

[AS PROPOSED TO BE READ A THIRD TIME]

House of Representatives, 2nd November, 1948.

Hon. Miss Howard

TUBERCULOSIS

ANALYSIS

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A BILL INTITULED

Title.	AN ACT to make better Provision for the Treatment, Care, and Assistance of Persons suffering or having suffered from Tuberculosis, and for preventing the Spread of Tuberculosis.	5
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	
Short Title and commencement.	1. (1) This Act may be cited as the Tuberculosis Act, 1948.	10
	(2) This Act shall come into force on the <i>first</i> day of <i>April</i> , nineteen hundred and forty-nine.	
Interpretation.	2. (1) In this Act, unless the context otherwise requires,—	
	“ Board ” or “ Hospital Board ” means a Hos- 15 pital Board constituted under the Hospitals and Charitable Institutions Act, 1926:	
	“ Child ” means any person under the age of sixteen years:	
	“ Contact ”, when used with reference to tuber- 20 culosis, means any person who resides or works, or has resided or worked, in close association with any other person suffering from tuberculosis:	
See Reprint of Statutes, Vol. III, p. 725	“ Director-General ” means the Director-General 25 of Health appointed under the Health Act, 1920:	
Ibid., Vol. VI, p. 1061		

- “ District nurse ” means any district nurse who is an officer of the Department of Health or who is employed by a Hospital Board, and includes a Nurse Inspector:
- 5 “ In-patient ” means any person who is an inmate of any institution for the purpose of undergoing treatment in respect of tuberculosis or of preventing the spread of the infection of tuberculosis:
- 10 “ Institution ” means any institution within the meaning of the Hospitals and Charitable Institutions Act, 1926, but does not include a separate institution within the meaning of that Act:
- 15 “ Medical Officer of Health ” means the Medical Officer of Health appointed under the Health Act, 1920, for a health district:
- 20 “ Medical practitioner ” means a medical practitioner registered under the Medical Practitioners Act, 1914, and includes a tuberculosis officer:
- “ Minister ” means the Minister of Health:
- 25 “ Out-patient ” means any person, not being an inmate of a sanatorium or other institution, who is undergoing treatment, or under medical care or supervision, in respect of tuberculous disease and is enrolled as an out-patient at a tuberculosis clinic:
- 30 “ Premises ” includes any home-trade ship within the meaning of the Shipping and Seamen Act, 1908:
- “ Prescribed ” means prescribed by this Act or by regulations under this Act:
- 35 “ Tuberculosis ” means tuberculous disease, in any form, which has not yet been arrested:
- “ Tuberculosis clinic ” means any tuberculosis clinic established pursuant to this Act or any place declared by the Minister to be a tuberculosis clinic for the purposes of this Act:

See Reprint
of Statutes,
Vol. V, p. 599

Ibid.,
Vol. VIII,
p. 249

“ Tuberculosis officer ” means a medical practitioner employed by a Hospital Board or by the Department of Health and in charge, in the course of such employment, of the examination, treatment, and supervision of persons who are suffering or suspected of suffering from tuberculosis and are in-patients in any institution (not being a sanatorium) under the control of the Board or the Department or are attending, for examination or treatment, any such institution or any tuberculosis clinic; and includes any medical practitioner so employed who is for the time being acting as an assistant tuberculosis officer: 5 10

“ Tuberculous person ” means any person who is suffering from tuberculosis in an active form and who is likely to infect others. 15

(2) If any question arises as to whether or not any person is a contact for the purposes of this Act, the question shall be determined in accordance with the decision of the Medical Officer of Health. Where under this subsection any person is determined to be a contact, that person, or, if that person is a child, any parent or guardian or other person for the time being in charge of the child, may appeal in writing to the Director-General against the determination, and the Director-General's decision shall be final. 20 25

(3) The Minister may from time to time, by notice in the *Gazette*, declare any place to be a tuberculosis clinic for the purposes of this Act. 30

PART I

PREVENTION AND TREATMENT OF TUBERCULOSIS

Provisions as to Notification

Duty of medical practitioners to give notice of tuberculosis.

3. (1) Every medical practitioner who has reason to believe that any person professionally attended by him (in this section referred to as the patient) is or may be suffering from tuberculosis shall forthwith give notice in the prescribed form to the Medical Officer of Health, and shall indicate in the form— 35 40

(a) Whether the disease is in an active form or is suspected of being in that form: 40

(b) Whether the patient is in an infectious condition or is suspected of being in that condition.

(2) If the medical practitioner is satisfied that the patient is suffering from tuberculosis in an active form and is likely to infect others, he shall forthwith—

(a) Inform the patient and every person nursing or in immediate attendance on the patient that the patient is suffering from tuberculosis and is likely to infect others; and

(b) If to his knowledge there is residing in the premises in which the patient for the time being resides some other person (not being a person nursing or in immediate attendance on the patient) who is the wife or husband or a parent or guardian of the patient, inform that person that the patient is suffering from tuberculosis and is likely to infect others.

(3) Every medical practitioner who by *post-mortem* examination or otherwise becomes aware that any deceased person was at the time of his death suffering from tuberculosis shall forthwith give notice in the prescribed form to the Medical Officer of Health.

(4) Every medical practitioner commits an offence against this Act who, without lawful excuse, fails to comply with any provision of this section.

4. (1) Subject to the provisions of any regulations under this Act, whenever it is intended that any tuberculous person who is an in-patient in any institution should cease to be an in-patient, the medical officer or other person for the time being in charge of the institution shall, unless that person is leaving the institution with the prior approval of the Medical Officer of Health, give notice in writing to the Medical Officer of Health of the intended departure of that person and of the date on which it is intended that he should leave the institution and, if practicable, of the address at which he intends to reside after so leaving. The notice shall, in every case where it is practicable so to do, be given not less than seven days before the date on which it is intended that the person should so leave.

(2) Where any such person leaves as aforesaid without the prior approval of the Medical Officer of Health and before notice is given pursuant to subsection *one* of this section, or leaves after such notice is given but before the date specified in the notice, the medical

Notification of intended discharge of tuberculous person from institution.

officer or other person for the time being in charge of the institution shall forthwith notify the Medical Officer of Health of the departure of that person and, if practicable, of any address at which that person may be found.

(3) Every medical officer or other person for the time being in charge of any institution who, without lawful excuse, fails to comply with any of the provisions of this section commits an offence against this Act.

Duty of
master of ship
in harbour as
to tuberculosis.

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5. (1) When any person on board a home-trade ship in any harbour in New Zealand is suffering from any sickness of which the symptoms create a reasonable suspicion that it is tuberculosis, it shall be the duty of the master of the ship to notify the Port Health Officer, or the Medical Officer of Health, of the fact that there is on board the ship a person suspected of suffering from tuberculosis.

(2) For the purposes of this section,—

See Reprint
of Statutes,
Vol. VIII,
p. 249
Ibid., Vol. VI,
p. 1061

20
“Home-trade ship” means a home-trade ship within the meaning of the Shipping and Seamen Act, 1908:

“Port Health Officer” means a Port Health Officer appointed under the Health Act, 1920.

Registrar to
notify Medical
Officer of
Health of death
of person
affected with
tuberculosis.
Ibid.,
Vol. VIII, p. 36

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6. Every Registrar of Births and Deaths, on receiving any certificate, given pursuant to the Births and Deaths Registration Act, 1924, and signed by a medical practitioner, of the death of any person shall, if the certificate states that the person was affected with tuberculosis, forthwith give notice in writing to the Medical Officer of Health of the death and of the fact that the person was so affected.

Duties and Powers of Medical Officers of Health

Duties and
powers of
Medical Officers
of Health.

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7. (1) It shall be the duty of every Medical Officer of Health, forthwith after the receipt by him of any notice, given pursuant to subsection *one* of section *three* of this Act, that any person is suspected of suffering from tuberculosis, to make such inquiries and do all such things as he deems necessary to ascertain whether or not the person to whom the notice relates is suffering from tuberculosis.

(2) It shall be the duty of every Medical Officer of Health, when he is satisfied that any person is suffering from tuberculosis, to do all such things as he deems necessary to ensure, so far as may be possible,—

- 5 (a) That the person obtains medical treatment, care, and supervision, whether in an institution or otherwise:
- (b) The tracing of the source of the infection:
- (c) The tracing of contacts of that person:
- 10 (d) The medical examination of all such contacts as aforesaid who may possibly be suffering from tuberculosis:
- (e) That any person who is found, in the course of the inquiries made under this section, to be suffering from tuberculosis obtains medical treatment, care, and supervision, whether in an institution or otherwise:
- 15 (f) The immunization by vaccine, in accordance with the prescribed methods, of such contacts and other persons coming to his knowledge in the course of his inquiries as may voluntarily submit themselves for immunization against tuberculosis and may suitably be so immunized.
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- 25 (3) For the purposes of this section, and for the purpose of preventing or limiting or eradicating the infection of tuberculosis, the Medical Officer of Health shall have the powers conferred upon him by this Act, and all such other powers as may reasonably be considered incidental thereto or as may be prescribed by regulations under this Act.
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8. (1) If in the opinion of the Medical Officer of Health it is necessary or expedient, for the purpose of giving effect to any of the provisions of this Act, 35 that any premises in which there resides, or recently resided, any person believed or suspected by him to be suffering from tuberculosis, or any contact of any such person, should be inspected and inquiries made therein, and permission to enter on the premises is 40 refused by the occupier or any person for the time being in charge thereof, the Medical Officer of Health, or any medical practitioner or district nurse authorized by him in that behalf, may at all reasonable times enter on the premises and inspect them and make such 45 inquiries as he deems necessary.

Power of entry
in certain
cases.

(2) If with respect to any person who is suffering from tuberculosis or any contact of any such person the Medical Officer of Health has reason to believe or suspect that the source of the infection is in any premises in which that person or contact works, and is of opinion that for the purposes of this Act the premises should be inspected and inquiries made therein, and permission to enter on the premises is refused by the occupier or any person for the time being in charge of the premises, the Medical Officer of Health, or any medical practitioner or district nurse authorized by him in that behalf, may enter at all reasonable times upon those premises and inspect them and make such inquiries as he deems necessary.

Power, in certain cases, to require medical examinations.

9. (1) For the purposes of section *seven* of this Act, in any case where the Medical Officer of Health has reason to believe that any person is or may be suffering from tuberculosis and has refused or failed to undergo any medical or other examination in respect thereof, he may from time to time, by notice in writing, require that person to undergo, within a period to be specified in the notice, such medical, x-ray, and bacteriological examinations as may be prescribed.

(2) Any notice under subsection *one* of this section may specify any institution or tuberculosis clinic the place where any such examination as aforesaid is to be undergone. If in any such case—

(a) The person to whom the notice is given informs the Medical Officer of Health that he objects to undergoing the examination at the institution or clinic; or

(b) The Medical Officer of Health is satisfied that it is impracticable for the person to attend at the institution or clinic for the examination, or that it is not in the interests of the person's health for him so to attend,—

it shall be sufficient compliance with the notice if the person undergoes the examination, within the period specified in the notice, at the hands of any medical practitioner approved for the purpose by the Medical Officer of Health.

(3) Where any person who is required to undergo any such examination as aforesaid is a child the notice shall be given to a parent or guardian or some

other person for the time being in charge of the child, and it shall be the duty of the person to whom the notice is so given to do all such things as may be necessary to comply with the notice in respect of that
5 child.

(4) Every person commits an offence against this Act who, without lawful excuse, fails to comply with any notice given to him under this section.

10 **10.** (1) Whenever the Medical Officer of Health has reason to believe that any tuberculous person refuses or has failed to take reasonable precautions to prevent the spread of the infection of tuberculosis, he may by notice in writing require that person to do such things, to be specified in the notice, as may in the opinion of
15 the Medical Officer of Health be necessary to ensure that such precautions as aforesaid are taken.

Power, in certain cases, to give directions as to precautions necessary to prevent spread of infection.

(2) Where in respect of any tuberculous person who is a child the Medical Officer of Health has reason to believe that any parent or guardian or other person
20 for the time being in charge of the child refuses or has failed to do any thing necessary to ensure that reasonable precautions are taken to prevent the spread of the infection, he may by notice in writing require that parent, guardian, or other person to do such things,
25 to be specified in the notice, as may in the opinion of the Medical Officer of Health be necessary to ensure that such precautions as aforesaid are taken.

(3) It shall be the duty of every person to whom a notice is given under this section to comply with the
30 notice and with all other reasonable requirements in writing of the Medical Officer of Health for the purposes of this section.

(4) Every person commits an offence against this Act who contravenes or fails to comply in any respect
35 with any notice given to him under this section or with any such requirement as aforesaid.

Functions of Hospital Boards

11. (1) Every Hospital Board may with the prior consent of the Minister, and shall, if required by
40 the Minister so to do, make such provision as the Minister thinks necessary for the medical examination,

Provision by Hospital Boards for purposes of this Act.

reception, treatment, care, supervision, and assistance of persons suffering or suspected of suffering from tuberculosis, and of contacts of such persons, and for prophylactic services in relation to tuberculosis, including the immunization in accordance with the prescribed methods of such persons or classes of persons as may voluntarily submit themselves for such immunization and may suitably be so immunized. 5

(2) For any of the aforesaid purposes the Minister may from time to time require any Board— 10

(a) To establish and maintain any institution, or to provide accommodation in any institution under the control of the Board:

(b) To establish and maintain any tuberculosis clinic at or in connection with any institution under the control of the Board: 15

(c) To provide equipment and services, including x-ray and bacteriological laboratory equipment and services, for use in or in connection with any institution or tuberculosis clinic maintained by the Board for any of the aforesaid purposes: 20

(d) To provide facilities for clinical, bacteriological, and other examinations and investigations for the purposes of diagnosis in relation to tuberculosis: 25

(e) To make provision for the carrying-out of occupational therapy at any sanatorium or other institution under the control of the Board. 30

(3) Any requirement of the Minister under this section may relate to provision to be made in respect of in-patients or out-patients, or in respect of both in-patients and out-patients, or in respect of persons attending any tuberculosis clinic for examination or treatment. 35

(4) No action for damages shall lie against a Board at the suit of any person in respect of any failure of that Board to conform to any requirement under this section. 40

(5) Subject to the provisions of this Act, where pursuant to this section any institution or tuberculosis clinic is to be established, or any other provision is to be made, by any Board, then for the purposes

of the Hospitals and Charitable Institutions Act, 1926, the institution or clinic shall be deemed to be an institution which the Board may establish under that Act, and, in the case of a requirement of the Minister
 5 under this section, the establishment of the institution or clinic or, as the case may be, the making of such provision, shall be deemed to be a duty imposed on the Board by that Act; and the provisions of that Act shall, so far as applicable and with the necessary modifica-
 10 tions, apply accordingly.

(6) The provisions of this section are in addition to and not in derogation of the provisions of the Hospitals and Charitable Institutions Act, 1926.

12. (1) For the purposes of this Act it shall be the
 15 duty of every Board, if required by the Minister so to do, to make by-laws with respect to the maintenance of order, discipline, decency, and cleanliness among the in-patients of any institution under the control of the Board. The provisions of section seventy-nine of the
 20 Hospitals and Charitable Institutions Act, 1926, shall, so far as applicable and with the necessary modifications, apply with respect to all by-laws made pursuant to this section.

(2) If any Board refuses or fails to make any such
 25 by-laws when required so to do by the Minister, the Governor-General may, with respect to the institution, by Order in Council make regulations for the aforesaid purposes. Any regulations so made shall have the same force and effect as if they were by-laws duly
 30 made by the Board.

13. It shall be the duty of every Board to do such
 things as may be necessary to ensure that every tuber-
 culous person who is a patient in or attends for
 examination or treatment at any institution or tuber-
 35 culosis clinic under the control of the Board is informed of the precautions which should be taken by him to prevent the spread of infection.

14. It shall be the duty of every Board to furnish
 to the Medical Officer of Health such information and
 40 particulars as may be prescribed with respect to persons suffering or suspected of suffering from tuberculosis who are admitted to or discharged from, or are patients in or attending for examination or treatment at, any institution or tuberculosis clinic under the control of
 45 the Board.

See Reprint
 of Statutes,
 Vol. III, p. 725

Duty of Board
 to make by-laws
 as to certain
 matters, if
 required.

Duty of Board
 to inform
 tuberculous
 patients of
 precautions
 necessary to
 prevent spread
 of infection.

Duty of Board
 to furnish
 prescribed
 information.

General

Additional
powers of
Minister.

15. For the purposes of this Act, the Minister may, in addition to exercising any other powers conferred upon him by this or any other Act,—

- (a) Make such provision as he thinks proper for the dissemination of information with respect to the nature, effects, and proper treatment of tuberculosis, and with respect to the precautions which should be taken to prevent the spread of infection: 5
- (b) Establish and maintain any clinic and provide thereat such equipment and services, including x-ray and bacteriological laboratory equipment and services, as may be necessary for the diagnosis or treatment of tuberculosis and for the immunization against tuberculosis of such persons or classes of persons as may voluntarily submit themselves for immunization and may suitably be immunized: 10
- (c) Encourage the establishment of associations for the purpose of preventing the spread of tuberculosis, and of securing the care, supervision, after-care, and assistance of persons who are suffering or have suffered from tuberculosis, and authorize the grant of subsidies, on such conditions as he thinks fit, to any such association out of moneys appropriated by Parliament for the purpose. 25

Provision for
isolation, in
certain
cases, of
persons likely
to spread
infection.

Cf. Public
Health Act,
1936 (26 Geo.
5 and 1 Edw. 8,
c. 49) s. 172
(U.K.)
1941, No. 26,
s. 31

16. (1) Where the Medical Officer of Health is satisfied that any person suffering from tuberculosis (in this section referred to as the patient) is in an infectious condition, and— 30

- (a) That in the patient's own interest he should be properly attended and treated; and
- (b) That the patient's circumstances are such that proper precautions to prevent the spread of the infection cannot be taken, or that such precautions are not being taken; and 35
- (c) That substantial risk of infection is or will be thereby caused to others,— 40

the Medical Officer of Health may apply to a Magistrate, who may order the patient to be removed to an institution or some other suitable place where he can be

properly attended and treated and to be detained there for such period, not exceeding *three* months, as the Magistrate thinks fit; or, if the patient is an in-patient in an institution and proposes, contrary to the advice
5 of the Medical Officer of Health or of a medical officer of the institution or of a medical practitioner, to leave the institution, order him to be detained in the institution or in some other institution or suitable place for such period, not exceeding *three* months, as the
10 Magistrate thinks fit.

(2) At any time while any patient is detained pursuant to any order for the time being in force under this section, the Medical Officer of Health, on being satisfied that the conditions which led to the
15 patient's detention being ordered will again exist if he is not detained for a further period, may apply to a Magistrate, who may order the detention of the patient for a further period, not exceeding *three* months in the case of each succeeding order.

(3) Where an application for an order is made
20 under this section the Medical Officer of Health shall give to the patient, or to some person having the care of the patient, not less than *three* clear days' notice in writing of the time and place at which the application
25 will be heard.

(4) At any time after the expiration of *six* weeks from the date of any order for the time being in force under this section, the patient, or any person acting on behalf of and with the consent of the patient,
30 may apply to a Magistrate for the rescission of the order, and the Magistrate may, if he thinks fit, rescind the order. Where any application is made under this subsection the person making the application shall give to the Medical Officer of Health not less than *three*
35 clear days' notice in writing of the time and place at which the application will be heard.

(5) Where any application is made under this section the Magistrate may, if he thinks fit, require the patient to be examined by any medical practitioner
40 appointed by him for the purpose.

(6) Subject to the provisions of this section, and to the decision of the Judge on any appeal under the *next succeeding* section, every order under this section shall be final and binding on all parties.

(7) An order under this section may be addressed to the Medical Officer of Health or such other person as the Magistrate thinks expedient, and the person to whom the order is addressed may do all acts necessary for giving effect to the order. 5

(8) The medical officer or other person in charge of any institution or other place to which any patient is ordered to be removed as aforesaid shall, on the presentation of the order, receive the patient and arrange for his medical treatment, and shall do such other acts as may be necessary for giving effect to the order. 10

(9) At any time while any patient is detained in any institution or other place pursuant to an order for the time being in force under this section, a Magistrate may, if he thinks fit, on the application of the Medical Officer of Health or of the medical officer or other person in charge of the institution or place, order the patient to be removed to another institution or suitable place and to be detained there while the first-mentioned order continues in force. The provisions of subsections *three to eight* and subsections *ten to twelve* of this section shall, so far as applicable and with the necessary modifications, apply with respect to every application and every order made under this subsection. 15 20 25

(10) No person who is removed to or detained in any institution or other place pursuant to an order under this section shall, while the order continues in force, leave or attempt to leave the institution or place.

(11) Every person commits an offence against this Act who— 30

(a) Wilfully disobeys an order under this section:

(b) Obstructs or delays or in any way interferes with the prompt execution of an order under this section: 35

(c) Contravenes or fails to comply in any respect with any of the provisions of this section.

(12) Every person who knowingly assists any other person in committing or attempting to commit an offence under this section shall be deemed to have committed an offence against this Act. 40

(13) Subsection eight of section thirty-one of the Statutes Amendment Act, 1941, is hereby repealed.

17. (1) Any person in respect of whom any order is made under section *sixteen* of this Act, or in respect of whom an application for the rescission of an order is made under subsection *four* of that section, may, 5 within *seven* days after the making of the order or, as the case may be, the decision of the Magistrate refusing the application, or within such further time as the Magistrate may in his discretion allow, appeal to a Judge of the Supreme Court, in Chambers, against 10 the order or decision.

Appeal against order or decision under *last preceding* section.

(2) On the hearing of the appeal the Judge may confirm, modify, or reverse the order or decision of the Magistrate, and the Judge's decision shall be final and binding on all parties.

15 (3) Subject to the provisions of this section, the procedure on the appeal shall be such as is prescribed by regulations under this Act, and, in so far as those regulations do not extend, shall be in accordance with the rules relating to appeals to the Supreme Court 20 against final determinations of Magistrates' Courts in their civil jurisdiction.

18. (1) The Minister may require any Hospital Board to establish and maintain any institution or other suitable place, or to provide satisfactory accommodation 25 in any institution under the control of the Board for the reception, detention, and treatment of persons in respect of whom orders are for the time being in force under section *sixteen* of this Act.

Provision of accommodation for purposes of section *16* of this Act.

30 (2) It shall be the duty of the Board to comply with the requirements of the Minister under subsection *one* of this section. The provisions of subsections *four* and *five* of section *eleven* of this Act shall, so far as applicable and with the necessary modifications, apply with respect to every such requirement.

35 (3) Without limiting or affecting the Minister's powers under the foregoing provisions of this section, it is hereby declared that the Minister may for the purposes aforesaid establish and maintain any institution or other place or provide accommodation, or make 40 arrangements with any body of persons for the establishment and maintenance of any institution or place or the provision of accommodation, whether at or in connection with any institution under the control of any Board or Boards or elsewhere.

Tuberculosis not to be deemed an infectious or notifiable disease under the Health Act, 1920. Saving.

See Reprint of Statutes, Vol. VI, p. 1061

Repeal. 1940, No. 17 S.R. 1940/229

19. (1) Tuberculosis shall not be deemed to be an infectious or notifiable disease within the meaning of the Health Act, 1920.

(2) Notwithstanding anything contained in subsection *one* of this section, the provisions of sections 5 eighty-eight to ninety, ninety-three, and ninety-four of the Health Act, 1920, shall continue to apply in all respects as if tuberculosis were an infectious disease under that Act.

(3) Section seventeen of the Health Amendment 10 Act, 1940, is hereby repealed.

(4) The Notifiable Diseases Order 1940 is hereby revoked.

PART II

ASSISTANCE OF PERSONS SUFFERING FROM TUBERCULOSIS 15

Vocational guidance.

20. For the purpose of advising persons undergoing treatment or otherwise under medical care or supervision by reason of their suffering or having suffered from tuberculosis and desiring to undertake employment, or work on their own account, of a kind 20 suited to their physical condition, age, experience, and general qualifications, the Minister may make such arrangements as may be necessary with the Minister of Education and the Public Service Commission for the services of vocational guidance officers of the 25 Department of Education to be made available at any sanatorium, tuberculosis clinic, or other institution under the control of any Hospital Board or Boards or of the Department of Health. In the exercise of his functions under this section every vocational guid- 30 ance officer shall be under the general supervision of the tuberculosis officer of the institution or, if there is no such tuberculosis officer, of the medical officer for the time being in charge of the institution. 35

Vocational training and industrial rehabilitation courses.

21. For the purpose of enabling persons under- 35 going treatment or otherwise under medical care or supervision by reason of their suffering or having suffered from tuberculosis to undertake employment, or work on their own account, of a kind suited to their 40 physical condition, age, experience, and general qualifications, the Minister may make arrangements with any Government Department or any body of persons

for the establishment and maintenance of vocational training or industrial rehabilitation centres, and for the provision, under adequate medical supervision, of vocational training or industrial rehabilitation courses for such persons as aforesaid at such places as he thinks fit, whether at sanatoria, tuberculosis clinics, or other institutions under the control of Hospital Boards or of the Department of Health or elsewhere.

22. (1) The Minister may make such provision as he thinks fit—

Provision of special accommodation for tuberculous persons.

(a) For the supply or loan, for the use of tuberculous persons, of specially constructed shelters or portable huts, and for the repair of such shelters or huts:

(b) For the making of repairs or structural alterations or additions to dwellinghouses in which tuberculous persons reside:

(c) For the supply of articles of furniture for the use of tuberculous persons.

(2) The Minister may make arrangements with any Government Department or any body of persons for the making of such provision as aforesaid.

23. (1) Where any person contracts tuberculosis while employed by any Hospital Board or in any institution or service under the control of the Department of Health (including any public institution within the meaning of the Mental Defectives Act, 1911), on nursing duties or on such other duties or classes of duties as may be prescribed, and the incapacity or death of that person results from that disease, then, notwithstanding anything contained in section ten of the Workers' Compensation Act, 1922, compensation shall be payable under that Act in respect of the incapacity or death of that person in all respects as if the disease were a personal injury by accident arising out of and in the course of that employment, and the provisions of that Act, including the said section ten (except subsections one and two thereof), shall, so far as applicable and with the necessary modifications, apply accordingly.

Right to compensation of certain workers contracting tuberculosis.

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

Ibid., p. 608

(2) Where any person to whom this section applies is found to be suffering from tuberculosis at any time while he is employed as aforesaid or at any time within twelve months after having ceased to be so employed, that person shall, until the contrary is proved, be presumed for the purposes of this section to have contracted tuberculosis while so employed.

(3) For the purposes of this section, any vocational guidance officer of the Department of Education acting as such, pursuant to section *twenty* of this Act, at any sanatorium, tuberculosis clinic, or other institution under the control of any Hospital Board or of the Department of Health, and any school-teacher engaged in teaching at any hospital class at any institution under the control of any Hospital Board, shall be deemed to be employed by the Board or, as the case may require, by the Department of Health, on duties to which subsection *one* of this section applies.

(4) Without limiting or affecting in any way the application of the foregoing provisions of this section, it is hereby declared that this section shall extend and apply with respect to any person who, while employed as aforesaid, has contracted tuberculosis before the date of the commencement of this Act and—

(a) Is on that date still incapacitated as a result of that disease; or

(b) Becomes incapacitated or dies after that date as a result of that disease:

Provided that no compensation shall in any case be payable in respect of any period of incapacity before the commencement of this Act, and any payment, allowance, or benefit which that person has received from the employer in respect of that period shall be taken into account in assessing the aggregate amount of compensation payable in respect of that person under this subsection.

(5) Notwithstanding anything contained in subsection four of section ten of the Workers' Compensation Act, 1922, where the incapacity of any person to whom this section applies has commenced before the date of the commencement of this Act, then, for the purposes of sections twenty-six and twenty-seven of the Workers' Compensation Act, 1922 (which relate to the giving of notice and the limitation of actions), that incapacity shall be deemed to have commenced on that date.

(6) Section eighty-five of the Hospitals and Charitable Institutions Act, 1926, is hereby amended by omitting paragraph (*m*), as enacted by subsection one of section four of the Hospitals and Charitable Institutions Amendment Act, 1936.

(7) Section four of the Hospitals and Charitable Institutions Amendment Act, 1936, is hereby consequentially repealed.

See Reprint
of Statutes,
Vol. III, p. 725

1936, No. 50

Repeal.

PART III

MISCELLANEOUS

24. (1) A person who does any act in pursuance or intended pursuance of any of the provisions of this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted in bad faith or without reasonable care.
- 10 (2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such act except by leave of a Judge of the Supreme Court, and such leave shall not be granted unless the Judge is satisfied that there is substantial ground for the contention that the person against whom it is sought to bring the proceedings has acted in bad faith or without reasonable care.
- 15 (3) Notice of any application under the *last preceding* subsection shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application.
- (4) Leave to bring such proceedings shall not be granted unless application for such leave is made within six months after the act complained of, or, in the case of a continuance of injury or damage, within six months after the ceasing of the injury or damage.
- (5) In granting leave to bring any proceedings as aforesaid, the Judge may limit the time within which such leave may be exercised.
25. Every person commits an offence against this Act who in any way resists, obstructs, or deceives any other person in the exercise of any powers conferred upon that other person by or pursuant to this Act.
- 35 26. Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable to a fine not exceeding *twenty* pounds and (if the offence is a continuing one) to a further fine not exceeding *two* pounds for every day during which the offence continues.
- 40 27. All proceedings in respect of offences against this Act or against any regulations made under or pursuant to this Act shall be taken in a summary way under the Justices of the Peace Act, 1927.

Protection from civil or criminal liability of persons acting under authority of this Act.

Obstruction of officers and authorized persons.

General penalty for offences.

Offences punishable summarily.

See Reprint of Statutes, Vol. II, p. 851

Service of
notices.

28. (1) Except as otherwise expressly provided in any regulations under this Act, any notice required or authorized under this Act to be given to any person may be delivered to him either personally or by sending it to his last known place of abode or business by messenger or by ordinary post or by registered letter. 5

(2) Any notice that is so sent by registered letter shall be deemed to have been delivered at the time when the registered letter would in the ordinary course of post be delivered. 10

(3) Notwithstanding anything in the foregoing provisions of this section, a Magistrate may in any case make an order directing the manner in which any notice is to be delivered, or dispensing with the delivery thereof, or varying the time within which any notice is required by this Act to be given. 15

Moneys to be
appropriated
by Parliament
for purposes
of this Act.

29. All moneys payable and expenses incurred by the Minister or any Government Department under this Act or in the administration thereof shall be payable out of moneys appropriated by Parliament for the purpose. 20

Regulations.

30. (1) The Governor-General from time to time, by Order in Council, may make regulations for any purpose for which regulations are contemplated by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof. 25

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:— 30

(a) Regulating the establishment, management, equipment, maintenance, and inspection of institutions and tuberculosis clinics for the purposes of this Act: 35

(b) Regulating and prescribing the appointment, qualifications, and duties of tuberculosis officers:

(c) Regulating the classification of persons suffering from tuberculosis: 40

(d) Regulating the treatment, control, and supervision of persons suffering from tuberculosis in any institution or attending any institution or tuberculosis clinic:

- 5 (e) Prescribing standards to be complied with in clinical, bacteriological, and other examinations and investigations necessary to determine whether any person is suffering from tuberculosis, and whether any person who has been suffering from tuberculosis is no longer a tuberculous person:
- 10 (f) Regulating the immunization, by vaccine, of persons against tuberculosis, and prescribing methods to be used and standards to be complied with therein:
- 15 (g) Prescribing procedure on appeals against orders or decisions of Magistrates under section *seventeen* of this Act:
- (h) Prescribing the information and particulars to be furnished to Medical Officers of Health by Hospital Boards for the purposes of this Act:
- 20 (i) Prescribing precautions necessary to prevent the spread of the infection of tuberculosis to be taken by persons suffering from tuberculosis, and by persons attending or having the care or charge of any such person:
- 25 (j) Prescribing the duties and powers of Medical Officers of Health for the purposes of this Act; and prescribing the medical, x-ray, and bacteriological examinations that may be required under section *nine* of this Act:
- 30 (k) Regulating the notification with respect to tuberculosis pursuant to this Act by medical practitioners and other persons, prescribing the forms of notices to be used therefor, and prescribing the fees payable to medical practitioners in respect of such notification:
- 35 (l) Prescribing forms of any other notices, orders, and other instruments that may be required for the purposes of this Act:
- 40 (m) Prescribing conditions subject to which vocational training or industrial rehabilitation courses may be made available to persons under this Act, and generally regulating the provision of those courses:

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- (n) Providing for the payment, in whole or in part, of reasonable travelling-expenses incurred by persons required to travel within New Zealand for the purpose of undergoing medical or x-ray examinations or treatment in respect of tuberculosis, or for the purpose of attending vocational training or industrial rehabilitation courses under this Act; and prescribing the cases and the manner in which and the extent to which such payment may be made: 5 10
- (o) Prescribing duties or classes of duties in respect of which the provisions of section *twenty-three* of this Act shall apply:
- (p) Prescribing fines for the breach of any regulation made under this Act, not exceeding *twenty* pounds in any case and, where the breach is a continuing one, not exceeding *two* pounds for every day or part of a day during which the breach continues. 15 20
- (3) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, then within twenty-eight days after the commencement of the next ensuing session. 25