

## MENTAL DEFECTIVES AMENDMENT BILL

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### EXPLANATORY NOTE

*Clause 2* of this Bill provides for the licensing of short-stay homes maintained by any incorporated society for the reception and care of intellectually handicapped persons, and authorizes the reception in any licensed home of any such person for a period not exceeding two months at any one time. Subject to regulations to be made under the Bill, the reception and control of an intellectually handicapped person will be on such terms as to the cost of maintenance and other matters as may be agreed upon between the society and the parent, guardian, or other person having the custody or control of the intellectually handicapped person. The legal guardianship of anyone received in the home will not be vested in the society. Regulations to be made under the Bill may require the appointment of medical officers and other qualified staff, regulate the numbers of persons to be admitted to a home, control admissions and re-admissions, prescribe the accommodation to be provided, and provide for the inspection of the home and other necessary matters. The regulations may also provide for the extension, in special circumstances, of the period for which any person may stay. *Subclause (6)* validates the establishment of homes existing at Silverstream and Wanganui, and provides that licences shall be issued for those homes on compliance with the regulations.

*Clause 3* validates the establishment of two hostels now being conducted for intellectually handicapped children. One is at Hamilton, and is controlled by the Intellectually Handicapped Children's Parents' Association. The other is at Abbotsford (known as the Hunterville Hostel), and is controlled by the Otago Education Board. The clause provides that these hostels may continue to be carried on with the consent of the Minister. The Minister may revoke his consent to the continuance of either hostel if it is not conducted to his satisfaction, but must first give to the controlling organization a reasonable opportunity of showing cause why the consent should not be revoked. The hostels will be subject to inspection by the Director or any Inspector under the principal Act. The hostels will not be licensed under *clause 2*, and nothing in that clause will apply.

*Hon. Mr Marshall*

## MENTAL DEFECTIVES AMENDMENT

### ANALYSIS

Title.  
1. Short Title.

2. Licensed short-stay homes for intellectually handicapped persons.
3. Special provisions as to certain hostels for intellectually handicapped children.

### A BILL INTITULED

AN ACT to amend the Mental Defectives Act 1911.

Title.

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

1. This Act may be cited as the Mental Defectives Amendment Act 1954, and shall be read together with and deemed part of the Mental Defectives Act 1911 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. V, p. 743

10 2. (1) In this section,—  
“Intellectually handicapped person” means any  
15 person who, by reason of a condition of arrested or incomplete development of mind existing before he attains or attained the age  
of eighteen years, whether arising from inherent causes or induced by disease or injury, is incapable of earning his own living, or, if of school age or younger, presumably will be incapable when older of earning his  
20 own living:

Licensed short-stay homes for intellectually handicapped persons.

See Reprint  
of Statutes,  
Vol. III, p. 922

“Society” means any society incorporated under the Incorporated Societies Act 1908 and having as one of its objects the establishment and maintenance of a home or homes for the reception and care of intellectually handi- 5  
capped persons.

(2) Notwithstanding anything in the principal Act, but subject to the provisions of any regulations made for the purposes of this section, any society may, if it thinks fit, on application made in the prescribed manner by 10  
any parent or guardian of any intellectually handicapped person or by anyone for the time being having the lawful custody or control of any such person, receive any such person in any home licensed pursuant to this section and assume control of him for such period, not exceeding 15  
two months at any one time, and upon and subject to such terms and conditions as to the cost of his maintenance and otherwise as may be agreed upon by the parties.

(3) The guardianship of any person so received 20  
shall not by virtue of this section or of any such agreement be deemed to be vested in the society.

(4) For the purposes of this section, but without limiting the provisions of section one hundred and thirty-eight of the principal Act, the Governor-General may 25  
from time to time by Order in Council make such regulations as may in his opinion be necessary or expedient for the purpose of giving full effect to the provisions of this section. Without limiting the generality of the provisions 30  
of this subsection, it is hereby declared that regulations may be so made for all or any of the following purposes, namely:

(a) Providing for the licensing of such homes as aforesaid, and for the renewal, suspension, 35  
cancellation, and refusal of licences; and prescribing the terms and conditions upon and subject to which licences may be granted and renewed, and the fees payable in respect of the grant and renewal of licences:

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- 5 (b) Requiring the appointment for such homes of medical officers and prescribing their powers and duties, and requiring the appointment of matrons and other employees and prescribing the number, qualifications, powers, and duties of such employees:
- 10 (c) Regulating the situation, construction, equipment, and alteration of such homes, and prescribing the sleeping accommodation and other accommodation and the facilities to be provided therein:
- 15 (d) Limiting or regulating the number of intellectually handicapped persons that may be received and kept in any such home at any one time:
- 20 (e) Regulating the admission and re-admission of such persons to such homes, and prescribing the manner in which applications for admission or re-admission are to be made and the medical certificates or other evidence of the condition and suitability for admission of such persons to be supplied:
- 25 (f) Regulating the manner in which agreements for the reception and control of such persons in homes under this section may be made, varied, and terminated, and regulating the removal of such persons from the homes:
- 30 (g) Providing for the extension, in special circumstances, of the period during which any such person may be kept in any such home:
- 35 (h) Providing for the keeping of registers and records and the giving of notices and the supplying of information in respect of any prescribed matters:
- 40 (i) Providing for the inspection of the homes:
- (j) Providing for the granting of exemptions from any provision of the regulations:
- (k) Prescribing fines for the breach of any provisions of the regulations, not exceeding fifty pounds in any case and, where the breach is a continuing one, not exceeding five pounds for every day or part of a day during which the breach has continued.

(5) All regulations under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session. 5

(6) Where before the passing of this Act any home for the reception and care of intellectually handicapped persons has been established by any society, and the facilities in the home have been approved by the Director, all such persons received and kept therein, whether before or after the passing of this Act, shall be deemed to have been lawfully received and kept. The provisions of this section shall apply to every such home, and a licence shall be granted in respect thereof on compliance with any regulations made under this section. 10 15

Special provisions as to certain hostels for intellectually handicapped children.

3. (1) Notwithstanding anything in section one hundred and twenty-three of the principal Act, the hostel for intellectually handicapped children situated at 93 Grey Street, Hamilton, and established by the Intellectually Handicapped Children's Parents' Association Incorporated, and the hostel for such children situated at Abbotsford, near Dunedin, and known as the Hunterville Hostel, established by the Otago Education Board, shall be deemed to have been lawfully established and carried on before the passing of this Act. 20 25

(2) Subject to the provisions of this section, any hostel to which this section applies may hereafter be carried on by or under the control of such Association or Board as aforesaid, but not otherwise, with the consent of the Minister and subject to the provisions of this section. 30

(3) The Minister may at any time, by notice in writing addressed to the Association or Board by which any such hostel is controlled, revoke his consent to the carrying on of the hostel if it is not managed or conducted to his satisfaction. The revocation shall take effect on a date to be specified in the notice, being a date not earlier than one month after the date of the giving of the notice: 35 40

5 Provided that before giving any notice of revocation the Minister shall give notice in writing to the Association or Board of his intention to revoke his consent, and shall afford to that Association or Board a reasonable opportunity of showing cause why the consent should not be revoked.

10 (4) On the taking effect of any such revocation, the provisions of section one hundred and twenty-three of the principal Act shall apply to the hostel to which the revocation relates.

15 (5) In the case of the Hunterville Hostel established by the Otago Education Board, any consent given by the Minister under this section, and any revocation of any such consent, shall be given or made by the Minister with the concurrence of the Minister of Education.

(6) The Director or any Inspector under the principal Act may at any time visit any hostel to which this section applies and inspect any part thereof and see any person therein.

20 (7) Nothing in section *two* of this Act shall apply to any such hostel as aforesaid.