

15.7.76

APPENDIX VIII (a)

[Prepared by the Parliamentary Counsel.]

1976

A BILL FOR

An Act to make provision for the treatment and protection of persons who are mentally ill; to make provision for the care, treatment and protection of persons who are mentally handicapped; to repeal the Mental Health Act, 1935-1974; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

rt title.

1. This Act may be cited as the "Mental Health Act, 1976".

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2. This Act shall come into operation on a day to be fixed by proclamation.

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Act.

3. This Act is arranged as follows:-

PART I - PRELIMINARY

PART II - ADMINISTRATION

Division I - The Commission

Division II - Objectives of the Commission

Division III - Approved Hospitals

Division IV - Records to be kept and Information to be Supplied in Relation to Approved Hospitals

PART III - ADMISSION OF PERSONS SUFFERING FROM MENTAL ILLNESS

Division I - Admission of Voluntary Patients into Approved Hospitals

Division II - Admission and Detention of Patients in Approved Hospitals

Division III - Apprehension of Persons who Appear to be Suffering from Mental Illness or who are Unlawfully at Large

PART IV - GUARDIANSHIP OF PERSONS SUFFERING FROM MENTAL ILLNESS OR MENTAL HANDICAP

Division I - The Guardianship Board

Division II - Reception of Persons into Guardianship of Board

Division III - Appointment of the Administrator of the Estate of a Person Suffering from a Mental Illness or Mental Handicap

Division IV - Provisions relating to the Treatment of Persons suffering from a Mental Illness or Mental Handicap

PART V - THE MENTAL HEALTH REVIEW TRIBUNAL

Division I - Constitution and Powers of the Tribunal

Division II - Functions of the Tribunal

Division III - Appeals from Decisions of the Tribunal

Division IV - Representation of Patients in Appeals

PART VI - LICENSING OF PSYCHIATRIC REHABILITATION CENTRES

PART VII - MISCELLANEOUS.

Repeal and transitional provision.

4. (1) The following Acts are repealed:-

the Mental Defectives Act, 1935;

the Mental Defectives Act Amendment Act, 1939;

the Mental Defectives Act Amendment Act (No. 2), 1939;

the Mental Defectives Act Amendment Act, 1941;

the Mental Defectives Act Amendment Act, 1945;

the Mental Defectives Act Amendment Act, 1950;

the Mental Defectives Act Amendment Act, 1953;

the Mental Defectives Act Amendment Act, 1958;

the Mental Health Act Amendment Act, 1959;

the Mental Health Act Amendment Act, 1960;

the Mental Health Act Amendment Act, 1961;

the Mental Health Act Amendment Act, 1962;

the Mental Health Act Amendment Act (No. 2), 1962;

the Mental Health Act Amendment Act, 1964;

the Mental Health Act Amendment Act, 1965;

the Mental Health Act Amendment Act, 1966;

the Mental Health Act Amendment Act, 1967;

the Mental Health Act Amendment Act, 1968;

the Mental Health Act Amendment Act, 1969;

the Mental Health Act Amendment Act, 1974.

4.8.76

(b)

Prepared by the Parliamentary Counsel.

1976

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Arrangement
of Act.

3. This Act is arranged as follows:-

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PART II - ADMINISTRATION

Division I - The Director

Division II - Objectives of the Director and the Commission

Division III - Approved Hospitals

Division IV - Records to be kept and Information to be Supplied in Relation to Approved Hospitals

PART III - ADMISSION OF PERSONS SUFFERING FROM MENTAL ILLNESS

Division I - Admission of Voluntary Patients into Approved Hospitals

Division II - Admission and Detention of Patients in Approved Hospitals

Division III - Apprehension of Persons who Appear to be Suffering from Mental Illness

Division IV - Treatment of Patients in Approved Hospitals

PART IV - GUARDIANSHIP OF PERSONS SUFFERING FROM MENTAL
ILLNESS OR MENTAL HANDICAP

Division I - The Guardianship Board

Division II - Reception of Persons into Guardianship
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Division III - Appointment of the Administrator of the
Estate of a Person Suffering from a
Mental Illness or Mental Handicap

PART V - THE MENTAL HEALTH REVIEW TRIBUNAL

Division I - Constitution and Powers of the Tribunal

Division II - Functions of the Tribunal

Division III - Appeals from Decisions of the Tribunal

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9.9.76

(c)

Prepared by the Parliamentary Counsel.

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Arrangement of Act.

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Commission
Division III - Approved Hospitals

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PART IV - GUARDIANSHIP OF PERSONS SUFFERING FROM MENTAL ILLNESS OR MENTAL HANDICAP

Division I - The Guardianship Board

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Division III - Appointment of the Administrator of the Estate of a Person Suffering from a Mental Illness or Mental Handicap

PART V - THE MENTAL HEALTH REVIEW TRIBUNAL

Division I - Constitution and Powers of the Tribunal

Division II - Functions of the Tribunal

Division III - Appeals from Decisions of the Tribunal

Division IV - Representation of Patients in Appeal

PART VI - LICENSING OF PSYCHIATRIC REHABILITATION CENTRES

PART VII - MISCELLANEOUS.

Repeal and transitional provision.

4. (1) The Acts mentioned in the schedule to this Act are repealed.

(2) Any person lawfully detained as a mental defective under the provisions of the repealed Act, and in detention immediately before the commencement of this Act, shall be deemed to have been detained under the corresponding provisions of this Act and he shall continue in detention until discharged in pursuance of this Act.

(3) Where, immediately before the commencement of this Act, the Public Trustee has the custody and administration of the estate of a patient under the provisions of the repealed Act, the Public Trustee shall be deemed to have been appointed the administrator of that estate under this Act.

(4) A licence granted under the repealed Act in respect of a psychiatric rehabilitation hostel shall be deemed to be a licence in respect of a psychiatric rehabilitation centre under this Act and shall, subject to this Act, continue in force for the remainder of the term for which it was granted or last renewed.

Interpretation.

5. In this Act, unless the contrary intention appears "approved hospital" means any hospital, clinic or other premises declared by the Minister under Part II of Act to be an approved hospital for the care and treatment of persons who are mentally ill:
- "the Board" means the Guardianship Board constituted under Part IV of this Act;
- "the Commission" means the South Australian Health Commission:
- "the Director" means the person for the time being holding, or acting in, the office of Director of Mental Health Services under this Act:
- "mental handicap" means imperfect or retarded development or impairment or deterioration of mental faculties from whatever cause:
- "mental illness" means any illness or disorder of the mind:
- "the Minister" means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor and includes any other Minister of the Crown who may, for the time being, be temporarily discharging the duties of that Minister:
- "patient" means any person suffering from mental illness lawfully admitted to, or detained, in any approved hospital, notwithstanding that he may be unlawfully at large, or have been permitted to be absent on leave:
- "protected person" means a person received into the guardianship of the Board in pursuance of this Act, or a person in respect of whose estate an administrator is appointed in pursuance of this Act:
- "psychiatric rehabilitation centre" means any hospital (other than an approved hospital), hostel, clinic or

other premises in which accommodation is provided, for fee or reward, for a person who is the subject of an order for detention under this Act:

"psychiatrist" means a legally qualified medical practitioner who is registered under the Medical Practitioners' Act, 1919-1974, as a specialist in psychiatry:

"relative" of a person means spouse, father, mother, brother, sister, uncle, aunt, niece, nephew, grandfather, grandmother, child or grandchild:

"the repealed Act" means the Mental Health Act, 1939-1974, repealed by this Act:

"senior psychiatrist" means a legally qualified medical practitioner who has, since the date on which he became qualified for registration as a specialist in psychiatry, had at least five years' experience as a practising psychiatrist:

"superintendent" in relation to an approved hospital means the person for the time being in charge of the hospital :

"the Tribunal" means the Mental Health Review Tribunal established under this Act.

PART II

ADMINISTRATION

Division I - The Director

The office of Director of Mental Health Services.

6. (1) There shall be a Director of Mental Health Services.

(2) The person holding office as the Director of Mental Health Services under the repealed Act immediately before the commencement of this Act shall, upon the commencement of this Act, become the Director of Mental Health Services under this Act.