

New Zealand.



ANALYSIS.

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| <p style="text-align: center;">Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. As to medical certificates, in support of applications for reception-orders, given by officers of hospitals or other public institutions. 3. Minors may be admitted to institutions in the same manner as adults. Con-sequential repeal. | <ol style="list-style-type: none"> 4. Amendment of section 70 of principal Act (relating to visitation of premises where any mentally defective person is kept). 5. Director-General may grant limited leave of absence to patients detained under Part IV of principal Act. 6. Protection from civil or criminal liability of persons acting under authority of principal Act. Repeal. 7. Section 136 of principal Act amended. 8. Unclaimed goods of deceased or discharged patient may be sold. |
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1935, No. 7.

Title.

AN ACT to amend the Mental Defectives Act, 1911.

[24th October, 1935.]

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

Short Title.

1. This Act may be cited as the Mental Defectives Amendment Act, 1935, and shall be read together with and deemed part of the Mental Defectives Act, 1911 (hereinafter referred to as the principal Act).

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

2. Where application for a reception-order in respect of any person is made under the principal Act by an officer on the staff of any hospital under the Hospitals and Charitable Institutions Act, 1926, or by an officer on the staff of any institution maintained by any Department of State (not being a public institution within the meaning of the principal Act), a medical practitioner employed in or attached to that hospital or institution shall not, for the purposes of paragraph (d) of section twelve of the principal Act, be deemed, by reason of his official relationship to the applicant, to be his partner, principal, or assistant; and in no case shall any medical practitioner employed in or attached to any hospital or institution as aforesaid be deemed, by reason of his official relationship to any other such medical practitioner, to be the partner, principal, or assistant of such other medical practitioner.

As to medical certificates, in support of applications for reception-orders, given by officers of hospitals or other public institutions.
See Reprint of Statutes, Vol. III, p. 725

3. (1) Nothing in Part III of the principal Act (relating to minors) shall be construed to prevent the reception of any minor into an institution under the principal Act and his detention therein in all respects as if he were an adult, save that no minor shall be admitted to or detained in any institution as a voluntary boarder under Part V of the principal Act.

Minors may be admitted to institutions in the same manner as adults.

(2) Section twenty-seven of the principal Act is hereby repealed.

Consequential repeal.

4. Section seventy of the principal Act is hereby amended as follows:—

(a) By inserting, after the words “an Inspector or Official Visitor” in subsection three and also in subsection four, the words “or a medical officer on the staff of any public institution”:

Amendment of section 70 of principal Act (relating to visitation of premises where any mentally defective person is kept).

(b) By inserting, after the words “the Inspector or the Official Visitor” in subsection five, the words “or the authorized medical practitioner.”

5. Section eighty of the principal Act is hereby amended by repealing subsection nine, and substituting the following subsection:—

“(9) Nothing in the foregoing provisions of this section shall apply with respect to any person who is detained in an institution in accordance with Part IV of this Act, but the Director-General may, subject to such conditions as he thinks fit, permit any such person,

Director-General may grant limited leave of absence to patients detained under Part IV of principal Act.

not being a person detained in accordance with section thirty-seven hereof, to be absent from the institution for any period not exceeding seven days, exclusive of the days of his departure and return."

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

Cf. 20 & 21
Geo. V, c. 23,
s. 16 (Imp.)

6. (1) A person who does any act in pursuance or intended pursuance of any of the provisions of the principal 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 any other ground, unless he has acted in bad faith or without reasonable care.

(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 given 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.

(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 such injury or damage:

Provided that in estimating the said period of six months no account shall be taken of any time or times during which the person injured was in confinement, whether lawfully or unlawfully, as a mentally defective person, or was ignorant of the facts which constitute the cause of action, or of any time or times during which the defendant was out of New Zealand.

(5) In granting leave to bring any proceedings as aforesaid, the Judge may limit the time within which such leave may be exercised.

(6) No proceedings shall be taken against any person on the ground merely that any mentally defective person was certified or detained as belonging to any one class instead of to another class.

(7) This section is in substitution for section one hundred and thirty-one of the principal Act, and that section is hereby accordingly repealed.

Repeal.

7. Section one hundred and thirty-six of the principal Act is hereby amended by omitting from subsection one the words "as mentally defective" after the word "detained"; and by inserting, after the words "The husband" in paragraph (b) of the same subsection, the words "or wife".

Section 136
of principal
Act amended.

8. (1) Where any goods the property of any patient who has died or who has been discharged remain in the custody of the Superintendent of a public institution and no claim is made for such goods by any person legally entitled thereto within two years from the date of death or discharge, as the case may be, the Superintendent shall cause a notice to be published that unless in the meantime the goods are removed they will be sold on a day named in the notice, being not less than one month from the publication thereof.

Unclaimed
goods of
deceased or
discharged
patient may
be sold.

(2) If the goods are not removed before that day, they may be sold in terms of the notice.

(3) The balance of the proceeds of the sale after paying the charges and expenses thereof shall be used in providing recreation for the patients of the institution in such manner as the Superintendent may direct.