

New Zealand.



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1929, No. 31.

AN ACT to make Provision for the Establishment and Maintenance of Rest-homes for Destitute Persons who by Reason of Age (and) or Infirmity are unable to take Proper Care of Themselves.

[8th November, 1929.]

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

1. (1) This Act may be cited as the Rest-homes Act, 1929.

(2) This Act shall be read together with and deemed part of the Destitute Persons Act, 1910 (hereinafter referred to as the principal Act).

Short Title.

This Act to form part of Destitute Persons Act.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Inmate,” in relation to a rest-home, means any person in respect of whom an order is in force under this Act for his reception into and maintenance in a rest-home, whether he is for the time being in that rest-home or elsewhere :

“Managers,” with respect to a private institution declared by the Minister to be a rest-home for the purposes of this Act, means the person or persons, society, or body corporate having the possession and control thereof :

“Minister” means the Minister for the time being charged with the administration of this Act :

“Rest-home” means a rest-home established under this Act, and includes a private institution declared by the Minister to be a rest-home for the purposes of this Act :

“Superintendent,” in relation to a rest-home, means the chief resident officer thereof :

“Voluntary inmate,” in relation to a rest-home, means a person for whose reception into a rest-home an order has been made on his own application, as provided by section eleven of this Act.

Establishment of State Rest-homes.

3. The Minister may from time to time establish and maintain under this Act such number of rest-homes as in his opinion may be required for the purposes of this Act.

4. (1) The Governor-General may from time to time, by Proclamation, set apart any area of available Crown land for the purposes of any rest-home established or proposed to be established under this Act, or the Minister may, on behalf of His Majesty, acquire any private land for the purposes aforesaid by way either of purchase or of lease.

(2) All lands and buildings used for the purposes of any such rest-home shall be deemed to form part thereof.

(3) Any Proclamation under this section setting apart Crown lands for the purposes of a rest-home under this Act may be at any time in like manner altered or revoked.

5. The Minister may at any time, in his discretion, direct the closing of any rest-home established under this Act, and may, in accordance with the provisions of section seventeen hereof, either discharge the inmates or transfer them to any other rest-home.

6. For every rest-home established in accordance with the foregoing provisions of this Act there shall from time to time, as required, be appointed, as members of the Public Service, a Superintendent and such other officers and servants as may be necessary.

7. (1) For every rest-home established under this Act the Governor-General may from time to time appoint one or more Justices of the Peace or other fit persons to be Official Visitors.

(2) The persons so appointed shall from time to time, as they think fit, being not less than once in every period of three months, visit and inspect the rest-home or rest-homes for which they have been appointed, and shall forthwith after each visitation furnish a report to the Minister, and shall refer therein to any matters in connection with the management of the rest-home or the care or conduct of the inmates that in their opinion are not satisfactory.

Minister may establish rest-homes for purposes of this Act.

Governor-General may set apart areas of Crown land for purposes of rest-homes, or the Minister may for such purposes acquire private lands.

Minister may close rest-home and arrange for transfer of inmates.

Provision for appointment of Superintendent and other officers.

Official Visitors of rest-homes.

(3) Every Official Visitor when visiting a rest-home under the authority of this section may inspect every part thereof, and may demand to see every inmate and to be given a reasonable opportunity of hearing in private the complaints (if any) of the inmates.

(4) Every person commits an offence and is liable on summary conviction to a fine of one hundred pounds who obstructs or attempts to obstruct, or does any act with intent to obstruct, an Official Visitor in the performance of his duties or the exercise of his powers under this section.

8. On every visit by an Official Visitor he shall enter in a book to be kept in the rest-home for the purpose the date of his visit, whether or not any complaints have been made to him by any of the inmates, and such observations as he thinks fit concerning the condition of the inmates, the management of the rest-home, and other matters relating thereto. Visitation-book.

Private Rest-homes.

9. (1) On the application of any person or society (whether incorporated or not) that has established or may be desirous of establishing an institution or place for the care of destitute persons who by reason of age and infirmity are unable to take proper care of themselves, the Minister, by notice published in the *Gazette*, if satisfied as to the fitness of the institution or place and of the person or society by whom such application is made, may declare such institution or place to be a rest-home for the purposes of this Act, and every such notice shall have effect according to its tenor. Minister may declare institutions established by private organizations to be rest-homes for purposes of this Act.

(2) Any notice under this section in respect of any institution or place may be at any time in like manner revoked by the Minister, and thereupon such institution or place shall cease to be a rest-home within the meaning and for the purposes of this Act as from the date mentioned in that behalf in the notice of revocation, and thereafter it shall not be lawful compulsorily to detain any person therein.

(3) The provisions of sections seven and eight of this Act, as to the appointment, powers, and duties of Official Visitors, shall apply with respect to private rest-homes in the same manner in all respects as they apply with respect to rest-homes established by the Minister in accordance with the foregoing provisions of this Act.

Charitable Institutions as Rest-homes.

10. (1) Any charitable institution under the control of a Hospital Board constituted under the Hospitals and Charitable Institutions Act, 1926, may, if used or intended to be used for the reception of destitute persons who are aged and infirm, be declared by the Minister, with the consent of the Board, to be a rest-home under this Act. Any such notice may be at any time in like manner revoked, but while it remains in force the institution shall be both a rest-home under this Act and a charitable institution under the first-mentioned Act. Charitable institution maintained by Hospital Board may be declared a rest-home.

(2) If and in so far as in respect of any such institution there is any conflict between this Act or any regulations made thereunder and the Hospitals and Charitable Institutions Act, 1926, or any regulations or by-laws made under that Act, the provisions of this Act and of the regulations made thereunder shall prevail.

Admission to Rest-homes.

Voluntary application for reception into rest-home may be made to Magistrate.

11. (1) Any person desirous of being received into a rest-home may make application in person to a Stipendiary Magistrate for an order under this section on the ground that he is a destitute person unable by reason of age and infirmity to take proper care of himself.

(2) Every such application shall be in writing in the prescribed form, and shall state the time within which the applicant undertakes to remain in the rest-home, being not less in any case than six months. Every such application shall be heard and determined by the Magistrate in private.

(3) If the Magistrate is satisfied that the applicant is a destitute person within the meaning of the principal Act, and that he is unable by reason of age and infirmity to take proper care of himself, and that there is no suitable person who is able and willing to undertake the care of the applicant, the Magistrate may, if he thinks fit, make an order for the reception of the applicant into a rest-home named in the order, and for his detention therein for a period to be named in the order, being not greater than the period mentioned in the application.

Application may be made in first instance to Superintendent of rest-home.

12. (1) In lieu of making application to a Magistrate as provided in the last preceding section, any person may make application in writing to the Superintendent of a rest-home for admission to that rest-home on the ground that he is a destitute person unable by reason of age and infirmity to take proper care of himself.

(2) The Superintendent may thereupon transmit the application to a Magistrate, who shall deal with the same in all respects as if it had been made under the last preceding section.

(3) The Superintendent shall have no authority compulsorily to detain in the rest-home any person admitted thereto under this section, except in accordance with an order made by a Magistrate as hereinbefore provided.

13. (1) On the complaint on oath of any reputable person that any other person is a destitute person within the meaning of the principal Act, and is unable by reason of age and infirmity to take proper care of himself, a Magistrate may issue his summons to such last-mentioned person to show cause why an order should not be made for his reception into and detention in a rest-home under this Act.

(2) On the hearing of the complaint the Magistrate, if he is satisfied as to the truth of the complaint, and that the reception of the person concerned into a rest-home and his detention therein would be in his own interest, may make an order for the reception of such person into a rest-home named in the order, and for his detention therein for such period as may be specified in the order in that behalf.

(3) Subject to the provisions of this Act, all the provisions of the Justices of the Peace Act, 1927, with respect to complaints and orders shall, so far as applicable, apply to complaints and orders under this section, but no order for the payment of costs shall be made against the defendant.

(4) Every complaint under this section shall be heard and determined before a Magistrate in private.

On application made by any reputable person, Magistrate may make order for reception of destitute person to rest-home.

14. (1) Where any person is charged with an offence against paragraph (c) of section forty-nine of the Police Offences Act, 1927, or against paragraph (c) or paragraph (d) or paragraph (i) of subsection one of section fifty-two of that Act, or against section fifty-four of that Act, the Court, if satisfied that the defendant is a destitute person unable by reason of age and infirmity to take proper care of himself, may make an order for his reception into a rest-home under this Act, and for his detention therein for such period as may be specified in the order, and in any such case it shall not be necessary for the Court to hear or to determine the charge against the defendant at any time while he remains in the rest-home in compliance with the order.

Persons charged with offences involving vagrancy may in certain cases be committed to rest-home.

(2) The powers conferred by this section shall not be exercised except by a Magistrate.

15. (1) The Minister for the time being charged with the administration of the Mental Defectives Act, 1911, acting with the concurrence of the Minister having the administration of this Act, may at any time, by order under his hand, transfer to a rest-home under this Act any person detained in a mental hospital who is classified or classifiable under the first-mentioned Act as a person mentally infirm (that is, a person who, through mental infirmity arising from age or the decay of the faculties, is incapable of managing himself or his affairs).

Any person detained in a mental hospital on account of mental infirmity arising from age may be transferred to rest-home under this Act.

(2) Any person transferred to a rest-home under this Act may, with the concurrence of the Minister having control of mental hospitals, be retransferred from the rest-home to the same or any other mental hospital.

16. Any inmate of a rest-home may, at any time while he is absent from the rest-home without lawful justification, be arrested without warrant by any constable or by any officer or servant employed in or about the rest-home, and may thereupon be returned to the rest-home.

Escaped inmate may be returned to rest-home.

Discharge or Transfer of Inmates of Rest-home.

17. (1) The Minister may at any time, by order under his hand,—

- (a) Discharge any inmate of a rest-home under this Act; or
 (b) Transfer any inmate of a rest-home to any other rest-home under this Act, but, in the case of a voluntary inmate, only with his consent in writing.

Minister may discharge or transfer inmates of rest-home.

(2) The Superintendent of any rest-home may at any time, at the request of the inmate or of any person who undertakes, in writing, to exercise proper care and control of the inmate, discharge a voluntary inmate of that rest-home before the expiry of the period for which he was ordered to be detained.

Superintendent may discharge voluntary inmates.

(3) No inmate of a rest-home, other than a voluntary inmate, shall after his reception therein be discharged before the expiration of the period for which he was ordered to be detained, except in pursuance of an order of discharge or transfer made by the Minister in accordance with the foregoing provisions of this section.

(4) If any inmate of a rest-home is, after his reception therein, discharged therefrom otherwise than in due course of law, every officer or servant of the rest-home who procured, aided, permitted, or took part in the discharge shall be severally guilty of an offence punishable on summary conviction by a fine of twenty pounds.

General.

18. Every person commits an offence and is liable on summary conviction to a fine of twenty pounds who—

- (a) Ill-treats or (being an officer, servant, or other person employed in or about a rest-home) wilfully neglects any inmate of that rest-home; or
- (b) Induces or knowingly assists any inmate of a rest-home to escape therefrom.

19. Save by virtue of a contract made in that behalf with the Minister, the managers or Superintendent of a private rest-home shall be under no obligation to receive into that rest-home any person ordered to be received into and detained therein, or to permit the return to the rest-home of any person who has been released or who has escaped therefrom.

20. (1) Where any agreement with respect to the cost of the maintenance of any person in a rest-home under this Act is entered into with the Minister or with the Superintendent or managers of a rest-home and any person who by such agreement undertakes to contribute towards the cost of such maintenance, the Minister may cause a certified copy of such agreement to be registered in the prescribed manner in the office of a Magistrate's Court, and thereupon the agreement shall be of the same force and effect and all proceedings may be taken thereon in the same manner as if it were, and at all times since the execution thereof had been, a maintenance order made by a Magistrate in accordance with the principal Act.

(2) The Magistrate by whom an order is made under this Act for the reception of any person into a rest-home may, in the same or in any other proceedings, make a maintenance order under the principal Act against any near relative of such person, or may, in any case where the person to whom the order relates has any property or income, make an order against the estate of such person.

(3) Every rest-home established under this Act or recognized for the purposes of this Act by the Minister shall be deemed to be a public institution within the meaning of the principal Act.

21. Nothing in this Act shall relieve any Hospital Board under the Hospitals and Charitable Institutions Act, 1926, from its obligation or shall deprive it of its authority to provide institutions for the reception of aged, infirm, and destitute persons, or otherwise to administer charitable aid within its district.

22. No action shall lie against any person for anything done in good faith and with reasonable care in pursuance or intended pursuance of this Act, or of any warrant, order, or regulation made or issued, or purporting to be made or issued, under the authority of this Act.

23. No Court fees shall be payable in respect of any judicial proceedings under this Act.

24. (1) The Governor-General may from time to time, by Order in Council, make regulations—

- (a) Regulating the establishment, management, maintenance, and inspection of rest-homes under this Act;
- (b) Regulating and prescribing the appointment and duties of officers and servants of such institutions;

Offences in relation to inmates of rest-homes.

No obligation apart from contract to receive person into private rest-home.

Maintenance orders in respect of persons detained in rest-homes.

This Act not to relieve Hospital Board from obligation to provide charitable institutions.

Protection of persons acting under authority of this Act.

Exemption from Court fees.

Regulations.

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- (c) Prescribing forms of applications, complaints, and orders required for the purposes of this Act :
 - (d) Regulating the classification, treatment, control, and discipline of persons maintained in rest-homes :
 - (e) Prescribing forms of employment for those persons maintained in rest-homes who may be capable of employment :
 - (f) Prescribing the sums to be paid by or on account of inmates of rest-homes in respect of their maintenance therein, and prescribing the grounds on which exemptions from the obligation to pay such sums may be granted :
 - (g) Prescribing such other matters as may be considered necessary for the purpose of giving effect to this Act.

(2) Regulations made under the authority of this section may apply to all rest-homes established under this Act, or to any specified rest-home.