

Hon. Mr. Cadman.

LUNATICS ACT AMENDMENT.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Amendments of principal Act. 3. Cubic space for dormitories, &c. 4. Protection to persons signing and carrying out orders, reports, and certificates. 5. Power to send discharged lunatic not cured to a benevolent institution. 6. Provision on inquiry or inquisition for commitment of estate only, and not of person. 7. Judge of Supreme Court may supersede inquisition, and rescind or vary order for commitment of person. 8. Resident Magistrate at time of commitment to inquire into lunatic's means, and make order for maintenance. | <ol style="list-style-type: none"> 9. Order may be made notwithstanding death or discharge of lunatic. 10. Onus of proof of liability to lie on defendant. 11. Public Trustee may invest proceeds of sale of lunatic's estate, and apply income to maintenance. 12. Public Trustee to pay arrears of maintenance notwithstanding death or discharge of lunatic. 13. Husband liable for maintenance of lunatic wife in all cases. 14. Justices may deal with minor misdemeanours summarily. 15. Governor in Council may impose penalties in regulations for breaches thereof. |
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A BILL INTITULED

AN ACT to amend "The Lunatics Act, 1882."

Title.

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

1. The Short Title of this Act is "The Lunatics Act Amendment Act, 1891." Short Title.

2. "The Lunatics Act, 1882" (herein referred to as "the principal Act"), is hereby amended as hereinafter mentioned, and shall be read subject to the omissions, alterations, and additions herein enacted. Amendments of principal Act.

(1.) In section two, in the definition of the word "Lunatic," the words "and incapable" shall be omitted, and the words "or incapable" substituted.

- (2.) In section twenty-four, all the words after "medical practitioners" shall be omitted, and the following substituted: "and if their certificate is approved by the Inspector-General, may grant to them a certificate in the Form No. 8; and the amount named in such last-mentioned certificate shall be paid out of the estate of the said person, but if he have no estate, and no relatives who are legally liable and able to pay such amount, then the Colonial Treasurer is hereby authorised and required to pay the said amount out of the Consolidated Fund." 5
- (3.) In section twenty-five, subsection five, after the words "are satisfied," there shall be inserted, "that the said certificates and the statements therewith are in due form and properly filled up, and". 10
- (4.) In section thirty, the words "it was signed, and" shall be omitted. 15
- (5.) In section thirty-five, the words "twenty-one" shall be omitted, and the words "forty-two" substituted; and the words "Colonial Secretary" shall also be omitted, and the words "Inspector-General" substituted. 20
- (6.) In section thirty-nine, after the word "hospital," there shall be inserted the words "to be computed at a rate not exceeding *forty-two* shillings per week;" and at the end of the section the following words shall be added: "or such other officer as the Inspector-General may approve from time to time." 25
- (7.) In section forty-three, the words "but in a ward or division thereof in which lunatics are not detained" shall be omitted.
- (8.) To section forty-eight there shall be added the following:—
 "The Colonial Secretary may, by writing under his hand, order and direct the removal of any habitual drunkard, from any asylum or place where he may be detained under an order of a Judge of the Supreme Court, to any other asylum and place, and in such case he shall be deemed to be detained therein under such order of the Judge aforesaid." 30 35
- (9.) To section fifty-one there shall be added the following words:—
 "In case the offices of Superintendent and Medical Officer are held by the same person, the Governor may appoint, either permanently or from time to time, an Assistant Medical Officer to the asylum as deputy to the aforesaid person, to act in his place as Superintendent and Medical Officer of the asylum in case of his illness or temporary absence. 45
 "In case the aforesaid offices are held by different persons, such persons as the Colonial Secretary shall appoint, or, failing such appointment, the Medical Officer, shall be the Superintendent of the asylum and act in the place of the permanent Superintendent in case of his illness or absence. 50
 "Any medical practitioner, with the consent of the Colonial Secretary, may act in the place of the Medical

Officer of an asylum who may be ill or absent therefrom if usually resident therein.

“It is hereby declared that a Superintendent of an asylum shall not necessarily be a medical practitioner.”

- 5 (10.) To section fifty-six the following shall be added :—
“And such additional information as the Inspector-General may from time to time require.”
- 10 (11.) In section seventy-seven, the words “resident therein” shall be omitted, and, after the words “the keeper thereof,” there shall be inserted the words “and, if the Inspector-General so require, shall be resident therein.”
- 15 (12.) In section one hundred and thirteen, the words “on being satisfied that he” shall be omitted, and the following substituted: “on being satisfied of the suitability of such householder’s house, grounds, and surroundings, either by inspection or by approval of any plans thereof, and that the said householder.”
- 20 (13.) To section one hundred and thirty-nine there shall be added, “A copy of every entry made in the ‘Inspector’s Book’ under this section shall be made by or by direction of the Superintendent, manager, keeper, or occupier of such asylum, hospital, licensed house, or private house respectively, and transmitted by him to the Colonial Secretary within forty-eight hours after such entry was made; and every Superintendent, manager, keeper, or occupier as aforesaid making default in the requirements herein enacted shall for every such default be liable to a penalty not exceeding *twenty* pounds.”
- 25 (14.) To section one hundred and forty-three there shall be added, “and the result of every such inquiry hereby directed to be made by any Inspector shall be stated to the Colonial Secretary in a report to be drawn up in such manner and form as the Colonial Secretary shall direct.”
- 30 (15.) In section one hundred and forty-four, the words “such reports” shall be omitted, and the words “of every report of the Inspector-General of his official visits” substituted; and all the words after “next session of Parliament” shall be omitted.
- 35 (16.) To section one hundred and fifty-two there shall be added, “and during such absence on leave or absence upon trial of any lunatic the actual cost of his maintenance may be paid by the officer granting such leave, and the amount thereof shall be deemed to be part of the cost of such lunatic in his asylum, hospital, licensed house, or private house respectively from which he has been sent on leave or on trial as aforesaid.”
- 40 (17.) To section one hundred and fifty-five there shall be added, “and, if not so retaken, discharged.”
- 45 (18.) In section one hundred and eighty-three, the words “and incapable” shall be omitted, and the words “or is incapable” substituted.
- 50 (19.) In section two hundred and sixty-five, all the words of the proviso to the section shall be omitted.

(20.) In the Schedule, Form No. 2, after "is a [*dangerous*] lunatic," there shall be inserted the words "within the meaning of this Act."

In the statement appended to the same form, the words "Name of patient" shall be omitted, and the words "Name and address of patient" substituted. 5

Form No. 8: The figures "1881" shall be omitted, and the figures "1882" substituted.

Form No. 11: The words "mentioned in the notice of admission of" shall be omitted, and the words "admitted on" substituted; also the words in italics, "*notice of admission*," shall be omitted, and the words "*patient's admission*" substituted. 10

Form No. 12: Before the words "unemployed" there shall be inserted the words "employed, and in what manner." 15

Cubic space for dormitories, &c.

3. In every lunatic asylum, hospital, licensed house, or private house the dormitories or sleeping-rooms shall be of such a size as will admit of not less than six hundred cubic feet of measurement space for each person occupying the same respectively. 20

Protection to persons signing and carrying out orders, reports, and certificates.

4. (1.) A person who before the passing of this Act has signed or carried out or done any act with a view to sign or carry out an order purporting to be a reception order, or a medical certificate that a person is of unsound mind, and a person who after the passing of this Act presents a petition for any such order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under the said Act, or does anything in pursuance of the said Act or this Act, shall not be liable to any civil or criminal proceedings, whether on the ground of want of jurisdiction or on any other ground, if such person has acted in good faith and with reasonable care. 25 30

(2.) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the *last-preceding* subsection mentioned, or doing anything in pursuance of the said Act or this Act, such proceedings may, upon summary application to a Judge of the Supreme Court, be stayed upon such terms as to costs and otherwise as the Judge may think fit if the Judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care. 35 40

Power to send discharged lunatic not cured to a benevolent institution.

5. Where a lunatic who is a destitute person is discharged from an asylum, hospital, or licensed house, and the Medical Officer of the asylum or the Medical Attendant of the hospital or house is of opinion that the lunatic has not recovered, and is a proper person to be kept in a benevolent institution as a lunatic, the Medical Officer or Medical Attendant shall certify such opinion, and his certificate shall accompany the notice of discharge, and the lunatic may thereupon be received and detained against his will in a benevolent institution without further order if the Medical Officer of the benevolent institution certifies in writing that the accommodation in the benevolent institution is sufficient for the lunatic's proper care and treatment, separate from the inmates of the benevolent institution not lunatics, or that the lunatic's condition is such that it is not necessary for the 45 50

convenience of the lunatic or of the other inmates that he should be kept separate.

6. If in any case of an inquiry before a Resident Magistrate or on an inquisition it shall appear that the alleged lunatic is of
 5 unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or others, it may be specially so found and certified; and every such special finding and certificate shall be brought before a Judge of the Supreme Court, who shall thereupon make all such orders and direct
 10 all such acts to be done as may be necessary or proper relative to the commitment, management, and application of the estate and effects of the person so found to be of unsound mind (including all proper provisions for his maintenance), but it shall not be necessary, unless in the discretion of the Judge it shall appear proper so to do,
 15 to make any order as to the custody or commitment of the person.

Provision on inquiry or inquisition for commitment of estate only, and not of person.

7. (1.) In any case of a person who has been found lunatic by inquisition, a Judge of the Supreme Court, being satisfied on the report of the Inspector-General or Superintendent of an asylum, or Official Visitor of an asylum, hospital, or licensed house, or private
 20 house, or on any other evidence, that the lunatic is cured, or that he is capable of managing himself, and not dangerous to himself or others, though incapable of managing his affairs, may, if he shall think it desirable that the ordinary proceedings for a *supersedeas* should not be insisted on, by order supersede the inquisition so far
 25 as the same finds the lunatic is incapable of managing himself, and rescind or vary any order for the commitment of the person of the lunatic.

Judge of Supreme Court may supersede inquisition, and rescind or vary order for commitment of person.

(2.) An order under this section may be made on such terms and conditions as a Judge of the Supreme Court may think fit.

30 (3.) Notice of an order under this section shall be forthwith given to the committee of the lunatic, and also to the person under whose care the lunatic is.

8. It shall be the duty of the Resident Magistrate who commits any lunatic to an asylum or hospital to inquire into his means, and
 35 to make such order for his maintenance and treatment as he shall think best under the circumstances.

Resident Magistrate at time of commitment to inquire into lunatic's means, and make order for maintenance.

Any such order, if not made at the time of commitment, shall be made as soon thereafter as may be, and shall be made to take effect as from the day of the lunatic's admission into such asylum or
 40 hospital.

9. Any order may be made for the recovery of moneys owing for the past maintenance and treatment of a lunatic in an asylum or hospital, notwithstanding that such lunatic may have died or been discharged from such asylum or hospital before the making of such
 45 order; and any such order, in case of his death, may be made to include the recovery of the cost of the lunatic's burial.

Order may be made notwithstanding death or discharge of lunatic.

10. Notwithstanding anything to the contrary contained in section thirty-two of "The Destitute Persons Act, 1877," upon the hearing of any complaint for the recovery from any near relative of
 50 any sum of money for maintenance of a lunatic, the onus of proving that the person complained of is not a near relative, or that such relative is not of sufficient means, or that the lunatic is of sufficient

Onus of proof of liability to lie on defendant.

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means, shall lie upon the defendant, who shall be competent and compellable to give evidence touching the matter of such complaint.

11. Whenever the Public Trustee sells the estate of a lunatic under an order of the Court granted under section two hundred and sixty-five of the principal Act, instead of applying the proceeds of such sale to any of the purposes in the said section mentioned, he may, in his discretion, invest the said proceeds in manner as he shall think best, and apply the income arising from the said investments, from time to time, to the aforesaid purposes or any of them. 5

But in case such income shall not be sufficient to pay all the amounts required from time to time to be paid under the aforesaid section, and the said lunatic shall remain in an asylum or hospital until his death, then the principal sum invested as aforesaid shall be able to be charged with an amount that shall be equivalent to three-fourths of the total aforesaid amounts which shall not have been paid out of the aforesaid income. 10 15

12. Notwithstanding the death of a lunatic, or his discharge from any asylum, hospital, licensed house, or private house, the Public Trustee is hereby authorised and may, without obtaining any order of administration, in case of death, pay out of the estate of such lunatic, or the income thereof, all amounts due for the maintenance and treatment of the said lunatic up to the time of his death or discharge, as the case may be, including all costs of his burial if dead; but in case of his discharge, if the last-aforesaid amounts have exhausted all his property, then three-fourths of the said amounts only shall be paid by the Public Trustee, and the remainder shall be paid by the Public Trustee to the lunatic on his discharge. 20 25

13. It is hereby declared that a husband shall be liable to pay the cost of maintenance and treatment of his wife detained in any asylum, hospital, licensed house, or private house, notwithstanding that she may be so detained without or against his will or consent. 30

14. Notwithstanding anything contained in the principal Act, the Justices before whom any person is brought, charged with an offence which is declared by that Act to be a misdemeanour, if they shall be of opinion that such offence is not of a grave nature, instead of committing such person for trial to the Supreme Court they may, with the consent of the said person, deal with such person summarily, and inflict a penalty upon him for the said offence, not exceeding ten pounds, or imprisonment not exceeding two months. 35

15. The Governor in Council, by any regulations made under the principal Act for the due protection, care, and management of the persons of lunatics, may impose penalties not exceeding five pounds in respect of every breach of such regulations; and all such penalties shall be deemed to be imposed and may be recovered as penalties imposed under that Act. 40 45