

PART VIII.—
APPLICATION
OF CERTAIN
PROVISIONS
OF "THE
MENTAL
HYGIENE
ACT OF
1938."

Mental Hygiene Act.

2 GEO. VI. No. 21,

General
construction
of "*The
Criminal
Code*" and
other Acts,
&c.

(2.) Where in *"*The Criminal Code*" or in any other Act or law or rule reference is made to the expression "a person of unsound mind" or to an "insane person" or to "a person not of sound mind" or to "a lunatic" or such like terms or expressions, such terms or expressions shall for the purposes of applying, reading, or construing this Act and *"*The Criminal Code*" or such other Act or law or rule be and be deemed to be a reference to a backward person as defined in this Act, and this Act and *"*The Criminal Code*" or such other Act or law or rule shall be applied, read, and construed accordingly.

2 GEO. VI.
No. 21.
THE
MENTAL
HYGIENE
ACT OF 1938.

An Act to Consolidate and Amend the Law relating to the Care, Treatment, and Control of Mentally Sick Persons.

[ASSENTED TO 24TH NOVEMBER, 1938.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—
PRELIMINARY.

Short title
and
commence-
ment.

PART I.—PRELIMINARY.

1. (1.) This Act may be cited as "*The Mental Hygiene Act of 1938*" and, subject as otherwise provided, shall come into operation on a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*. Such date shall hereafter be referred to as the commencement of this Act.

Repeal of
existing
Acts.

(2.) †"*The Insanity Act of 1884*" and ‡"*The Insanity Act Amendment Act of 1935*" are, subject as is herein otherwise provided, repealed. The said Acts are herein collectively referred to as the repealed Acts:

Savings.

Provided as follows, but without prejudice to any of the provisions of §"*The Acts Shortening Acts*"—

(a) No proceedings or acts or things done or contracts made under the repealed Acts before

* 63 Vic. No. 9, Schedule I., and amending Acts, *supra*, pages 344 *et seq.*

† 48 Vic. No. 8, *supra*, page 1003.

‡ 26 Geo. V. No. 34, *supra*, page 15445.

§ 31 Vic. No. 6 and amending Acts, *supra*, pages 15 *et seq.*

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the commencement of this Act shall be invalidated, prejudiced, or affected by such repeal ;

- (b) All proceedings initiated before the commencement of this Act shall be carried on, as far as practicable, according to the provisions of this Act, and subject thereto, according to the provisions of the repealed Acts, which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof ;
- (c) All persons lawfully in custody or detained in any mental hospital, prison, or other place of confinement at the commencement of this Act under the provisions of the repealed Acts shall be deemed to be in lawful custody under the provisions of this Act and may be dealt with accordingly ;
- (d) All appointments made or deemed to have been made under the repealed Acts shall, subject to any other provisions of this Act, be deemed to have been made under this Act ;
- (e) All orders made for the reception and detention of persons under the repealed Acts shall be deemed to be reception orders made under this Act in respect of such persons, and the provisions of this Act shall apply thereto and to all persons detained thereunder accordingly ;
- (f) Any person detained after inquisition under the repealed Acts shall be deemed to have been found to be mentally sick by inquisition under this Act, and the provisions of this Act shall apply to that person accordingly ;
- (g) The Public Curator, being appointed the committee of the estate of any person under the repealed Acts and/or being authorised to administer the estate of any person under the repealed Acts shall be deemed to have been so appointed and/or authorised under this Act, and shall have the same powers, authorities, duties, and liabilities as if he had

been so appointed and/or authorised, and all the provisions of this Act shall apply with respect to any such estate accordingly ;

- (h) Every committee of the person of any person other than the Public Curator appointed under the repealed Acts shall until it is otherwise ordered by the Supreme Court continue to have the same powers, authorities, duties, and liabilities as if this Act had not been passed, and the provisions of the repealed Acts shall continue to apply and extend to that committee accordingly ;
- (i) All regulations and Rules of Court made under the repealed Acts or pursuant to any other Act or law with respect to mentally sick persons and in force at the commencement of this Act shall so far as is consistent with this Act be deemed to have been made thereunder, and shall continue in force until amended or repealed under this Act. Moreover, the forms in the Schedules to the repealed Acts shall so far as is consistent with this Act be deemed to have been made thereunder and shall with any necessary amendments or modifications continue in force until amended or repealed under this Act ;
- (j) Every person (other than the Public Curator) who has been appointed as a guardian or receiver of the estate of any person under the repealed Acts or has been authorised by or in pursuance of those Acts to administer or manage that estate otherwise than as the committee thereof shall, until it is otherwise ordered by the Supreme Court, continue to have the powers, duties, authorities, and liabilities in respect thereof as if this Act had not been passed, and the provisions of the repealed Acts shall continue to apply with respect to any person so appointed or authorised accordingly ;
- (k) Where in **"The Criminal Code"* or in any other Act or law or rule reference is made to the expression "a person of unsound mind" or to

General
construction
of "*The
Criminal
Code*" and
other Acts,
&c.

* 63 Vic. No. 9, Schedule I., as amended, *supra*, pages 344 *et seq.*

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an “insane person” or to “a person not of sound mind” or to “a lunatic” or such like terms or expressions, such terms or expressions shall for the purposes of applying, reading, or construing this Act and **“The Criminal Code”* or such other Act or law or rule be and be deemed to be a reference to a mentally sick person as defined in this Act, and this Act and **“The Criminal Code”* or such other Act or law or rule shall be applied, read, and construed accordingly.

(3.) This Act is divided into Parts, as follows :— Parts of Act.

PART I.—PRELIMINARY (ss. 1-2) ;

PART II.—ADMINISTRATION (ss. 3-5) ;

PART III.—MENTAL HOSPITALS—

Division I.—Mental Hospitals (ss. 6-14),

Division II.—Provision for the Care and Treatment of Mentally Sick Persons in a Hospital (s. 15).

Division III.—Private Mental Hospitals (s. 16),

Division IV.—Licenses for the Care, Treatment, or Control of a Single Patient (s. 17),

Division V.—Provision as to the Detention of Mentally Sick Persons Otherwise than in Accordance with this Act (s. 18) ;

PART IV.—MENTAL HOSPITALS FOR CRIMINAL MENTALLY SICK PERSONS (s. 19) ;

PART V.—PROVISIONS RELATING TO THE MAKING AND AMENDING OF MEDICAL CERTIFICATES (ss. 20-23) ;

PART VI.—PATIENTS—

Division I.—Power of Superintendent of Mental Hospital to Receive Mentally Sick Persons Notwithstanding any Incorrectness or Deficiency in any Medical Certificate or Document (s. 24),

Division II.—Voluntary Patients (ss. 25-28),

Division III.—Temporary Patients (ss. 29-32),

Division IV.—Certified Patients (ss. 33-45),

* 63 Vic. No. 9, Schedule I., as amended, *supra*, pages 344 *et seq.*

*Division V.—Care and Control of Patients—**Discharge of Patients* (ss. 46-48),*Escape of Patients* (s. 49),*Absence on Leave of Patients* (s. 50),*Transfer of Patients* (s. 51),*Division VI.—Power of Supreme Court to Direct
an Inquiry as to the Condition of a Patient
(ss. 52-53) ;*PART VII.—MENTALLY SICK PERSONS UNDER
DETENTION FOR OFFENCES, &C. (ss. 54-61) ;PART VIII.—ADMINISTRATION OF ESTATES OF
MENTALLY SICK PERSONS (ss. 62-100) ;PART IX.—INDEMNIFYING PERSONS IN RESPECT
OF ACTS DONE IN GOOD FAITH IN PURSUANCE
OF THIS ACT (s. 101) ;

PART X.—OFFENCES (ss. 102-108) ;

PART XI.—SPECIAL PROVISIONS RELATING TO
PERSONS RESIDING AND ORDERS AND
DECLARATIONS MADE ELSEWHERE THAN IN
QUEENSLAND—*Division I.—Preliminary* (ss. 109, 110),*Division II.—Powers of Public Curator* (ss. 111,
112),*Division III.—Resealing Orders and Declarations
in Lunacy Made Elsewhere* (s. 113) ;

PART XII.—MISCELLANEOUS (ss. 114-115).

Interpreta-
tion.

2. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

Court.

“ Court ”—The Supreme Court or any judge thereof ;

Director-
General of
Health and
Medical
Services.

“ Director-General of Health and Medical Services ”—The Director-General of Health and Medical Services appointed under * “ *The Health Act of 1937* ” and in office for the time being: the term where necessary includes the Deputy Director-General of Health and Medical Services appointed under * “ *The Health Act of 1937* ” and in office for the time being ;

* 1 Geo. VI. No. 31, *supra*, page 16597.

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- “Director of Mental Hygiene”—The Director of Director of Mental Hygiene.
Mental Hygiene appointed under this Act ;
- “Government medical officer”—The medical Government medical officer.
officer appointed by the Governor in Council
for any city, town, or place ;
- “Guardian”—In relation to a person under the Guardian.
age of eighteen years this expression includes
any person having charge of the person
under the age of eighteen years ;
- “Hospital”—A hospital to which Part III. or Hospital.
Part IV. of **“The Hospitals Act of 1936”*
applies ;
- “Medical certificate”—A certificate signed by a Medical certificate.
medical practitioner in pursuance of this Act ;
- “Medical practitioner”—A medical practitioner Medical practitioner.
within the meaning of †*“The Medical Acts, 1925 to 1935,”* or any Act amending or in
substitution for the same ;
- “Mental hospital”—A mental hospital estab- Mental hospital.
lished under this Act ;
- “Mentally sick person”—A person who owing to Mentally sick person.
mental sickness requires care, treatment,
and/or control for his own good or in the
public interest, and is for the time being
incapable of managing himself or his affairs ;
- “Minister”—The Secretary for Health and Home Minister.
Affairs or other Minister of the Crown for the
time being charged with the administration
of this Act ;
- “Patient”—A mentally sick person receiving Patient.
care, treatment, and/or control in terms of
this Act ;
- “Prescribed”—Prescribed by this Act ; Prescribed.
- “Private mental hospital”—A private hospital Private mental hospital.
for the time being licensed as a private mental
hospital under ‡*“The Health Act of 1937”* ;
- “Public Curator”—The Public Curator appointed Public Curator.
under the provisions of §*“The Public Curator Acts, 1915 to 1938”* : the term where
necessary includes a Deputy Public Curator ;

* 1 Geo. VI. No. 4, *supra*, page 15782.† 16 Geo. V. No. 24 and amending Acts, *supra*, pages 11337 *et seq.*‡ 1 Geo. VI. No. 31, *supra*, page 16597.§ 6 Geo. V. No. 14 and amending Acts, *supra*, pages 7056 *et seq.*

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PRELIMINARY.*Mental Hygiene Act.*

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Regulations.	“Regulations”—Regulations made by the Governor in Council under the authority of this Act ;
Stock.	“Stock ”—A share or other interest in any company, society, or association, and any fund, annuity, or security transferable in books kept by any company, society, or association or transferable by deed alone, or by deed accompanied by other formalities, and any money payable in respect thereof, and any share or interest therein ;
Superintendent.	“Superintendent”—The superintendent of a mental hospital and includes a medical superintendent or deputy medical superintendent ;
This Act.	“This Act”—This Act and all Proclamations, Orders in Council, Rules of Court, and regulations thereunder.

PART II—
ADMINIS-
TRATION.

PART II.—ADMINISTRATION.

*Power to Make Regulations for the Administration of
this Act.*

- Regulations. **3.** (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

Without limiting the generality of the foregoing provisions, such regulations may provide for—

- (i.) Regulating the form and mode of proceeding in all cases under this Act other than those prescribed by section sixty-two of this Act ;
- (ii.) Prescribing the duties of the Public Curator with respect to the management of the estates of mentally sick persons ;

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TRATION.

- (iii.) Prescribing the forms required by this Act and such other forms as may be necessary or convenient for the administration of this Act :

Provided that when any forms are prescribed, forms to the like effect may be used and shall be sufficient ;

- (iv.) Prescribing the keeping and/or form of such books, records, registers, or other documents or the furnishing of such reports or statistics as may be necessary or convenient for the administration of this Act, and the persons responsible for the keeping or furnishing of same or any of them ;
- (v.) Fixing the fees payable for medical certificates by persons requiring to exercise rights and privileges under this Act, or requiring same under and for the purposes of this Act ;
- (vi.) Prescribing the fees payable for medical certificates required in the administration of this Act, and the recovery of such fees from persons responsible under this Act ;
- (vii.) Prescribing charges for the care, treatment, and control of patients received into mental hospitals ;
- (viii.) Providing for the general administration of mental hospitals ;
- (ix.) Prescribing the respective duties, responsibilities, obligations, and liabilities of medical superintendents, superintendents, medical officers, visiting medical officers, officers, nurses, and other employees in respect of the care, treatment, and control of patients in mental hospitals ;
- (x.) All matters required or permitted by this Act to be prescribed ;
- (xi.) Generally for carrying this Act into effect. Generally.

The regulations may provide a penalty not exceeding twenty pounds for any breach thereof.

Such regulations may be made on the passing of this Act.

(2.) All regulations and Orders in Council made or purporting to be made under this Act shall, upon publication in the *Gazette*, be of the same effect as if Effect of regulations and Orders in Council.

they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

All such regulations and Orders in Council shall be laid before Parliament within fourteen days after the publication thereof if Parliament is then sitting; or if not, then within fourteen days after the commencement of the next session thereof.

If the Legislative Assembly passes a resolution disallowing any such Order in Council or regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such Order in Council or regulation has been laid before it, such Order in Council or regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime, and without prejudice to the power to make any further or other Order in Council or regulation.

For the purpose of this subsection, the term "sitting days" shall mean days on which the House actually sits for the despatch of business.

Administration Officers.

General
administra-
tion of Act.

4. (1.) The Director-General of Health and Medical Services shall have the general administration of this Act under the direction of the Minister.

Annual
report.

(2.) The Director-General of Health and Medical Services shall as soon as practicable at the termination of each year make a report in writing to the Minister respecting the administration of this Act, and such report shall forthwith be laid before Parliament if it be then sitting; and if not then sitting, within fourteen days after the commencement of the next session thereof.

Inquiries.

(3.) (i.) The Director-General of Health and Medical Services may make or cause to be made such inspections, investigations, and inquiries as he thinks fit in relation to any matters respecting the administration of this Act and shall make or cause to be made such inspections, investigations, and inquiries as are directed by the Minister or by this Act.

(ii.) When any inspection, investigation, or inquiry is made by the Director-General of Health and Medical Services he shall for the purposes of making such inspection, investigation, or inquiry have and may

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exercise all the powers, authorities, protection, and jurisdiction of a commission under **"The Official Inquiries Evidence Acts, 1910 to 1929,"* and may enter and inspect any building, premises, or place the entry or inspection whereof appears to him requisite for the purposes of such inspection, investigation, or inquiry.

(iii.) When any inspection, investigation, or inquiry is directed to be made by the Minister or the Director-General of Health and Medical Services, the person directed to make the same shall for the purposes of making such inspection, investigation, or inquiry have and may exercise all the powers, authorities, protection, and jurisdiction conferred upon the Director-General of Health and Medical Services by this subsection.

(iv.) Where the Minister has directed an inspection, investigation, or inquiry the Director-General of Health and Medical Services shall as soon as possible furnish a full report of such inspection, investigation, or inquiry to the Minister.

(v.) The person so directed by the Director-General of Health and Medical Services to make any inspection, investigation, or inquiry shall as soon as practicable furnish a full report of such inspection, investigation, or inquiry to the Director-General of Health and Medical Services.

(4.) The Director-General of Health and Medical Services may grant permission to any person to visit any patient in a mental hospital; and such permission may be granted subject to such conditions as the Director-General of Health and Medical Services deems necessary.

5. (1.) The Governor in Council on the recommendation of the Public Service Commissioner may for the purposes of the administration of this Act from time to time appoint a Director of Mental Hygiene, who shall be a medical practitioner and have had experience of psychiatry and mental hospital administration:

Appoint-
ment of
Director of
Mental
Hygiene.

Provided that the Governor in Council may appoint a medical practitioner to act as Director of †Medical Hygiene notwithstanding that such medical practitioner is not qualified as hereinbefore prescribed.

* 1 Geo. VI. No. 26 and amending Act, *supra*, pages 748 *et seq.*

† *Sic in Gazette; semble "Mental."*

Salary.

(2.) The Director of Mental Hygiene shall receive such salary and allowances as the Governor in Council may from time to time decide and shall not carry on, on his own behalf, or be the partner in medical practice of any person carrying on, the profession or business of a medical practitioner.

Nature of
duties.

(3.) The Director of Mental Hygiene shall, subject to the Director-General of Health and Medical Services, be charged with the administration of this Act and shall be responsible for the direction and supervision of every mental hospital, and shall exercise and perform such duties, authorities, powers, and obligations as are expressly imposed or conferred upon him by this Act.

Inspections
and
investiga-
tions.

(4.) The Director of Mental Hygiene shall from time to time visit and inspect every mental hospital and every private mental hospital with or without previous notice and at any time of day or night as he thinks fit.

He may at any time make such inspections, investigations, and inquiries as he deems necessary, and shall make such inspections, investigations, and inquiries as are directed by the Minister or the Director-General of Health and Medical Services with respect to the care, treatment, or control of mentally sick persons in any mental hospital or with respect to the management of any mental hospital, or with respect to any mentally sick person under care, treatment, or control by a licensed person as a single patient, or with respect to the care and treatment of mentally sick persons in any private mental hospital, or with respect to the management of any private mental hospital.

Director to
be a
commission
under
Official
Inquiries
Evidence
Acts.

(5.) For the purpose of making any inspection, investigation, or inquiry referred to in the last subsection, the Director of Mental Hygiene shall have and may exercise all the powers, authorities, protection, and jurisdiction of a commission under **"The Official Inquiries Evidence Acts, 1910 to 1929,"* and may enter and inspect any building, premises, or place the entry and inspection whereof appears to him requisite for the purposes of such inspection, investigation, or inquiry.

Report of
investiga-
tion.

(6.) (i.) When the Minister has directed any investigation or inquiry to be made by the Director of Mental Hygiene, the Director of Mental Hygiene shall as soon as possible furnish a full report of such investigation or inquiry to the Minister.

* 1 Geo. VI. No. 26 and amending Act, *supra*, pages 748 *et seq.*

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(ii.) When the Director-General of Health and Medical Services has directed any investigation or inquiry to be made by the Director of Mental Hygiene, the Director of Mental Hygiene shall as soon as possible furnish a full report of such investigation or inquiry to the Director-General of Health and Medical Services.

PART III.—MENTAL HOSPITALS.

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Division I.—Mental Hospitals.

Division I—
Mental
Hospitals.

6. The Governor in Council may from time to time by Order in Council establish mental hospitals for the care, treatment, and control of mentally sick persons, and may in like manner abolish any mental hospital.

Establish-
ment of
mental
hospitals.

The premises of the institutions established under the repealed Acts, known as the Goodna Mental Hospital, Ipswich Mental Hospital, Willowburn Mental Hospital, and Townsville Reception House shall be mental hospitals for the care, treatment, and control of mentally sick persons under this Act under the following names, respectively, namely :—

Certain
existing
institutions
to be
mental
hospitals.

The Brisbane Mental Hospital ;

The Ipswich Mental Hospital ;

The Toowoomba Mental Hospital ;

The Townsville Mental Hospital.

Private Accommodation.

7. (1.) Private accommodation for the care, treatment, and control of mentally sick persons may be provided at any mental hospital. All the provisions of this Act shall apply to such private accommodation, which shall be deemed to be a part of the mental hospital, and all persons admitted thereto shall be subject to the provisions of this Act respecting the care, treatment, and control of mentally sick persons in mental hospitals.

Private
accommoda-
tion.

(2.) The Director of Mental Hygiene and the medical superintendent of the mental hospital in which private accommodation has been provided shall with respect thereto exercise and perform the duties, authorities, obligations, and powers imposed or conferred upon them by this Act.

Powers of
Director
of Mental
Hygiene.

(3.) (i.) Any person admitted to the private accommodation in any mental hospital may be visited by his private medical practitioner, who may consult

Admissions.

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with the superintendent of such mental hospital concerning the care, treatment, and control of such person.

(ii.) Any such person may, with the consent of the superintendent, which consent may, with the approval of the Director of Mental Hygiene, be withdrawn at any time, be nursed by his private nurse or nurses at his own expense, provided that such nurse or nurses hold the mental nursing certificate or have had a training or experience which would, in the opinion of the superintendent, qualify such nurse or nurses to nurse a mentally sick person.

(iii.) Such private nurse or nurses shall be subject to the control and direction of the superintendent, and shall conform thereto and to the provisions of this Act.

Officers.

Appoint-
ment of
medical
superin-
tendent.

8. (1.) The Governor in Council may for each mental hospital appoint a medical superintendent and, if he deems it necessary, may appoint a deputy medical superintendent. No person shall be so appointed unless he is a medical practitioner :

Provided that the Governor in Council may, in the case of a mental hospital which is established primarily for the temporary reception of mentally sick persons, appoint a visiting medical officer and a superintendent, who need not be a medical practitioner.

Appoint-
ment of
medical
officers.

(2.) The Governor in Council may for any mental hospital appoint such medical officers and officers as he deems necessary.

Appoint-
ment of
nurses and
other
employees.

(3.) The Minister may appoint such number of nurses and other employees as may from time to time be approved.

Duties and
respon-
sibilities of
medical
superin-
tendent.

(4.) The medical superintendent of every mental hospital or, except as is otherwise provided by this Act, the superintendent of every mental hospital, shall, subject to the Director of Mental Hygiene, have the control and management thereof and be responsible for the care, treatment, and control of the mentally sick persons therein, and shall exercise and perform the duties, authorities, obligations, and powers expressly imposed or conferred upon him by this Act :

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Provided that in the case of a superintendent who is not a medical practitioner the duties, authorities, obligations, and powers respecting the treatment of patients shall, subject to the Director of Mental Hygiene, be exercised and performed by the visiting medical officer.

Records.

9. The superintendent of every mental hospital shall keep or cause to be kept such registers, books, and records as may be prescribed and shall enter or cause to be entered in such registers, books, and records such particulars as are prescribed and at the times and in the manner prescribed: Records.

Provided that when the entries to be made in any register, book, or record refer to the mental or bodily condition of a patient the medical officer for the time being in charge of such patient shall be responsible for the due making of such entries.

Production of Records.

10. (1.) The superintendent of every mental hospital shall produce to the official visitor or official visitors— Production
of records.

- (a) A list of all the patients then in the mental hospital, distinguishing males from females, and patients as voluntary, temporary, or certified, and specifying such as are deemed curable;
- (b) The several registers, books, and records prescribed by this Act to be kept;
- (c) Such orders and other documents relating to such of the patients as the official visitor or visitors requires or require to be produced to him or them; and
- (d) All letters written by patients which, pursuant to section twelve of this Act have not been forwarded.

(2.) He shall give full and true answers to the best of his knowledge to all questions asked by the official visitor or visitors with reference to any patient or patients in the mental hospital.

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Superin-
tendent to
give to
Director of
Mental
Hygiene a
statement
showing
under which
section of
this Act the
patient was
admitted.

Notices of
discharge,
transfer, &c.

Notice as to
death and
cause of
death of
patient to be
sent to
Director of
Mental
Hygiene.

Notice to
relatives,
&c., and
Public
Curator.

Letters
written by
patients to
Minister of
Crown, &c.,
to be
forwarded
unopened.

Notices.

11. (1.) Within forty-eight hours after the reception of a patient into a mental hospital the superintendent shall in the prescribed form send to the Director of Mental Hygiene a notice of the reception together with a statement showing under which section of this Act the patient was received.

(2.) Within seven days after the reception of a patient the superintendent shall in the prescribed form signed by the medical officer for the time being in charge of such patient send to the Director of Mental Hygiene a statement as to the mental and bodily condition of the patient.

(3.) Within twenty-four hours after the discharge, transfer, absence on leave, cancellation of leave, return from leave, escape, or return from escape of any patient, the superintendent shall in the prescribed form send a written notice thereof to the Director of Mental Hygiene.

(4.) (i.) In case of the death of any patient in a mental hospital the superintendent shall (in addition to any notice respecting the death required by any law in force relating to the registration of deaths) in the prescribed form send to the Director of Mental Hygiene, within twenty-four hours after the death, a notice signed by the medical officer for the time being in charge of such patient of the death and apparent cause of death and the names of all persons present at the death.

(ii.) The superintendent shall forthwith send to the nearest known relative or friend notice of the death of any patient.

(iii.) Should the death of any patient be caused by accident, suicide, or homicide, or where the cause of death is unknown, the superintendent shall forthwith notify the coroner.

(iv.) The superintendent shall, within twenty-four hours of the death of any patient, notify the Public Curator in the prescribed form.

12. (1.) The superintendent or licensed person shall immediately send or cause to be sent unopened every letter written by a patient in any mental hospital or by a single patient and addressed to any Minister of the Crown, judge of the Supreme Court, or to the Director-General of Health and Medical Services, or to the Director of Mental Hygiene, or to an official visitor.

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Hospitals.*Superin-
tendent may
detain
certain
letters and
submit to
officer or
official
visitor.

(2.) The superintendent shall send or cause to be sent to the person to whom it is addressed every letter written by a patient unless he prohibits the forwarding of such letter by a memorandum to that effect under his hand on the letter, in which case he shall lay the letter before the official visitor or official visitors next thereafter visiting the mental hospital, or he may before such visit forward the letter by post to an official visitor, and in either case the official visitor shall deal with and dispose of the letter as he thinks fit.

(3.) Any officer or servant employed in any mental hospital who is requested by a patient to forward any letter, or who has in his possession any letter written by a patient, shall immediately deliver the same unopened to the superintendent of such mental hospital.

Official Visitors.

13. The Governor in Council may for every mental hospital appoint two or more official visitors, one at least of whom shall be a medical practitioner, and the other or others barristers-at-law, solicitors, or police magistrates or persons who have at any time been qualified to hold appointments as police magistrates.

The official visitors or one of them shall visit the mental hospital to which they are appointed once at least in every month, and shall make special visits concerning the administration of this Act or particular matters concerning such administration at such times as the Minister or the Director-General of Health and Medical Services may direct. Such visits may be made without previous notice and at such hours of the day or night as the official visitor or official visitors making same thinks or think fit, or as may be directed by the Minister or the Director-General of Health and Medical Services.

A report shall be transmitted to the Director of Mental Hygiene immediately after each visit by the official visitor or visitors who made such visit and such report may deal with any matter concerning the administration of this Act.

When the Minister directs the official visitors or one or more of them to make a visit to any mental hospital, the report shall be made direct to the Minister

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Hospitals.*

immediately after such visit, and such report shall deal with the matter or matters specified in the direction of the Minister.

Where the Director-General of Health and Medical Services directs the official visitors or one or more of them to make a visit to any mental hospital, the report shall be made direct to the Director-General of Health and Medical Services immediately after such visit, and such report shall deal with the matter or matters specified in the direction of the Director-General of Health and Medical Services.

An official visitor may be appointed for two or more mental hospitals.

The official visitor or visitors shall examine and sign all registers, books, and records required to be laid before him or them in terms of this Act.

The official visitor or visitors shall on every visit enter in the official visitors' book the fact of his or their visit, with such observations as he or they thinks or think fit.

Powers of
official
visitors.

14. (1.) The official visitor or visitors visiting any mental hospital may require the superintendent to show him or them every part of such mental hospital and every patient therein.

Power of
officer and
official
visitors to
summon
witnesses.

(2.) The official visitor or visitors visiting any mental hospital may require by summons in the prescribed form any person to appear before him or them to testify on oath the truth touching any of the matters respecting which such official visitor or visitors is or are by this Act authorised to inquire.

Penalty.

And every person who, having had his reasonable expenses paid or tendered to him at the time of service of such summons, does not appear pursuant to such summons, or does not assign some reasonable excuse for not so appearing, or who appears after tender of such reasonable expenses and refuses to be sworn or examined, shall for every such failure to appear or refusal be liable to a penalty not exceeding ten pounds.

Also to
examine
persons not
summoned.

And such official visitor or visitors may also examine on oath any person appearing as a witness or present at the time of any such inquiry touching any of the matters aforesaid, although no such summons as aforesaid has been served upon him.

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*Mental Hygiene Act.*PART III.—
MENTAL
HOSPITALS.*Division II.—Provision for the Care and Treatment
of Mentally Sick Persons in a Hospital.**Division II.—
Provision for
the Care and
Treatment of
Mentally Sick
Persons in a
Hospital.*

15. (1.) (i.) The Governor in Council may from time to time by Order in Council establish at any hospital in association with and as part of such hospital a place for the care and treatment of mentally sick persons or persons suspected to be mentally sick.

*Care and
treatment
of mentally
sick persons
at hospitals.*

(ii.) The medical superintendent or medical officer of such hospital may receive any mentally sick person into any such place in such hospital at the request of any such person, or if such person is incapable of expressing himself as willing or unwilling to receive treatment, then at the request of the husband or wife, father or mother, son or daughter, brother or sister, or a relation of the person to whom such request relates, and may, if satisfied that any such person is cured of mental sickness, or sufficiently cured to enable such person to be discharged, discharge such person :

Provided that no person under the age of eighteen years shall be so admitted, but such person may be admitted on the application of a parent or guardian.

(iii.) Such place shall be subject to inspection by the Director of Mental Hygiene, who may exercise in that behalf all the powers conferred on him by subsections four, five, and six of section five of this Act.

(2.) The Governor in Council may from time to time by Order in Council establish at any hospital in association with and as part of such hospital a mental hospital or a part of any hospital to be a mental hospital for the purposes of this Act or such of the purposes of this Act as may be prescribed by the Order in Council, and this Act shall apply and extend to such mental hospital if established for the purposes of this Act, and if such mental hospital is established for certain purposes of this Act only, then such of the provisions of this Act as are prescribed by the Order in Council establishing same shall apply and extend thereto.

*Establish-
ment of part
of hospital
as mental
hospital.*

(3.) The medical superintendent or medical officer of any hospital may by certificate under his hand remove any person (being a patient in such hospital) suspected by him to be mentally sick from any general ward in such hospital to any part of such hospital established under either subsection one or subsection two of this section.

*Removal of
suspected
patients.*

PART III.—
MENTAL
HOSPITALS.*Mental Hygiene Act.*

2 GEO. VI. No. 21,

Division II.—
Provision for
the Care and
Treatment of
Mentally Sick
Persons in a
Hospital.Notice to
Director-
General of
Health and
Medical
Services.Immunity
of medical
superinten-
dent, &c.

(4.) The medical superintendent or the medical officer of a hospital shall, within forty-eight hours after he has removed or received any person into a mental hospital associated with or forming part of such hospital or into a place established at and in association with and as part of such hospital for the care and treatment of mentally sick persons, give the prescribed notice to the Director-General of Health and Medical Services of such removal or reception.

(5.) The medical superintendent or medical officer of any such hospital, or the committee or member thereof, or the Board or member thereof, or any medical officer, officer, secretary, nurse, employee, or servant thereof is indemnified against all actions, claims, suits, indictments, or other proceedings for any act, matter, or thing done or purporting to be done in accordance with this section.

Division III.—
Private
Mental
Hospitals.License for
private
mental
hospitals.When
medical
practitioner
to be
appointed.Visitation
of
medical
practitioner.*Division III.—Private Mental Hospitals.*

16. (1.) A private mental hospital licensed under **"The Health Act of 1937"* shall be deemed to be a private mental hospital under this Act.

(2.) (i.) Every private mental hospital licensed for twenty or more beds shall have at all times a medical practitioner resident therein.

(ii.) Every private mental hospital licensed for less than twenty beds shall be visited twice a week at least by a medical practitioner.

(iii.) The appointment of every medical practitioner appointed for the purposes of this section shall be approved by the Director-General of Health and Medical Services.

Notice to
Director-
General of
Health and
Medical
Services.

(3.) The licensee of any private mental hospital shall, within forty-eight hours after the admission thereto of any person as a patient, give the prescribed notice of such admission to the Director-General of Health and Medical Services.

Inspection
by Director
of Mental
Hygiene.

(4.) In addition to any powers of inspection prescribed under **"The Health Act of 1937,"* every private mental hospital shall be subject to inspection by the Director of Mental Hygiene, who may exercise in that behalf all the powers conferred on him by subsections four, five, and six of section five of this Act.

* 1 Geo. VI. No. 31, *supra*, page 16597.

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*Mental Hygiene Act.*PART III.—
MENTAL
HOSPITALS.*Division IV.—Licenses for the Care, Treatment, or Control of a Single Patient.**Division IV.—
Licenses for
the Care,
Treatment, or
Control of a
Single Patient.*

17. (1.) The Director-General of Health and Medical Services may at his absolute discretion and upon such terms and conditions as he thinks fit, grant to any person a license for the care, treatment, or control of the mentally sick person named in such license as a single patient.

Licenses for reception of single patient.

Such license shall prescribe that the person named therein as a single patient shall be regularly visited by a medical practitioner, who shall be required to forward such certificates at such intervals as to the mental and bodily condition of the patient as the Director-General of Health and Medical Services deems necessary.

(2.) The Director-General of Health and Medical Services may at any time in his absolute discretion revoke such license, and in such case shall take such steps under this Act as he deems fit for the care, treatment, or control of the patient named therein.

(3.) The person who is licensed under this section to care for, treat, or control a patient shall send the same notices and statements of absence on leave, cancellation of leave, return from leave, death, escape, and return after escape as are in this Act required to be sent by a superintendent.

*Division V.—Provision as to the Detention of Mentally Sick Persons Otherwise than in Accordance with this Act.**Division V.—
Provision as to
the Detention of
Mentally Sick
Persons
Otherwise than
in Accordance
with this Act.*

18. (1.) If the occupier or inmate of any premises keeps or detains a mentally sick person therein, although he is a relative of such occupier or inmate, beyond the period of a year after the mental sickness has become apparent and confirmed and such mentally sick person during any part of such period has required coercion or restraint, such occupier or inmate shall notify such keeping or detention to the Director-General of Health and Medical Services, and if it is desired by such occupier or inmate that such person should remain under private care, a statement of the reasons why such person should be permitted to continue to remain under same.

Duty of occupier to notify detention of mentally sick person.

(2.) If a medical practitioner is attending such mentally sick person he shall also notify such keeping or detention to the Director-General of Health and

PART III.—
MENTAL
HOSPITALS.

Mental Hygiene Act.

2 GEO. VI. No. 21,

*Division V.—
Provision as to
the Detention of
Mentally Sick
Persons
Otherwise than
in Accordance
with this Act.*

Medical Services, and shall at the same time forward a written certificate to the Director-General of Health and Medical Services setting forth the condition of the person so kept or detained.

(3.) The Director-General of Health and Medical Services may thereupon make or cause to be made such inquiry in the matter as he deems necessary, and may cause the person so kept or detained to be examined by two medical practitioners, neither of whom shall with respect to such person be under any of the disabilities prescribed by section twenty-two of this Act.

Removal
after
inquiry.

(4.) If both such medical practitioners make and sign with respect to the person so detained a medical certificate in the form and containing the particulars prescribed by section twenty-one of this Act, and if upon such inquiry it appears that the circumstances are such as to render the removal of such person to a mental hospital necessary or expedient, the Director-General of Health and Medical Services may order the removal of such person accordingly, and the order of the Director-General of Health and Medical Services under his hand shall be sufficient authority to the superintendent to receive such mentally sick person accordingly.

(5.) No person shall receive to board or lodge in any house or premises, or take the care, treatment, or control of any mentally sick person except for the purpose of the temporary custody of such person during his removal for care, treatment, or control under this Act:

Provided this subsection shall not apply to any person who has not undertaken the care, treatment, or control of any such person for reward or remuneration or to a committee or person appointed by the court or otherwise authorised by this Act, or to the licensee of a private mental hospital.

PART IV.—
MENTAL
HOSPITALS
FOR CRIMINAL
MENTALLY
SICK
PERSONS.

PART IV.—MENTAL HOSPITALS FOR CRIMINAL MENTALLY SICK PERSONS.

Mental
hospitals
for criminal
mentally
sick persons.

19. (1.) The Governor in Council may from time to time by Order in Council establish a mental hospital for the care, treatment, and control of criminal mentally sick persons at any prison or other place, and may by

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Mental Hygiene Act.

PART IV.—
MENTAL
HOSPITALS
FOR CRIMINAL
MENTALLY
SICK PERSONS.

the same Order in Council or in any further or other Order in Council or Orders in Council prescribe such conditions as are deemed necessary for the care, treatment, and control of criminal mentally sick persons in such mental hospital. Such mental hospital shall be deemed to be a mental hospital under this Act.

(2.) When a mental hospital for the care, treatment, and control of criminal mentally sick persons has been established in accordance with this section, then any person committed to a mental hospital in terms of Part VII. of this Act, shall be committed to a mental hospital established under this section.

(3.) Where a mentally sick person has been received into a mental hospital as a certified patient under Part VI. of this Act, and such person has had a criminal record, and in the opinion of the Director of Mental Hygiene should be under care, treatment, and control in a mental hospital established under this section, the Director of Mental Hygiene may transfer such person accordingly, and may at any time transfer such person back to any other mental hospital.

PART V.—PROVISIONS RELATING TO THE MAKING AND AMENDING OF MEDICAL CERTIFICATES.

PART V.—
PROVISIONS
RELATING
TO THE
MAKING AND
AMENDING OF
MEDICAL
CERTIFICATES.

Medical Certificates.

20. Every medical certificate made and signed for the purposes of this Act shall for all purposes be evidence of the facts therein stated as 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.

Medical
certificate
to be
evidence of
certain
facts.

21. (1.) The following rules shall be observed in making and signing medical certificates for the purposes of this Act, certifying that the persons named in the certificates are mentally sick, that is to say:—

Particulars
to be
contained
in medical
certificate
certifying
persons
mentally
sick.

(i.) The certificate shall be in the prescribed form ;

(ii.) The medical practitioner making and signing the certificate shall state his qualifications in the certificate ;

- (iii.) In addition to the facts indicating mental sickness observed by him, the medical practitioner shall, so far as he is able, state in the certificate—
- (a) Any further facts indicating mental sickness observed by him on any other occasion, and the date of that occasion,
 - (b) Any facts indicating mental sickness communicated to him by others, and the names and addresses of the persons who communicated those facts,
 - (c) What in his opinion are the factors which caused the mental sickness,
 - (d) Whether in his opinion the person alleged to be mentally sick is suicidal or dangerous,
 - (e) What treatment (if any) has been employed in respect of the mental sickness of such person,
 - (f) What is the bodily health and condition of the person alleged to be mentally sick, with special reference to the presence or absence of communicable disease and recent injury ;
- (iv.) The certificate shall state the day or the last day on which the person to whom the certificate relates was examined ;
- (v.) Except as otherwise provided, the certificate shall cease to have effect on the expiration of fourteen days from the day of the last joint or separate examination ;
- (vi.) Where two certificates are required—
- (a) The examination by the two medical practitioners may be made jointly or separately, and where the examination has been made jointly one certificate may be made and signed jointly, or separate certificates may be made and signed,
 - (b) If separate certificates are made and signed the grounds shall be stated separately.
- (2.) Every certificate shall contain a statement that the certifying medical practitioner is not prohibited by this Act from making and signing such certificate.
- (3.) No certificate shall be sufficient for the purposes of this Act if it purports to be founded only upon facts communicated by others.

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PART V.—
PROVISIONS
RELATING
TO THE
MAKING AND
AMENDING OF
MEDICAL
CERTIFICATES.
Who may
not sign
certificate.

22. (1.) A medical certificate made and signed for the purposes of this Act shall not be made and signed by any of the following persons:—

- (a) The person signing the request or application, or laying any information;
- (b) The superintendent or a medical officer of any mental hospital;
- (c) The person licensed to care for, treat, or control a single patient;
- (d) The husband or wife, the father, father-in-law, stepfather or stepfather-in-law, mother, stepmother, mother-in-law or stepmother-in-law, son, stepson, son-in-law or stepson-in-law, daughter, stepdaughter, daughter-in-law or stepdaughter-in-law, brother, stepbrother, brother-in-law or stepbrother-in-law, sister, stepsister, sister-in-law or stepsister-in-law, or the partner, principal, or assistant of any of the persons mentioned in paragraphs (a), (b), or (c) of this subsection, or of the person alleged to be mentally sick or the guardian or trustee of that person;
- (e) An official visitor under this Act;
- (f) Any person by whom the reception order is made.

(2.) Neither of the persons signing any such medical certificate shall be the father, stepfather, father-in-law or stepfather-in-law, mother, stepmother, mother-in-law or stepmother-in-law, son, stepson, son-in-law or stepson-in-law, daughter, stepdaughter, daughter-in-law or stepdaughter-in-law, brother, stepbrother, brother-in-law or stepbrother-in-law, sister, stepsister, sister-in-law or stepsister-in-law, husband or wife, or the partner, principal, or assistant of the other of them.

Amendment of Medical Certificates.

23. (1.) If a medical certificate is found to be in any respect incorrect or deficient it may, with the consent of the police magistrate who made the reception order, be amended by the medical practitioner who made and signed the certificate.

Medical
practitioner
may, with
consent,
amend
certificate.

PART V.—
PROVISIONS
RELATING
TO THE
MAKING AND
AMENDING OF
MEDICAL
CERTIFICATES.
Director of
Mental
Hygiene
may require
amendment
of
certificates.

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(2.) If the Director of Mental Hygiene deems any medical certificate to be in any respect incorrect or deficient, he may at any time require the same to be amended by the medical practitioner who made and signed the same; and in the case of a person admitted to a mental hospital by a reception order if the medical certificate is not amended to his satisfaction he may direct that a fresh inquiry be made by a police magistrate under section thirty-six of this Act, or he may if he thinks fit order the discharge of the person to whom the reception order relates.

(3.) Every medical certificate amended under this section shall take effect as if the amendment had been contained therein when it was signed.

(4.) If the Director of Mental Hygiene directs that a fresh inquiry be made, the police magistrate shall accept such direction in lieu of an application under section thirty-four of this Act.

PART VI.—
PATIENTS.

Division I.—
Power of
Superin-
tendent of
Mental
Hospital to
Receive
Mentally Sick
Persons
Notwithstanding
any
Incorrectness or
Deficiency in
any Medical
Certificate or
Document.
When
reception
into mental
hospital
prohibited.

PART VI.—PATIENTS.

Division I.—Power of Superintendent of Mental Hospital to Receive Mentally Sick Persons Notwithstanding any Incorrectness or Deficiency in any Medical Certificate or Document.

24. No person shall be received into a mental hospital except as provided in this Act:

Provided that the superintendent may receive any such person into the mental hospital, notwithstanding that any medical certificate or document is found to be in any respect incorrect or deficient, if he is satisfied that such medical certificate or document substantially complies with this Act and that such person should be received into the mental hospital for care, treatment, or control:

Provided further, that the superintendent shall take immediate steps to have such medical certificate or document amended to comply with this Act.

Division II.—
Voluntary
Patients.
Voluntary
patient.

Division II.—Voluntary Patients.

25. (1.) Any person who is desirous of voluntarily submitting himself for care and treatment for mental sickness may, by application in the form prescribed, apply to the medical superintendent of any mental

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PATIENTS.Division II.—
Voluntary
Patients.

hospital for reception as a voluntary patient to such mental hospital for care and treatment. Every such application shall be supported by a medical certificate in the prescribed form.

(2.) No person under the age of eighteen years shall be received as a voluntary patient on his own application, but a parent or guardian of such person may make the application on his behalf. Every such application shall be supported by a medical certificate in the prescribed form.

Persons
under age
of eighteen
years.

(3.) The medical certificate referred to in either of the last two subsections shall state that the person to whom it relates is likely to be benefited by being received into a mental hospital as a voluntary patient for care and treatment for mental sickness.

Medical
certificate.

(4.) Any person received as a voluntary patient under this section may leave the mental hospital upon giving to the superintendent seventy-two hours' notice in writing of his intention so to do, or if he is a person under the age of eighteen years upon such notice being given by a parent or guardian.

Notice of
intention to
leave.

26. (1.) If any person received into a mental hospital as a voluntary patient becomes, in the opinion of the medical superintendent, at any time incapable of expressing himself as willing or unwilling to continue to receive treatment he shall not thereafter be retained as a voluntary patient for a longer period than twenty-eight days and shall, if he has not previously been discharged, be discharged on the expiration of twenty-eight days from the date on which, in the opinion of the medical superintendent, he became incapable of so expressing himself, unless in the meantime, in the opinion of the medical superintendent, he has again become capable of so expressing himself or steps have been taken to deal with him as a temporary patient or a certified patient under this Act.

When
person not
to be
retained as
voluntary
patient.

(2.) If a person who is under the age of eighteen years and who has been received as aforesaid ceases to have any parent or guardian or if his parent or guardian is incapable of performing, or refuses or persistently neglects to perform, his duty as such, the medical superintendent shall report to the Director of Mental Hygiene the circumstances of the case and the condition of the patient.

Neglect of
guardian.

PART VI.—
PATIENTS.*Mental Hygiene Act.*

2 GEO. VI. No. 21,

*Division II.—
Voluntary
Patients.*Powers of
Director
of Mental
Hygiene.

27. The Director of Mental Hygiene may, with regard to any person received into a mental hospital as a voluntary patient—

- (i.) Allow leave of absence from a mental hospital ;
- (ii.) Order the discharge of any such patient from a mental hospital ;
- (iii.) Cause action to be taken to have such patient admitted as a temporary patient under this Act ; or
- (iv.) Cause action to be taken to have such person certified under this Act :

Provided that the medical superintendent of a mental hospital may, with regard to any such person, allow leave of absence from a mental hospital.

Private
medical
attendance
on patient.

28. Any person received into a mental hospital as a voluntary patient may be visited at any time by his private medical practitioner who may consult with the medical superintendent of such mental hospital concerning the care and treatment of such patient.

*Division III.—
Temporary
Patients.*Temporary
patients.*Division III.—Temporary Patients.*

29. (1.) Subject to the provisions of this section, any person likely to benefit by temporary treatment but who is for the time being incapable of expressing himself as willing or unwilling to receive treatment may, on application to the medical superintendent in the prescribed form by the husband or wife, father or mother, son or daughter, brother or sister, or a relation or a step-relation of the person to whom such application relates, be received into a mental hospital as a temporary patient for care, treatment, or control without a request or reception order as hereinafter provided.

To be
accom-
panied by
certificate.

(2.) The application shall be accompanied by two medical certificates as prescribed, one, if practicable, made and signed by the usual medical attendant of the person to whom the application relates.

Application.

(3.) An application under this section may be made by some person other than the persons specified in subsection one of this section only if there are no such persons or if there are special circumstances which would prevent any such person from making the application. Such person shall state in the application the reasons for his making the application.

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PATIENTS.*Division III.—
Temporary
Patients.*Period for
temporary
patient.

30. The period during which any person may remain in a mental hospital as a temporary patient shall not exceed six months. Such period may from time to time be extended by the Director of Mental Hygiene by periods no one of which shall exceed three months but so that the aggregate period shall not exceed twelve months.

31. Any person received into a mental hospital as a temporary patient who has, in the opinion of the medical superintendent, become capable of expressing himself as willing or unwilling to receive treatment, shall within twenty-eight days after such person has so expressed himself be discharged from such mental hospital unless in the meantime, in the opinion of the medical superintendent, he has again become incapable of so expressing himself, or he makes an application to be admitted as a voluntary patient under this Act.

When
temporary
patient
may be
discharged.

32. The Director of Mental Hygiene may, with regard to any person received into a mental hospital as a temporary patient—

Further
powers of
Director
of Mental
Hygiene.

- (i.) Allow leave of absence ;
- (ii.) Order his discharge ; or
- (iii.) Cause action to be taken to have such person certified under this Act :

Provided that the medical superintendent may allow leave of absence.

*Division IV.—Certified Patients.**Division IV.—
Certified
Patients.**Private Request.*

33. (1.) Any person not under the age of twenty-one years may make a private request for the reception of any mentally sick person into a mental hospital for the care, treatment, and control of such person. Such private request shall be in the prescribed form and shall—

Private
request for
reception.

- (i.) Be authenticated by the signature of a justice or a minister of religion registered to celebrate marriages ;
- (ii.) Contain the particulars specified in the prescribed form ;
- (iii.) Be supported by two medical certificates as prescribed by section twenty-one of this Act.

(2.) No such request for the reception of any person into a mental hospital shall remain in force as an authority for such reception longer than fourteen days from the date of the medical certificate bearing the earlier date.

(3.) On the authority of a request which complies with this section, the superintendent shall receive the person to whom such request relates.

Reception Orders.

Application
for
reception
order.

34. (1.) An application for a reception order may be made to a police magistrate by any person not under the age of twenty-one years (hereinafter referred to as “the applicant”) who has personally seen the person to whom the application relates within the three days preceding the day on which the application was signed.

(2.) The application shall be in the prescribed form and shall state the grounds on which the application is made and contain the particulars therein prescribed to be furnished by the applicant.

(3.) The application may be accompanied by a medical certificate as prescribed by section twenty-one of this Act bearing a date not earlier than three days before the day on which the application was signed.

(4.) The application shall be presented to the police magistrate on the day it is signed or within seven days following that day.

(5.) All statements contained in the application shall, if required by the police magistrate, be verified by the statutory declaration of the applicant or of some other person.

Justices may
act for police
magistrate
in certain
cases.

35. (1.) Any power conferred by this Act on a police magistrate to make a reception order, or to do any other thing preliminary or incidental to the making or execution of a reception order, may be exercised by any two justices of the peace if at the time at which that power is so exercised there is no police magistrate within ten miles of the place where it is so exercised who is able to exercise the same.

(2.) A statement or recital in any reception order made by two justices of the peace that to the best of their knowledge and belief there is at the time of the making of the order no police magistrate within ten miles

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PATIENTS.Division IV.—
Certified
Patients.

of the place where it is made who is able to make it, or any statement or recital in the order to the same effect, shall be conclusive proof of the jurisdiction of the said justices so far as the requirements of this section are concerned.

(3.) With respect to the exercise by justices of the powers conferred by this section, all references in this Act to a police magistrate shall extend and apply to two justices.

(4.) Any proceedings commenced before two justices in accordance with this section may be continued and completed before a police magistrate.

36. (1.) The police magistrate may examine the person to whom the application relates at his abode or elsewhere, and shall call to his assistance two medical practitioners who shall examine the person to whom the application relates. Examination by police magistrate.

(2.) Unless in the opinion of the police magistrate there is sufficient reason to the contrary, one of the medical practitioners called to his assistance shall be the usual medical attendant of the said person.

(3.) If after such examination the medical practitioners are of opinion that the said person is mentally sick and should be received into a mental hospital for care, treatment, or control, they shall sign and deliver to the police magistrate a medical certificate as prescribed by section twenty-one of this Act to that effect.

(4.) Notwithstanding anything in this section, the police magistrate may if he thinks fit accept the medical certificate (if any) accompanying the application as if the medical practitioner signing the same had been duly called to his assistance under this section; and every certificate so accepted shall for the purposes of this Act be deemed to have been given under this section on the date on which it was so accepted.

(5.) The police magistrate may also summon as witnesses such persons as he thinks fit to give evidence concerning the mental sickness of the said person to whom the application relates.

(6.) If on such certificates being given, and after hearing such other evidence (if any) as the police magistrate thinks fit, the police magistrate is satisfied that

the said person is mentally sick and requires care, treatment, or control in a mental hospital he may make a reception order in the prescribed form authorising the person to whom the application relates to be received into a mental hospital to be named in the said reception order for his care, treatment, or control.

(7.) (i.) Subject to this section, a police magistrate may make a reception order authorising any mentally sick person to be placed in the care, treatment, or control of a person licensed to care for, treat, or control such mentally sick person as a single patient under this Act.

(ii.) No such reception order shall be made unless the medical practitioners signing the medical certificates certify that it would be safe and convenient for such person to be placed in the care, treatment, or control of such licensed person.

(8.) No such reception order shall be made after the expiration of fourteen days from the date of the said medical certificates, or where they do not bear the same date then after the expiration of fourteen days from the date of the certificate bearing the earlier date.

(9.) Subject to the provisions of the last preceding subsection, the police magistrate may adjourn the hearing and determination of any application for a reception order from time to time and for such periods as he thinks fit, and may make an order for the care, treatment, or control of the person to whom the application relates in a mental hospital, hospital, or other suitable place pending the determination of the application.

Authority
of reception
order.

37. (1.) Every reception order shall be a sufficient authority to the person therein named to take the person so found to be mentally sick and to deliver him forthwith to the superintendent of the mental hospital named in the reception order, or to the person licensed to care for, treat, or control such person as a single patient, and the said superintendent or person shall receive him in such mental hospital or into his care, treatment, or control accordingly :

Provided that no such person shall be so received into such mental hospital, or into the care, treatment, or control of a person licensed to care for, treat, or control such person as a single patient unless the reception

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PATIENTS.Division IV.—
Certified
Patients.

order, the medical certificates as prescribed, and a copy of the application are at the same time or have already been delivered to the superintendent of such mental hospital or to such licensed person.

(2.) Subject to the next succeeding subsection, a reception order shall cease to be of any force unless the person therein authorised to be received into any mental hospital or into the care, treatment, or control of a licensed person as a single patient is received accordingly within fourteen days of the date of the reception order.

(3.)—

- (i.) When either of the medical practitioners giving a certificate under section thirty-six has certified in writing to the police magistrate, either before or after the making of the order, that the person in respect of whom the certificate is given is not in a fit state to be removed, the police magistrate may, by writing endorsed on the order, suspend the removal of that person and make such order as he thinks fit for the temporary care, treatment, or control of that person ;
- (ii.) The removal of that person shall thereupon be suspended until the same or some other police magistrate, on being satisfied by the certificate of a medical practitioner that such person is in a fit state to be removed and is still mentally sick, authorises by endorsement on the reception order the removal of that person to the mental hospital named therein or to the care, treatment, or control of the licensed person named therein ;
- (iii.) Unless that person is received into the said mental hospital or into the care, treatment, or control of the said licensed person within fourteen days of the date on which his removal was so authorised, the reception order shall thereupon cease to be of any force or effect.

38. (1.) There shall be payable to medical practitioners out of the Consolidated Revenue Fund in respect of any certificates given by them on the direction of a police magistrate or accepted by a police magistrate ^{Fees payable on account of medical certificate.}

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PATIENTS.

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Certified
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under subsection four of section thirty-six or subsection four of section thirty-nine of this Act, or as are called to examine any person by the member of the Police Force in charge of a watch-house, lock-up, or other place of detention under section forty-one of this Act, such fees as the police magistrate directs in accordance with any scale from time to time prescribed.

(2.) On any application for a reception order the police magistrate hearing the application may, having regard to the circumstances of the case, make an order for the payment to the clerk of petty sessions, by some person liable for the maintenance of the person with respect to whom the application is made, of a sum sufficient to pay the fees payable to medical practitioners in accordance with the said scale and the cost of taking the mentally sick person to the mental hospital and any such order may be enforced in the same manner as an order for the payment of money under **"The Justices Acts 1886 to 1932."*

(3.) All moneys paid to the said clerk in accordance with such order shall be paid by him into the public account to the credit of the Consolidated Revenue Fund.

(4.) When a reception order has been made in respect of any mentally sick person all fees paid under this section out of the Consolidated Revenue Fund to medical practitioners shall be deemed to form part of the cost of his maintenance in a mental hospital, and shall be recoverable accordingly.

Procedure in Emergency.

Procedure
in cases of
emergency.

39. (1.) Where it is expedient in the interest of the person alleged to be mentally sick or in the public interest that such person should be placed under care, treatment, or control before an application for a reception order can be made, any person may make a request in the prescribed form to the superintendent of any mental hospital named in the request that the person so alleged to be mentally sick be received into that mental hospital.

Such request shall contain the same statements as are required by section thirty-four of this Act.

(2.) On receiving the request, accompanied by a medical certificate endorsed with a statement that the

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

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matter is one of emergency, the superintendent shall receive the person to whom the request relates for care, treatment, or control:

Provided that no person shall be received into a mental hospital under this section after the expiration of seven days from the date of the request or the medical certificate, whichever date is the earlier.

(3.) Within twenty-four hours after the reception of the person to whom the request relates the superintendent shall forward to a police magistrate copies (certified by the superintendent) of the request and the medical certificate, and the police magistrate shall thereupon as soon as practicable make inquiry and proceed as if the request were an application for a reception order under section thirty-four of this Act.

(4.) The police magistrate may if he thinks fit accept the medical certificate accompanying the request as if the medical practitioner signing the certificate had been called to his assistance in accordance with the provisions of section thirty-six of this Act, notwithstanding the fact that the said certificate may be dated more than fourteen days before the making of the reception order by the police magistrate, and every certificate so accepted shall for the purposes of this section be deemed to have been given under section thirty-six of this Act.

(5.) If the police magistrate refuses to make a reception order he shall forthwith give notice of his refusal to the superintendent, who shall forthwith discharge the person to whom the request relates.

Duty of Members of Police Force in Certain Cases.

40. (1.) Any member of the Police Force who has reasonable cause to believe that any person is mentally sick, and—

Duty of
police in
respect of
mentally
sick persons.

- (a) Is neglected or cruelly treated by any person having the care or charge of him; or
- (b) Is not under proper care, treatment, or control,

shall forthwith make or cause to be made to a police magistrate an application for a reception order in respect of such person, and may if he deems it necessary for the good of any such person or in the public interest remove any such person to any hospital or other suitable place.

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Patients.*

Constable to
apply for
reception
order in
certain
cases.

(2.) Any member of the Police Force who has reasonable cause to believe that any person is mentally sick, and—

- (a) Is without sufficient means of support ; or
- (b) Is wandering at large ; or
- (c) Has been discovered under circumstances indicating a purpose of committing some offence against the law ; or
- (d) Is suicidal or dangerous ; or
- (e) Acts in a manner offensive to public decency,

may apprehend such person and forthwith make or cause to be made to a police magistrate an application for a reception order in respect of such person.

Persons
mentally
sick
without
sufficient
means of
support, or
wandering at
large, &c.,
may be
arrested.

(3.) Upon information on oath preferred to a police magistrate that a person is believed to be mentally sick under any of the circumstances mentioned in the last preceding subsection, such police magistrate may by order under his hand require a member of the Police Force—

- (a) To apprehend such person ; and
- (b) To make, or cause to be made, an application for a reception order in respect of such person.

Course to be
pursued
when
person
mentally
sick is
brought
before
justices
and remand
for mental
observation.

41. (1.) When any person is lodged in a watch-house, lock-up, or other place of detention after having been apprehended in terms of the last preceding section, the member of the Police Force in charge of such watch-house, lock-up, or other place of detention shall as soon as possible after such person has been lodged therein call to his assistance a Government medical officer or, if a Government medical officer is not available, a medical practitioner who is available ; and the Government medical officer or other medical practitioner so called shall examine the person apprehended and lodged in such watch-house, lock-up, or other place of detention. He shall issue a certificate as to whether in his opinion—

- (a) The person so examined is mentally sick ; and
- (b) The mental or bodily condition of the person so examined is such that he should be admitted to a hospital pending an application for a reception order in respect to such person.

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(2.) If the Government medical officer or other medical practitioner so called gives a certificate to the effect that the person examined should be admitted to a hospital pending an application for a reception order in respect to such person, the member of the Police Force in charge of such watch-house, lock-up, or other place of detention shall forthwith cause such person to be admitted to a hospital, and the medical superintendent or medical officer of such hospital shall receive such person as if such person was admitted under section fifteen of this Act.

42. Notwithstanding anything in this Act contained, where any person is apprehended in terms of subsection two or subsection three of section forty of this Act and an application is made to a police magistrate for a reception order in respect of such person, or where any member of the Police Force has made an application for a reception order in respect of a person in terms of subsection one of section forty of this Act, it shall be necessary for the police magistrate to find that such person—

Special
finding to be
made by
police
magistrate
in certain
cases.

(i.) In the case of a person so dealt with under subsection one of section forty of this Act, is not only mentally sick, but also—

- (a) Is neglected or cruelly treated by any person having the care or charge of him, or
- (b) Is not under proper care, treatment, or control ;

or

(ii.) In the case of a person so apprehended under subsection two or subsection three of section forty of this Act, is not only mentally sick but also—

- (c) Is without sufficient means of support, or
- (d) Is wandering at large, or
- (e) Has been discovered under circumstances indicating a purpose of committing some offence against the law, or
- (f) Is suicidal or dangerous, or
- (g) Acts in a manner offensive to public decency,

and the police magistrate shall not make a reception order on such application unless a finding as aforesaid applicable in the case is made.

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Patients.

Where a reception order is made with respect to any person mentioned in section forty of this Act, the police magistrate shall state in the reception order the specific finding made by him under this section in the case of such person.

Magistrate may order arrest of person in respect of whom an application for a reception order has been made.

43. Every police magistrate to whom any application is made for a reception order in respect of any person may if he thinks fit by a warrant under his hand in the prescribed form, at any time before the reception order has been made, require any member of the Police Force to apprehend that person and bring him before such police magistrate to be examined and otherwise dealt with in accordance with this Act.

Magistrate may make special order for detention pending the determination of the application.

44. (1.) Whenever any person in respect of whom an application for a reception order has been made to a police magistrate is brought before that police magistrate in custody under the provisions of this Act, the police magistrate may make such order as he thinks fit for the care, control, and detention of that person in any mental hospital, hospital, or other suitable place pending the determination of the application.

(2.) Unless the police magistrate is of opinion that there is good reason for so doing, no such order shall be made for the detention of any person in a prison or other place used for the detention of criminals.

Amendment of Reception Orders.

Magistrate may amend reception orders.

45. (1.) If a reception order is, before or within one month after the reception of any mentally sick person into a mental hospital, or into the care, treatment, or control of the person mentioned therein and licensed to care for, treat, or control such mentally sick person as a single patient, found to be in any respect incorrect or deficient the order may be amended by the police magistrate signing the same.

(2.) If the Director of Mental Hygiene deems any reception order made under this Act to be in any respect incorrect or deficient he may require the same to be amended by the police magistrate who made the order; and if the same is not so amended to his satisfaction he may direct that a fresh inquiry be made by the police magistrate under this Act, or he may if he thinks fit order under his hand the discharge of the patient.

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Patients.

(3.) If the Director of Mental Hygiene directs that a fresh inquiry be made, the police magistrate shall accept such direction in lieu of an application under section thirty-four of this Act.

(4.) Every order amended under this section shall take effect as if the amendment had been contained therein when it was made.

*Division V.—Care and Control of Patients.**Discharge of Patients.*Division V.—
Care and
Control of
Patients.

46. If the superintendent of a mental hospital or, if the superintendent is not a medical practitioner the visiting medical officer, certifies in writing that a patient is recovered or is fit to be discharged, the Director of Mental Hygiene may by order under his hand direct him to be discharged accordingly.

Discharge
on recovery.

47. The Director of Mental Hygiene may upon the receipt of a certificate of a medical practitioner that a patient, who has been permitted to be absent on leave under this Act, is no longer mentally sick or that he no longer requires to be under care, treatment, and control, discharge such patient at any time during the currency of his leave of absence.

Powers of
Director of
Mental
Hygiene as
to patient
on leave.

48. Nothing in the last two preceding sections shall apply to any person in confinement under Part VII. of this Act.

Saving as to
Part VII.*Escape of Patients.*

49. (1.) Any patient who escapes from any mental hospital wherein he is detained or from the control of any person licensed to care for, treat, and control him as a single patient may on the day of his escape or at any time within three months immediately following that day be retaken by any person.

Person
escaped may
be retaken
within
three
months.

(2.) Any patient who is so retaken may be returned to the mental hospital or to the control of the licensed person from which or whom he escaped.

(3.) If any such patient is not retaken within the period aforesaid, he shall thereupon be deemed to be discharged.

(4.) Within twenty-four hours after every such escape, return, or discharge from a mental hospital an entry shall be made in the proper register.

(5.) If any patient escapes from custody while being transferred from any mental hospital to another mental hospital or from any mental hospital to the care, treatment or control of a person licensed to care for, treat, or control such patient as a single patient or, while being transferred from the control of such licensed person to a mental hospital or to the control of another licensed person, he shall be deemed to have escaped within the meaning of this section, and on being retaken within the period aforesaid shall forthwith be taken to the mental hospital or licensed person to which or to whom he was being transferred, notwithstanding that the time limited by section fifty-one for complying with an order of transfer may have elapsed.

(6.) Nothing in this section limiting the time within which any patient may be retaken after escape, or providing for his discharge if not retaken, shall apply to the escape of persons in confinement under Part VII. of this Act, and any such person may be retaken at any time after his escape.

Absence on Leave of Patients.

Absence on
leave may be
granted.

50. (1.) (i.) The Director of Mental Hygiene may, on the application in the prescribed form of any relative or friend of a patient and upon the undertaking in writing in the prescribed form of such relative or friend that the patient shall be under proper care and control and with the advice of the superintendent or, if the superintendent is not a medical practitioner, the visiting medical officer permit such patient to be absent on leave under the care and control of such relative or friend for such period not exceeding twelve months, as the Director of Mental Hygiene deems fit.

(ii.) The Minister may grant an allowance to the relative or friend for the maintenance of the patient whilst on leave in terms of this subsection.

(2.) The superintendent of a mental hospital, on the recommendation in writing of a medical officer, may permit any patient to be absent on leave from the mental hospital under proper care and control for a period not exceeding twenty-eight days, exclusive of the days of departure and return, and on such conditions as the said superintendent thinks fit.

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Control of
Patients.*

(3.) The Director of Mental Hygiene may permit any patient to be sent or taken under proper control to some place specified in such permit for a period specified in such permit for the benefit of his health :

Provided that the Director of Mental Hygiene may from time to time extend the period specified in such permit or cancel any such permit.

(4.) The person licensed to care for, treat, or control any single patient may, on the recommendation in writing of the medical practitioner attending the patient, and with the written consent of the Director of Mental Hygiene, permit the patient to be absent from his care, treatment, and control on leave under proper care and control for a period not exceeding twenty-eight days, exclusive of the days of departure and return, and on such conditions as the said person thinks fit.

(5.) Any period of leave so granted by any superintendent or person aforesaid may from time to time be extended by the Director of Mental Hygiene, but no continuous period including any period of extension shall exceed twelve months.

(6.) The permission to be absent may at any time during the period of leave be cancelled by the Director of Mental Hygiene, superintendent, or person aforesaid as the case may be by notice in writing in the prescribed form to the person to whom the charge of the patient has been committed during the said period.

(7.) Any patient so absent on leave may at any time during the currency of his period of leave be taken and returned to the mental hospital or to the person licensed to care for, treat, or control such patient by the Director of Mental Hygiene or the superintendent or such person, or by any person acting under the authority of the said Director of Mental Hygiene, superintendent, or the person licensed to care for, treat, or control such patient, or by any person to whom the charge of such patient during his absence has been committed by the Director of Mental Hygiene, superintendent, or person licensed to care for and control such patient. Cancellation
of such
leave.

(8.) If any patient so absent on leave fails to return to the mental hospital or to the person licensed to care for, treat, or control such patient at the expiry of his leave of absence or has had his leave of absence cancelled

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Patients.*

as aforesaid and fails to return to the mental hospital or to the person licensed to care for, treat, or control such patient he shall be deemed to have escaped.

(9.) Nothing in this section shall apply to any person in confinement under Part VII. of this Act.

Transfer of Patients.

Director of
Mental
Hygiene
may order
transfer of
patients.

51. (1.) The Director of Mental Hygiene may, by writing under his hand in duplicate in the prescribed form, order the transfer of any patient from any mental hospital to any other mental hospital.

(2.) The Director of Mental Hygiene may in like manner order the transfer of any patient to a person licensed to care for, treat, or control him as a single patient, and in every such case the patient so transferred shall be deemed to have been received into the care, treatment, or control of such person in terms of the provisions of Part VI. of this Act, and the said provisions shall apply accordingly.

(3.) One duplicate of the order shall be sent to the superintendent of the mental hospital or to the person licensed to care for, treat, or control such patient, and the other to the superintendent of the mental hospital from which the patient is to be transferred.

(4.) The order shall be a sufficient authority for the transfer of the patient and for his reception into the mental hospital to which he is ordered to be transferred, or by the person licensed to care for, treat, or control such patient.

(5.) No transfer under this section of any person who is in confinement under Part VII. of this Act shall be ordered by the Director of Mental Hygiene.

Transfer to
be made
within
fourteen
days.

(6.) (i.) Every such order of transfer shall be complied with on or as soon as practicable after the date thereof, but in any case within fourteen days after that date :

Provided that if the patient is not in a fit state to be removed within that period the superintendent of the mental hospital shall send to the Director of Mental Hygiene a certificate to that effect under the hand of a medical officer of such mental hospital or the visiting medical officer of such mental hospital, but shall transfer the patient within fourteen days after he has become fit to be removed.

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Patients.

(ii.) The transfer of a patient shall not be deemed to be completed until he is actually received into the mental hospital or into the care, treatment, or control of the person licensed to care for, treat, or control the patient to which or to whom he is transferred, and the responsibility for his care, treatment, or control shall be determined accordingly.

(7.) The reception order and the application and certificates which accompanied the reception order, or any other authority under which the patient was detained, shall be delivered to the superintendent of the mental hospital or to the person licensed to care for, treat, or control the patient to which or to whom the patient is transferred, together with a certificate under the hand of the medical officer of the mental hospital from which he is so transferred, or of the medical practitioner attending a single patient, as the case may be, as to the mental and bodily condition of the patient immediately before his transfer, and as to all other material facts regarding that patient.

On transfer
of patient
original
reception
order, &c.,
and a
certificate
as to
condition of
patient to
be forwarded
to superin-
tendent.

(8.) Such reception order or other authority shall remain in force in the same manner as if the patient had been ordered to be received into the mental hospital or into the care, treatment, or control of the person licensed to care for, treat, or control the patient as a single patient.

(9.) Any patient transferred from a mental hospital to the care, treatment, or control of a person licensed to care for, treat, or control such patient may, at any time be transferred back to such mental hospital or to such other mental hospital as the Director of Mental Hygiene may by writing under his hand order, and if at any time the license of the person licensed to care for, treat, or control any such patient is revoked then such patient shall be taken by any person authorised in that behalf by the Director of Mental Hygiene and returned to the mental hospital from which he was transferred.

(10.) If it is made to appear to the court that a mentally sick person or patient has relations or friends in any place beyond Queensland who are willing to undertake the care and charge of him, and that it would be for his benefit that he should be removed to such place, the court may order him to be removed from Queensland, and make such further or any other order authorising or directing his removal, and touching his

Mentally
sick persons
may be
taken out of
Queensland
by order of
the Supreme
Court.

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Control of
Patients.

safe custody and maintenance, as to the court seems fit, and may order that security shall be given for the safe custody and maintenance of such mentally sick person or patient in any place beyond Queensland:

Provided that no order shall be made for the removal of such mentally sick person or patient until after fourteen days' notice of the intention to apply for such order has been given to the superintendent or to the person in whose care or custody such mentally sick person or patient is, unless such superintendent or person is himself the person applying for the order.

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Power of
Supreme Court
to Direct an
Inquiry as to
the Condition
of a Patient.*Division VI.—Power of Supreme Court to Direct an
Inquiry as to the Condition of a Patient.*

Judge may
direct
inquiry as to
condition of
patient, &c.

52. A judge of the Supreme Court may, whenever he thinks fit, whether of his own motion or on the application of any person, by order under his hand, direct an officer or any one or more persons whom he may select in that behalf to visit and examine any person who the said judge has reason to believe is detained as mentally sick in any mental hospital, hospital, or other place, or by any person, and inquire into and report on such matters relating to that person as the judge thinks fit.

Order for
production
of patient.

53. (1.) A judge of the Supreme Court may, whenever he thinks fit, whether on his own motion or on the application of any person, and whether any such order as is referred to in the last preceding section has been made or not, by order under his hand direct the superintendent of any mental hospital or hospital, or the occupier or inmate of any house or other place in which the judge has any reason to believe or suspect that any person is detained as mentally sick, or any person having the custody or charge of that person, to bring that person before the said judge in open court or in chambers for examination at a time to be specified in the order.

(2.) If, on the examination of the person so ordered to be brought before him and on the evidence of any medical or other witnesses (power to summon whom to testify on oath in the matter of such examination and to produce any documents is hereby given to the judge), it appears to the satisfaction of the judge that such person is not mentally sick, or that his state of mind does not require his detention as a mentally sick person, or

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Supreme Court
to Direct an
Inquiry as to
the Condition
of a Patient.*

that such person is illegally detained as a mentally sick person, the judge shall by order direct that he shall be immediately discharged by the superintendent of the mental hospital or hospital, or the occupier or inmate of the house or other place in which he is detained, or by any other person in whose custody or charge he is, unless the person so detained is in confinement under Part VII. of this Act or is legally detained for some other cause.

(3.) In determining in pursuance of this section whether the state of mind of any person requires that he should be detained as a mentally sick person, the judge may take into consideration the fact that some relative or friend of that person is able and willing to exercise sufficient care and control over him, and may, as a condition of making an order for his discharge, require an undertaking in writing from such relative or friend to exercise such care and control over such person so discharged for such time and in such manner as the judge requires and as are in the said undertaking set forth. Any person who wilfully fails to fulfil any undertaking so given by him shall be deemed guilty of a contempt of the Supreme Court, and may be dealt with accordingly in due course of law.

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

PART VII.—MENTALLY SICK PERSONS UNDER
DETENTION FOR OFFENCES, &c.PART VII.—
MENTALLY
SICK
PERSONS
UNDER
DETENTION
FOR OFFENCES,
&c.

54. This Part VII. of this Act shall be read and construed with and as being in aid of and not in derogation of the provisions of **“The Criminal Code.”*

Part to be
read in aid of
and not in
derogation
of *“The
Criminal
Code.”*

55. (1.) If on the trial of any accused person charged with an indictable offence such accused person pleads guilty and it is alleged or appears—

Plea of *“Not
guilty”* may
be entered
in certain
cases.

(i.) That he is mentally sick ; or

(ii.) That he was mentally sick at the time when the act or omission alleged to constitute the offence occurred,

* 63 Vic. No. 9, Schedule I., and amending Acts, *supra*, pages 344 *et seq.*

the court may if it thinks fit order a plea of “Not guilty” to be entered on behalf of the accused person, and such plea so entered shall have the same effect as if it had been actually pleaded.

(2.) If on the appearance for sentence of any accused person charged with an indictable offence who has pleaded guilty before and has been ordered by justices to be committed for sentence under section one hundred and thirteen of **“The Justices Acts, 1886 to 1932,”* it is alleged or appears—

- (i.) That he is mentally sick ; or
- (ii.) That he was mentally sick at the time when the act or omission alleged to constitute the offence occurred,

the court may if it thinks fit order a plea of “Not guilty” to be entered on behalf of the accused person, and such plea so entered shall have the same effect as if it had been actually pleaded, and the trial of such accused person shall proceed in the same manner as if he had been committed by the justices for trial and not for sentence.

(3.) If in the case of any accused person charged with an indictable offence as such who, on being asked under and pursuant to **“The Justices Acts, 1886 to 1932,”* whether he wishes to say anything in answer to the charge says that he is guilty of the charge, it is alleged or appears—

- (i.) That he is mentally sick ; or
- (ii.) That he was mentally sick at the time when the act or omission alleged to constitute the offence occurred,

the justices may if they think fit, instead of ordering the accused person to be committed for sentence before some court of competent jurisdiction, commit him for trial as provided in such lastmentioned Acts.

When
Minister
may order
detention of
mentally
sick person.

56. If a person indicted for an indictable offence is found to be mentally sick by a jury lawfully empanelled for that purpose so that he cannot be tried upon such indictment, or if upon the trial of a person so indicted such person is found by the jury to be mentally sick, or if a person committed to take his trial or to be sentenced for

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

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&c.

an indictable offence is certified by two medical practitioners to be mentally sick the Minister may by order under his hand in the prescribed form give such order for the detention of that person in such mental hospital, prison, or place of confinement and in such manner as the Minister thinks fit, and moreover the Minister may from time to time as he thinks fit by order under his hand direct the transfer of that person to some other mental hospital, prison, or place of confinement.

57. A person detained under the last preceding section shall be so detained until the Minister is satisfied by the certificate in writing of the Director of Mental Hygiene that such person has recovered and is fit to be discharged, whereupon the Minister may order the removal of such person to the custody of the superintendent of the prison from whence he came in order to his being tried or sentenced for such offence.

Procedure
upon
discharge
of person
detained
under s. 56.

58. (1.) When any person is in confinement by order of the Governor in Council after acquittal on a charge of an indictable offence on the ground of mental sickness, then the Minister with the approval of the Governor in Council may if after such inquiry as he thinks fit he is satisfied that such person has recovered from his mental sickness, or that he is harmless and may be discharged without danger to himself or others, order him to be discharged and thereupon such person shall be discharged.

Conditions
on which
person in
confinement
may be
discharged or
allowed to be
absent on
probation.

(2.) The Minister with the approval of the Governor in Council may, after such inquiry as he thinks fit, allow any such person to be absent on probation on such terms and conditions as the Minister thinks fit; and may, if any term or condition of such probation appears to the Minister to be broken, or for any other reason, by order under his hand, direct the person so permitted to be absent to be taken and conveyed to some mental hospital, prison, or place of confinement named in the order, and such person may thereupon be taken in the like manner as if he had escaped from a mental hospital; and if such mental hospital, prison, or place of confinement is not the one in which he was last detained, he shall be received and detained therein as if he had been duly transferred thereto.

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(3.) No person shall be discharged or allowed to be absent on probation pursuant to this section unless two medical practitioners appointed by the Minister certify that he is a fit person to be so discharged or allowed to be so absent on probation.

Provision re
persons
attempting
to commit
suicide.

59. Any person charged with having attempted to commit suicide who is certified by two medical practitioners in the prescribed form to be mentally sick shall forthwith be sent to a mental hospital; and such person when certified under this Act to be no longer mentally sick shall be discharged from such mental hospital and shall not be put upon his trial or be liable to any charge or indictment for having attempted such act of suicide.

Detention in
institution
in certain
cases of
persons
awaiting
trial for
offences.

60. (1.) Where in the case of any person who is in confinement awaiting his trial or sentence for any criminal offence it appears to the Minister necessary or expedient that the mental condition of that person should be under observation in a mental hospital, the Minister may by order under his hand direct that such person shall be removed to some mental hospital, there to be detained under observation for such period as the Minister thinks fit pending his trial or sentence.

(2.) Every such person while so detained shall be deemed to remain in the lawful custody of the gaoler of the place in which he was confined before such removal.

Transfer of
persons
mentally
sick from
prison or
reformatory
institution
to
institution
under this
Act.

61. (1.) This section applies to any person imprisoned or detained in any prison, reformatory institution, industrial school, or other place of confinement under any sentence, conviction, warrant, or order, but does not apply to any person to whom the preceding provisions of this Part of this Act apply.

(2.) The Minister, if it is made to appear to him that there is reasonable ground to believe that any person so in confinement is mentally sick, and that his removal to a mental hospital is desirable, may direct a police magistrate to examine that person and to make inquiry as to whether he is mentally sick.

(3.) The said police magistrate shall thereupon examine that person, and shall make inquiry as to whether he is mentally sick in the same manner, subject to all necessary modifications, as if an application for a reception order had been made to that police magistrate.

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DETENTION
FOR OFFENCES,
&c.

(4.) If the said police magistrate after such inquiry certifies in writing to the Minister that he has held such inquiry, and is of opinion that such person is mentally sick, and that his removal to a mental hospital is desirable, the Minister may if he thinks fit by order under his hand direct that such person shall be removed to such mental hospital as the said Minister thinks fit; and the Minister may from time to time by order under his hand direct the transfer of that person to any other mental hospital.

(5.) The Minister may at any time if he thinks fit by order under his hand direct that any person who has been so removed to a mental hospital under the authority of this section shall be returned to the prison, reformatory institution, industrial school, or other place of confinement from which he was so removed, to undergo his sentence or otherwise to be dealt with according to law as if no such order for his removal to a mental hospital had been issued:

Provided that an order shall not be issued under this subsection for the return of any person as aforesaid unless two medical practitioners appointed by the Minister certify in writing that he no longer requires to be detained in a mental hospital under this Act.

(6.) If at the time when the period of imprisonment or custody of any such person expires in accordance with the sentence, conviction, or order under which he was imprisoned or confined, that person is detained in any mental hospital under an order issued in accordance with this section, he shall thereupon be deemed for all purposes to be a patient detained under a reception order made at the time when the period of his imprisonment or custody so expired, and to be no longer detained under this Part of this Act.

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62. The Governor in Council, with the concurrence of the judges of the Supreme Court, or any two of them, may from time to time make rules determining the fees to be charged and paid in any proceedings under Part VIII. of this Act, and regulating the form and mode of proceeding in all matters under the said Part of this Act, and for carrying into effect the several objects of this Act so far

Governor in
Council, with
concurrence
of judges,
to make
rules as to
fees in
proceedings
under
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as the same relate to the judicial powers or duties of the Supreme Court or of any police magistrate acting in pursuance of Part VIII. of this Act.

Particulars
to be
furnished to
Public
Curator.

63. (1.) It shall be the duty of every person who is required by this Act to send to the Director of Mental Hygiene notice of the admission, death, or discharge of a patient to send at the same time to the Public Curator a notice intimating such admission, death, or discharge.

Reports to
be made to
the Public
Curator,
and in
certain
cases to the
Minister,
as to
property
of mentally
sick patients.

(2.) Within fourteen days from the reception of a patient into any mental hospital, the superintendent thereof shall forward to the Public Curator—

- (a) The name of such patient and his age ;
- (b) Such information concerning his property as the superintendent has in his possession ; and
- (c) The names and residences of his relatives known or supposed to be able to maintain or contribute to his maintenance.

Every superintendent and official visitor shall communicate to the Public Curator all particulars that may come to his knowledge respecting the property of any patient, and if any such superintendent or official visitor has reason to believe that the property of any patient is not duly protected, or that the income thereof is not duly applied for his maintenance, such superintendent or official visitor shall report thereon to the Minister as well as to the Public Curator.

General
powers and
duties of
Public
Curator.

64. (1.) Subject to this Act and Rules of Court, the Public Curator shall undertake the general care, protection, and management, or supervision of the management, of the estates of all mentally sick persons in Queensland.

He shall also supervise and enforce the performance of the obligations and duties of all committees of mentally sick persons and receivers of their estates heretofore or hereafter to be appointed, and shall take care of, collect, and administer under the provisions of this Act the property and estates of patients.

Public
Curator to
administer
estate of
patient in
certain cases.

(2.) In the case of any patient (if and so long as no committee or administrator is in office under this Act) the Public Curator shall have the custody and administration of his estate, and shall have in respect of

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that estate the same powers, duties, and functions as if he had been appointed the committee thereof under the provisions of this Act.

(3.) The powers, duties, and functions of the Public Curator under this section shall cease—

- (a) When the person of whose estate he has the administration dies ; or
- (b) When a committee other than the Public Curator of the estate of that person is appointed under the provisions of this Act ; or
- (c) When that person is discharged under this Act, and it appears from the notice of discharge that he is able to manage his own affairs ;
- (d) In the case of any other person who is discharged or is deemed to have been discharged under this Act, if the Public Curator, on receipt of such evidence as he may require, is satisfied that the person is able to manage his own affairs.

65. (1.) The Supreme Court may, on petition by the Public Curator or any other person, appoint the Public Curator or any other person or persons as the committee of the estate of any patient.

Public
Curator
may be
appointed
committee
of estate.

(2.) Any committee so appointed shall have the same powers, duties, and functions as if such committee had been appointed after inquisition by the Supreme Court in accordance with the provisions in that behalf hereinafter contained.

(3.) Any committee appointed in pursuance of this section shall continue in office until the person of whose estate he or they is or are committee dies, or the order appointing him or them as such committee is rescinded by the Supreme Court, notwithstanding the fact that the said person is no longer a patient within the meaning of this Act.

(4.) The Supreme Court may at any time, on the petition of the person of whose estate a committee has been so appointed, or of the committee, or of any other person rescind the order appointing the committee on proof that such person is of sufficient ability to manage his own affairs and that he is no longer a patient within the meaning of this Act.

(5.) The Supreme Court may at any time, on the petition of the person of whose estate a committee has been so appointed, or of the committee, or of any other person, and on proof that there is good cause for so doing, make an order appointing any other person or persons as the committee of the said estate in lieu of the committee so appointed.

Application
to Supreme
Court in
lieu of
commission
*de lunatico
inquirendo*.

66. No commission *de lunatico inquirendo* shall hereafter be issued. In any case in which it is proved to the satisfaction of the court that a person is mentally sick and incapable of managing his affairs, the court may—

- (a) Make a declaration to that effect ;
- (b) Direct a reference to the Public Curator to make inquiries concerning the property of such person ;
- (c) Make all proper orders for rendering the property of such person or the income thereof available for the payment of his debts, and for the maintenance or benefit of himself and his family, and for carrying on his trade or business (if any) ; and
- (d) If necessary, appoint a committee of his estate, and also, when desirable, a committee of his person.

Superseding
orders, &c.,
when person
recovered.

67. If it is proved to the satisfaction of the court that any person declared to be mentally sick, or so found by inquisition, has recovered his sanity and is capable of managing his affairs, the court may make a declaration to that effect and may make all proper orders to give effect to such declaration and for releasing the estate of such person from the control of the court and discharging the committee of his estate and person.

Application
to be by
petition.

68. Applications under the last two preceding sections shall be by petition supported by affidavit. Copies of the petition and affidavits shall be served in the prescribed manner upon the person alleged to be mentally sick or, in the case of a petition by or with respect to a person so declared, upon his committee and the persons on whose application he was so declared ; they shall also be served upon the Public Curator and such other persons as the court may direct.

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69. Every deponent may be cross-examined upon his affidavit, either at the hearing or at such time and place as the court directs, and at such hearing the court may receive or require the oral evidence of witnesses, and such other proof as it thinks necessary.

Cross-examination on affidavit, &c.

70. (1.) The court may in any case, instead of determining whether or not the person whose sanity is the subject of inquiry is mentally sick and incapable of managing his affairs, order that question to be tried by a jury, and in such order shall direct whether the jury shall be a jury of four or of twelve men, and thereupon the like proceedings for summoning a jury shall be had and taken as are provided by the law for the time being in force for the return of juries for the trial of issues in civil actions in the Supreme Court.

Court may order inquiry before a jury.

(2.) When an inquiry before a jury is ordered, the court shall direct the question to be tried before the court, or the Public Curator, or a Commissioner specially appointed, who shall while so acting have for the purposes of the inquiry all the powers of the Supreme Court. And the trial of every such question and the verdict thereon shall be had and dealt with in all respects in accordance with the law for the time being in force relating to trials in the Supreme Court.

Inquiries before jury.

(3.) When the verdict of the jury has been returned, unless a new trial is granted the court may make such declaration and orders as are hereinbefore provided.

After verdict court may make declaration, &c.

(4.) On the hearing of a petition before the court or a trial before a jury the person whose sanity is in question shall, if he can be produced in court, be so produced and be examined in open court or in private as is deemed expedient.

Examination of the alleged mentally sick person.

71. Where in any Act, Rule of Court, or instrument reference is made to a commission of insanity, or a writ in the nature of a writ *de lunatico inquirendo*, or to any inquisition thereon, or to a traverse or supersedeas of any inquisition or commission, the proceedings hereby respectively substituted for them shall respectively be taken to be intended by and comprehended in such reference.

The word "commission" shall apply to petition and declaration.

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Persons
found
mentally
sick in
places
beyond
the State.

72. When the court is satisfied upon the report of the Public Curator or otherwise that any person has been found to be mentally sick, and incapable of managing himself and his affairs, by any competent court or commission in the United Kingdom, or in any British colony or foreign State, the court may appoint the Public Curator or any other person or persons a committee of the mentally sick person's estate or person, or both, and may give such other orders in respect of the management of his estate or person as it may deem expedient, and such committee shall have the same duties, powers, and liabilities as the committee of a person declared mentally sick under this Act.

Court may
order costs.

73. The court may make such order as to the costs, charges, and expenses of and incidental to any proceeding authorised by this Act as the court thinks proper, and every such order shall have the same effect as orders for the payment of money made by the court.

Appeal.

74. The powers of the court under this Act may be exercised by a judge thereof, but an appeal shall lie to the full court from every order made by a single judge.

Powers of Public Curator.

Property
not to vest
in Public
Curator when
acting as
committee
or adminis-
trator.

75. When the Public Curator is appointed as the committee of the estate of a mentally sick person, or becomes authorised by this Act to administer that estate, the estate shall not thereby become vested in the Public Curator, but he shall be entitled to the possession and management of the same in accordance with the provisions hereinafter contained.

Power of
Public
Curator so
acting.

76. The Public Curator, being appointed as the committee of the estate of any mentally sick person, or being authorised by this Act to administer that estate, may, without the leave of the Supreme Court, but subject to any order of the said court to the contrary, do any of the following things :—

- (a) Take possession of all the property of that person ;
- (b) Sell any property of that person, other than freehold or leasehold property, either by public auction or private contract, and subject to such terms and conditions as the Public Curator thinks fit ;

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- (c) Lease or concur in leasing any property of that person for any term not exceeding two years (to take effect in possession within six months of the date of the lease), or from year to year, or for a weekly, monthly, or other like tenancy, or at will ;
- (d) Repair, and insure against fire or accident, any property of that person ;
- (e) Pay all rates, taxes, insurance premiums, or other outgoings payable in respect of the property of that person, or under any policy of insurance of any kind ;
- (f) Surrender any policy of life assurance, or have any policy of life assurance converted into a paid-up or other suitable policy ;
- (g) Grant powers of attorney to any person in or out of Queensland to do any act or thing with respect to the property of such mentally sick person which the Public Curator can do as committee of the estate of that person, or as authorised to administer that estate ;
- (h) Institute or defend, in his own corporate name or in the name of the mentally sick person, any action, suit, or other proceeding respecting the property of that person, and suffer judgment to go by default, or consent to any judgment, decree, or order in the action, suit, or proceeding, upon such terms as the Public Curator thinks fit ;
- (i) Compromise any claims or demands made against that person or his estate, upon such terms as the Public Curator thinks fit, and upon such evidence as he deems sufficient, or submit such claims or demands to arbitration, and do all acts and things necessary to render any such compromise or arbitration effectual ;
- (j) Take proceedings to cause to be adjudicated a bankrupt or placed in liquidation any person or company indebted to such mentally sick person, and vote and act either personally or by proxy at all meetings of creditors, and in all other matters relating to the bankruptcy or liquidation ;

- (k) Take criminal proceedings respecting the property of that person ;
- (l) Demand, receive, and recover all moneys payable or belonging to that person ;
- (m) Apply moneys belonging to that person, whether arising from real or personal property, and whether income or capital, in or towards the payment of any debt, obligation, or liabilities of that person, or incurred by the Public Curator in the exercise of the powers vested in him by this Act ;
- (n) Surrender, assign, or otherwise dispose of, with or without consideration, any onerous property belonging to that person ;
- (o) Surrender or concur in surrendering any lease, and accept a new lease ;
- (p) Accept a surrender of any lease ;
- (q) Carry out and perform contracts entered into by that person before the Public Curator was appointed as the committee of his estate or became authorised to administer it ;
- (r) Apply in his discretion, and in such manner and to such extent as he thinks fit, any moneys belonging to that person, whether arising from real or personal property, and whether income or capital, for the maintenance of that person, or of the husband or wife of that person, or for the maintenance, education, or advancement of the children or grandchildren of that person ;
- (s) Where that person is a mortgagor or mortgagee of any land, agree to extend or vary the mortgage on such terms as the Public Curator thinks fit ;
- (t) On behalf of and in the name of the mentally sick person, enter into any scheme of family arrangement to which the mentally sick person is a necessary party ;
- (u) Apply any moneys belonging to that person in the reinstatement or rebuilding of any property of that person destroyed by fire or otherwise, either wholly or partially ;

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- (v) Agree to an alteration of the conditions of a partnership into which that person has entered for the purpose of more advantageously disposing of or winding up the business or preserving the same until the recovery of that person ;
- (w) Exercise any power of sale or other power vested in that person as mortgagee or lessor ;
- (x) Carry on any trade or business of that person ;
- (y) Expend any moneys belonging to that person in the maintenance, education, or advancement of the husband or wife or child or children of that person, or of any relative of that person, or of any person wholly or partially dependent on that person, or continue such other acts of bounty or charity exercised or promised to be exercised by that person as the Public Curator, having regard to the circumstances and the amount or value of the estate of that person, considers proper and reasonable ;
- (z) Discharge any mortgage or encumbrance on his property ;
- (aa) Pay any debt or meet any expenditure incurred for the maintenance of that person or for that of his family, or otherwise for his benefit ;
- (bb) Improve or protect the property of that person ;
- (cc) And generally do and perform all such acts, matters, and things as are conferred upon the Public Curator by virtue of section fifty-eight of **"The Public Curator Acts, 1915 to 1938,"* which section shall be read in aid of and not in derogation of the provisions of this section of this Act.

The Public Curator is hereby authorised and empowered to receive and give a valid discharge for the receipt of any legacy or other interests in estates in which the patient concerned may be interested in the United Kingdom, or in any Dominion or British possession, or in any other country.

Public
Curator
authorised
to receive
moneys
and give a
valid
discharge.

* 6 Geo. V. No. 14 and amending Acts, *supra*, pages 7056 *et seq.*

Certain
powers
exercisable
with
sanction of
court.

77. The Public Curator being appointed as the committee of the estate of a mentally sick person, or being authorised by this Act to administer that estate, may, with the sanction of an order of the Supreme Court, do any of the following things :—

- (a) Sell any freehold or leasehold property of that person by public auction or private contract in such manner and on such terms and conditions as the Public Curator thinks fit ;
- (b) Grant or concur in granting leases of any property of that person for such terms and on such covenants and conditions as the Public Curator thinks fit ;
- (c) Make exchange or partition of any property belonging to that person, and give or receive any money for equality of exchange or partition ;
- (d) Expend money in the improvement of any property of that person, by way of building or otherwise ;
- (e) Execute any power of leasing vested in any such person having a limited estate only in the property over which the power extends ;
- (f) Exercise any power, or give any consent required for the exercise of any power, where the power is vested in that person for his own benefit or the power of consent is in the nature of a beneficial interest in that person ;
- (g) Expend any moneys belonging to that person in the purchase of a home for that person, or for his or her wife, husband, or children.

Public
Curator
may, with
sanction of
court,
execute
mortgages
for certain
purposes.

78. The Public Curator, being appointed as the committee of the estate of a mentally sick person, or being authorised by this Act to administer that estate, may, with the sanction of an order of the Supreme Court, mortgage or charge (with or without a power of sale, and on such terms as the Public Curator thinks fit) any property of that person for the purpose of raising or securing or repaying, with or without interest, money which is to be or which has been applied to all or any of the purposes following :—

- (a) The payment of the debts or engagements of the mentally sick person ;

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- (b) The payment of or provision for the expenses of the future maintenance of that person or his family ;
- (c) The payment of any debts or liabilities incurred by the Public Curator in the exercise of the powers conferred upon him by this Act with respect to the administration of the property of that person.

79. (1.) If the Public Curator after due inquiry believes that the value of the estate of any mentally sick person of which he is the committee, or which he is authorised by this Act to administer, does not exceed the sum of five hundred pounds after deducting all debts and liabilities payable thereout, the Public Curator may thereafter exercise in respect of that estate, without the sanction of an order of the Supreme Court, any of the powers conferred upon him by the two last preceding sections.

Exercise of
powers
without
sanction of
court where
estate of less
value than
£500.

(2.) If at any time after such inquiry the Public Curator has reason to believe that the value of the estate, after making such deductions as aforesaid, exceeds the sum of five hundred pounds, he shall not thereafter exercise any of the said powers without the leave of the Supreme Court ; but nothing in this subsection shall so operate as to invalidate anything done by the Public Curator in pursuance of the last preceding subsection.

80. When a power is vested in any mentally sick person in the character of trustee or guardian, or the consent of any such person 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 Supreme Court to be expedient that the power should be exercised or the consent given, the Public Curator, being appointed as the committee of the estate of that person or authorised by this Act to administer that estate, may, in the name and on behalf of the mentally sick person, and under an order of the said court made upon the application of any person interested, exercise the power or give the consent in such manner as the order directs.

Public
Curator may,
under order
of court,
exercise
powers or
give consent
on behalf of
mentally
sick
person.

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TRATION OF
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Public
Curator may
execute
assurance
on behalf of
such person.

81. The Public Curator may, in the name and on behalf of any mentally sick person, execute and do all such assurances and things as the Public Curator may deem necessary for effectuating any of the powers conferred upon him by this Act or by any order of the Supreme Court; and all assurances and things so executed or done shall have the same force and effect as if executed or done by the mentally sick person had he not been mentally sick.

Public
Curator to
be subject to
orders of
court.

82. (1.) In the exercise of any of the powers conferred by this Act upon the Public Curator he shall be subject to any orders that may be made in the matter by the Supreme Court.

Certificate
by Public
Curator of
his
appointment
as com-
mittee, &c.,
to be
received in
evidence.

(2.) A certificate under the hand of the Public Curator, and sealed with his corporate seal, certifying that he has been appointed under this Act as the committee of the estate of any person, or that he is authorised under this Act to administer the estate of any person, and stating the date at which he was so appointed or became so authorised, and that such appointment or authority is still in force, shall, until the contrary is proved, be accepted by all courts, officers, and other persons as sufficient evidence of the facts so certified and stated.

Power to
apply
property of
persons
acquitted on
the ground
of mental
sickness
for their
benefit.

83. Where on the trial of an information or indictment any person has been acquitted on the ground of mental sickness, or upon arraignment upon a criminal charge has been found to be mentally sick, the sheriff shall report the fact to the Public Curator, who shall thereupon make inquiry respecting the property of such person, and the court may, on being satisfied by the report of the Public Curator, or by affidavit or otherwise of the continued mental sickness of such person, and of his being still in confinement, make any such orders with respect to the property of such person and the application thereof for the payment of his debts, or for his maintenance or benefit, or that of his family, or for carrying on his trade or business, or otherwise as may be prescribed in this Part of this Act.

Capital
moneys to
form part of
common
fund.

84. All capital moneys coming to the hands of the Public Curator under the provisions of this Act shall form part of the common fund of the Public Curator, and shall be entitled to the guarantee which is afforded to that common fund.

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85. Every estate of which the Public Curator is appointed the committee, or which he is authorised by this Act to administer, shall be deemed to be placed in the Public Curator's office, and to be administered under **"The Public Curator Acts, 1915 to 1938,"* and, subject to the provisions of this Act, all the provisions of the said Acts shall, so far as applicable, extend and apply accordingly to that estate and to the administration thereof.

Provisions of
Public
Curator Act
to apply to
estates of
mentally
sick
persons.

86. The Public Curator may, in the name and on behalf of any mentally sick person, and whether such mentally sick person is possessed of any estate or not, make any application to the Supreme Court under †*"The Testator's Family Maintenance Act of 1914,"* which that person would be entitled to make if he were not mentally sick.

Public
Curator may
take proceed-
ings on
behalf of
mentally
sick persons
under "*The
Testator's
Family
Maintenance
Act of 1914.*"

87. Where any mentally sick person whose estate is being administered by the Public Curator is a member of a partnership the Public Curator may, in the name of such mentally sick partner, dissolve the partnership in the same manner in all respects as such mentally sick person could have done had he not been mentally sick.

Dissolution
of
partnership
of which
mentally
sick person is
member.

On such dissolution the Public Curator, in the name and on behalf of the mentally sick person, may join with the other partner or partners in disposing of the partnership property, as well real as personal, whether to such partner or partners or to any other persons, upon such terms and conditions and in such manner as the Public Curator thinks fit.

88. (1.) No person of whose estate the Public Curator or any other person has been appointed the committee, or whose estate the Public Curator is by this Act authorised to administer, shall be capable, without the leave of the Supreme Court, of making any transfer, lease, mortgage, or other disposition of his property, or of any part thereof, or of entering into any contract except for necessities; and every such transfer, lease, mortgage, or other disposition, and every contract other than for necessities, shall be voidable by that person or by the Public Curator or other committee on his behalf.

Limitation
of
contractual
powers
of persons of
whose estate
a committee
or
adminis-
trator
appointed.

* 6 Geo. V. No. 14 and amending Acts, *supra*, pages 7056 *et seq.*

† 5 Geo. V. No. 26, *supra*, page 6389.

(2.) The Supreme Court may by order give leave to any such person to make any transfer, lease, mortgage, or other disposition of his property, or of any part thereof, or to enter into any contract, if the said court is satisfied that such transfer, lease, mortgage, disposition, or contract is for the benefit of that person, and that he consents thereto with adequate understanding of the nature thereof.

(3.) Nothing in this section shall affect the law relating to the validity of wills or other testamentary dispositions.

(4.) Nothing in this section shall invalidate any transfer, lease, mortgage, disposition, or contract made or entered into by any such person if the other party thereto proves that he acted in good faith and for valuable consideration and without knowledge that any committee has been so appointed or that the Public Curator was so authorised to administer the estate.

Maintenance
payable out
of estate.

89. (1.) All expenses incurred by the Public Curator in respect of the maintenance of any mentally sick person, or the administration of his estate, shall be charged against and payable out of that estate; and, in addition, there shall be payable in respect of all moneys forming part of that estate and coming under the control of the Public Curator the same commissions and other charges as are prescribed by regulations made under **"The Public Curator Acts, 1915 to 1938,"* to be paid out of estates placed in the Public Curator's office.

(2.) The amount of all deductions for expenses, commissions, and other charges shall be paid to the Public Curator's account.

(3.) The expenses, commissions, and other charges aforesaid shall be payable out of the estate, although the mentally sick person dies or the estate otherwise ceases to be under the administration of the Public Curator before payment thereof.

Maintenance
of mentally
sick persons.

90. (1.) The Public Curator may, out of the estate of a mentally sick person who is detained as mentally sick in any mental hospital (other than a person detained under Part VII. of this Act), pay such sum or sums as may be prescribed for the maintenance of such person.

* 6 Geo. V. No. 14 and amending Acts, *supra*, pages 7056 *et seq.*

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(2.) The Public Curator may agree with any relative, guardian, or friend of a mentally sick person for his maintenance while detained in a mental hospital, and such relative, guardian, or friend shall be entitled to be reimbursed all necessary sums expended in such maintenance with interest thereon out of the estate of the patient.

Relative, &c.
may agree
for
maintenance
of mentally
sick patient.

(3.) If it appears to the Public Curator that any patient has not an estate or any sufficient estate applicable to his maintenance, he may make an application in writing—

Justices
may make
an order
upon
relations of
patient
for his
support.

- (a) To the father of the patient ; or
- (b) If the father is dead, to his mother ; or
- (c) If the patient is a married woman, to her husband ; or
- (d) In other cases to one or more of his or her children being of the age of twenty-one years or upwards,

for the payment of a reasonable sum weekly or monthly or otherwise for or towards the maintenance, clothing, medicine, and care of such patient.

Such application shall be served either personally or by post.

And if such sum is not paid pursuant to such application, the patient, if a wife, or a child of a living father or mother (whatever the age of such child may be), shall be deemed on complaint made by the Public Curator before any two justices a deserted wife or child within the meaning of the law for the time being in force relating to the maintenance of destitute or deserted wives and children.

And if the patient is a father or mother, with one or more than one child of age and ability to maintain or contribute towards the maintenance of the patient, the Public Curator shall on such complaint as aforesaid be entitled to such order for maintenance and the enforcement thereof as against such child or children, as the case may be, as by law a deserted child is entitled to as against its father: Provided that if the father of the patient is dead and his mother living, the mother shall be deemed for the purposes of this enactment to be liable in the same manner as the father of a deserted child is made liable.

Every such sum so applied for or ordered to be paid shall be paid to the Public Curator, whose receipt shall be sufficient discharge for such payments.

For the purposes of this section where the patient is an illegitimate child, the father of such illegitimate child shall be liable for such patient's maintenance.

A complaint as aforesaid may be heard and determined within the Petty Sessions District of Brisbane or within any petty sessions district within which the person proceeded against resides.

Public
Curator may
obtain
information
on oath.

91. (1.) The Public Curator shall have power, in the execution of his powers and duties under this Act, to summon persons before him, or before some person appointed in writing by him in that behalf, and the Public Curator or the person so appointed shall have power to administer oaths and take evidence as to any matters relating to the estate and affairs of the person of whose estate the Public Curator is committee or whose estate he is administering, and to require the production of books and documents relating to those matters.

(2.) Every person on whom any such summons is served by delivering it to him or by leaving it at his usual place of business or abode who without reasonable justification or excuse fails to appear according to the exigency of the summons or, being present, refuses to be sworn or to give evidence or to answer such questions as are put to him by the Public Curator or the person so appointed as aforesaid, or to produce any books or documents required by the summons to be produced, is liable to a penalty not exceeding fifty pounds :

Provided that no person so summoned shall be bound to appear according to the exigency of the summons if, in order to appear, he would have to travel more than two hundred miles by the usual way from his usual place of abode to the place where he is summoned to appear.

Application
of Public
Curator
Acts.

92. (1.) The provisions of **"The Public Curator Acts, 1915 to 1938,"* may, *mutatis mutandis*, be applied so far as may be necessary or desirable for the purposes of this Act.

* 6 Geo. V. No. 14 and amending Acts, *supra*, pages 7056 *et seq.*

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TRATION OF
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MENTALLY
SICK
PERSONS.

(2.) Without restricting any other powers and authorities conferred by this Act, the Public Curator may apply to the court, *ex parte*, for directions with respect to the exercise of any of his powers, authorities, and discretions conferred upon him by this Act with respect to the estate of any mentally sick person, and the court may, on such application, make such order in the premises as it thinks fit.

Public
Curator
may apply
to court for
directions.

93. Nothing in this Act shall be construed to abridge, limit, derogate from, or in any wise affect the powers, duties, authorities, and responsibilities of the Public Curator conferred or imposed pursuant to section fourteen of **"The Public Curator Act Amendment Act of 1924,"* whereby "Part IIIA.—Protection of Aged and Infirm Persons" was inserted in †*"The Public Curator Act of 1915,"* and the provisions of Part IIIA. aforesaid shall be and continue to be in full force and effect.

Saving.—
Part IIIA. of
Public
Curator Acts.

94. (1.) Where any stock is standing in the name of or is vested in a mentally sick person beneficially entitled thereto, or a committee of the estate of a mentally sick person in trust for him, or as part of his property, and the committee dies intestate or himself becomes mentally sick, or is out of the jurisdiction of or not amenable to the process of the court, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, and to receive and pay over the dividends or income thereof to a new committee, for the space of fourteen days after a request in writing for that purpose made by the Public Curator or a new committee, then the court may order some fit person to transfer the stock to the name of the Public Curator or a new committee or otherwise, and also to receive and pay over the dividends or income thereof, or such sum or sums of money and in such manner as may be ordered by the court.

Stock
belonging to
mentally
sick
person may
be ordered
to be
transferred.

(2.) Where any stock is standing in the name of or vested in a person residing out of Queensland, the court upon proof to its satisfaction that such person has been declared mentally sick according to the laws of the place where the mentally sick person is residing, and that his personal estate has been vested in a curator or other person appointed for the management thereof according to the laws of that place, may order some fit

Stock in
name of
mentally
sick
person
residing out
of the State
may be
ordered to
be
transferred.

* 15 Geo. V. No. 3, *supra*, page 11101.

† 6 Geo. V. No. 14, *supra*, page 7056.

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TRATION OF
ESTATES OF
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person to make such transfer of the stock to the name of such curator or other person appointed as aforesaid, or otherwise, and also to receive and pay over the dividends or income thereof as may be ordered by the court.

Who shall be
appointed
to make
transfer.

(3.) Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society in whose books the transfer is to be made.

Summary
proceedings
for
protection
of property
of mentally
sick
patients.

95. If any real or personal property of a mentally sick patient is wrongfully held, detained, converted, or injured, or if any sum of money is due and owing to such patient by any person, the Public Curator may claim and recover possession of such property or damages for the conversion or injury thereof, or payment of the said sum by proceedings before the Supreme Court instituted by way of originating summons, which is hereby authorised and required, on proof to its satisfaction of the cause of the proceedings, to make an order requiring the person proceeded against to give up possession of such property or to pay reasonable damages, to be fixed by the order, for the conversion or injury thereof, or to pay the sum due, and, in default of compliance by such person, to order that he be committed to prison for any period not exceeding six months; or the court may direct an action to be brought in respect of the matter of the proceedings.

The court may make such order as to costs as it thinks fit, and every order under this section shall have the same effect and may be enforced in the same manner, as any judgment of the court.

Committees other than the Public Curator.

Supreme
Court may,
on sufficient
reason given,
appoint
committee
other than
Public
Curator.

96. (1.) The Supreme Court shall not appoint any person other than the Public Curator as the committee of the estate of any person in pursuance of this Act unless it is proved to the satisfaction of the court that there is some sufficient reason why such person should be so appointed in preference to the Public Curator.

(2.) When any application is made to the Supreme Court to appoint any person other than the Public Curator as the committee of the estate of any person, notice of the application shall be given to the Public Curator by the person making the same.

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Any such application shall be made to the court within three months after a person becomes a patient under this Act, and during such period and until the appointment of a committee other than the Public Curator is made the Public Curator shall *ex officio* be the committee under this Act.

(3.) The Public Curator shall be entitled to be heard on any such application, and the costs of the Public Curator (including the costs of obtaining such reports as the Public Curator deems necessary) shall be allowed to the Public Curator out of the estate of such mentally sick person.

97. (1.) When any person other than the Public Curator has been appointed as the committee of an estate under this Act, that person shall have in respect of the estate such of the powers conferred on the Public Curator by sections seventy-five to eighty-one, both inclusive, of this Act as the Supreme Court in the order appointing the committee, or in any subsequent order or orders, directs; and in the exercise of such powers he shall be subject to any orders that may be made in the matter by the Supreme Court.

Power of
such
committee.

(2.) On the application of the Public Curator or any relative of the mentally sick person, any such order may from time to time be varied or rescinded by the said court.

98. (1.) No person other than the Public Curator shall be appointed as the committee of the estate of any person in pursuance of this Act until he has given to the Public Curator such security as the Supreme Court directs and approves for the due administration of the estate.

Person so
appointed
to give
security to
Public
Curator.

(2.) Such security may be a bond, with or without a surety or sureties, or such other security as the said court directs and approves.

(3.) The said court may at any time, on the application of the Public Curator, require such committee to give to the Public Curator further or other security for the due administration of the estate.

(4.) The court may at any time give leave to the Public Curator to enforce any such security, and the Public Curator shall thereupon proceed by action or otherwise to enforce the same accordingly. All moneys so

received by the Public Curator shall be deemed part of the estate of which such person is or was the committee, and all costs and expenses so incurred by the Public Curator shall be paid out of the said estate.

The Public Curator may commence or institute proceedings against such committee for any breach of duty, and may apply to the Supreme Court *ex parte* for an injunction to restrain any such breach or any threatened breach of duty.

Statement
as to
estate to be
rendered to
Public
Curator.

99. (1.) It shall be the duty of every person, other than the Public Curator, who has been appointed the committee of the estate of any person in pursuance of this Act to render to the Public Curator, at such times and in such form as he shall prescribe, a statement showing the property comprised in the estate, and the manner in which that property has been administered and applied, and the condition of that property, and such other particulars relating to the said estate as may be prescribed or directed by the Public Curator.

(2.) Every such statement shall be verified by the statutory declaration of the committee, and, where the Public Curator so directs, shall be supported by vouchers.

(3.) If any committee fails or refuses to render any such statement verified as aforesaid, in the manner and at the times so prescribed, every member of such committee shall be liable to a penalty not exceeding fifty pounds for every such offence.

(4.) The Public Curator may cause any such statement or the accounts relating thereto to be examined and reported upon by any person he may appoint in that behalf.

Percentage
of moneys
in hands of
committee
to be paid
to Public
Curator.

100. (1.) When any person other than the Public Curator is appointed the committee of any estate in pursuance of this Act, there shall be payable out of that estate by the committee thereof to the Public Curator, at such times as the Public Curator prescribes, such percentage, not exceeding one pound for every hundred pounds, as may from time to time be prescribed, on all moneys collected by or coming under the control of the committee and forming part of the estate.

(2.) All moneys so paid to the Public Curator shall form part of the Public Curator's account.

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RESPECT OF
ACTS DONE IN
GOOD FAITH
IN PURSUANCE
OF THIS ACT.

PART IX.—INDEMNIFYING PERSONS IN RESPECT OF ACTS
DONE IN GOOD FAITH IN PURSUANCE OF THIS ACT.

101. (1.) A person who does any act or makes any omission in pursuance or intended pursuance of any of the provisions of this Act shall not be under any liability or damages in respect thereof, whether on the ground of want of jurisdiction or of mistake of law or of fact, or on any other ground, if he has acted in good faith and without malice and with reasonable care.

No liability
in respect of
act done in
good faith in
pursuance of
this Act.

(2.) In any proceedings taken against any such person for any such act or omission the burden of proving that he acted without good faith or maliciously or without reasonable care shall lie upon the plaintiff.

(3.) Any proceedings taken against any such person for any such act or omission may, upon application to the court in which they are taken, be stayed if the court is satisfied that there is no reasonable ground for alleging malice or want of good faith or reasonable care, or that the proceedings are frivolous or vexatious or that the said proceedings have been commenced after the expiration of three months after the act complained of as hereinafter provided.

(4.) No such proceedings shall be commenced unless within three months after the act or omission complained of or, in the case of a continuance of injury or damage, during the continuance or within three months after the ceasing thereof:

Provided that, in estimating the said period of three months so limited for the commencement of proceedings, no account shall be taken of any time or times during which the person injured was in confinement, lawfully or unlawfully, as a mentally sick person.

(5.) Nothing in this section shall be so construed as to deprive any person of any defence which he would have independently of this section.

(6.) Notwithstanding the repeal of the Principal Act the provisions of section six of **"The Insanity Act Amendment Act of 1935"* shall with respect to all acts and omissions occurring prior to the commencement of this Act continue to have full force and operation.

(7.) Without limiting the generality of the term "person," the term shall include the Minister, or the Director-General of Health and Medical Services, or

* 26 Geo. V. No. 34, *supra*, page 15445.

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the Deputy Director-General of Health and Medical Services, or the Director of Mental Hygiene, or any medical officer, officer, nurse, or employee of such Minister, Director-General, or Director, or any official visitor, or any Hospital Board or member thereof, or any officer or employee or servant thereof, or committee of any hospital or member thereof, or any officer or employee or servant thereof, or any member of the Police Force, or the Public Curator or any officer or employee thereof, or any medical officer.

PART X.—
OFFENCES.

PART X.—OFFENCES.

Illegal
reception
or detention
of person
mentally
sick

102. The superintendent of any mental hospital commits an indictable offence if he receives or detains in that mental hospital, or permits to remain therein, any mentally sick person, except under the authority and in pursuance of this Act.

Harbouring
mentally
sick
person.

103. (1.) Any person who without notice to the Director-General of Health and Medical Services keeps, harbours or conceals or aids in keeping, harbouring or concealing beyond the period of one year a mentally sick person who has during such period been subject to coercion or restraint, and any medical practitioner attending such patient beyond such period who wilfully neglects to disclose the condition of such person to the Director-General of Health and Medical Services shall, for every such offence be liable to a penalty not exceeding two hundred pounds or to imprisonment for any period not exceeding three months.

(2.) In any prosecution for an offence against this section, if it is proved that the person so permitted to reside or so under the care or keeping of the defendant is or was, while so resident, or under care or keeping, mentally sick, the burden of proving that the defendant did not treat such person as a mentally sick person, and of proving that such notice as aforesaid was duly sent to the Director-General of Health and Medical Services shall lie upon the defendant.

(3.) Nothing in this section shall apply—

- (a) To any single patient residing in a house in accordance with this Act ; or to
- (b) Any person lawfully detained under this Act who is absent on leave or is lawfully in custody under the provisions of any Act.

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104. Every medical practitioner who knowingly makes any false, misleading, or improper statement in any certificate under this Act, and every person who signs any certificate under this Act in which he describes himself as a medical practitioner, not being such within the meaning of this Act, commits an indictable offence. False or misleading certificate by medical practitioner.

105. Any person who knowingly sets forth in any notice, statement, or entry required to be made by him under this Act any particulars that are untrue, or who in making any such notice, statement, or entry knowingly omits therefrom any material fact, is guilty of an indictable offence. False statements.

106. Every superintendent of a mental hospital, licensee of a private mental hospital, officer, nurse, employee, person licensed to care for, treat, or control a mentally sick person, or other person having the care, treatment, or control of any mentally sick person, or employed in any mental hospital or other place in which any such mentally sick person resides, who strikes, wounds, or ill-treats, or wilfully neglects any such mentally sick person is guilty of an indictable offence. Neglect or ill-treatment of mentally sick person.

107. (1.) Every person employed in or about any mental hospital or private mental hospital or having the care, treatment, or control of any single patient, is guilty of an indictable offence if he wilfully permits or connives at the escape or attempted escape of a patient. Offence of permitting escape.

(2.) Every person commits an indictable offence who knowingly instigates or assists any patient to escape or to attempt to escape from any mental hospital or other place in which any mentally sick person resides, or who knowingly assists any patient who has so escaped to avoid or attempt to avoid being retaken.

108. (1.) Every person who is guilty of any act or omission in breach of this Act which is not declared to be an indictable offence, and for which no other penalty is expressly provided, is liable on summary conviction under **"The Justices Acts, 1886 to 1932,"* to a penalty not exceeding fifty pounds. Penalties

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

(2.) Every person who is guilty of any act or omission in breach of this Act which is declared to be an indictable offence is liable on indictment to a penalty not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for any term not exceeding two years.

(3.) In any prosecution for an offence declared by this Act to be an indictable offence, if a police magistrate on the preliminary hearing of the charge considers that the offence is not of a grave nature, he may, with the consent of the person so charged, deal with him summarily, and inflict a penalty not exceeding fifty pounds, or imprisonment, with or without hard labour, for any period not exceeding three months.

(4.) Every information for an offence punishable summarily under this Act shall be laid by the Director of Mental Hygiene, or by some other person to be specially authorised by him in that behalf in the particular case by writing under his hand.

(5.) Every such information shall be heard and determined by a police magistrate sitting alone.

(6.) Nothing in this Act shall prejudice or in any wise affect the provisions of **"The Criminal Code."*

PART XI.—
SPECIAL
PROVISIONS
RELATING TO
PERSONS
RESIDING AND
ORDERS AND
DECLARATIONS
MADE
ELSEWHERE
THAN IN
QUEENSLAND.

PART XI.—SPECIAL PROVISIONS RELATING TO PERSONS RESIDING AND ORDERS AND DECLARATIONS MADE ELSEWHERE THAN IN QUEENSLAND.

Division I.—Preliminary.

109. In the construction of this Part unless inconsistent with the context or subject-matter—

“British possession” means any part of His Majesty’s Dominions exclusive of Great Britain and Ireland;

“Lunacy” or any term of similar import—The word and its derivatives mean unsoundness of mind or mental sickness.

110. (1.) The Governor in Council on being satisfied that the laws in force in any part of His Majesty’s Dominions (other than in Queensland) are such as to enable powers to be exercised in that possession in cases of mentally sick persons residing in Queensland substantially similar to the powers contained in Division II.

*Division I.—
Preliminary.*
Interpre-
tation.

British
possession.

Lunacy.

Application
of Division
II. to British
possession
by
Proclama-
tion.

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Division I.—
Preliminary.

of this Part of this Act in cases of lunatic patients residing in that possession may by Proclamation declare that the said Division II. shall subject to any exceptions and modifications specified in the Proclamation apply to that possession and thereupon while such Proclamation is in force the said Division II. shall apply accordingly.

(2.) The Governor in Council on being satisfied that adequate provision has been made by the laws of Great Britain and Ireland or of any British possession (other than Queensland) for the recognition in Great Britain and Ireland or any such British possession of orders and declarations made by the Supreme Court of Queensland in the exercise of its jurisdiction in lunacy may by Proclamation declare that Division III. of this Part of this Act shall subject to any exceptions and modifications specified in the Proclamation apply to Great Britain and Ireland or any such possession and thereupon while such Proclamation is in force the said Division III. shall apply accordingly.

Application
of Division
III. to
United
Kingdom or
British
possession by
Proclama-
tion.

(3.) The Governor in Council may by further Proclamation revoke or alter any Proclamation under this Part.

Power to
revoke, &c.
Proclama-
tion.

(4.) Every Proclamation under this Part shall be published in the *Gazette* and a copy of the same shall be laid before Parliament as soon as may be after it is made.

Publication
of
Proclama-
tion.

Division II.—Powers of Public Curator.

Division II.—
Powers of
Public
Curator.

111. If the officer charged by the laws of Great Britain and Ireland or any British possession (other than Queensland) with the care, recovery, collection, preservation, and administration of the property and estates of lunatic patients in any hospital, asylum, or other place situate therein and authorised for the reception and care of persons of unsound mind—

Power of
Public
Curator on
certificate
of proper
officer in
other
British
possession
to adminis-
ter property
in
Queensland
of lunatic
patient
confined in
the other
possession.

Certifies in writing under his hand and seal to the Public Curator that any person is a lunatic patient residing in Great Britain, Ireland, or such British possession and that he is confined in any such hospital, asylum, or other place and that he is possessed of or entitled to or appears to be entitled to or interested in real or personal property in Queensland; and

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Division II.—
Powers of
Public
Curator.

By instrument in writing under his hand and seal authorises the Public Curator to collect, manage, sell, or otherwise dispose of and administer such property or to make inquiry respecting the same,

the Public Curator shall have and may exercise over and in respect of such property all his powers of collection, management, sale, disposition, administration, and inquiry and all the provisions of this Act shall apply in respect to such property to the like extent and in the same manner as if such lunatic patient were a resident of Queensland and a mentally sick person within the meaning of this Act.

Power of
Public
Curator to
pay over to
proper
officer of
other
British
possession
balance of
money or
property
received.

112. The Public Curator may pay over or deliver to such officer as aforesaid the balance of moneys or properties received by him—

After payment of all costs, charges, and expenses incurred in and about the exercise of the aforesaid powers; and

As to all moneys received—after satisfying or providing for the debts and claims of all persons resident in Queensland of whose debts or claims he has had notice,

without seeing to the application thereof and without incurring any liability in regard to such payment; and shall duly account for the same to such officer.

Division III.—
Resealing
Orders and
Declarations in
Lunacy Made
Elsewhere.

Division III.—Resealing Orders and Declarations in Lunacy Made Elsewhere.

Order or
declaration
in lunacy
in other
British
Dominions
to have like
effect in
Queensland
on being
resealed.

113. (1.) When any order or declaration made by a court of competent jurisdiction under the laws of Great Britain, Ireland, or any British possession in the exercise of its jurisdiction in lunacy is produced to and a copy thereof deposited with the Registrar of the Supreme Court of Queensland such order or declaration shall subject to the payment of the prescribed duties or fees (if any) be sealed with the seal of the court and shall have the like force and effect and have the same operation, and the Public Curator and every guardian, committee, or receiver acting thereunder shall perform

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the same duties and be subject to the same liabilities in Queensland as if such order or declaration had been originally made by the court :

Provided that a guardian, committee, or receiver other than the Public Curator appointed under any such order shall not have or exercise any power or authority thereunder after the same has been so sealed until his appointment has been confirmed by the court or a judge thereof, which confirmation may be granted upon such terms as the court or judge thinks fit or may be refused.

Division III.—
Resealing
Orders and
Declarations in
Lunacy Made
Elsewhere.

(2.) This section shall apply to such orders and declarations whether made before or after the commencement of this Act.

Retrospec-
tive
operation of
section.

(3.) This section shall not be construed as in derogation of the provisions of the Act of the Federal Council of Australasia called and known as **The Australasian Orders in Lunacy Act 1891* or of section seventy-two of this Act.

Saving.

See Federal
Council Act
54 Vic.
No. 1.

PART XII.—MISCELLANEOUS.

PART XII.—
MISCEL-
LANEOUS.

114. The receipt of a telegram from the Minister, or Director-General of Health and Medical Services, or Director of Mental Hygiene, or his deputy, or from any superintendent, or medical officer, or from any police magistrate stating that such telegram was despatched at the same time as or after the posting of any written instruction, notice, order, or other document under this Act, in terms sufficient for the proper identification of the same, shall upon the date of its receipt, and within seven days immediately following, confer upon the person to whom the telegram is addressed the same authority as the receipt of such written instruction, notice, order, or other document in proper form.

Instruction
by telegram,
when
sufficient.

115. When any document is required by this Act to be sent to the Director-General of Health and Medical Services or the Director of Mental Hygiene, it may be sent by post to the office of such Director-General of Health and Medical Services or, as the case may be, to the Director of Mental Hygiene, and shall be deemed to have been so sent at the time when it was so posted.

What
notices
deemed to
have been
sent when
posted.