

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1918.

A BILL

To amend the Lunacy Act, 1898; to amend the law with respect to the insane and persons suffering from mental or nervous disease; to provide for the teaching of the treatment of such diseases; and for purposes consequent thereon or incidental thereto.

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

Preliminary.

1. This Act may be cited as the "Lunacy (Amend- Short title. ment) Act, 1918," and shall be construed with the Lunacy Act of 1898, hereinafter in this Act referred to as the Principal Act.

References in this Act to sections and subsections shall be taken to refer to sections and subsections of the Principal Act, unless the context otherwise requires.

2. Section forty, subsection two of section forty-nine, subsections two and three of section sixty-five, sections ninety and one hundred and twenty-six, and subsection two of section one hundred and fifty-eight are repealed. Repeal.

3. (1) The term "Colonial Secretary" is replaced by the word "Minister" throughout the Principal Act. "Colonial Secretary" &c., replaced by other expressions.
The term "Inspector-General of the Insane" is replaced by the term "Inspector-General of Mental Hospitals", and the term "Deputy Inspector-General of the Insane" is replaced by the term "Deputy Inspector-General of Mental Hospitals" throughout the Principal Act.

The term "Hospital for the Insane" is replaced by the term "Mental Hospital" throughout the Principal Act.

(2) The following new section is inserted next after section three of the Principal Act:—

3A. Any places duly appointed and notified as hospitals for the insane shall be deemed to have been duly appointed and notified as mental hospitals for the purposes of this Act. Mental hospitals.

4. Section three is amended as follows:—

(a) To the definition of "insane person" add the words: "Where a committee of the estate of any person has been appointed, under section one hundred and twelve of this Act, such person shall, with respect to such of the said estate as is situated in New South Wales, be deemed to be an insane person." Definitions.

(b) After the definition of "medical practitioner" insert:—

"Mental Hospital" does not include a special hospital for mental and nervous diseases appointed under section 17c.

(c) At the end of the section add the following:
"The Minister" means the Minister of the Crown authorised by the Governor to administer this Act. Reception

Reception houses.

5. Section seventeen is amended by the addition of the following proviso:—

Certificate on admission to reception-house.

Provided that a person may, in pursuance of this Act, be received into a reception house upon the certificate of one medical practitioner in the form of Schedule Two A; but in every such case two medical certificates in the form of Schedule Two with the necessary order or request and statement shall, before such person is received into any mental hospital, be lodged with or obtained by the superintendent or officer in charge of such hospital.

6. The following sections and short headings are inserted next after section seventeen:—

Persons suffering from mental disease.

17A. Persons suffering from mental disease may be treated in institutions in accordance with the degree of restraint required for their care as follows:—

Institutions for persons suffering from mental disease.

- (a) The class of patients who are amenable to treatment without powers of restraint being required as a necessary condition of their admission may be treated in a general public hospital in the ordinary wards of such hospital, or in a special ward set apart for the purpose.
- (b) The class of patients who will be subject to restraint where the exercise of restraint is in the patients' interest may be treated in a special hospital for mental and nervous diseases appointed under section 17c, or in a special hospital or in a division attached to a mental hospital.
- (c) Persons who from the nature of their complaint require continuous restraint either for their own protection or for that of the public may be provided for in the ordinary mental hospitals or licensed houses.

Class (a)

Class (a)—Persons who may be admitted to general hospitals.

17B. (1) A person suffering from mental disease shall be admitted into a general public hospital for treatment where his mental condition is not such as to render it necessary to grant a certificate of insanity in his case either for his own protection or that of the public. Persons who may be admitted into general hospitals.

(2) Admission to public hospitals shall be effected on presentation of a certificate signed by a medical practitioner in form prescribed under Schedul Two B.

(3) The dates of the admission and of the discharge or death of all persons so received shall, within seven days, be reported by the hospital authorities to the Inspector-General.

(4) The Government shall recoup to the hospital authorities the cost of maintaining any such patient in their institutions.

(5) The Master may take the necessary steps to collect the cost of maintenance of any person so received into any such hospital from such person or from his relatives, and for that purpose the provisions of sections one hundred and forty-two to one hundred and forty-seven (inclusive) applicable to insane patients and to their relatives shall apply to the persons so received and to their relatives.

(6) Nothing in this Act, however, shall give the Master power to assume the control and management of the estate of any such person while in such hospital.

Class (b)—Persons who may be admitted to special hospitals.

17C. (1) The Governor may by notification in the Gazette appoint any place to be a special hospital for mental and nervous diseases, and in and by such notification may assign any name to such hospital, or he may in like manner set apart portion of the ordinary mental hospitals for that purpose. Any such appointment may be revoked in like manner. Appointment of special hospitals. (2)

(2) The Governor may appoint for any such hospital a superintendent, who shall be a medical practitioner, and such other officers as he may deem necessary. Appointment of superintendents.

(3) The Governor may make regulations for the government of any such hospital. Regulations.

(4) The superintendent may receive and admit into such hospital for treatment any person suffering from mental or nervous disease and whose mental condition is not such as to require his admission into a mental hospital. Such person may be so received and admitted on his own request in writing or on the authority of one medical certificate in form of Schedule Two A, together with the written request of the said person, or of a relative of such person or of his guardian. Persons who may be received into such hospitals.

(5) Immediately on the admission of any person into any such hospital an entry with respect to such person shall be made in a book to be kept for that purpose, according to the form and containing the particulars specified by the regulations. Entry in register.

(6) No person so admitted shall be detained for more than seven days after having given notice to the superintendent of his intention or desire to leave such hospital. Limited period of detention.

(7) Such persons shall not be deemed to be insane patients or patients within the meaning of section three: Provided that the Master may at the request of any such person take charge of his property, and the Master shall then have the same powers over this property as in the case of an insane patient, and, unless released by the Master, such property shall remain under his care until the person is discharged from hospital or dies. Persons not insane patients.

(8) The Master may take the necessary steps to collect the cost of the maintenance of any person admitted to a special hospital for mental and nervous diseases from such person or from the relatives of such person. For that purpose the provisions of sections one hundred and forty-two to one hundred and forty-seven (inclusive) applicable to Collection of cost of maintenance.

to

to insane patients and their relatives shall apply to such persons and their relatives ; but except at the request of such person himself, the Master shall not take charge of such person's property or estate.

(9) Notice of the admission and of the discharge or death of any persons so admitted shall be given in the same manner as in the case of insane patients. Notice of admission, discharge, and death.

Class (c)—Persons requiring restraint.

17D. No person, except—

- (a) a person who derives no profit from the care or charge ; or
- (b) a committee of the person appointed by the court ; or
- (c) a person authorised in that behalf by or under this Act,

Who may not take care or charge of a person suffering from mental disease.

shall take care or charge of any person who is suffering from mental disease. The fact that a person so suffering has been received to board or lodge shall be prima facie evidence that he is taken care or charge of by the person who so received him.

Any person who contravenes this section shall be liable to a penalty not exceeding *fifty* pounds.

17E. (1) If a medical practitioner certifies that a person is suffering from mental disease, and that it is expedient, in the interests of such person, that he be placed under the care of a person whose name and address are set out in the certificate, for a period therein stated, not exceeding six months, then during that period the person so suffering may be so cared for, unless in the meantime the certificate is cancelled.

Persons temporarily placed under care of private persons.

(2) The said certificate must not be signed by the manager or the owner of any private hospital or house in which the person so suffering is to be placed.

(3) The medical practitioner signing any such certificate shall at once forward it to the Inspector-General. The Inspector-General may at any time visit the person certified to be so suffering.

(4)

(4) A signed copy of the certificate shall be given to and retained by the person named in it under whose care the person so suffering is placed, and shall be produced to the Inspector-General at his visits.

(5) The said certificate may at any time be cancelled by the Inspector-General.

(6) Before the expiration of the period mentioned in such certificate, if a medical practitioner certifies that it will be in the interests of the person so suffering and expedient that he be allowed to be continued under care for a further period, such person may be so continued under care for a period not exceeding six months.

Subsections two, three, four, and five of this section shall apply equally to the certificate of a medical practitioner given under this subsection.

Voluntary patients.

17F. Except when authorised by the next following section, no person shall take the care or charge of or receive to board or lodge in any mental hospital or licensed house any person who is suffering from mental disease, unless on the like order, statement, and medical certificates, or other proper authority in respect of such person as is required on the reception of a patient into a mental hospital.

Persons who may not be received into a mental hospital or licensed house.

Any person who contravenes this section shall be liable to a penalty not exceeding *fifty* pounds.

17G. (1) The superintendent of any mental hospital or licensed house may, with the assent in writing of the Inspector-General (which assent shall not be given without written application by the patient), receive into such hospital or licensed house, as a voluntary patient, any person who is desirous of submitting himself to treatment, but whose mental condition is not such as to render it necessary to grant a certificate of insanity in his case.

Voluntary patients.

(2) Every such patient shall be produced to the Inspector-General at his visits.

(3)

(3) No such patient shall be detained for more than seven days after having given notice to the superintendent of his intention or desire to leave such hospital or licensed house.

(4) Such voluntary patients shall not be deemed to be insane patients or patients within the meaning of section three of this Act:

Provided that the Master may at the request of any voluntary patient take charge of his property, and the Master shall then have the same powers over this property, as in the case of an insane patient, and, unless released by the Master, such property shall remain under his control until the voluntary patient is discharged from hospital or dies.

(5) The Master may take the necessary steps to collect the cost of maintenance of a voluntary patient from the patient himself, or from the relatives of such patient. For that purpose the provisions of sections one hundred and forty-two to one hundred and forty-seven (inclusive), applicable to insane patients and their relatives shall apply to such voluntary patients and their relatives; but except at the request of the voluntary patient the Master shall not take charge of such patient's property or estate.

(6) Notice of the admission and of the discharge or death of such patients shall be given in the same manner as in the case of insane patients.

Teaching of treatment of mental and nervous diseases.

7. The Minister may make arrangements with the University of Sydney and with other bodies for the teaching of the special subject of treatment of mental and nervous diseases so that it may be made part of the course laid down for medical students.

Teaching of treatment of mental disease.

Licensed houses.

8. Section forty-one is amended as follows:—

(a) In subsection one omit "one hundred" and substitute "twenty-five".

(b)

Licensed houses amendment. cf. s. 41.

- (b) In subsection two omit the words commencing "and every such house" to the end of the subsection, and insert the words "Every such house containing less than twenty-five patients shall be visited twice a week by a medical practitioner: Provided that when any house is licensed to contain less than ten patients, the Minister may permit such house to be visited by a medical practitioner less frequently than twice a week.

Where a medical practitioner is not appointed as superintendent, the licensee shall be the superintendent of the house named in the license."

- (c) Omit subsection four.

Criminal insane.

9. (1) The following subsections are inserted in place of subsections two and three of section sixty-five:—

Amendment of s. 65.

(2) Where in an indictment or information any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible according to law for his actions at the time when the act was done or the omission made, then, if it appears to the jury before whom such person is tried that he did the act, or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

Finding of jury where person charged was insane when act was done.

(3) Where such verdict is found, the judge before whom such trial is had shall order the accused to be kept in custody till the Governor's pleasure shall be known; and on such order being made it shall be lawful for the Governor, from time to time, to give

Order of judge on such finding.

give such order for the safe custody of the said person during pleasure, in such place and in such manner as to the Governor may seem fit.

(2) The following subsection is added at the end of section sixty-five:—

(5) The Governor may, at any time, on the advice in writing of the Inspector-General, order the conditional discharge of any person ordered to be detained during his pleasure on such conditions as he may think fit to impose, and in the event of any of the conditions so imposed being broken, the Governor may issue an order for such person to be retaken and placed in a hospital for the criminal insane, or in a place of confinement, during the Governor's pleasure.

Conditional discharge of person in custody during pleasure.

Leave of absence.

10. The following section is inserted in the place of section ninety:—

90. (1) The superintendent of any mental hospital or of any hospital for mental and nervous diseases or of any licensed house may, with the consent in writing of the Inspector-General,—

Leave of absence from hospital or licensed house.

- (a) send or take under proper control any person detained in any such hospital or licensed house to any specified place, for any definite time, for the benefit of his health; or permit any such person to be absent from such hospital or licensed house upon trial for such period as may be thought fit; and
- (b) extend such time or period from time to time for such further definite period as may be expedient; or direct the return to such hospital or licensed house of any such person, if deemed necessary during the time or period so allowed or extended.

(2) Before giving any such consent, the Inspector-General may require the approval in writing of the person who signed the request, or of the

Consent of Inspector-General.

the committee who signed the order for the reception of the person so detained, or of the person who made the last payment on account of the maintenance of the person so detained.

(3) Should such person not return when directed by the superintendent, or at the expiration of any period or extended period allowed, such person may at any time be retaken, as in the case of an escape. Recapture.

Estates of patients and insane persons.

11. Section one hundred and fifteen is amended by omitting "the duties of the Master" and inserting the words "the duties and exercise the powers of the Master." Amendment of s. 115.

12. The following section is inserted next after section one hundred and twenty-four—

124A. Where the net value of the property of an insane patient, after deducting and making provision for any debts and claims payable or to be payable out of such property, does not in the opinion of the Master exceed one hundred pounds, he may authorise the chief clerk in lunacy to exercise and discharge the powers and duties of the Master in respect of such property. The provisions of this Act with respect to the exercise and discharge of those powers and duties by the Master shall extend to their exercise and discharge by the said chief clerk under this section. Where Master may authorise the chief clerk to exercise his powers.

13. The following sections are inserted in the place of section one hundred and twenty-six:—

126. The Master shall have the management and care of the property of every insane patient, and, in addition to other powers and duties necessary and incident to such management and care, may, subject to rules of court, exercise the following powers and perform the following duties with respect to the estate of every insane patient, that is to say, he may— Master's powers as to property of insane patients.

- (a) receive moneys, rents, incomes, and profits of real and personal property, and distrain for rent;
- (b)

- (b) demise land at such rent and on such conditions as he may think fit ;
- (c) sell, realise, and mortgage real and personal property ;
- (d) settle, adjust, and compromise a demand made by or against the estate ;
- (e) carry on a business which the patient has carried on, so far as may appear desirable for the purpose of more advantageously disposing of or winding-up the business, or preserving the same until the recovery of the patient ;
- (f) agree to an alteration of the conditions of a partnership into which the patient had entered, for the purpose of more advantageously disposing of his interest therein or terminating his liability ;
- (g) complete a contract for the performance of which the patient was liable, or enter into an agreement terminating that liability ;
- (h) sequestrate the estate of a patient under the provisions of the bankruptcy laws ;
- (i) bring and defend actions, suits, and other proceedings on behalf of a patient ;
- (j) bring lands under the provisions of the Real Property Act, 1900, or any Act amending the same.

126A. (1) If the officer charged by the laws of any other State, colony, dominion, or dependency of the United Kingdom, other than the State of New South Wales, with the collection, care, management, or disposal of the property of insane or lunatic patients in any hospital, asylum, or other institution for the reception and care of persons of unsound mind, certifies in writing under his hand to the Master, that any such insane or lunatic patient residing within such State, colony, dominion, or dependency, is possessed of, or entitled to, or appears to be entitled to or interested in real or personal property in the State of New South Wales

Master's powers as to property of insane persons in other British possessions.

Wales, and if such officer as aforesaid, by instrument in writing under his hand, authorises the Master to collect, manage, sell, or otherwise dispose of such property, or to make inquiry respecting the same, then the Master shall have and may exercise in respect of such property all such powers of collection, management, sale, disposition, and inquiry, in the same manner as if such insane or lunatic patient were a patient within the meaning of this Act; and the provisions of this Act shall apply in respect of such property as if it were the property of an insane patient.

(2) If the officer empowered by the laws of any such State, colony, dominion, or dependency, to proceed against any persons related to any such insane or lunatic patient for the recovery of moneys expended upon his maintenance, clothing, medicine, or care, certifies under his hand to the Master that such insane or lunatic patient has not an estate or any sufficient estate applicable to his maintenance, and authorises the Master to collect such moneys, then the provisions of sections one hundred and forty-two to one hundred and forty-seven (inclusive) of this Act shall apply to such of the persons so related as reside in New South Wales, in the same manner as if such insane or lunatic patient were a patient within the meaning of this Act.

(3) The Master may pay over or deliver to such officer all such moneys or property received by him after payment of all costs, charges, and expenses incurred in and about the exercise of the aforesaid powers.

(4) Provided that the powers conferred upon the Master by this section shall be exercised only in the cases of insane or lunatic patients residing in any such State, colony, dominion, or dependency, whose laws are certified by the Master to be such as to enable some officer in such State, colony, dominion, or dependency to exercise the like powers in the cases of insane patients residing in New South Wales.

14. The following subsection is added to section one hundred and thirty-six :— Amendment of s. 136.

(5) Upon proof to the satisfaction of the Master that no debts of a deceased patient remain unpaid, the Master may, without publishing the advertisements required by the last preceding subsection, pay any sum and hand over any documents and chattels under that subsection. Payment without advertisement.

15. The following subsection is inserted next after subsection one of section one hundred and thirty-seven :—

(1A) All personal effects in the hands of the Master which belonged to a patient, and which have not been claimed within two years from the date of the death of that patient, may be sold by direction of the Master, and the proceeds of the sale shall be paid by him into the Treasury and carried to the Consolidated Revenue Fund. Sale of personal effects of deceased patients.

16. The following paragraphs are substituted for paragraphs (a) and (b) of subsection one of section one hundred and forty-two :— Amendment of s. 142.

- (a) To the father of such patient ; or
- (b) if the father is dead or is residing out of New South Wales, or cannot be found, to the mother of such patient.

17. The following section is inserted next after section one hundred and fifty :—

150A. The court may authorise and direct the committee or manager of the estate of an insane or incapable person, or the Master as committee of the estate of an insane patient, to dedicate land for public roads, streets, ways, or other public purposes, and grant rights of way and other easements. Dedication of land of insane patient for roads, &c.

18. The following subsection is substituted for subsection two of section one hundred and fifty-eight :— Amendment of s. 158.

(2) Upon any sale, mortgage, or charge, pursuant to the order of the court or the provisions of this Act, of or upon the real estate of any married woman or woman Conveyance of interest of married woman or tenant in tail.

woman or any tenant in tail being an insane or incapable person, or an insane patient, a conveyance, mortgage, or charge may be made of such real estate without any acknowledgement by such married woman or tenant in tail, and shall take effect as if such acknowledgement had been duly made as provided by law.

Court visitor.

19. Paragraph (a) of section one hundred and sixty-eight is amended by inserting after the words "insane person" the words "or any incapable person or any person suffering from mental disease who is cared for or treated or boarded out in pursuance of this Act." Court visitor. Amendment of s. 168.

Alteration of forms.

20. The following section is added after section one hundred and seventy:— Amendment of s. 169.

170A. The Minister may from time to time make such alteration of forms in the Schedule to the Principal Act or this Act as may seem to him necessary or expedient. Alteration of forms.

Reports to be made.

21. The following section is inserted next after section one hundred and seventy-five:—

175A. The superintendent of every reception-house and of every licensed house shall, within the periods and as prescribed by the next preceding section, forward and communicate like particulars, and make and forward like reports, to the Master and to the Minister with respect to patients in such reception-house or licensed house as are by that section required to be made, communicated, and forwarded by the superintendents of mental hospitals with respect to patients in such hospitals. Reports by superintendents of reception houses and licensed houses.

Schedules.

Schedules.

22. The following Schedules are inserted next after ^{New} Schedule Two to the Principal Act:—
Schedule.

SCHEDULE TWO A.

I, the undersigned medical practitioner, hereby certify that I have personally examined [*name of person in full*], and am of opinion that he is a suitable case for admission to the [*name of institution*] for observation and treatment.

Dated this day of , one thousand nine hundred and

[*Signature*]

[*Place of abode*]

SCHEDULE TWO B.

I, the undersigned medical practitioner, hereby certify that I have personally examined , and am of opinion that he is suitable for treatment in a general public hospital, and under the provisions of sections of the Lunacy Act, I recommend his admission to your hospital.

[*Signature*]

[*Date*]

[*Address*]

The Superintendent,

Hospital.
