

ALCOHOLICS BILL

EXPLANATORY NOTE

This Bill consolidates and amends the Reformatory Institutions Act 1909 and its amendments.

The present Act provides for the establishment and maintenance of certified State and private reformatory homes for the reception and detention of women and girls, and of State and private inebriates homes for the reception and detention of habitual inebriates. No State reformatory homes or inebriates homes were established. Certain private reformatory homes were formerly certified under the Act.

The only institutions now existing under the Act are two certified inebriates homes conducted by the Salvation Army with State financial assistance.

The main changes made by this Bill are as follows:

- (a) The term "alcoholic" is substituted for the term "habitual inebriate", and the term "patient" is substituted for the term "inmate":
- (b) A public mental hospital may be certified as an institution under the new Act, if it is used or intended to be used for the reception of alcoholics:
- (c) When an order for detention is made, the period of detention will not be specified in the order (as at present), but the patient (even if he is detained on his own application) may be detained for any period up to two years. The patient will have no right of appeal against the making of an order (as at present) but he may be discharged or released on leave during that period and immediately after his reception in an institution and every six months thereafter he will have the right to apply to a Judge for his discharge:
- (d) Supervising Committees may be appointed for private institutions. Their main functions will be to approve of the discharge or release on leave of patients.

Other alterations made in the law are mentioned in the notes to the clauses.

Clause 1 relates to the Short Title and commencement of the Bill, which is to come into force on a date to be appointed by the Governor-General by Order in Council.

Clause 2 is an interpretation clause. The main changes are the substitution of "alcoholic" for "habitual inebriate", and "patient" for "inmate".

Clause 3 provides for the appointment by the Minister of advisory and technical committees to assist in the administration of the Act.

Certified Institutions

Clause 4 provides for the certification by Order in Council of institutions. Licensed hospitals within the meaning of the Hospitals Act 1957 and licensed institutions within the meaning of the Mental Health Act 1911 may not be certified.

There is no other limitation (apart from the suitability of the premises and their managers) on the type of institution that may be certified.

Clause 5 retains existing certified inebriates homes as certified institutions under the new Act.

Clause 6 is new. It provides that a Supervising Committee may be appointed for a private institution, to have such functions as are conferred by the new Act. These functions are referred to in *clauses 15 and 20*. The Committee will consist of a Magistrate (as Chairman), the superintendent of the institution, a medical practitioner attending the institution, and one other person.

Orders for Detention and Treatment

Clause 7 re-enacts, with amendments, the present provision under which a voluntary application for an order for detention may be made to a Magistrate. The changes in the law are that the applicant will not specify the period during which he undertakes to remain in the institution.

Clause 8 provides that on the application of a relative of an alcoholic, or on the application of a member of the Police or any other reputable person, a Magistrate may make an order requiring the alcoholic to be detained for treatment for alcoholism in an institution. (At present an application may be made only by a relative.) Where the applicant is not a relative, the reason why the application is not made by a relative must be given. The Magistrate will require evidence or certificates from two medical practitioners.

Clause 9 provides that the maximum period of detention under any order is to be two years.

Clause 10 re-enacts the present law as to the computation of the period of detention.

Reception, Transfer, and Discharge

Clauses 11 to 15 re-enact the present provisions for the arrest of a person ordered to be detained, for his custody pending his reception in a certified institution, and for his arrest if he is unlawfully absent from the institution where he is a patient. In *clause 11* the present prohibition on holding a voluntary patient in custody pending reception is omitted. *Clause 13* is new and deals with detention during transit.

Clause 16: By this clause the present power of the Minister to discharge or transfer a patient or release him on leave is given not only to the Minister but also to a Supervising Committee of a private institution or the superintendent of a public hospital or public mental hospital.

Clause 17 is new. It provides that a patient may at any time after his reception in an institution request that he be discharged under *clause 15* and, if that request is refused, he may then apply in writing to a Judge of the Supreme Court for his discharge. If the Judge is satisfied that the continued

detention of the patient is no longer expedient, he may discharge him or release him on leave of absence. If the application is refused six months must elapse before another such application may be made.

Clause 18 substitutes a new provision for the present power of the Minister of Justice to revoke an order for the release on leave of a patient. Under this clause such revocation may be made by a Court if the patient is convicted of an offence of which drunkenness forms a necessary element, or of an offence which is shown to have been committed under the influence of alcohol or in which drunkenness is shown to be a contributing cause. It may also be made by a Magistrate, on the application of a member of the Police or of any other reputable person, if the Magistrate is satisfied that the patient has been taking in excess alcoholic liquor or drugs, or that he has contravened the conditions of his release.

Clause 19 re-enacts, with alterations, the present power of the Minister of Justice to transfer a prisoner from a penal institution to an institution under the new Act, but now requires that Minister to have the concurrence of the Minister of Health. The present section applies only to sentences of imprisonment, and only where a prisoner has not more than two years of his sentence to serve. This clause contains no limitation as to the unexpired part of the sentence, and is adapted also to sentences of borstal training and preventive detention.

Clause 20 re-enacts, with modifications, the present power to allow a patient to be absent from an institution for medical or dental treatment, or to be absent for any other purpose, but in the latter case a maximum period of absence of 14 days is prescribed.

Offences

Clauses 21 to 26 re-enact, with some modifications, the present offence provisions of the Act. The changes are that the indictable offence in *clause 21* is made punishable on summary conviction, and that the maximum monetary penalties are increased.

Evidence

Clause 27 is new. It provides that the Judge or Magistrate may receive any evidence in proceedings under the Act (other than a prosecution for an offence), whether or not it would be admissible in a Court of law.

It also provides that the husband or wife of an applicant or alleged alcoholic is a competent but not compellable witness in such proceedings.

Clauses 28 and 29 are new. They lay down requirements with respect to medical certificates issued for the purposes of this Act.

Clauses 30 to 34 re-enact the present law relating to certain procedural matters, with some modifications.

The most important modification is that *clause 32 (4)* applies the power of adjournment contained in section 5A of the Mental Health Act 1911 to applications under *clause 8* of this Bill; but without limiting any other power to adjourn such applications.

Miscellaneous Provisions

Clause 35 applies the provisions of the Bill to drug addicts.

Clause 36 confers on persons who do any act in pursuance or intended pursuance of any of the provisions of the Act the same degree of protection from civil or criminal liability in respect thereof as is enjoyed by persons who do any act in pursuance or intended pursuance of any of the provisions of the Mental Health Act 1911. This means that they are protected unless they do any such act in bad faith or without reasonable care, and that no proceedings can be brought in respect of any such act, except by leave of a Judge of the Supreme Court.

Clause 37 re-enacts the power to make regulations. *Paragraphs (c)* (functions and procedure of Supervising Committees) and *(h)* (forms) are new.

Clause 38 repeals the existing Act and its amendments, as set out in the *Schedule* to the Bill.

Hon. Mr McKay

ALCOHOLICS

ANALYSIS

- | | |
|---|--|
| <p>Title</p> <ol style="list-style-type: none">1. Short Title and commencement2. Interpretation3. Advisory and technical committees <p style="text-align: center;"><i>Certified Institutions</i></p> <ol style="list-style-type: none">4. Certified institutions5. Existing institutions6. Supervising Committees for certain institutions <p><i>Orders for Detention and Treatment</i></p> <ol style="list-style-type: none">7. Voluntary applications for detention in institution8. Power of Magistrate to order detention and treatment on application of relative or other reputable person9. Period of detention10. Mode of computing period of detention <p style="text-align: center;"><i>Reception, Transfer, and Discharge</i></p> <ol style="list-style-type: none">11. Enforcement of order of detention when term of imprisonment imposed12. Pending reception into institution, person may be detained13. Power of arrest14. Detention during transit15. Patient unlawfully absent may be arrested without warrant16. Discharge, transfer, or release on leave of patients17. Patient may apply for discharge18. Revocation of leave of absence19. Transfer of prisoner to institution | <ol style="list-style-type: none">20. Absence of patient for medical or dental treatment, etc. <p style="text-align: center;"><i>Offences</i></p> <ol style="list-style-type: none">21. Unlawful detention in institution22. Escaping from institution23. Improper conduct24. Supplying liquor or drugs to patients25. Trespass26. Ill-treatment of patients <p style="text-align: center;"><i>Evidence</i></p> <ol style="list-style-type: none">27. Evidence in proceedings28. Medical certificate evidence of certain facts29. Who may not sign medical certificate <p style="text-align: center;"><i>Procedure</i></p> <ol style="list-style-type: none">30. Notice of order of detention to be given31. Immaterial errors not to invalidate orders, etc.32. Legal proceedings33. General penalty34. Offences to be punishable on summary conviction <p style="text-align: center;"><i>Miscellaneous Provisions</i></p> <ol style="list-style-type: none">35. Drug addicts36. Protection from civil or criminal liability of persons acting under authority of this Act37. Regulations38. Repeals and amendments <p style="text-align: center;">Schedule</p> |
|---|--|

A BILL INTITULED

An Act to consolidate and amend the Reformatory Institutions Act 1909 and its amendments, and to make better provision for the care and treatment of alcoholics

BE IT ENACTED by the General Assembly of New Zealand 5
in Parliament assembled, and by the authority of the same,
as follows:

1. Short Title and commencement—(1) This Act may be cited as the Alcoholics Act 1966.

(2) This Act shall come into force on a date to be appointed 10
for the commencement thereof by the Governor-General by
Order in Council.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Alcoholic” means a person whose persistent and excessive 15
indulgence in alcoholic liquor is causing or is likely
to cause serious injury to his health or is a source
of harm, suffering, or substantial annoyance to others
or renders him incapable of properly managing him-
self or his affairs: 20

“Committal order” means an order requiring a person
to be detained in an institution for treatment for
alcoholism (other than an order made under section 7
of this Act):

“Institution” means a certified institution under this Act: 25

“Managers”, in relation to any institution (other than an
institution conducted by the Crown), means the
person or body of persons having the possession and
control of the institution:

“Minister” means the Minister of Health: 30

“Patient” means any person in respect of whom an order
is in force for his detention in an institution, whether
he is for the time being in the institution or elsewhere
or is absent on leave under the provisions of this Act:

“Superintendent”, in relation to any institution, means 35
the chief resident officer of the institution:

“Supervising Committee”, in relation to any institution,
means a Supervising Committee appointed for the
institution under section 6 of this Act.

Cf. 1909, No. 30, ss. 2, 36 40

3. Advisory and technical committees—(1) For the purpose of assisting in the administration of this Act the Minister may from time to time appoint such advisory or technical committees as he thinks fit.

5 (2) Every such committee shall have such functions in relation to this Act as the Minister may from time to time determine.

10 (3) There may be paid to the members of any such committee, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act.

15 (4) Subject to the provisions of this Act and of any regulations made under this Act, every such committee may regulate its own procedure.

Certified Institutions

20 **4. Certified institutions**—(1) Where any person or body of persons (whether incorporated or not) is desirous of establishing or maintaining an institution under this Act, the Governor-General may by Order in Council, on the recommendation of the Minister made on the application of that person or body, and if satisfied in respect of the fitness of the institution and of that person or body, certify the institution as an
25 institution under this Act:

Provided that no licensed hospital within the meaning of the Hospitals Act 1957 and no licensed institution within the meaning of the Mental Health Act 1911 shall be so certified.

30 (2) Without limiting the generality of subsection (1) of this section, it is hereby declared that any hospital (including a public institution within the meaning of the Mental Health Act 1911) conducted by the Crown may, without application, be certified under that subsection as an institution under this
35 Act.

(3) Any such Order may at any time be revoked by the Governor-General by Order in Council; and thereupon the institution shall cease to be an institution under this Act as from the date specified in that behalf in the last-mentioned
40 Order.

Cf. 1909, No. 30, ss. 3, 4

5. Existing institutions—Every institution which at the commencement of this Act is a certified Inebriates Home under the Reformatory Institutions Act 1909 shall be deemed to be a certified institution under this Act; and all the provisions of this Act shall apply thereto and to all persons received and detained therein, whether before or after the commencement of this Act: 5

Provided that any person detained in any such institution at the commencement of this Act shall be discharged on the date on which he would have been discharged if this Act had not been passed unless an order is made under this Act for his discharge on an earlier date. 10

Cf. 1909, No. 30, s. 6

6. Supervising Committees for certain institutions—(1) For the purposes of this Act, the Minister may if he thinks fit from time to time appoint for any institution under this Act, other than an institution within the meaning of the Hospitals Act 1957, a public institution within the meaning of the Mental Health Act 1911, or any other institution conducted by the Crown, a Supervising Committee, which shall have such functions as are conferred upon it by or under this Act. 15 20

(2) Every such Committee shall consist of a Magistrate, the superintendent of the institution, a medical practitioner attending the institution, and one other person.

(3) The members of the Committee, other than the superintendent of the institution and the medical practitioner attending the institution, shall be appointed for a term of three years, but may from time to time be reappointed, or may at any time be removed from office by the Minister, or may at any time resign their office by writing addressed to the Minister. 25 30

(4) The Magistrate shall be the Chairman of the Committee.

(5) The Chairman and two other members of the Committee or the Chairman and the superintendent of the institution shall constitute a quorum at any meeting of the Committee, and may also exercise any of the functions of the Committee under this Act. 35

(6) The Chairman shall preside at all meetings of the Committee and shall have a deliberate vote, and, in the case of an equality of votes, shall also have a casting vote. 40

(7) Every question before any meeting of the Committee shall be determined by a majority of the votes of the members present and voting thereon.

5 (8) In any case where the Chairman of the Committee is prevented by illness or absence or any other cause from acting in his office, any Magistrate may act in his place, and while so acting shall have all the powers and may perform the functions of the Chairman. The fact that any Magistrate so acts shall be conclusive evidence of his authority to do so; 10 and no acts done by him as Chairman, whether together with any other member of the Committee or not, and no acts done by the Committee while he is acting as such, shall in any proceedings be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

15 (9) Subject to the provisions of this Act and of any regulations made under this Act, the Committee may determine its own procedure.

Cf. 1918, No. 8, s 11

Orders for Detention and Treatment

20 **7. Voluntary applications for detention in institution—**

(1) Any person desirous of being received into an institution may make application in person to a Magistrate for an order under this section.

25 (2) Every such application shall be in writing in the prescribed form, and shall specify the institution into which the applicant desires to be received, and shall state that the applicant undertakes to remain in the institution, for treatment for alcoholism, until he is released or discharged under this Act.

30 (3) The signature of the applicant shall be attested by the Magistrate to whom the application is made, or by the Registrar or Deputy Registrar of a Magistrate's Court.

35 (4) If the Magistrate is satisfied, whether by the admission of the applicant or by any other evidence, that the applicant is an alcoholic, and that he fully understands the nature and effect of his application, the Magistrate may, if he thinks fit, and if he is satisfied that the managers or the superintendent of the institution, as the case may require, are willing to receive the applicant into the institution, make an order in 40 the prescribed form for the detention of the applicant, for treatment for alcoholism, in the institution named in the application.

Cf. 1909, No. 30, s. 7

8. Power of Magistrate to order detention and treatment on application of relative or other reputable person—

(1) On the application on oath of a relative (as defined in this section) of any person, or on the application on oath of a member of the Police or of any other reputable person, that the person to whom the application relates is an alcoholic, any Magistrate may if he thinks fit issue his summons to the alleged alcoholic to show cause why an order should not be made requiring him to be detained for treatment for alcoholism in an institution.

(2) Where the application is made by a member of the Police or by any person who is not a relative of the alleged alcoholic, the application shall contain a statement of the reason why it is made by the applicant instead of by a relative.

(3) If by reason of special circumstances the Magistrate thinks fit he may, on any such application as aforesaid, instead of issuing a summons, or after the issue thereof, issue his warrant for the arrest of the alleged alcoholic. Every person arrested pursuant to any such warrant shall be brought before a Magistrate, as soon as possible, to be dealt with in accordance with this Act.

(4) If the Magistrate is satisfied that the alleged alcoholic has refused to undergo examination by two medical practitioners for the purposes of this Act or has wilfully failed to attend for any medical examination required for the purposes of this Act, he may issue his warrant under subsection (3) of this section for the arrest of the alleged alcoholic and may at the same time order that the alleged alcoholic shall, after his arrest, undergo medical examination by two designated medical practitioners.

(5) On the hearing of the application the Magistrate shall not make an order under subsection (6) of this section unless two medical practitioners either give evidence to the effect or give certificates in the prescribed form to the effect that they believe the alleged alcoholic to be an alcoholic within the meaning of this Act and that the making of an order for his detention and treatment as such is expedient in his own interest or in that of his relatives.

(6) Subject to subsection (5) of this section, on the hearing of the application, the alleged alcoholic being then present before him, the Magistrate may, if he thinks fit, and if he is satisfied of the truth of the application, and that the managers or the superintendent of an institution, as the case may require, are willing to receive the alcoholic into the institution, make an order requiring the alcoholic to be detained for treatment for alcoholism in that institution.

(7) In this section, the term "relative" means a spouse, parent, grandparent, stepfather, stepmother, brother, sister, half-brother, half-sister, son, daughter, grandson, granddaughter, stepson, or stepdaughter.

5 **9. Period of detention**—(1) No person in respect of whom an order for detention is made under the foregoing provisions of this Act or under section 48A of the Criminal Justice Act 1954 shall be detained under that order in any institution or institutions under this Act for more than two years al-
10 together after his first reception in an institution pursuant to the order.

(2) Subject to the provisions of this Act, every such person shall be detained until he is discharged pursuant to this Act.

Cf. 1909, No. 30, ss. 7 (2), 8, 9 (3), 10 (1), 23 (2)

15 **10. Mode of computing period of detention**—(1) The period of the detention of any person in an institution under any order made pursuant to this Act shall be computed from the date of his first reception into an institution pursuant to the order.

20 (2) Any period during which a person is lawfully absent on leave from an institution, or is absent pursuant to section 20 of this Act, shall be computed as part of the period of his detention.

25 (3) No period during which any person is detained in any penal institution, or is absent from an institution under this Act after the revocation of an order releasing him on leave of absence, or after his escape from the institution, shall be computed as part of the period of his detention.

30 (4) Except as provided in this section, the period of detention of any person shall be computed continuously from the date of his actual reception into the institution.

Cf. 1909, No. 30, s. 19; 1936, No. 58, s. 67

Reception, Transfer, and Discharge

35 **11. Enforcement of order of detention when term of imprisonment imposed**—When an order is made under this Act or under section 48A of the Criminal Justice Act 1954 for the detention of any person in an institution, and at the same time, or at any time thereafter while he remains a
40 patient of the institution, he is sentenced to imprisonment or borstal training or detention in a detention centre for any offence, he shall on the expiry of the period of his sentence, or on his earlier release from custody under that sentence,

be taken by any member of the Police, or by an officer of any penal institution, to the institution under this Act in which he is ordered to be detained, and he shall be detained there in accordance with the order:

Provided that where the sentence was imposed while he was a patient at the institution he shall not be so taken to it if more than two years have elapsed since his first reception in an institution pursuant to the order. 5

Cf. 1909, No. 30, s. 14

12. Pending reception into institution, person may be detained—(1) After the making of an order for the detention of any person under this Act, and pending the reception of that person into an institution pursuant to the order, the Magistrate by whom the order is made, or the Minister, may give such directions as he thinks fit in respect of the custody of that person, and may direct that he be kept in any police station, public institution within the meaning of the Mental Health Act 1911, or other place of confinement. 10 15

(2) No person shall be detained in custody under the authority of this section for a longer continuous period than ten days. 20

Cf. 1909, No. 30, s. 16

13. Power of arrest—Any member of the Police may arrest any person ordered to be detained under this Act and take him into custody for detention in accordance with the order and the provisions of this Act. 25

Cf. 1909, No. 30, s. 13

14. Detention during transit—While any patient is being taken to or from any institution, he may be detained in any other institution or in a police station, public institution within the meaning of the Mental Health Act 1911, or other place of confinement. 30

15. Patient unlawfully absent may be arrested without warrant—Any patient may at any time while he is absent from the institution without lawful justification, whether by reason of his escape from lawful custody or by reason of any other circumstance, be arrested without warrant by any member of the Police or by any officer or servant employed in or about the institution, and may thereupon be taken to the institution or otherwise dealt with according to law. 35 40

Cf. 1909, No. 30, s. 17

16. Discharge, transfer, or release on leave of patients—

(1) Subject to the provisions of this Act, the Minister, or the Supervising Committee (if any) of an institution, or the superintendent in the case of an institution under the control of a Hospital Board or of a public institution under the Mental Health Act 1911, may at any time by order in writing—

- (a) Discharge any patient:
- 10 (b) Transfer any patient who is detained under a committal order from one institution to any other institution under this Act with the consent of the medical superintendent or of the governing body of the receiving institution:
- 15 (c) Release any patient on leave of absence for any period not exceeding the balance of the period of two years for which he is liable to be detained, upon and subject to such terms and conditions (to be specified in the order) as the Minister or the Supervising Committee or the superintendent thinks fit.

20 (2) Any patient ordered to be transferred from one institution to another under this section—

- 25 (a) May be taken in custody to that other institution by any member of the Police or by any officer or servant of either of the institutions and, while in such custody, shall be deemed to remain a patient of the institution from which he is transferred:
- 30 (b) Shall on his reception into the other institution become a patient of that institution and shall be detained there until the expiry of the period for which he is liable to be detained under the original order for detention, unless he is sooner discharged or released on leave or transferred under this Act.

35 (3) Any patient who is on leave of absence under paragraph (c) of subsection (1) of this section may at any time during the currency of his period of leave be discharged under paragraph (a) of that subsection.

Cf. 1909, No. 30, ss. 18 (1) (a)-(c), (2), (3), 23 (1)

40 **17. Patient may apply for discharge—**(1) Any patient may at any time after his reception in an institution pursuant to an order made under section 7 or section 8 of this Act or under section 48A of the Criminal Justice Act 1954 request the Minister or the Supervising Committee or superintendent,

as the case may require, in writing to discharge him under paragraph (a) of subsection (1) of section 16 of this Act and, if that request is refused, may then apply to a Judge of the Supreme Court in writing for an order directing that he be discharged from detention under this Act. 5

(2) On any such application the Judge may order that the patient be brought before him for examination at a time to be specified in the order.

(3) If on the examination of the applicant, and on such medical or other evidence as the Judge may require, the Judge is satisfied that the continued detention of the applicant is not expedient, either in his own interest or in the interest of others, or that he is unlawfully detained as an alcoholic, the Judge may by order direct that the patient be discharged, either forthwith or at such time as may be specified in the order, or that he be released on leave of absence for a period, not exceeding the balance of the period of two years for which he is liable to be detained, and upon and subject to such terms and conditions as the Judge thinks fit. 10 15

(4) In deciding whether or not to make an order under this section the Judge may take into consideration the fact that any relative or friend of the patient is able and willing to take care of him. 20

(5) On the taking effect of an order of discharge under this section, the order for detention under which the patient is then detained shall be deemed to be revoked. 25

(6) Nothing in this section shall prevent the exercise of any available remedy or proceeding by or on behalf of any person who is or is alleged to be unlawfully detained.

(7) Where an application under this section is refused a further application under this section shall not be entertained unless six months have elapsed since the date of the refusal and unless the application has been preceded by a further request for the discharge of the applicant under paragraph (a) of subsection (1) of section 16 of this Act. 30 35

18. Revocation of leave of absence—(1) Where any patient who is absent on leave from an institution is convicted in any Court of any offence of which drunkenness forms a necessary element, or of any offence which is shown to have been committed under the influence of alcohol or in which drunkenness is shown to be a contributing cause, the Judge or Magistrate, as the case may be, may if he thinks fit revoke the order under which the patient was released on leave 40

of absence and order that he be returned to the institution or removed to any other institution of a like kind, to be detained there in accordance with the original order for detention.

(2) Where any Magistrate, on the application of any member of the Police or of any other reputable person, is satisfied that any patient who is absent on leave from an institution has been taking or using in excess alcoholic liquor or any intoxicating, stimulating, narcotic, or sedative drug or drugs, or has contravened or failed to comply with any of the terms or conditions on or subject to which he was released on leave, the Magistrate may if he thinks fit revoke the order under which the patient was released on leave and order that he be returned to the institution or removed to any other institution of a like kind, to be detained there in accordance with the original order for detention.

(3) On any application under subsection (2) of this section the Magistrate may, if he thinks fit, issue his warrant for the arrest of the patient.

(4) Where an order is made under this section the patient may be taken to an institution in the same manner as if the order were an order for detention under this Act.

Cf. 1909, No. 30, s. 18 (1) (d), (4)

19. Transfer of prisoner to institution—(1) The Minister of Justice, with the concurrence of the Minister of Health, may at any time, by order under his hand, transfer to an institution under this Act, for treatment for alcoholism, any person detained in a penal institution under a sentence of imprisonment or borstal training or preventive detention.

(2) The Minister of Justice, with the concurrence of the Minister of Health, may at any time in like manner direct the return of any such person to a penal institution for the purpose of continuing to serve the said sentence or any other sentence applicable to him.

(3) While any person is detained in an institution under this section the term of any sentence he is then liable to serve shall continue to run. If at any time before the expiry of any such sentence he escapes from detention or custody the term of the sentence shall cease to run and shall not begin to run again until he is retaken.

(4) A person detained in an institution under this section shall not be discharged or permitted to be absent from the institution under this Act except with the consent of the Minister of Justice and on and subject to such terms and conditions as that Minister, with the concurrence of the Minister of Health, may impose. 5

(5) The following provisions shall apply in respect of every person detained under this section:

- (a) The provisions of section 9 of this Act shall apply as if the transfer under this section were an order for detention made under this Act: 10
- (b) If every sentence of detention applicable to that person expires, or he is discharged thereunder, before the expiry of the period of two years referred to in the said section 9, he shall be discharged from the institution under this Act: 15
- (c) If on the expiry of the said period of two years he is still liable to detention under any such sentence, he shall be returned to such penal institution as the Minister of Justice directs. 20

Cf. 1918, No. 8, s. 10

20. Absence of patient for medical or dental treatment, etc.—(1) Subject to the provisions of this Act, in the case of the illness of any patient, he may, with the consent of the Supervising Committee or, if there is no Supervising Committee, a Magistrate or the Minister, be removed by the managers or superintendent of the institution to any hospital or other institution under the Hospitals Act 1957. 25

(2) Subject to the provisions of this Act, the superintendent of an institution, on the recommendation of the medical practitioner attending the institution, may permit any patient to be absent from the institution for the purpose of receiving medical or dental treatment for any specified period, not exceeding five days at any one time. 30

(3) Subject to the provisions of this Act, the superintendent of an institution may, with the consent of the Supervising Committee or, if there is no Supervising Committee, a Magistrate or the Minister, permit any patient to be absent from the institution for any other purpose for any specified period not exceeding fourteen days at any one time. 35 40

(4) Any person removed or absent under this section shall be deemed to remain subject to the order by which he was detained in the institution under this Act, and may at any time be returned to the institution by the managers or superintendent of the institution, or by any member of the Police at the request of the managers or superintendent, or by any officer of any hospital or other institution to which he has been so removed.

Cf. 1909, No. 30, s. 20; 1936, No. 58, s. 66

Offences

10
15
20
25
30
35
40
21. Unlawful detention in institution—Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding one year or to a fine not exceeding five hundred pounds, or to both, who wilfully detains any other person, in an institution under this Act otherwise than in due course of law, or for a longer period than is authorised by law.

Cf. 1909, No. 30, s. 24; 1954, No. 50, s. 40 (1)

22. Escaping from institution—(1) Every patient commits an offence against this Act who—

- (a) Escapes or attempts to escape from the institution; or
- (b) Escapes or attempts to escape from lawful custody as a patient; or

(c) Wilfully refuses or fails to return to the institution after the expiration or determination of any period of lawful absence therefrom.

(2) Every person commits an offence against this Act who induces or knowingly assists any patient to escape from an institution or from lawful custody.

Cf. 1909, No. 30, ss. 25, 29 (b)

23. Improper conduct—Every patient commits an offence against this Act who is wilfully guilty of any violent, unruly, insubordinate, destructive, indecent, offensive, or insulting conduct.

Cf. 1909, No. 30, s. 27

24. Supplying liquor or drugs to patients—Every person commits an offence against this Act who, not being a registered medical practitioner or a person acting pursuant to the written authority of a registered medical practitioner, procures or attempts to procure any intoxicating liquor or any stimulating,

narcotic, or sedative drug for, or sends, takes, or delivers, or attempts to send, take, or deliver any such liquor or drug to, any person whom he knows to be a patient, whether that patient is detained in the institution or is absent therefrom on leave or otherwise howsoever. 5

Cf. 1909, No. 30, s. 28

25. Trespass—Every person commits an offence against this Act who wilfully trespasses without lawful excuse on any land knowing or having reasonable cause to believe that it is part of an institution. 10

Cf. 1918, No. 8, s. 12

26. Ill-treatment of patients—Every person commits an offence against this Act who—

- (a) Ill-treats any patient in an institution; or
- (b) Being an officer, servant, or other person employed in 15 or about an institution, wilfully neglects any patient.

Cf. 1909, No. 30, s. 29 (a)

Evidence

27. Evidence in proceedings—In any proceedings under this Act (other than any prosecution for an offence)— 20

- (a) The Judge or Magistrate may receive any evidence that he thinks fit, whether or not the same would be admissible in a Court of law:
- (b) The husband or wife of the applicant or alleged alcoholic shall be a competent but not compellable 25 witness.

Cf. 1909, No. 30, s. 7 (5)

28. Medical certificate evidence of certain facts—Every medical certificate given for the purposes of this Act shall for all purposes be evidence of the facts therein stated as 30 known to or observed by the certifying medical practitioner, and of the opinion therein stated to have been formed by the certifying medical practitioner as to the condition of the person to whom the certificate relates.

29. Who may not sign medical certificate—(1) A medical 35 certificate given for the purposes of section 8 of this Act shall not be signed by any of the following persons:

- (a) The applicant for the order:

- (b) The Superintendent, or a medical officer of the institution into which (if granted) the order would authorise the alleged alcoholic to be received:
- 5 (c) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner, principal, or assistant of the applicant or of the alleged alcoholic or the guardian or trustee of the alleged alcoholic:
- 10 (d) Any person by whom the order is made.
- (2) Neither of the persons signing any such medical certificate shall be the father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, husband or wife, or
- 15 the partner, principal, or assistant of the other of them.
- (3) Every such certificate shall contain a statement that the certifying medical practitioner is not prohibited by this Act from signing the same.
- (4) Where application for a committal order in respect of
- 20 any person is made under this Act by an officer on the staff of any hospital under the Hospitals Act 1957 or by an officer on the staff of any institution conducted by the Crown (not being an institution within the meaning of this Act), a medical practitioner employed in or attached to that hospital or institution shall not, for the purposes of paragraph (c) of subsection (1) of this section, be deemed by reason of his official
- 25 relationship to the applicant, to be his partner, principal, or assistant, and in no case shall any medical practitioner employed in or attached to any hospital or institution as aforesaid be deemed, by reason of his official relationship to any
- 30 other such medical practitioner, to be the partner, principal, or assistant of such other medical practitioner.

Procedure

30. Notice of order of detention to be given—When an

35 order is made under this Act or any other enactment for the detention of any person in an institution, or for his return or removal to an institution on the revocation of an order for leave of absence, a minute under the hand of the Magistrate or of the Registrar or Deputy Registrar of the Magistrate's

40 Court or of the Supreme Court, as the case may require, shall be sent forthwith—

- (a) To the Director of the Division of Mental Health; and
 (b) To the superintendent of the institution.

Cf. 1909, No. 30, s. 32

31. Immaterial errors not to invalidate orders, etc.—No order, warrant, or other document made or issued in respect of any institution under this Act shall be invalidated by any misnomer or erroneous description of the institution, or of any person ordered to be detained, or by any other error or defect of form. 5

Cf. 1909, No. 30, s. 34

32. Legal proceedings—(1) Every application made to a Court or a Judge or a Magistrate under this Act shall be heard and determined in private. 10

(2) Every person who is the subject of any such application shall be entitled to be heard and may be represented by a solicitor or counsel.

(3) No Court fees shall be payable in respect of any such application. 15

(4) The determination of an application under section 8 of this Act may be adjourned in accordance with the provisions of section 5A of the Mental Health Act 1911 which section shall apply with such modifications as are necessary, but this subsection shall not limit any other power of the Court, Judge, or Magistrate to adjourn the determination of the application. 20

33. General penalty—Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both. 25

34. Offences to be punishable on summary conviction—Every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction. 30

Miscellaneous Provisions

35. Drug addicts—This Act shall apply, in the same way as it applies to an alcoholic, to any person whose addiction to intoxicating, stimulating, narcotic, or sedative drugs is causing or is likely to cause serious injury to his health or is a source of harm, suffering, or substantial annoyance to others or renders him incapable of properly managing himself or his affairs. 35

36. Protection from civil or criminal liability of persons acting under authority of this Act—A person who does any act in pursuance or intended pursuance of any of the provisions of this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or any other ground, unless he has acted in bad faith or without reasonable care, and the provisions of subsections (2) to (6A) of section 6 of the Mental Health Amendment Act 1935 shall apply accordingly with such modifications as are necessary.

Cf. 1909, No. 30, s. 40

37. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 15 (a) Prescribing the conditions on which institutions may be certified under this Act:
- (b) Regulating the establishment, management, maintenance, and inspection of institutions:
- 20 (c) Prescribing and regulating the functions and procedure of Supervising Committees appointed for institutions under this Act:
- (d) Regulating and prescribing the appointment and duties of officers and servants of institutions:
- 25 (e) Regulating the classification, treatment, control, and discipline of patients:
- (f) Prescribing and regulating employment for patients:
- (g) Prescribing the sums to be paid by patients in respect of their maintenance in institutions, and the cases in which such sums are payable:
- 30 (h) Prescribing forms for the purposes of this Act:
- (i) Prescribing offences against any regulations made under this Act, and prescribing fines not exceeding fifty pounds in respect of any such offence:
- 35 (j) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Any regulations made under this section may apply either to all institutions under this Act, or to institutions of any specified class, or to any specified institution.

40 Cf. 1909, No. 30, s. 39

38. Repeals and amendments—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) Every reference in any enactment, or in any regulation, order, or warrant, or in any document whatsoever, to a certified inebriates home or an inebriates home shall hereafter, unless the context otherwise requires, be read as a reference to an institution within the meaning of this Act. 5

Section **38 (1)**

SCHEDULE

ENACTMENTS REPEALED

- 1909, No. 30—The Reformatory Institutions Act 1909. (1957 Reprint, Vol. 13, p. 203.)
- 1918, No. 8—The Reformatory Institutions Amendment Act 1918. (1957 Reprint, Vol. 13, p. 225.)
- 1936, No. 58—The Statutes Amendment Act 1936: Sections 66 to 68. (1957 Reprint, Vol. 13, pp. 216, 226.)
- 1944, No. 25—The Statutes Amendment Act 1944: Section 55. (1957 Reprint, Vol. 13, p. 227.)
- 1957, No. 87—The Summary Proceedings Act 1957: So much of the Third Schedule as relates to the Reformatory Institutions Act 1909. (1957 Reprint, Vol. 15, p. 406.)