunder shall be a full indemnity and discharge to any bank and other company and society and their respective officers and servants, and all other persons for all acts and things done or permitted to be done pursuant thereto so far as relates to any property in which a lunatic is interested either in his own right or as trustee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to such property or the jurisdiction to make the same.

R.S.S. 1940, c.239, s.28; R.S.S. 1953, c.310, s.28.

#### **Order is conclusive evidence of lunacy**

**29** The fact that an order made under this Act for conveying or vesting land or releasing or disposing of a contingent right has been founded on an allegation of the lunacy of a trustee, shall be conclusive evidence of the fact alleged in any court upon any question as to the validity of the order; but this section shall not prevent the court from directing a reconveyance of any land or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order, where the same appears to have been improperly obtained.

R.S.S. 1940, c.239, s.29; R.S.S. 1953, c.310, s.29.

**Order vesting in trustees of charities**

**30** The powers conferred by this Act as to vesting orders may be exercised for vesting any land, stock or chose in action in the trustee or trustees of any charitable society or in any incorporated or charitable body over which the court would have jurisdiction upon action duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the court under its general or statutory jurisdiction.

R.S.S. 1940, c.239, s.30; R.S.S. 1953, c.310, s.30.

**Declarations and directions by court**

**31** The court may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act is to be exercised.

R.S.S. 1940, c.239, s.31; R.S.S. 1953, c.310, s.31.

**Appointment of new trustees**

**32** Where the court has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, an order may also be made appointing a new trustee or trustees.

R.S.S. 1940, c.239, s.32; R.S.S. 1953, c.310, s.32.

**MISCELLANEOUS PROVISIONS****Money in court belonging to lunatic outside jurisdiction**

**33** Where there is money in court to the credit of a person who has been found or who is alleged to be a lunatic and such person is resident in Great Britain, Northern Ireland or Eire or in any part of Canada other than Saskatchewan, upon production of an order made by a superior court exercising jurisdiction where such person is resident, authorizing any person to receive such money, the court may make an order for payment of such money to the person designated in the order to receive the same.

R.S.S. 1940, c.239, s.33; R.S.S. 1953, c.310, s.33.

**Costs**

**34** The court may order the costs, charges and expenses of and incidental to orders, issues, directions, conveyances, transfers and all proceedings of whatever nature under this Act to be paid by any party to the application, issue or proceeding, or out of the estate of the lunatic or alleged lunatic, or partly in one way and partly in another.

R.S.S. 1940, c.239, s.34; R.S.S. 1953, c.310, s.34.

**Rules**

**35(1)** The court may make rules for carrying this Act into effect and for regulating the costs in relation thereto, and except where inconsistent with the provisions of this Act or such rules *The Queen's Bench Act* and rules made thereunder apply to proceedings under this Act.

(2) The provisions of *The Queen's Bench Act* as to the promulgation of rules made thereunder and the effect thereof apply to rules made under the authority of this section.

R.S.S. 1940, c.239, s.35; R.S.S. 1953, c.310, s.35.

APPLICATION OF ACT TO PERSONS NOT LUNATICS, BUT INCAPACITATED  
BY MENTAL INFIRMITY

**Extension of Act to certain persons not declared lunatics**

**36(1)** The powers and provisions of this Act relating not to management and administration apply to every person not declared to be a lunatic with regard to whom it is proved to the satisfaction of the court, that he is, through mental infirmity, arising from disease, age or other cause, or by reason of habitual drunkenness or the use of drugs, incapable of managing his affairs.

(2) The provisions of this section apply although the person is not a lunatic.

(3) Such of the powers of this Act as are made exercisable by the committee of the estate under order of the court shall be exercised in the cases provided for by subsection (1) by such person, in such manner, and with or without security, as the court directs, and such order may confer upon the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise on behalf of the person to whom the order relates until further order, all or any such powers without further application to the court.

(4) Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the court as if such person were the committee of the estate of a lunatic so declared.

(5) Section 11 applies to the cases provided for by subsection (1), and the person in respect of whom the order is made, and any person aggrieved or affected by the order shall have the like right to appeal therefrom as is provided for by section 5.

R.S.S. 1940, c.239, s.36; R.S.S. 1953, c.310, s.36.