Mental Health Bill (No 2)

EXPLANATORY MEMORANDUM

Outline

The aim of this Bill is to establish the legislative framework for the provision of services to the mentally ill well into the 21st century and beyond.

It takes account of the recommendations of the Consultative Council on Review of Mental Health Legislation and is designed to ensure that the most appropriate care is available in the least restrictive setting.

For the first time, the legislation will clearly set out goals which the Department of Health should seek to attain and identify the role of the Department in connection with the provision of mental health services to the community.

The Bill, of necessity, concentrates on involuntary patients.

It recognizes that the classification of a person as an involuntary patient involves a curtailment of civil liberties, and takes the approach that such action should only be contemplated if absolutely necessary for the safety and well being of the person, or for the protection of the community.

Contrary to the *Mental Health Act* 1959, which will be repealed by the Bill, no attempt has been made to define "mental illness", but, rather, the Bill lays down a series of criteria which must be met before a person can be lawfully detained as an involuntary patient.

These are that—

(*a*) the person appears to be mentally ill;

(*b*) the person's mental illness requires immediately treatment and that treatment can be obtained by admission to and detention in a psychiatric service;

(*c*) the person should be admitted to and detained as an involuntary patient for that person's health or safety;

(*d*) the person has refused or is unable to voluntarily submit to necessary treatment for the mental illness; and

(*e*) the person cannot receive adequate treatment for the mental illness in a manner less restrictive of that person's freedom of decision and action.

It should be noted that the Bill excludes, *per se,* a political, religious, or sexual belief or preference, or the fact that the person engages in immoral or illegal conduct, is intellectually disabled or takes drugs or alcohol, from the scope of "mental illness".

Under the Bill, a person can only be admitted involuntarily to a psychiatric service with a request and on the recommendation of a medical practitioner.

A patient admitted involuntarily must be seen within 24 hours by the Authorized psychiatrist.

A person who requires life sustaining or urgent medical treatment may be admitted as an involuntary patient to a general hospital.

In appropriate circumstances, the authorized psychiatrist may make a community treatment order as an alternative to admission to a psychiatric service.

The Bill requires every patient admitted to a pyschiatric service to be furnished with a statement of his or her rights and, *inter alia,* specifies that copies of the statement, as well

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as the Act, and any publications explaining the Act, are to be kept at a place accessible to patients.

The Bill prohibits the opening of a letter written to or by a patient except certain security patients.

This is the opposite approach to that taken in section 79 of the *Mental Health Act* 1959 which, with some specified exceptions, permits the censoring of a patient's correspondence.

Perhaps the most important innovation proposed in the Bill is the establishment of a Mental Health Review Board.

The Board will have a number of functions under the Act.

These include reviewing all involuntary and security patients, and the hearing of appeals against the detention of involuntary and security patients.

The Board will sit in divisions and, under the Bill, will be required to review the case of each involuntary and security patient between four and six weeks, and within six months and twelve months of admission, and thence at least annually.

Whether as a result of a review or an appeal, the Board will have the ability to order the discharge of an involuntary patient, or to recommend the return of a security patient to prison, as the case may be.

A person aggrieved by a determination of the Board may apply to the Administrative Appeals Tribunal for a review.

While the Board will play a major role in ensuring that persons are properly detained under the Act, it must be emphasized that it will be only one of the avenues available under the legislation for review of patient care.

An authorized psychiatrist, for example, may at any time discharge an involuntary patient who no longer meets the criteria for admission specified in the Act.

The chief psychiatrist will also have similar powers to make recommendations to the Minister with respect to security patients as will have the Board.

To ensure that the interests of no patient is overlooked, the Bill specifically requires that every patient, whether voluntary or involuntary, be examined at least once each year with respect to that patient's mental and general health.

Among other things, the Bill will restructure the Official Visitor scheme established under the *Mental Health Act* 1959 so that it more effectively represents the community interest.

Community Visitors are to be appointed on a regional basis and will have broad powers of inspection of all mental health services, including psychiatric services, in the region.

The functions of community visitors will range from inquiring into the adequacy of services for the assessment and treatment of patients to failures to comply with the provisions of the Act.

Any patient or resident of a mental health service will be entitled to be seen, and to be interviewed, by a panel of community visitors.

Unlike the current provisions in the *Mental Health Act* 1959, specific provision is made in the Bill for an annual general meeting of and for the tabling of an annual report of community visitors before both Houses of Parliament.

Both electroconvulsive therapy (E.C.T.) and psychosurgery have valid therapeutic application in appropriate cases but the Bill takes account of the fact that these are potentially controversial treatments and raise emotional issues within the community.

With this in mind, the Bill will regulate both the use of E.C.T. and other prescribed treatments, and the performance of psychosurgery.

The use of E.C.T. will be limited by the Bill to psychiatric services and premises licensed for the purpose by the Department of Health.

E.C.T. may only be administered with the informed consent of the patient, and clear criteria as to what constitutes informed consent are set out in the Bill.

However, E.C.T. may be given to an involuntary patient or a security patient incapable of giving informed consent in certain circumstances with the authorization of the authorized psychiatrist but wherever possible the consent of the primary carer must be sought and obtained.

The performance of psychosurgery will be prohibited by the Bill unless—

(*a*) the patient has given informed consent; and

(*b*) the operation has been approved by the Psychosurgery Review Board to be constituted under the Act.

Where there is a conclusive presumption that a person is incapable of giving informed consent, or where there is a substantial doubt as to whether informed consent has been given, the Board will be required by the legislation to refer the question to the Supreme Court for determination.

Other matters dealt with in the Bill include the establishment of legislative guidelines for the application of bodily restraint and the use of seclusion, and the non-psychiatric treatment of patients.

The Bill also contains a number of provisions relating to the maintenance of banking accounts on behalf of patients of a psychiatric service.

A notable feature of the legislation is its commitment to the fostering and development of a comprehensive range of community care services outside the hospital system.

This will be achieved, in part, by empowering the Chief General Manager to enter into funding and service agreements with community support services registered with the Department of Health.

Such agreements may relate to a variety of matters including the purpose for which the funds may be used, the persons for whom and the types of services, facilities and amenities to be provided by, and the staffing of, the community support service.

Funding and service agreements are expected to play an increasingly important role in enabling patients to live as normal a life as possible within the community and are integral to the underlying theme of the Bill of providing services in the least restrictive environment.

Clause Notes

PART 1—PRELIMINARY

Clause 1 describes the purpose of the Act.

Clause 2 is the commencement clause and states that the Act comes into operation on a day or days to be proclaimed.

Clause 3 contains the definitions of terms used in the Act.

PART 2—OBJECTS, OBJECTIVES AND FUNCTIONS

Clause 4 expresses the objects of the Act as well as the intentions of the Parliament as to the manner in which the legislation is to be interpreted and administered.

Clause 5 sets out the objectives of the Department of Health under the Act.

Clause 6 identifies the functions of the Department under the Act.

PART 3—ADMISSION OF PATIENTS

Division 1—Voluntary Patients

Clause 7 enables any person who has attained the age of 16 to be admitted to a psychiatric service as a voluntary patient. A person under 16 may be admitted on the application of a parent or guardian, provided that the person does not refuse to be admitted and the authorized psychiatrist is satisfied that the person is capable of making the decision. Appeals against non-admission may be made to the chief psychiatrist.

It should be noted that, unlike section 41 (4) of the *Mental Health Act* 1959, which permits a voluntary patient to be detained up to 3 days after application for discharge, the clause makes clear that a voluntary patient is free to leave and be discharged from a psychiatric service at any time.

Division 2—Involuntary Patients

Clause 8 prescribes the criteria under which a person may be admitted to and detained in a psychiatric service as an involuntary patient.

Clause 9 describes the procedure for the recommendation of involuntary patients. Among other things, the clause authorizes the transport to a psychiatric service by members of the police force, ambulance officers, a psychiatric nurse or other authorized person of a person whose admission to a psychiatric service has been recommended by a medical practitioner.

Clause 10 deals with emergency situations. It empowers a member of the police force to enter any premises, without the need for a warrant, and to use such force as is reasonably necessary for the purpose of apprehending a person who is apparently mentally ill and who is a danger to himself. The member may be accompanied by a medical practitioner but, in any event, is required by the clause to immediately take the apprehended person to a medical practitioner for examination.

Clause 11 relates to non-urgent situations. Under the clause, a magistrate may issue a warrant authorizing a member of the police force, accompanied by a medical practitioner, to enter any premises with such assistance as is required, and to visit and examine any person who appears to be mentally ill, and because of that illness, is incapable of caring for herself or himself.

Clause 12 requires any person admitted as an involuntary patient to be examined within 24 hours by the authorized psychiatrist to determine whether the person should be discharged, or the detention of that person as an involuntary patient should be continued.

Clause 13 enables a person who requires medical treatment which is life-sustaining, or to prevent serious physical deterioration to be admitted as an involuntary patient to a general hospital.

Clause 14 enables the authorized psychiatrist to make a community treatment order instead of admitting a person to a phychiatric service as an involuntary patient.

Division 3—Persons Convicted of Criminal Offences

Clause 15 enables a court to refer to a psychiatric service a person who has been found guilty of a criminal offence, where it is satisfied that the person is suffering from a mental illness that requires her or his admission to a psychiatric service and detention for treatment, instead of passing sentence. The court will have the option of making a hospital order for up to 3 months, or a hospital order under which the person is admitted to the psychiatric service as an involuntary patient. At the expiration of a hospital order or on prior application by the authorized psychiatrist, and after considering a report from the authorized psychiatrist, the court may either make a hospital order admitting the person as an involuntary patient, or proceed to pass sentence.

Clause 16 provides for the transfer by the Minister administering the Office of Corrections of prisoners to a psychiatric service who appear to be mentally ill either under a hosptial order, or a restricted hospital order.

Division 4—Repatriation Patients

Clause 17 is an enabling clause and empowers the Minister to enter into agreements with the Commonwealth with respect to the provision of mental health services to repatriation patients.

This clause will replace section 59 of the *Mental Health Act* 1959 which provides for the admission of ex-servicemen into repatriation mental hospitals.

Division 5—Patient's Rights

Clause 18 requires every patient admitted to a psychiatric service to be given a statement as to her or his rights.

Clause 19 requires copies of the Act and the Guardianship and Administration Board Act, publications prepared by the Department explaining the Acts, copies of the statement to be given to patients, and the addresses and telephone numbers of the Mental Health Review Board, Public Advocate, the chief psychiatrist, the community visitors and the Legal Aid Commission, to be kept at a place readily accessible to all patients in a psychiatric service.

Clause 20 forbids the opening of a letter written to or by a patient, who is not a security patient.

PART 4—REVIEW, DISCHARGE, LEAVE, AND TRANSFER OF PATIENTS

Division 1—Establishment, Constitution and Procedure of the Board

Clause 21 establishes the Mental Health Review Board and provides that the provisions of Schedule 1 shall have effect with respect to members of the Board.

Clause 22 defines the functions of the Board. It also requires the Board, in determining any review or appeal, to have regard primarily to the patient's current mental condition, and in every case, to see the patient and consider the patient's medical and psychiatric history and social circumstances.

Clause 23 provides for the appointment of an executive officer and such other officers and employees as are necessary for the proper functioning of the Board.

Clause 24 deals with proceedings of the Board and, among other things, provides that the provisions of Schedule 2 shall have effect with respect to its procedure.

Clause 25 enables the Board to appoint a legal practitioner, an approved interpreter, a medical practitioner or person with an appropriate expertise to assist the Board in proceedings.

Clause 26 gives the patient in respect of whom a hearing is conducted the right to appear before the Board, and deals with representation on behalf of the patient, and other persons who have been given notice of the hearing, or who wish to be heard.

Clause 27 entitles a party to a proceeding to obtain a statement from the Board of the reasons for is determination.

Clause 28 requires the executive officer to maintain a register of applications, determinations of the Board, and the reasons for the determination.

Division 2—Appeals and Reviews

Clause 29 entitles an involuntary patient, a community visitor or any person who has a genuine concern for the care and protection of an involuntary patient, to appeal at any time to the Board against detention as an involuntary patient or as a security patient.

Clause 30 requires the Board to review the case of an involuntary patient or security patient between 4 and 6 weeks, and within 6 months and 12 months of admission, and thereafter at intervals not exceeding 12 months.

Clause 31 bars the Board from hearing an appeal within 28 days of a review, or hearing a review within 28 days of an appeal.

Clause 32 lists those persons who are entitled to notice of the hearing of an appeal or review by the Board.

Clause 33 requires proceedings before the Board to be closed to the public unless the Board is satisfied that it would be in the best interests of the patient or in the public interest for proceedings to be open.

Clause 34 prohibits the publication or broadcast of any report of proceedings of the Board unless the Board determines that it would be in the public interest to do so. Any such report must not contain any identifying material.

Clause 35 protects the confidentiality of any information acquired by a member of the Board or by a person who has been present at any proceedings.

Division 3—Involuntary Patients

Clause 36 sets out the powers of the Board after hearing an appeal or review. It provides that where a person is detained under section 12 and the Board is not satisfied that such continued detention is necessary, it must order that the person be discharged as an involuntary patient. Discharge as an involuntary patient must be recommended to the Minister where the patient is detained under section 15. If the person has been detained as an involuntary patient under section 16, the Board must recommend that the person be discharged as an involuntary patient and returned to prison.

Clause 37 empowers the authorized psychiatrist, where the authorized psychiatrist is satisfied that continued detention is not necessary, to discharge at any time a patient detained under section 12. The clause goes on to vest in the chief psychiatrist similar powers of recommendation as vested in the Board under the previous clause.

Clause 38 authorizes the Minister to do all such things as are necessary to give effect to a recommendation under sections 36 or 37.

Clause 39 enables involuntary patients to be transferred between psychiatric services in certain specified circumstances.

Clause 40 permits the authorized psychiatrist to allow involuntary patients leave of absence.

Clause 41 permits the authorized psychiatrist to allow an involuntary patient to be absent from the psychiatric service for the purpose of receiving medical treatment.

Clause 42 has the effect of automatically discharging a person as an involuntary patient if she or he has been absent without leave of absence for 3 months, or has been on leave of absence for 6 months unless, in the latter case, the authorized psychiatrist or chief psychiatrist applies to the Board for an order that the person not be discharged.

Clause 43 provides for the apprehension and return of an involuntary patient who is absent from a psychiatric service without leave by a member of the police force, the authorized psychiatrist or a person authorized by the authorized psychiatrist, or an authorized officer of the Department authorized by the Chief Psychiatrist.

Division 4—Security Patients

Clause 44 enables the Board upon hearing an appeal or review to recommend that a security patient be discharged as a security patient and returned to prison where it is not satisfied that the continued detention of that person as a security patient is necessary.

Clause 45 empowers the Chief Psychiatrist at any time he or she is not satisfied that the continued detention of a person as a security patient is necessary to make similar recommendations as those mentioned in Clause 44.

Clause 46 requires the Minister to notify the Minister administering the Office of Corrections of a recommendation under clause 44 or 45, and authorizes the Minister to do all such things as are necessary to give effect to the recommendations.

Clause 47 contains various provisions relating to the security, transport, and custody of security patients, and requires the Director-General of Corrections to be advised of the death of a security patient.

Clause 48 enables a security patient to request the chief psychiatrist or the Board to recommend that she or he be transferred to a prison, and makes provision for such an order by the Minister.

Clause 49 permits a security patient to be transferred between psychiatric services by the chief psychiatrist in certain specified circumstances.

Clause 50 states that a security patient detained under section 16 ceases to be a security patient at the expiration of that person's sentence of imprisonment, and requires the Director-General of Corrections to notify the Chief Psychiatrist when the sentence is to expire.

Clause 51 empowers the Minister to approve leave of absence for a security patient on the recommendation of the chief psychiatrist or the Board. However, no such recommendation may be made unless the chief psychiatrist or Board as the case may be is satisfied that the safety of the public will not be seriously endangered, and the Director-General of Corrections has been consulted.

Clause 52 deals with applications by a security patient for special leave of absence. Applications for special leave may be granted by the chief psychiatrist, or on appeal, by the Board. Special leave of absence is not to exceed 24 hours.

Clause 53 provides for the apprehension of a security patient who is absent without leave by a member of the police force, the authorized psychiatrist, or person authorized by the authorized psychiatrist or by an authorized officer of the Department for the purpose of returning the patient to the psychiatric service.

PART 5—CARE AND TREATMENT OF PATIENTS

Division 1—Psychosurgery

Clause 54 defines "psychosurgery" and "behaviour" for the purposes of the Division.

Clause 55 sets out the criteria constituting informed consent to the performance of psychosurgery.

Clause 56 establishes a Psychosurgery Review Board and provides that the provisions of Schedule 3 shall have effect with respect to the Board.

Clause 57 makes it an offence to perform, or to permit the performance of psychosurgery without consent having been obtained in accordance with the requirements of the Division.

Clause 58 requires any person who proposes to perform psychosurgery to apply for the consent of the Psychosurgery Review Board to the operation.

Clause 59 deals with the hearing of an application under the previous clause. Among other things, the clause requires notification of such a hearing to be given to the specified parties, and provides for representation on behalf of the person in respect of whom the application has been made.

Clause 60 relates to various procedural matters with respect to hearings by the Board including the administration of oaths and the summonsing of persons to appear before the Board.

Clause 61 requires proceedings to be closed to the public unless the Board determines that it would be in the best interests of the patient or in the public interest for proceedings to be open.

Clause 62 prohibits the publication or broadcasting of any report of a hearing of the Board unless the Board otherwise determines.

Clause 63 protects the confidentiality of any information acquired by a member of the Board or by a person who has been present at any proceedings.

Clause 64 specifies the circumstances under which the Board is required either to consent or to refuse its consent to an application. It goes on to provide that where there is a conclusive presumption that a person is incapable of giving informed consent, or a substantial doubt that the person has given informed consent, the Board is to refer the matter to the Supreme Court.

Clause 65 sets out the various matters as to which the Board must be satisfied before consenting to psychosurgery.

Clause 66 specifies the matters to be included in a consent of the Board and the persons to whom notice is to be given of such consent.

Clause 67 requires the Board to give reasons in writing for the refusal of consent and specifies the persons to whom notice of refusal is to be given.

Clause 68 deals with referrals to the Supreme Court. It requires a Judge of the Court to conduct a hearing as soon as practicable to determine whether the person is capable of giving, and has given, informed consent, or if the person is conclusively presumed to be incapable of giving informed consent, whether the Judge should consent on that person's behalf.

Clause 69 requires the Board to consent to an application where the Judge has found that the person has the capacity to give, and has given, informed consent, or where the Judge has consented to psychosurgery on the person's behalf.

Clause 70 provides that any person who performs psychosurgery with the consent of the Board shall report to the Board in writing within 3 months of the operation as to its performance and within 12 months on its results.

Clause 71 requires the Board to ensure that there is a regular review of any person on whom psychosurgery has been performed unless the person objects to such review.

Division 2—Electroconvulsive Therapy and Other Prescribed Treatments

Clause 72 defines "prescribed treatment" as meaning electro convulsive therapy (ECT) and any other prescribed psychiatric operation and treatment, and what constitutes informed consent to the performance of a prescribed treatment.

Clause 73 prohibits the performance of a prescribed treatment on a person without informed consent. An exception is made in the case of an involuntary patient or security patient who is incapable of giving informed consent. In such cases, unless the situation is an emergency, the performance of the prescribed treatment may be authorized by the authorized psychiatrist provided that, wherever possible the consent of the primary carer has been sought and obtained.

Clause 74 prohibits the performance of a prescribed treatment except at a psychiatric service, or at a licensed premises.

Clause 75 enables the occupier of any premises to apply to the Chief General Manager for a licence to perform prescribed treatments on those premises. The Chief General Manager, after considering the various matters mentioned in the clause, may either issue a licence subject to conditions, limitations and restrictions as the Chief General Manager considers appropriate, or refuse to issue a licence.

Clause 76 describes the nature of a licence to be issued by the Chief General Manager and fixes a maximum period of validity of 3 years. The clause also empowers the Chief General Manager to cancel a licence in prescribed circumstances.

Clause 77 makes provision for the renewal of licences.

Clause 78 deals with the amendment of licences.

Clause 79 entitles any person aggrieved by a decision of the Chief General Manager to refuse to issue, renew or amend a licence, or to cancel a licence to appeal to the Administrative Appeals Tribunal.

Clause 80 requires holders of licences to provide the Department of Health with an annual return of prescribed treatments performed.

Division 3—Restraint and Seclusion

Clause 81 prohibits the use of mechanical restraint of a patient except if it is necessary for the medical treatment of the patient, to prevent the patient causing injury to herself or himself or any other person, or to prevent the patient from persistently destroying property. Restraint may only be applied with the approval of the authorized psychiatrist or, in an emergency, authorized by the senior nurse and notified to the authorized psychiatrist without delay. The authorized psychiatrist is required by the provision to report monthly to the Board as to the form, the reasons why mechanical restraint was used during the month, the name of the persons approving and applying the restrain and the period of time the patient was restrained.

Clause 82 prohibits the keeping of a patient in seclusion unless it is necessary for the protection, safety or wellbeing of the patient, or other persons with whom the patient would otherwise be in contact. As in the case of mechanical restraint, the use of seclusion must be approved by the authorized psychiatrist or, in an emergency, authorized by the senior nurse

and notified to the authorized psychiatrist. The clause also contains a number of provisions safeguarding the welfare of a patient during any period of seclusion, and requires monthly reports to the Board regarding the use of seclusion.

Division 4—Non-Psychiatric Treatment

Clause 83 defines "non-psychiatric treatment" for the purpose of the Division, and what constitutes informed consent to such treatment.

Clause 84 prohibits the performance of non-psychiatric treatment without informed consent unless the following clause applies.

Clause 85 permits the performance of non-psychiatric treatment on a patient who is incapable of giving informed consent either with the consent of a guardian appointed under the proposed Guardianship and Administration Board Act with power to consent to health care that is in the best interests of the person, or, in any other case, with the consent of the authorized psychiatrist. Reports as to the non-psychiatric treatment performed, and the reasons why the authorized psychiatrist consented to such treatment, must be sent to the Board monthly by the authorized psychiatrist.

Clause 86 prohibits the sterilization, or the termination of the pregnancy of a patient, or the removal of non-regenerative tissue for the purpose of transplantation unless the patient has given informed consent, or, if the patient is a represented person, the guardian, and the Guardianship and Administration Board has consented, or where, in an emergency, the performance of the medical procedure is necessary to save the life of that person.

Division 5—Annual Examination

Clause 87 requires every patient (including voluntary patients) to be examined at least once each year as to that patient's mental and general health, and that a report of such examination be sent by the authorized psychiatrist to the Chief Psychiatrist.

Division 6—Patient's Money

Clause 88 requires the senior officer of a psychiatric service to open a Patients' Trust Account, a Patients' Amenities Account and an Interest Account in the name of the service with any bank approved by the Treasurer.

Clause 89 requires the payment into the Patients' Trust Account of any money received from a patient to be held on behalf of the patient, or from any person to be held for the benefit, use or enjoyment of a patient and provides for the withdrawal of funds by a patient or on behalf of a patient.

Clause 90 provides for the investment of any money in the Patients' Trust Account not immediately required for use by patients.

Clause 91 requires the income, or capital gain, from any investment under the previous clause to be paid into the Interest Account and provides for the disbursement of funds from that account into patient's accounts at the prescribed rate of interest.

Clause 92 requires monies received for the purpose of providing goods and services or other amenities for patients, and any surplus from the Interest Account, to be paid into the Patients' Amenities Account, and provides for payments from that account for the purpose of providing goods and services or other amenities for the benefit, use or enjoyment of patients generally.

Clause 93 enables a ceiling to be fixed from time to time on the amounts of money which may be held by a psychiatric service on behalf of each patient. As it is not intended that psychiatric services should hold or manage large sums on behalf of individual patients,

the senior officer is required to advise the patient, or the patient's representative, to invest monies over the prescribed amount in an appropriate manner.

PART 6—ADMINISTRATION

Division 1—Proclamation of psychiatric hospitals and units

Clause 94 enables the Governor in Council to proclaim any premises provided by the State for the care and treatment of persons who are mentally ill, to be an approved psychiatric hospital, and the psychiatric unit of a general hospital to be an approved psychiatric unit. Any proclaimed psychiatric hospital or mental hospital under the *Mental Health Act* 1959 is deemed to have been proclaimed as an approved psychiatric hospital or approved psychiatric unit as the case may be.

Division 2—Medical Staff

Clause 95 requires as many medical practitioners as are necessary for the purposes of the Act to be appointed or employed by the Department. Such practitioners are to be employed on such conditions, and receive such remuneration as determined by the Public Service Board having regard to relevant determinations of the Hospitals Remuneration Tribunal, but will not be subject to the *Public Service Act* 1974 except as otherwise provided in the Bill. The clause goes on to state that the provisions of Schedule 4 shall have effect with respect to medical practitioners appointed or employed for the purposes of the Act.

Clause 96 provides for the appointment of an authorized psychiatrist for each approved psychiatric hospital.

Clause 97 enables the authorized psychiatrist to delegate his powers, duties or functions to a qualified psychiatrist.

Division 3—Community Support Services

Clause 98 defines "community support services" "funding and services agreement" and "registered community support service", for the purposes of the Division.

Clause 99 empowers the Chief General Manager to allocate funds to a registered community support service which has entered into a funding and services agreement with the Chief General Manager.

Clause 100 enables a person to apply for the registration of an association or organization which provides community support services to be registered, and sets out the grounds on which an application may be refused.

Clause 101 vests in the Chief General Manager an ability to enter into a funding and services agreement with a registered community support service and sets out various matters which may be provided for in such agreements.

Clause 102 empowers the Governor in Council, on the recommendation of the Minister, to appoint an administrator where a registered community support service is inefficiently or incompetently managed, has failed to provide an effective service or has breached or failed to comply with a funding and services agreement.

Clause 103 enables the Governor in Council to declare any community support service which is abusing or exploiting persons using the service to be a proclaimed service and requires a proclaimed service to operate subject to such conditions, and comply with any requirements, specificied in the proclamation.

Division 4—The Chief Psychiatrist

Clause 104 requires the appointment by the Chief General Manager of a Chief Psychiatrist and sets out the functions of the Chief Psychiatrist.

Clause 105 enables the Chief Psychiatrist to delegate a power duty or function to another medical practitioner employed by the Department.

Clause 106 vests in the Chief Psychiatrist power to visit and inspect any mental health service, to interview patients, to make various inquiries, and to inspect documents relating to patients, and requires the person in charge and members of the staff to provide such assistance as is required. The Chief Psychiatrist will also have an ability to order the person in charge of any mental health service to allow the person specified in the order to see a patient specified in the order.

Clause 107 provides for the investigation of complaints that a patient is being unlawfully or improperly treated in a private hospital for mental illness.

Division 5—Community Visitors

Clause 108 defines "mental health service" and "region" for the purposes of the Division.

Clause 109 enables the Governor in Council to appoint community visitors for each of the Health Departments regions and provides that Schedule 5 shall have effect with respect to community visitors.

Clause 110 describes the functions of a community visitor.

Clause 111 deems any person appointed by the Minister or the Department for the purpose of any investigation in connexion with the administration of the Act, to be a community visitor.

Clause 112 deals with visits to mental health services by community visitors and among other things, requires every psychiatric service to be visited at least one each month.

Clause 113 vests in a community visitor an entitlement to inspect any part of a mental health service, to interview patients, to make various inquiries and to inspect documents, and requires the person in charge and members of the staff to provide such assistance as is required.

Clause 114 provides that any person receiving treatment or other services from a mental health service may request the person in charge of the service to arrange for that person to be seen by a panel of community visitors. After seeing the person, the panel may report to the Chief Psychiatrist, making such recommendations as it considers appropriate.

Clause 115 requires the person in charge of a mental health service to maintain a record of visits by community visitors.

Clause 116 requires the community visitors for a region to report twice a year to the District Health Council, and enables the Minister to require a panel of community visitors to report to the Minister on any specified matter. Similarly, a community visitor, or panel of community visitors, may submit a report at any time to the Minister where it considers any matter should be considered personally by the Minister.

Clause 117 requires the Minister to convene an annual general meeting of community visitors and provides for the preparation and tabling of an annual report in both Houses of Parliament.

Clause 118 protects the confidentiality of any information acquired by a community visitor in his or her capacity as a community visitor.

PART 7—GENERAL

Division 1—Miscellaneous

Clause 119 empowers the Board, where a question of law arises in proceedings before that body, to reserve the question in the form of a special case stated for the opinion of the Supreme Court.

Clause 120 authorizes the judges of the Supreme Court to make rules with respect to special cases stated.

Clause 121 enables a person aggrieved by a determination of the Board to apply to the Administration Appeals Tribunal for a review of the determination.

Clause 122 deals with the amendment of incorrect or defective documents relating to the admission of an involuntary patient. It provides that such a document may be amended within 21 days of the admission by the person who signed the document. Where a document which is incorrect or defective is not amended to the satisfaction of the Chief Psychiatrist within 21 days of a direction requiring the amendment, the Chief Psychiatrist may order the patient be discharged. The Board and the Supreme Court will also have the capacity to amend a document where in any proceedings it appears that the document is incorrect or defective.

Clause 123 indemnifies from civil or criminal proceedings any person who does anything in good faith and with reasonable care in relying on a document apparently given or made in accordance with the reqirements of the Act.

Clause 124 requires a medical practitioner who signs any recommendation or certificate in connection with the admission of a patient to specify the facts on which the opinion is based that the person is mentally ill, and to distinguish these facts from facts communicated by any other person to the medical practitioner. The clause prohibits the admission of any person to a psychiatric service on a recommendation or certificate which purports to be based only on facts communicated by any other person.

Clause 125 requires that a person be seen and personally examined by the medical practitioner who signs a recommendation or certificate in connection with the admission of that person to a psychiatric service.

Clause 126 invalidates any recommendation or certificate signed by a medical practitioner who is a relative or guardian or the person by whom the request statement is made.

Clause 127 provides that a medical practitioner who falsely states or certifies anything in a recommendation or certificate in connexion with the admission of a person to a psychiatric service is guilty of infamous conduct in a professional respect and makes it an offence for a person who is not a medical practitioner to sign such a recommendation or certificate.

Clause 128 enables a medical practitioner, who otherwise is not entitled to receive payment for making a recommendation for involuntary admission of a patient, to apply to the Commission for payment of the prescribed fee.

Clause 129 authorizes the Chief General Manager to make special payments and grants to self-help groups.

Clause 130 contains the provisions which are to apply with respect to the private treatment of a patient admitted to a psychiatric service.

Clause 131 creates an offence of insulting members of the Board or Psychosurgery Review Board, repeatedly interrupting the proceedings of the Boards, creating a disturbance, or doing any act or thing which would constitute a contempt of court.

Clause 132 empowers the Boards to make orders as to costs.

Clause 133 contains various machinery provisions with respect to the giving of notice under the Act.

Clause 134 makes clear that a hearing or determination of the Boards is not invalidated or affected only by the failure to give notice to various persons.

Clause 135 provides for judicial recognition of the signature of the President, executive officer or member of the Mental Health Review Board, or chairperson or member of the Psychosurgery Review Board.

Clause 136 requires the Mental Health Review Board to keep proper accounts and records of its transactions and affairs.

Clause 137 requires the Mental Health Review Board to submit an annual report to the Minister and provides for the tabling of that report in Parliament.

Clause 138 requires the Psychosurgery Review Board to keep proper accounts and records of its transactions and affairs.

Clause 139 requires the Psychosurgery Review Board to submit an annual report to the Minister and provides for the tabling of the report in Parliament.

Clause 140 provides for the auditing by the Auditor-General of the financial statements of the Boards.

Clause 141 is the general penalty provision and fixes a maximum penalty of 20 penalty units where no other penalty is provided.

Clause 142 deals with liability where the person charged with an offence under the Act is a body corporate.

Division 2—Regulations

Clause 143 contains various heads of power to make regulations under the Act.

Division 3—Repeals, Amendments and Transitional

Clause 145 has the effect of repealing the *Mental Health Act* 1959 and the other provisions listed in Schedule 6, and amending the Acts mentioned in Schedule 7. It also contains the necessary transitional provisions necessary as a result of the repeal of the *Mental Health Act* 1959, and the commencement of both the new Act and the Intellectually Disabled Persons Services Act.

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