



## ANALYSIS

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1972, No. 22

**An Act to amend the Mental Health Act 1969**

[4 October 1972]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Mental Health Amendment Act 1972, and shall be read together with and deemed part of the Mental Health Act 1969 (hereinafter referred to as the principal Act).

**2. Meaning of "committed patient"**—Section 2 of the principal Act is hereby amended by repealing paragraph (a) of the definition of the expression "committed patient", and substituting the following paragraph:

"(a) Is detained in a hospital pursuant to this Act, or, although temporarily absent from a hospital, is subject to detention under section 19 of this Act; or".

**3. Application of Part II of principal Act to hospitals carried on by Hospital Boards—**(1) The principal Act is hereby further amended by inserting in Part II, after section 18, the following section:

“18A. (1) Section 16 of this Act shall apply in respect of any person, not being a special patient or a committed patient, who is for the time being maintained for the purpose of treatment in a psychiatric hospital carried on by a Hospital Board, as it applies in respect of a person who is for the time being maintained in a hospital carried on by the Crown, having been admitted thereto under this Part of this Act.

“(2) Notwithstanding the transfer of the control of a hospital to a Hospital Board pursuant to subsection (2) of section 7 of this Act, subsection (2) of section 17 of this Act shall continue to apply in respect of the estate of any person maintained in the hospital if that subsection applied to that estate immediately before that transfer.

“(3) Nothing in section 14, section 15, or section 18 of this Act shall limit or affect the discretion of a Hospital Board to admit any person to a hospital carried on by it.”

(2) Section 14 of the principal Act is hereby amended by inserting, before the words “Nothing in this Part”, the words “Except as provided in section 18A of this Act”.

(3) This section shall be deemed to have come into force on the 1st day of April 1972.

**4. Powers of Medical Officers of Health and Police—**Section 35 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Notwithstanding anything in subsection (1) of this section but without limiting any provision of section 19 of this Act, if the conditions of the said subsection (1) are otherwise satisfied but the Medical Officer of Health or member of the Police, as the case may be, is of the opinion that the adoption of the procedure prescribed in that subsection would expose the person concerned, or any other person, to hardship or danger or would deprive the person concerned of medical treatment urgently required, the Medical Officer of Health or member of the Police may, instead of applying for a reception order and bringing the person concerned before a Magistrate, apprehend that person and take him forthwith to 2 medical practitioners for the purpose of obtaining the certificates referred to in subsection (3) of the said section 19 (or to 1

medical practitioner if subsection (4) of that section is applicable), and, if the certificates or certificate are or is obtained from those practitioners or that practitioner, thereafter forthwith take that person to a hospital and request his admission thereto under that section.”

**5. Powers of Justices**—Section 41 of the principal Act is hereby amended by omitting from subsection (1) and also from subsection (2) the words “ten miles”, and substituting in each case the words “15 kilometres”.

**6. Persons detained in penal institutions, etc.**—Section 42 of the principal Act is hereby amended by adding the following subsection:

“(8) No reception order pursuant to an application under this section shall be made after the person in respect of whom the application was made has ceased to be a person to whom this section applies.”

**7. Effect of determination of sentences, etc.**—Section 44 of the principal Act is hereby amended as from its commencement by repealing subsection (5), and substituting the following subsection:

“(5) If, at any time while any person (not being a person who has been convicted and is awaiting sentence by any Court) is so detained, the term of every sentence or order, or that part thereof, requiring him to be imprisoned or otherwise kept in detention expires or is otherwise determined, or a direction for his release from the sentence is given by the Minister of Justice or a Borstal Parole Board, he shall thereupon cease to be detained as a special patient; but—

“(a) If, at the time of the expiry or other determination of that term or of the taking effect of the direction for his release from the sentence, he is detained pursuant to a reception order made on an application under section 42 of this Act, he shall thereafter be a committed patient; and

“(b) If, at the said time, he is detained pursuant to section 43 of this Act, he shall, if he is detained in a hospital carried on by a Hospital Board, be deemed to have been admitted to the hospital in which he then is for treatment pursuant to the Hospitals Act 1957, or, if he is detained in a hospital carried on by the Crown, be deemed to be an informal patient admitted to that hospital under section 15 of this Act.”

**8. Documents to be forwarded to superintendent**—The principal Act is hereby further amended by repealing section 71, and substituting the following section:

“71. (1) On the transfer of a patient from one hospital to another in accordance with any provision of this Act, a copy (certified by or on behalf of the superintendent of the hospital from which the patient is transferred to be a true copy) of the reception order, and of the medical certificates and of the copy of the application which accompanied the reception order, or of any other instrument of authority under which the patient was admitted or detained, shall be delivered to the superintendent of the hospital to which the patient is transferred, together with such copy of the clinical records of the patient as may be appropriate or an adequate summary of the clinical condition of the patient immediately before his transfer.

“(2) Such reception order or other instrument of authority shall remain in force in the same manner as if the patient had been ordered to be received in the hospital to which he is so transferred.”

**9. Discharge**—Section 73 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Any committed patient who is subject to a reception order may at any time apply to the Minister for the holding of an inquiry by a Magistrate, pursuant to this section, as to whether the patient is fit to be discharged:

“Provided that, if the application is refused by the Minister or the Magistrate on any such inquiry does not order that the patient be discharged, a further application shall not be made within 6 months after the date of the making of that first-mentioned application.”

**10. Powers of Maori Trustee**—(1) Section 83 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) In relation to a Maori within the meaning of the Maori Affairs Act 1953 and to the estate of a Maori, every reference in this Part of this Act or in the Third Schedule to this Act—

“(a) To the Public Trustee shall be read as a reference to the Maori Trustee; and

“(b) To the Public Trust Office shall be read as a reference to the Maori Trust Office; and

“(c) To any provision of the Public Trust Office Act 1957 shall be read as a reference to the corresponding provision in the Maori Affairs Act 1953, or, if there is no such corresponding provision, shall be disregarded.”

(2) The Maori Affairs Act 1953 is hereby consequentially amended by repealing section 92, and substituting the following section:

“92. **Application of Mental Health Act 1969**—Notwithstanding anything in section 91 of this Act, nothing in this Part of this Act shall apply with respect to any person who is a committed patient or a special patient within the meaning of the Mental Health Act 1969 or to the estate of any such person.”

(3) Section 39K of the Criminal Justice Act 1954 (as inserted by section 2 of the Criminal Justice Amendment Act 1969) is hereby consequentially amended by omitting the words “or, as the case may require, Part X of the Maori Affairs Act 1953 shall apply to the person as a protected patient within the meaning of the said Part VII or as a person under disability within the meaning of the said Part X”, and substituting the words “shall apply to the person as a protected patient within the meaning of the said Part VII”.

**11. Powers of Public Trustee**—Section 93 of the principal Act is hereby amended by omitting from the proviso to subsection (3) the words “two hundred miles”, and substituting the words “300 kilometres”.

**12. Grants to Public Trustee**—The principal Act is hereby further amended by inserting in Part VII, after section 108, the following section:

“108A. Notwithstanding anything in this Part of this Act or in any other enactment, if, in the financial year that ended with the 31st day of March 1972 or in any subsequent financial year, the commission and fees received by the Public Trustee for the performance and exercise of the functions, powers, and duties conferred or imposed on him by this Part of this Act or the Third Schedule to this Act are insufficient to provide adequate recompense to the Public Trustee for the performance and exercise of those functions, powers, and duties, the Minister may from time to time pay to the Public Trustee, out of money appropriated by Parliament for the purposes of the Department of Health, such amounts as the Minister of Finance may approve.”

**13. Offences**—Section 115 of the principal Act is hereby amended by adding to subsection (2) the words “or shall be laid by a member of the Police”.

**14. Application for licence**—Clause 1 of the First Schedule to the principal Act is hereby amended—

- (a) By omitting from paragraph (f) the words, “eight feet to the inch”, and substituting the words “1 metre to the centimetre”:
- (b) By omitting from paragraph (g) the words “twenty chains to the inch”, and substituting the words “160 metres to the centimetre”.

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This Act is administered in the Department of Health.

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