



ANNO DECIMO QUINTO

GEORGII VI REGIS.

A.D. 1951.

No. 45 of 1951.

An Act to amend the Health Act, 1935-1950.

[Assented to 13th December, 1951.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the " Health Act Amendment Act, 1951 ".

(2) The Health Act, 1935-1950, as amended by this Act, may be cited as the " Health Act, 1935-1951 ".

(3) The Health Act, 1935-1950, is hereinafter called " the principal Act ".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Enactment of Part IX.A of principal Act—Tuberculosis.

3. The following headings and sections are enacted and inserted in the principal Act after section 146a thereof :—

PART IX.A.

TUBERCULOSIS.

Interpretation.

146b. (1) In this Part—

" the Director-General " means the Director-General of Public Health holding office under the Health and Medical Services Act, 1949, or the person for the time being acting as such Director-General ;

" constable " includes any member of the police force ;

“ institution ” means an institution established or provided by the Government for the maintenance and treatment of persons suffering from tuberculosis ;

“ tuberculosis ” means tuberculous disease in any form.

(2) Nothing in this Part shall restrict the operation of any provision of Part IX. of this Act.

146c. (1) If the Director-General is satisfied that there are reasonable grounds for suspecting that any person is suffering from tuberculosis he may by notice in writing signed by him or by any person acting under his authority require that person to attend at a time and place specified in the notice, and to undergo such diagnostic examinations as the Director-General arranges. A notice under this subsection shall be served on the person to whom it is addressed at least fourteen days before the time fixed by the notice for the examination.

Examination of individual suspects.

(2) If for any reason the examination of any person is not held or completed at the time and place fixed by notice given under subsection (1) of this section, or on any adjournment, the Director-General or any person authorized by him may adjourn or further adjourn the examination or the completion thereof and give the person who is being or is to be examined written notice to attend again at the time and place to which the examination is adjourned.

(3) The Director-General may revoke any notice given under the preceding subsections of this section if satisfied that—

(a) the person named therein is not suffering from tuberculosis ; or

(b) the person named therein is suffering from tuberculosis and is being or will be adequately treated for that disease ; or

(c) any other sufficient cause exists for revoking it.

(4) The Director-General may amend any notice given under the preceding subsections of this section.

(5) If a person on whom a notice is served under this section fails to comply with any requirement of the notice he shall be guilty of an offence.

Penalty: For a first offence, a fine not exceeding ten pounds.

For a second or subsequent offence, a fine not exceeding twenty-five pounds.

(6) Proceedings against a person for an offence against this section shall not affect his liability to apprehension under the next following section.

Enforcement
of order for
individual
examination.

146d. (1) If a person served with a notice under the preceding section fails to attend for examination in accordance with the notice the Director-General may apply to a special magistrate for the issue of a warrant for the apprehension of that person; and the special magistrate, if satisfied that the said person has so failed, may issue such a warrant.

(2) A warrant issued under this section shall—

- (a) state shortly the matter on which it is founded;
- (b) name or otherwise describe the person against whom it is issued;
- (c) order the person or persons to whom it is directed to apprehend and detain the said person and bring him for examination in accordance with this section;
- (d) be in the prescribed form.

(3) A warrant issued under this section may be directed specially to any constable or other person by name, or generally to all constables in the State, or both specially and generally as aforesaid. If a warrant is directed to constables generally it shall be lawful for any constable to execute it as if it had been directed to him by name.

(4) A person apprehending a person by virtue of a warrant under this section—

- (a) shall forthwith notify the Director-General of the apprehension;
- (b) shall, pending the examination of such person, detain him in a hospital or other suitable place appointed by the Director-General for the purpose.

(5) Upon being informed that a person has been apprehended under this section the Director-General shall, as early as practicable, make arrangements for the examination of that person and advise the person who executed the warrant of the time and place fixed for the examination.

(6) A person executing a warrant under this section shall at the time so fixed bring the person apprehended from the place where he is detained to the place fixed for the examination.

(7) A warrant issued under this section for the apprehension of a woman shall, wherever practicable, be directed to a woman constable.

146e. (1) The Minister may, from time to time by notice order that any groups or classes of persons specified in the notice shall submit themselves to examination of the chest by X-ray in accordance with the provisions of the notice. Examination of
classes or
groups.

(2) Any group or class of persons to which a notice applies may be described in the notice by reference to their ages or the nature or place of their occupations, or the name of their employer, or their place of residence or country of origin, or the alphabetical group in which their names fall, or in any other way which the Minister thinks proper.

(3) Every such notice—

(a) shall be published by advertisement in a newspaper circulating in the locality in which the examination is to be held ;

(b) shall specify the time at which or the period during which, and the place at which, persons specified in the notice shall attend for examination ;

(c) may provide for any matters necessary or convenient to be provided in order to ensure that the persons specified in the notice shall attend for examination and that the examination shall be properly carried out.

(4) If a person attends for examination in accordance with a notice under this section and if for any reason the examination is not made or completed at the time and place at which he attends, the Director-General, or any person authorized by him, may adjourn the examination or the completion thereof and give to the said person a written notice requiring him to attend at the adjourned examination, and stating the time and place where it will be held.

(5) A person who fails to comply with any requirement of a notice given under any provision of this section shall be guilty of an offence.

Penalty—For a first offence, a fine of not more than ten pounds.

For a second or subsequent offence, a fine of not more than twenty-five pounds.

Detention of
tuberculosis
patients.

146f. (1) If a special magistrate is satisfied that any person suffering from tuberculosis (in this Part called a "patient") is in an infectious condition and that the circumstances in which the patient is living or the habits of the patient are such that there is a substantial risk that he will cause infection to other persons, he may order that the patient be removed to an institution or to some other place agreed upon by the patient and the Director-General and be detained and offered treatment there for such period not exceeding six months as the special magistrate orders.

(2) Where a special magistrate is satisfied that a patient who is already an in-patient in an institution (whether he is a voluntary patient or is being detained pursuant to an order) is in an infectious condition and that if he leaves the institution there will be a substantial risk that he will cause infection to other persons, the magistrate may order that the patient be detained in the institution in which he is already an in-patient, or in some other institution agreed upon by the patient and the Director-General, for such period not exceeding six months as the special magistrate thinks fit.

(3) An order shall not be made under this section except upon the application of the Director-General.

(4) Upon being informed by the Director-General that he intends to apply for an order under this section, a special magistrate shall fix a time and place for hearing the application.

(5) The Director-General shall serve on the patient at least seven clear days before the hearing a notice stating his intention to apply for the order and of the time and place fixed for the hearing of the application, and informing the patient of his right to appear before the special magistrate personally, or by counsel or agent.

(6) On the hearing of the application the special magistrate—

(a) shall hear and consider any relevant evidence, information or arguments submitted by or on behalf of the Director-General or the patient ;

(b) shall not be bound by the legal rules of evidence.

146g. (1) When an order is made under the preceding section of this Act a special magistrate on the application of the Director-General may issue a warrant for the apprehension and detention of the patient.

Enforcement
of orders for
detention.

(2) The warrant shall—

- (a) state shortly the matter on which it is founded ;
- (b) name or otherwise describe the patient ;
- (c) order the person or persons to whom it is directed to apprehend the patient and take him to an institution and there receive and detain him in accordance with this section ;
- (d) be in the prescribed form.

(3) A warrant under this section shall be directed generally to all constables in the State and to the superintendent of the institution in which the patient is to be detained. It shall be lawful for any constable to execute any such warrant as if it had been directed to him by name.

(4) A warrant under this section shall—

- (a) authorize any person to whom it is directed to do all or any of the following things, namely, to apprehend the patient, to take him to the institution mentioned in the order, and to receive him in that institution and detain him there until he is lawfully released ;
- (b) be sufficient authority, for the apprehension and return to the said institution of the patient if he unlawfully leaves the said institution.

146h. (1) The Director-General may in writing—

Release of
persons
detained.

- (a) order that a person who is being detained in an institution pursuant to an order under section 146f may leave the institution either permanently or for a period specified in the order ;
- (b) extend any period mentioned in an order under paragraph (a) of this subsection.

(2) On the application of a person who is being detained in an institution pursuant to an order under section 146f

and after hearing the Director-General a special magistrate may order—

- (a) that the said person be released from the institution either permanently or for a period specified in the order ;
- (b) that any period specified in an order under paragraph (a) of this subsection be extended.

No such order shall be made unless the magistrate is satisfied that the applicant may be released without substantial risk of infection to others, or, as the case may be, that the period of his release may be extended without such risk.

(3) Any order made under this section may be subject to any conditions imposed by the person making it and if any such condition is broken or not observed, the order shall cease to have effect.

Appeals.

146j. (1) Any party to an application made to a special magistrate under section 146f or 146h of this Act may, within twenty-one days after the special magistrate has made an order or given a decision on the application, appeal to the Supreme Court against that order or decision.

(2) Every such appeal shall be heard and determined by a single judge sitting in chambers.

(3) On the hearing of the appeal the Judge may do such one or more of the following things as he deems appropriate, namely, confirm, reverse or modify the order or decision appealed against, or make any order or give any decision which in the Judge's opinion, should have been made or given in the first instance.

(4) The Judge shall make no order as to costs in respect of the hearing of an appeal under this section except where the appeal is by the patient and is successful.

(5) Subject to the provisions of this section the procedure on an appeal shall be such as is prescribed by rules of the Supreme Court.

Mode of service.

146k. (1) Any order or notice required or authorized by this Part to be served upon or given to any person may be served upon or given to him by—

- (a) delivering it to him personally ; or

(b) leaving it for him at his last or most usual place of abode or business with some other person apparently an inmate thereof or employed thereat and apparently not less than sixteen years of age.

(2) Where an order or notice is left for a person under paragraph (b) of the preceding subsection that person shall be deemed to have received it on the day on which it was so left unless he proves the contrary.

146l. (1) If a person who attends or is brought to a place for examination pursuant to this Part refuses to submit himself to examination—

Provisions as to examinations.

(a) he shall be guilty of an offence and liable to a fine not exceeding twenty-five pounds ;

(b) the medical practitioner or other person appointed to conduct the examination may, with the aid of any persons acting under his instructions use any means necessary to conduct the examination.

(2) If any person obstructs or interferes with any person conducting or assisting to conduct any examination under this Part he shall be guilty of an offence and liable to a fine not exceeding twenty-five pounds.

146m. Every application to a special magistrate under this Part shall be heard and determined in chambers.

Applications to magistrates.

146n. The power to make regulations conferred by section 147 of this Act shall be deemed to include power to make any regulations necessary or convenient for the administration and enforcement of this Part of this Act, and without limiting the generality of this section shall include power to make regulations—

Regulations under this Part.

(a) with respect to the practice and procedure (including the summoning and examination of witnesses) on applications under this Part ;

(b) prescribing the forms for use under this Part ;

(c) for securing orderly behaviour on the part of persons who have attended for examination or are being examined or detained under this Part ;

(d) prescribing penalties recoverable summarily and not exceeding twenty-five pounds for breach of any regulation made under this section.

Amendment of
s. 147 of
principal Act—
Regulations as
to dangerous
substances
and processes.

4. Section 147 of the principal Act is amended by inserting therein after paragraph (m2) of subsection (1) the following paragraphs :—

- (m3) declaring that any substances (which term shall in this and the following three paragraphs include solids, liquids, and gases) shall be dangerous substances and that any processes shall be dangerous processes ;
- (m4) regulating or restricting the production, manufacture, use, storage, sale or other disposal of any substances declared by regulation to be dangerous substances ,
- (m5) regulating or restricting the use or application of processes declared by regulation to be dangerous processes ;
- (m6) prescribing any other matters which it is necessary or convenient to prescribe for the purpose of ensuring that adequate precautions shall be taken to prevent death, injury or ill health from substances declared by regulation to be dangerous substances or from processes declared by regulation to be dangerous processes.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.