

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 46 of 1962

An Act to Make New Provision with respect to the Treatment and Care of Mentally Ill Persons and with respect to their property and affairs; and for purposes connected with these matters

[ASSENTED TO 28TH DECEMBER, 1962]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY

1. (1) This Act may be cited as "*The Mental Health Act of 1962.*" Short title

(2) Except as herein otherwise provided, this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*. Commencement of this Act

Arrangement
of this Act

2. This Act is arranged as follows :—

PART I.—PRELIMINARY;

PART II.—ADMINISTRATION;

PART III.—ADMISSION OF PATIENTS TO HOSPITALS
GENERALLY;

Division I.—Informal Admissions;

Division II.—Regulated Admissions;

Division III.—Admissions under Hospital Orders;

PART IV.—PATIENTS CONCERNED IN CRIMINAL
PROCEEDINGS, &C.;

PART V.—TRANSFER AND DISCHARGE OF PATIENTS,
&C.;

PART VI.—MISCELLANEOUS AND GENERAL;

SCHEDULES.

Severability

3. This Act, including every Proclamation, Order in Council, regulation, and rule hereunder, shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment hereof or provision of any Proclamation, Order in Council, regulation, or rule hereunder would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

Repeals
Schedule I.

4. (1) The Acts set forth in the First Schedule to this Act (hereinafter referred to as "the repealed Acts") are repealed to the extent in that Schedule indicated.

Amendments
Schedule II.

(2) The Acts set forth in the Second Schedule to this Act (hereinafter referred to as "the amended Acts") to the extent thereby expressed to be amended are amended accordingly.

Sayings

(3) Without limiting the operation of "*The Acts Interpretation Acts, 1954 to 1962*"—

(a) unless otherwise provided by this Act, all persons who immediately prior to the commencement of this Act held office under the repealed Acts shall be deemed to have

been appointed to their respective offices under and for the purposes of this Act and, subject to this Act, shall continue to hold those offices respectively in terms of their appointment without further or other appointment under this Act;

- (b) all private mental hospitals licensed as such immediately prior to the commencement of this Act shall without further authority be deemed, subject to the license in question remaining in force, to be licensed hospitals for the purposes of this Act, and all licenses in force immediately prior to the commencement of this Act in relation to those hospitals shall continue for the purposes for which they were issued and subject to the relevant provisions, terms, and conditions as if the amended Acts had not been amended by the Second Schedule to this Act;
- (c) subject to subsection (4) of this section and section sixty-five of this Act, all proceedings initiated, pending, or part heard under the repealed Acts shall be continued, if practicable as if such proceedings had been taken or initiated under this Act, but if it is not practicable so to apply this Act, then such proceedings shall continue according to the provisions of the repealed Acts which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof;
- (d) no proceedings or acts or things done or contracts or arrangements made under the repealed Acts shall be invalidated, prejudiced, or otherwise affected by such repeal;
- (e) unless otherwise expressly provided, every Proclamation, Order in Council, regulation, rule, register, book, record, order, notice, arrangement, consent, application, determination, declaration, certificate, approval, and act of authority whatsoever kept, made, given, issued, done, or otherwise originated under the repealed Acts and subsisting immediately prior to the commencement of this Act shall, so far

- as it is consistent with this Act, continue for the purposes of this Act in force, but subject to this Act, as fully and effectually as if it had originated under the provisions of this Act (and shall, where necessary, be deemed to have so originated);
- (f) the care, protection, administration, and management of the estate or any part of the estate of any person which immediately prior to the commencement of this Act was exercised by the Public Curator, or a committee of the estate of such person, or a guardian, receiver, or other person, under the repealed Acts, may continue to be exercised by the Public Curator, committee, guardian, receiver, or other person as aforesaid so far as practicable under and subject to the provisions of this Act, but if in any case it is not so practicable, then under and subject to the provisions of the repealed Acts which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof ;
- (g) all persons ordered to be removed to any hospital, clinic, or other place whatsoever, or lawfully in custody or detained under any of the provisions of Part VII. of the repealed Acts or under "*The Prisons Act of 1958*" immediately prior to the commencement of this Act shall without other authority continue to be lawfully in custody or detained under and subject to "*The Prisons Act of 1958*", and shall be deemed to be in legal custody;
- (h) where in any other Act or law or rule—
- (i) reference is made to "a person of unsound mind", or to an "insane person", or to "a person not of sound mind", or to "a lunatic", or to any like term or expression, such reference shall where necessary for the purpose of applying this Act be read as a reference to a patient within the meaning of this Act;
- (ii) reference is made to a "mental hospital," such reference shall be deemed to be a reference to a special hospital under and for the purposes of this Act.

(4) The transitional provisions set out in section sixty-five of this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force in relation to certain classes of patients before the commencement of this Act. Transitional provisions

5. (1) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:— Meanings of terms

“ Authorised person ”—In relation to a patient,— Authorised person

(a) a person who is appointed in writing to act as an authorised person under and for the purposes of this Act by the patient if he is capable of making and willing to make such an appointment, or, if he is not so capable and willing, by the nearest relative; or

(b) a person who is appointed to act as such under and in accordance with the regulations; or

(c) a person as prescribed;

“ Director ”—The Director of Psychiatric Services appointed or deemed to be appointed under and for the purposes of this Act: The term includes any person who for the time being occupies the office or performs the duties of the Director; Director

“ Hospital ”—A private hospital, a public hospital, or a special hospital: The term does not include a security patients hospital; Hospital

“ Hospital administrators ”—In relation to— Hospital administrators

(a) a private hospital, the person or persons who keep or manage that hospital;

(b) a public hospital, the Hospitals Board or committee, as the case may be, which controls or manages that hospital;

(c) a special hospital, the medical superintendent or other person charged with the control of that hospital;

“ Medical practitioner ”—A medical practitioner or a specialist within the meaning of section four of “ *The Medical Acts, 1939 to 1958* ”; Medical practitioner

Medical treatment	“ Medical treatment ”—Includes surgical treatment, and also care and training under medical supervision;
Minister	“ Minister ”—The Minister for Health and Home Affairs or other Minister of the Crown for the time being charged with the administration of this Act;
Minister for Justice	“ Minister for Justice ”—The Minister for Justice or other Minister of the Crown for the time being occupying the office or performing the duties of the Attorney-General;
Part	“ Part ”—Part of this Act, including where necessary, all Proclamations, Orders in Council, regulations, and rules, if any, made or deemed to be made for the purposes of the Part;
Patient	“ Patient ”—A person suffering or appearing to be suffering from mental illness;
Place of safety	“ Place of safety ”—Any hospital, police station, or prison, or any other suitable place the occupier of which is willing temporarily to receive the patient;
Police station	“ Police station ”—Includes a police office, watchhouse, and lock-up;
Prescribed	“ Prescribed ”—Prescribed by this Act or by any regulation or rule made under this Act;
Prison	“ Prison ”—A prison within the meaning of “ <i>The Prisons Act of 1958</i> ”;
Private hospital	“ Private hospital ”—A private hospital or a nursing or other home within the meaning of Division XI. of Part III. of “ <i>The Health Acts, 1937 to 1960,</i> ” in relation to which a license under that Division XI. is in force;
Public hospital	“ Public hospital ”—A hospital within the meaning of “ <i>The Hospitals Acts, 1936 to 1962,</i> ” and being either a hospital in relation to which Part III. of those Acts applies or a voluntary hospital within the meaning of those Acts;
Responsible medical practitioner	“ Responsible medical practitioner ”—In relation to a patient liable to be detained in a hospital or other place whatsoever by virtue of an application, order, or direction under this or any other Act, the medical practitioner for

the time being in charge of the treatment of the patient, but where the regulations define who shall be deemed to be the responsible medical practitioner in relation to all or any classes of patients, then, in relation to a patient to whom those regulations apply, the medical practitioner so defined;

- “ Schedule ”—Schedule to this Act, including, Schedule where necessary, all Proclamations, Orders in Council, regulations, and rules, if any, made or deemed to be made for the purposes of the Schedule;
- “ Security patients’ hospital ”—A security patients’ Security patients’ hospital hospital within the meaning of “ *The Prisons Act of 1958* ”;
- “ Special hospital ”—An institution or premises Special hospital established or deemed to have been established under this Act as a special hospital;
- “ Stipendiary magistrate ”—Includes an acting Stipendiary magistrate stipendiary magistrate as well as two or more justices where under this Act such justices may exercise the powers of a stipendiary magistrate;
- “ Treatment ”—In relation to any patient, includes Treatment any form of treatment, including medical treatment, and care and, where necessary, training, education, supervision, social rehabilitation, help, and advice;
- “ Tribunal ”—A Mental Health Review Tribunal Tribunal constituted under section fourteen of this Act;
- “ Welfare ”—In relation to a patient, health Welfare or safety or both.

(2) (a) Where in this Act any period of time dating Reckoning of periods of time, &c. from a given day, act, or event is prescribed or allowed in relation to the detention of a patient or for any other purpose whatsoever, such period shall, unless otherwise expressly provided, be reckoned exclusively of such day, or of the day of such act or event, but inclusively of the day on which the patient is to be discharged from detention or the purpose is to be fulfilled.

(b) For the purposes of this Act a person shall be deemed not to have attained any age referred to in this Act, until the commencement of the relevant anniversary of the date of his birth.

References

(3) Unless the context otherwise indicates or requires, every reference in this Act—

- (a) to a prescribed form shall be read as including any form to the like effect;
- (b) to a failure to do any act or thing, shall be read as including a reference to a refusal or neglect to do that act or thing;
- (c) to the “protection of other persons” or to the “protection of others” shall be read as including references to the “protection of another” and to the “protection of the public”.

Exercise of powers by hospital administrators

(4) (a) Unless otherwise expressly provided by this Act, all or any of the functions and powers conferred by this Act on any hospital administrators may in any case be exercised by any person or persons authorised in writing in that behalf by the hospital administrators, and in addition, where the hospital administrators are a partnership consisting of more than three members, may be exercised by any three or more members thereof:

Provided that this subsection shall not apply in a case where the hospital administrators mean the medical superintendent or other person charged with the control of a special hospital.

(b) Where by this Act any document or writing is required or permitted to be given to or received by any hospital administrators then such document or writing shall be deemed to have been so given or received if it is given to or received by the person for the time being in control of the hospital in question or other person as may be prescribed.

Schedules

(5) Without derogating from “*The Acts Interpretation Acts, 1954 to 1962*,” the Schedules to this Act shall form part of this Act.

Construction and application of this Act

6. This Act shall be construed and applied—

- (a) so that any private hospital is not compelled to admit any patient;

- (b) so as not to prevent any patient who requires care and treatment for mental illness from receiving the same in pursuance of arrangements made in that behalf and, subject to considerations for the patient's own welfare or the protection of others, with no more restriction of liberty or legal formality than is applied to people who need care and treatment because of other types of illness, disability, or social difficulty; and
- (c) so that in the case of any patient the compulsory powers relating to detention conferred by this Act are exercised for the purposes only of the patient's own welfare or the protection of others.

PART II.—ADMINISTRATION

7. This Act shall be administered by the Minister and, subject to the Minister, by the Director-General of Health and Medical Services (in this Act referred to as "the Director-General"), and, subject as aforesaid, by the Director.

General
administra-
tion of this
Act

8. The Director-General shall annually (in accordance with any determination by the Minister as to the time of the furnishing thereof) make and furnish to the Minister a report on his administration under this Act, and such report shall be laid before Parliament within fourteen sitting days after such publication if Parliament is in Session, and, if not, then within fourteen sitting days after the commencement of the next Session.

Annual
report

9. (1) The Director-General shall have and may exercise all such functions, powers, and duties as are conferred or imposed upon him by this Act.

Powers of
Director-
General

(2) Without limiting subsection (1) of this section, the Director-General may from time to time visit and inspect every hospital with or without previous notice and at any time of the day or night as he thinks fit, and may at any time make or cause to be made such inspections, investigations, and inquiries as he deems necessary for the purpose of administering this Act, and shall make or cause to be made such inspections, investigations and inquiries as are directed by the Minister or by this Act.

(3) The Director-General, for the purpose of any inspection, investigation or inquiry made by him under this Act, shall have and may exercise all the powers, authorities, protection and jurisdiction of a commission of inquiry, as well as of a chairman and of a member of a commission of inquiry, under "*The Commissions of Inquiries Acts, 1950 to 1954.*"

Director of Psychiatric Services

Director of
Psychiatric
Services

10. (1) The Governor in Council may from time to time appoint under and for the purposes of this Act a Director of Psychiatric Services.

First
Director

(2) The person who immediately prior to the commencement of this Act holds the office of Director of Mental Hygiene under the repealed Acts shall, without further appointment, be deemed to be and to have been appointed the Director of Psychiatric Services under and for the purposes of this Act.

Certain
powers, &c.,
of the
Director

(3) Without limiting the provisions of section nine of this Act, the Director shall have the functions, powers, and duties set forth in that section and the provisions of the said section shall, with all necessary adaptations, apply and extend with respect to the Director accordingly.

Power of
delegation
by Director

11. The Director, with the prior approval of the Minister, may from time to time, in relation to any matters or class of matters, or in relation to a particular part of the State, by instrument in writing under his hand, delegate all or any of his functions, powers, and duties under this Act as may be specified in the instrument (other than this power of delegation) so that the delegated functions, powers, and duties may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters or in relation to the particular part of the State specified in the instrument.

Where, by or under this Act, the exercise of a function or power or the performance of a duty of the Director is dependent on the opinion, belief, or state of mind of the Director in relation to any matter, that function or power may be exercised or the duty performed upon the opinion, belief, or state of mind of the person to whom it is delegated by an instrument of delegation under this section.

Official Visitors

12. (1) The Governor in Council may from time to time appoint, in relation to any hospital or any part of the State, two or more official visitors, one of whom shall be a medical practitioner, and one a barrister-at-law, a solicitor, a stipendiary magistrate, or person qualified to hold the appointment as a stipendiary magistrate. Official
visitors

(2) Official visitors shall have such functions, powers, and duties as are or may be prescribed and all or any of such prescribed functions, powers, and duties may differ in relation to different official visitors appointed for the same hospital or part of the State.

13. (1) Any one or more of the official visitors shall visit every hospital to which they may be appointed and every hospital which by the regulations they are required to so visit once at least in every month and shall make special visits concerning the administration of this Act or particular matters at such times as the Minister or the Director-General or Director may direct. Such visits may be made without previous notice and at such hours of the day or night as the official visitor or visitors making the same thinks or think fit, or as may be required by the person directing the visit. Visits by
official
visitors

(2) A report shall be transmitted to the Director immediately after each visit by the official visitor or visitors who made the visit, except where the Minister or the Director-General has directed the visit, when such report shall be furnished direct to the Minister or the Director-General, as the case may be.

(3) In addition to such other inquiries which he or they may make for the purposes of the administration of of this Act, an official visitor or official visitors shall make such inquiries as are prescribed.

Mental Health Review Tribunals

14. (1) The Governor in Council may from time to time by Order in Council divide or re-divide the State into regions for the purposes of this section. Mental
Health
Review
Tribunals

(2) For every region there shall be constituted a tribunal, to be called a Mental Health Review Tribunal (in this Act referred to as the "Tribunal"), for the purpose of dealing with applications and references by and in respect of patients under the provisions of this Act.

(3) Each of the Tribunals shall consist of three or more members appointed by the Governor in Council,—

(a) one of whom shall be a barrister-at-law, a solicitor, a stipendiary magistrate, or a person qualified to hold the appointment as a stipendiary magistrate;

(b) one of whom shall be a medical practitioner; and

(c) the other or others as the Minister considers suitable.

(4) One of the members of each Tribunal shall be appointed by the Governor in Council as Chairman of the Tribunal.

Provisions
relating to
Tribunals

15. (1) Where, under any provision of this Act, any application to the Tribunal is authorised to be made by or in respect of a patient, the application shall be made by notice in writing addressed to the Tribunal for the region in which the hospital in which the patient is detained is situated or in which the patient, where he is not an in-patient, is residing, and otherwise in accordance with the regulations in that behalf.

(2) An application may be made to the Tribunal by or in respect of a patient as prescribed, and where, under any provision of this Act, any person is authorised to make an application to a Tribunal within a specified period, not more than one such application shall be made by that person within that period:

Provided that nothing in this section shall exclude or diminish the power of the Tribunal to make or cause to be made any inquiry in relation to (including any examination of) any patient or to make any recommendation as it considers necessary or desirable in the interests of the patient's welfare or for the protection of other persons.

(3) The Minister may, if he thinks fit, at any time refer to any Mental Health Review Tribunal the case of any patient who is liable to be detained under this Act (other than under the provisions of Part IV. hereof).

(4) (a) Where application is made pursuant to this Act to the Tribunal by or in respect of a patient who is liable to be detained under this Act (other than under the provisions of Part IV. hereof) the Tribunal may in any case, for any reason they think sufficient, refuse the application or, if they are satisfied—

(i) that the patient is not then suffering from mental illness; or

(ii) that it is not necessary in the interests of the patient's welfare or for the protection of other persons that the patient should continue to be liable to be so detained,

may recommend to the Director that the patient be discharged from hospital.

Every such recommendation shall contain the matter or matters as to which the Tribunal is so satisfied.

(b) This subsection applies in relation to any reference to a Tribunal made by the Minister under this Act as it applies in relation to an application made to the Tribunal by or in respect of a patient, but in such a case the recommendation shall be made to the Minister.

(5) With respect to any application, reference, or inquiry to or by a Tribunal under this Act, the Tribunal may admit, and proceed and recommend upon such information or evidence as it thinks sufficient, whether or not the same is admissible in any Court, and the persons serving as members of the Tribunal for the purposes of that application, reference, or inquiry, need not be present nor act together during the whole of its proceedings.

(6) Without limiting the power to make regulations conferred by section sixty-one of this Act, regulations may be made under that section for conferring and

imposing on Tribunals (including all or any members thereof) such powers and duties as may be considered necessary or desirable for the purpose of the exercise by such Tribunals of their functions and of—

- (i) providing a safeguard against the abuse of the compulsory powers of detention conferred by this Act in relation to patients received in hospitals;
- (ii) providing, subject in any case to the patient's own welfare and the protection of others, a safeguard against the use of the compulsory powers of detention conferred by this Act if suitable treatment and care can be provided without compulsion;
- (iii) providing assistance for the administration of this Act in the interests of patients as well as for the protection of other persons; and
- (iv) carrying out the objects and purposes of this Act so far as Tribunals are concerned.

Special
hospitals

16. (1) The Governor in Council may from time to time cause to be established special hospitals.

(2) The mental hospitals established or deemed to be so established under the repealed Acts shall, subject to subsection (4) of this section, continue as and shall be deemed to have been established as special hospitals under and for the purposes of this Act.

(3) The special hospitals shall be administered by the Minister and, subject to the Minister, by the Director-General and, subject as aforesaid, by the Director.

(4) The Governor in Council may from time to time declare that any special hospital or part of any special hospital shall cease to be a special hospital and may at any time vary or revoke any such declaration.

Every such declaration shall have effect according to its tenor.

PART III.—ADMISSION OF PATIENTS TO HOSPITALS
GENERALLY

Division I.—Informal Admission of Patients

17. (1) Nothing in this Act shall be construed as preventing a patient who requires treatment for mental illness from being admitted to any hospital in pursuance of arrangements made in that behalf and without any application, order, or direction rendering the patient liable to be detained under this Act, or from remaining in any hospital in pursuance of such arrangements after he has ceased to be so liable to be detained. ^{Informal admission of patients}

Unless otherwise indicated by this Act, the hospital administrators may refuse to make arrangements to admit a patient to any hospital.

(2) In the case of an infant who has attained the age of eighteen years and is capable of expressing his own wishes, any such arrangements as are mentioned in subsection (1) of this section may be made, carried out, and determined notwithstanding any right of custody or control vested by law in his parent or guardian.

Division II.—Regulated Admissions

18. (1) A patient may be admitted to a hospital, and there detained for the period allowed by this section, in pursuance of an application (in this Act referred to as an application for admission for observation) made by a relative of the patient or by an authorised person in accordance with the following provisions of this section. ^{Admission for observation}

(2) An application for admission for observation may be made in respect of a patient on the grounds—

(a) that he is suffering from mental illness of a nature or degree which warrants the detention of the patient in a hospital under observation (with or without treatment) for at least a limited period; and

(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons.

(3) An application for admission for observation shall be founded on the written recommendations in the prescribed form of two medical practitioners, including in each case a statement that in the opinion of the medical practitioner the conditions set out in paragraphs (a) and (b) of subsection (2) of this section are complied with.

(4) A patient admitted to a hospital in pursuance of an application for admission for observation may be detained for a period not exceeding twenty-eight days beginning from the day on which he is admitted, but shall not be detained in a hospital thereafter unless, before the expiration of that period, he has become liable to be detained in a hospital by virtue of a subsequent application, order, or direction under any of the provisions of this Act.

(5) Nothing in this section shall preclude a patient admitted to a hospital in pursuance of an application for admission for observation from receiving such treatment as the responsible medical practitioner considers appropriate.

Admission
for
treatment

19. (1) A patient may be admitted to a hospital, and there detained for the period allowed by the provisions of this Act relating to such admissions, in pursuance of an application (in this Act referred to as an application for admission for treatment) made by a relative of the patient or by an authorised person in accordance with the following provisions of this section.

(2) An application for admission for treatment may be made in respect of a patient on the grounds—

(a) that he is suffering from mental illness of a nature or degree which warrants the detention of the patient in a hospital for treatment under this section; and

(b) that it is necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should be so detained.

(3) An application for admission for treatment shall be founded on the written recommendations in the prescribed form of two medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in paragraphs (a) and (b) of subsection (2) of this section are complied with; and each such recommendation shall include—

- (a) such particulars as may be prescribed of the grounds for that opinion so far as it relates to the conditions set out in the said paragraph (a); and
- (b) a statement of the reasons for that opinion so far as it relates to the conditions set out in the said paragraph (b), specifying whether other methods of dealing with the patient are available, and if so why they are not appropriate.

20. (1) No application for the admission for observation or for treatment of a patient shall be made by any person unless that person has personally seen the patient within the period of fourteen days ending with the date of the application.

General provisions as to application for admission

(2) The medical recommendations on which an application for the admission of a patient is founded, may be given either as separate recommendations, each signed by a medical practitioner, or as a joint recommendation signed by two such practitioners.

(3) An application for admission for treatment shall not be made by an authorised person (being other than a person referred to in paragraph (a) of the definition of "authorised person" in subsection (1) of section five of this Act), if the nearest relative of the patient has notified the authorised person that he objects to the application being made, and, without prejudice to the foregoing provision, shall not be made by such an authorised person except after consultation with the person, if any, appearing to be the nearest relative of the patient unless it appears to that authorised person that in the circumstances such consultation is not reasonably practicable or would involve unreasonable delay.

General
provisions
as to
medical
recommenda-
tions

21. (1) Unless otherwise provided by this Act, the recommendations required for the purposes of an application for admission for observation or for treatment of a patient (in this Act referred to as "medical recommendations") shall be signed on or before the date of the application, and shall be signed by medical practitioners who have personally examined the patient either together or at an interval of not more than seven days.

(2) Except as otherwise provided by this Act, a medical recommendation shall cease to have effect on the expiration of fourteen days from the day of the joint or separate examination to which it relates.

(3) Of the medical recommendations given for the purposes of any such application, one such recommendation shall, if practicable, be given by the medical practitioner who has usually attended the patient.

(4) A medical recommendation for the purposes of an application for the admission of a patient under this Act shall not be given by any of the following persons, that is to say—

- (a) the applicant;
- (b) a partner of the applicant or of a medical practitioner by whom another medical recommendation is given for the purposes of the same application;
- (c) a person employed as an assistant by the applicant or by any such medical practitioner as aforesaid;
- (d) a person who receives or has an interest in the receipt of any payments made on account of the maintenance of the patient; or
- (e) (In the case of an admission of a paying patient to a hospital) more than one medical practitioner on the staff of that hospital;
- (f) (In the case of an admission to a special hospital) any medical practitioner on the staff of that hospital,

or by the husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, or sister-in-law of the patient, or of any such person as aforesaid, or of a

medical practitioner by whom another medical recommendation is given for the purposes of the same application.

(5) The following rules shall be observed in making and signing medical recommendations for the purposes of this Act:—

- (a) the medical recommendation shall be in the prescribed form;
- (b) the medical practitioner making and signing the medical recommendation shall state his qualifications in the medical recommendation;
- (c) in addition to the facts indicating mental illness observed by him, the medical practitioner shall, so far as he is able, state in the medical recommendation—
 - (i) any further facts indicating mental illness observed by him on any other occasion, and the date of that occasion;
 - (ii) any facts indicating mental illness communicated to him by others, and the names and addresses of the persons who communicated those facts;
 - (iii) what in his opinion are the factors which caused the mental illness;
 - (iv) whether in his opinion the patient is suicidal or dangerous;
 - (v) what treatment (if any) has been employed in respect of the mental illness of the patient;
 - (vi) what is the bodily health and condition of the patient, with special reference to the presence or absence of communicable disease and recent injury;
- (d) the medical recommendation shall state the day or the last day on which the patient was examined;
- (e) where an examination has been made by two medical practitioners jointly, then notwithstanding anything to the contrary in this Act, one medical recommendation may be made and signed jointly, or separate medical recommendations may be made and signed;

(f) every medical recommendation shall contain a statement that the medical practitioner making and signing the same is not prohibited by this Act from giving such medical recommendation.

(6) No medical recommendation shall be sufficient for the purposes of this Act if it purports to be founded only upon facts communicated by others.

Procedure in Emergency

Admission
for
observation
in case of
emergency

22. (1) In any case of urgent necessity, an application for admission for observation may be made in respect of a patient in accordance with the following provisions of this section, and any application so made is in this Act referred to as an emergency application.

(2) An emergency application may be made by any relative of the patient or by an authorised person; and every such application shall include a statement (to be verified by the medical recommendation first referred to in subsection (3) of this section) that it is of urgent necessity for the patient to be admitted and detained under section eighteen of this Act, and that compliance with the foregoing provisions of this Division of this Part relating to applications for admission for observation would involve undesirable delay.

(3) An emergency application shall be sufficient in the first instance if founded on one of the medical recommendations required by section eighteen of this Act, given, if practicable, by a medical practitioner who has usually attended the patient and otherwise complying with the requirements of section twenty-one of this Act so far as applicable to a single medical recommendation, but shall cease to have effect on the expiration of a period of two days beginning from the day when the patient is admitted to the hospital unless—

(a) the second medical recommendation required as aforesaid is given and received by the hospital administrators within that period; and

(b) that medical recommendation and the medical recommendation first referred to in this subsection together comply with all the

requirements of the said section twenty-one (other than the requirement as to the time of signature of the second medical recommendation).

(4) In relation to an emergency application, section twenty of this Act shall have effect as if in subsection (1) of that section for the words "fourteen days" there were substituted the words "two days".

23. (1) An application for admission for observation or for treatment of a patient to a hospital may be made under this Division of this Part—

Applications in respect of patients already in hospital

(a) in any case, notwithstanding that the patient is already an in-patient in that hospital, not being liable to be detained in pursuance of an application under this Division of this Part;

(b) in the case of an application for admission for treatment, notwithstanding that the patient is for the time being liable to be detained in the hospital in pursuance of an application for his admission for observation;

and where an application is so made the patient shall be treated for the purposes of this Act as if he had been admitted to the hospital at the time when that application was received by the hospital administrators.

(2) If, in the case of a person who is an in-patient in a hospital, not being liable to be detained therein under this Act, it appears to the medical practitioner in charge of the treatment of the patient that an application ought to be made under this Division of this Part for the admission of the patient to hospital or for a hospital order, he may furnish to the hospital administrators a report in writing to that effect; and in any such case the patient may be detained in the hospital for a period of two days beginning from the day on which the report is so furnished.

24. (1) An application for the admission of a patient to a hospital under this Division of this Part and the medical recommendation or, as the case requires, recommendations on which it is founded duly completed in accordance with and complying with this Act, shall be

Effect of application for admission

sufficient authority for the applicant, or any person authorised by the applicant, to take the patient and convey him to the hospital at any time within the following period, that is to say:—

(a) in the case of an application other than an emergency application, the period of fourteen days beginning from the date on which the patient was last examined by a medical practitioner before giving a medical recommendation for the purposes of the application;

(b) in the case of an emergency application, the period of two days beginning from the date on which the patient was examined by the medical practitioner giving the medical recommendation first referred to in subsection (3) of section twenty-two of this Act, or with the date of the application, whichever is the earlier.

(2) Where a patient is admitted within the said period to the hospital specified in such an application as aforesaid, or, being within that hospital, is treated by virtue of section twenty-three of this Act as if he had been so admitted, the application shall be sufficient authority for the detention of the patient in the hospital in accordance with the provisions of this Act.

(3) Any application for the admission of a patient under this Act which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of the signature or qualification of the person by whom the application or any such medical recommendation, is made or given, or of any matter of fact or opinion stated therein.

(4) An application for his discharge may be made by a patient who is admitted to a hospital in pursuance of an application for admission for treatment, to the Tribunal within the period of six months beginning from the day on which the patient is so admitted, or from the day on which he attains the age of eighteen years, whichever is the later, and, in either case, in any subsequent period of twelve months.

(5) Where a patient is admitted to a hospital in pursuance of an application for admission for treatment, any previous application under this Division of this Part by virtue of which he was liable to be detained in a hospital shall cease to have effect.

25. (1) If within the period of fourteen days beginning from the day on which a patient has been admitted to a hospital in pursuance of an application for admission for observation or for treatment the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective but the hospital administrators are satisfied that it substantially complies with this Act, the application or medical recommendation may, within that period and with the consent of the hospital administrators, be amended by the person by whom it was signed; and upon such amendment being made the application or medical recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.

Rectification
of
application
and medical
recommenda-
tions

(2) Without prejudice to the provisions of subsection (1) of this section, if within the period therein mentioned it appears to the hospital administrators that one of the two medical recommendations on which an application for the admission of a patient is founded is insufficient to warrant the detention of the patient in pursuance of the application, they may, within that period, give notice in writing to that effect to the applicant; and where any such notice is given in respect of a medical recommendation, that recommendation shall be disregarded, but the application shall be, and shall be deemed always to have been sufficient if—

- (a) a fresh medical recommendation complying with the relevant provisions of this Division of this Part (other than the provisions relating to the time of signature and the interval between examinations) is furnished to the hospital administrators within that period; and
- (b) that medical recommendation, and the other medical recommendation on which the application is founded, together comply with those provisions.

(3) Where the medical recommendations upon which an application for admission is founded are, taken together, insufficient to warrant the detention of the patient in pursuance of the application, a notice under subsection (2) of this section may be given in respect of either of those recommendations; but this subsection shall not apply in a case where the application is of no effect by virtue of any provision of this Act.

(4) Nothing in this section shall be construed as authorising the giving of notice in respect of an application made as an emergency application under section twenty-two of this Act, or the detention of a patient admitted in pursuance of such an application, after the period of two days referred to in subsection (3) of that section, unless the conditions set out in paragraphs (a) and (b) of that subsection are complied with or would be complied with apart from any error or defect to which this section applies.

Division III.—Admissions under Hospital Orders

Mentally ill
persons
found in
public places

26. If a member of the Police Force finds in a place to which the public have access a person who appears to him to be suffering from mental illness and to be in immediate need of treatment or control, the member of the Police Force may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety.

Warrant to
remove
patients

27. (1) If it appears to a justice, on information by any person on oath—

(a) that there is reasonable cause to suspect that a person believed to be suffering from mental illness—

(i) has been, or is being, ill-treated, neglected, or kept otherwise than under proper control; or

(ii) being unable to care for himself is living alone; or

(b) that otherwise in the interests of a person believed to be suffering from mental illness or for the protection of other persons, it is necessary so to do,

the justice may issue a warrant in or to the effect of the prescribed form.

(2) A warrant issued under this section shall require and authorise the member of the Police Force to whom it is directed or any other member of the Police Force within the period of fourteen days after the date of the warrant but as soon as practicable, to remove or cause to be removed the person in respect of whom the warrant is issued to a place of safety and shall for this purpose authorise him to do or to cause to be done all or any of the following things:—

- (a) to execute the warrant at any time whether by day or by night;
- (b) to call to his assistance such members of the Police Force, medical practitioners, or other persons as he thinks fit;
- (c) to apprehend, whether in a place to which the public have access or not, the person against whom the warrant is directed;
- (d) to enter and re-enter and search, if need be by force, the premises (if any) specified in the warrant and any other premises in which there is reasonable cause to believe the person in respect of whom the warrant is issued will be found.

(3) The member of the Police Force removing a person to a place of safety under this section or section twenty-six of this Act shall within the period prescribed by subsection (5) of this section make an application under this Division of this Part, or cause or arrange such an application to be made within that period.

(4) Every person removed to a place of safety under this section or section twenty-six of this Act shall be removed to a hospital in preference to any other place of safety, unless a hospital is not readily accessible or the hospital administrators, in the case of a private hospital which is readily accessible, are not willing to receive the patient or where a public hospital which is readily accessible is not able to care for the patient and no other hospital is readily accessible.

(5) A person removed to a place of safety under this Division of this Part may be detained there for a period not exceeding two days beginning from the day when he is removed to that place, for the purpose

Following the removal of a person to a place of safety under ss. 26, 27

of his being examined, if practicable, as soon as possible by a medical practitioner or medical practitioners, and the making of an application under this Division of this Part.

Application
for hospital
order where
no removal
to place of
safety

28. (1) An application may be made under this Division of this Part for the issuing of a hospital order in a case where the person the subject of the application is not liable to be removed to a place of safety under any of the provisions of sections twenty-six and twenty-seven of this Act or is already an in-patient of a hospital.

Applications
under this
Division of
this Part

(2) An application under this Division of this Part may be made by any person not under the age of twenty-one years and may be either—

- (a) for the issuing of a hospital order in respect of a patient; or
- (b) for the release from detention at a place of safety of a patient,

and shall be made to a stipendiary magistrate or, if there is no stipendiary magistrate available, to the clerk of petty sessions at or nearest to the hospital or other place where the patient is being detained or is an in-patient or, if not detained or an in-patient, resides.

(3) Upon the making of an application for the issuing of a hospital order the stipendiary magistrate shall inquire into the case for the purpose of determining as soon as possible whether or not a hospital order under this Division of this Part should be issued.

For the purpose of his inquiry, the stipendiary magistrate may do all or any of the following things—

- (a) himself examine the person in respect of whom the hospital order is sought, whether at the place in which that person is detained or elsewhere;
- (b) direct some medical practitioner or practitioners to examine that person and report on the case;
- (c) take evidence touching the case including the circumstances upon which the application is based.

(4) If the stipendiary magistrate as a result of his inquiry—

- (a) is satisfied on the medical recommendations or oral evidence of two medical practitioners (complying with the provisions of sections nineteen and twenty-one of this Act) that the person in respect of whom the application is made is suffering from mental illness; and
- (b) is of opinion having regard to all the circumstances including to other available procedures for that person's treatment that the most suitable procedure of disposing of the case is by means of a hospital order under this Division of this Part,

the stipendiary magistrate may issue an order (in this Act referred to as a "hospital order") authorising the patient's admission to and detention, subject to this Act, in such hospital as the stipendiary magistrate, on being satisfied that the patient will be admitted therein, specifies in the order.

If the stipendiary magistrate as a result of his inquiry is not satisfied as aforesaid he shall refuse the application and, where the patient is being detained, order that the patient be discharged from detention, and effect shall be given to that order.

(5) Upon the making of an application for the release from detention at a place of safety of a patient the stipendiary magistrate shall inquire into the case for the purpose of determining as soon as possible whether or not an order be made for the discharge of the patient from such detention and for the purpose of his inquiry, the stipendiary magistrate may do all or any of the things set forth in subsection three of this section.

If the stipendiary magistrate is satisfied on the certificates or oral evidence of two medical practitioners who have personally examined the person in respect of whom the application is made either together or separately after the person's removal to the place of safety or is otherwise satisfied as a result of his inquiry that the person is not suffering from mental illness, he shall order that the person be discharged from such detention and effect shall be given to that order.

If the stipendiary magistrate is satisfied and is of opinion as set forth in paragraphs (a) and (b) of subsection (4) of this section, he may issue under the said subsection (4) a hospital order as if the application were an application for the issuing of that order.

(6) A Government medical officer shall be one of the medical practitioners who examine a patient under and for the purposes of this Division of this Part, unless a Government medical officer is not readily available.

Special order
for detention
pending the
completion
of the
inquiry, &c.

(7) For the purpose of making and completing an inquiry under this section or pending the completion of such an inquiry the stipendiary magistrate may from time to time make such order as he thinks fit for the detention of the person in respect of whom the application is made in the hospital or other place of safety where the person is being detained or is an in-patient, or in some other place of safety and for such periods as the stipendiary magistrate may specify in the order, or for the removal to and detention at a place of safety of that person, or where the stipendiary magistrate is of the opinion that it is necessary so to do, for that person's treatment by a medical practitioner, or for his removal to another place, near or distant, or for all or any of these matters, and the provisions of subsection (1) of section thirty of this Act, with all necessary adaptations, shall extend to such order accordingly.

(8) Where the stipendiary magistrate is satisfied that a patient the subject of an inquiry under this section is not fit to be removed from the place where the patient then is, he may postpone the execution of the hospital order issued under this section until it appears to him that the patient is sufficiently recovered to be removed under the hospital order, but in such an event he shall forthwith notify the Director of such postponement and the circumstances.

(9) Any inquiry commenced or continued by a stipendiary magistrate under this Division of this Part may be continued, or further continued, and completed by some other stipendiary magistrate.

(10) If in any case where a hospital order is issued under this section it appears to the Director that for the purpose of providing suitable treatment or by reason

of emergent or other special circumstances it is necessary or desirable so to do, he may give directions for the admission of the patient to such hospital as appears to him to be appropriate, and where such directions are given the Director shall cause the person having the custody of the patient to be informed, and the hospital order shall have effect and be executed and this Act shall apply as if the hospital specified in the directions were specified in the hospital order, and the hospital administrators of the hospital specified in the directions shall admit the patient.

29. (1) The functions and powers of a stipendiary magistrate under this Division of this Part may be exercised by any two or more justices if at the time when and at the place where those functions and powers are so exercised there is no stipendiary magistrate available, and where necessary for applying this Act when justices act hereunder, any reference herein to "stipendiary magistrate" shall be read as including a reference to such justices.

When justices
may act for
stipendiary
magistrate

(2) A statement or recital in any hospital order made by two justices of the peace that to the best of their knowledge and belief there is at the time and place aforesaid no stipendiary magistrate available, shall be conclusive proof of the jurisdiction of the justices so far as the requirements of this section are concerned.

(3) Any inquiry commenced by two justices in accordance with this section may be continued and completed by a stipendiary magistrate.

30. (1) A hospital order accompanied by the medical recommendations or evidence of the medical practitioners received by the stipendiary magistrate or justices shall be sufficient authority—

Effects of
hospital
orders

(a) for a member of the Police Force or for any person directed to do so therein to convey the patient to the hospital specified in the order; and

(b) for the hospital administrators to admit him and thereafter detain him in accordance with the provisions of this Act.

(2) A patient who is admitted to a hospital in pursuance of a hospital order shall be treated for the purposes of this Act (other than section twenty-four) as if he had been so admitted in pursuance of an application for admission for treatment except that the power to order the discharge of the patient under section forty of this Act shall not be exercisable by his nearest relative or by any hospital administrators.

(3) An application to the Tribunal may be made in respect of a patient admitted to a hospital in pursuance of a hospital order—

(a) by the patient, within the period of six months beginning from the date of the order or from the day on which he attains the age of eighteen years, whichever is the later, and, in either case, in any subsequent period of twelve months; or

(b) by the nearest relative of the patient or other prescribed person, within the period of twelve months beginning from the date of the order, and in any subsequent period of twelve months.

(4) Where a patient is admitted to a hospital in pursuance of a hospital order, any previous application, or order or direction under this Act (other than under Part IV. hereof) by virtue of which he was liable to be detained in a hospital shall cease to have effect.

(5) The provisions of section twenty-five of this Act shall, with all necessary adaptations, apply and extend with respect to hospital orders issued under this Division of this Part.

PART IV.—PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS, &C.

31. (1) Unless otherwise indicated or provided this Part shall be read and construed with and as being in aid of and not in derogation of the provisions of “*The Criminal Code*.”

Construction of Part with “*The Criminal Code*”

(2) If on the trial of any person charged with an indictable offence, whether alleged to have been committed before or after the commencement of this Act, such accused person pleads guilty and it is alleged or appears—

Plea of “Not guilty” may be entered in certain cases

(i) that he is mentally ill ; or

(ii) that he was mentally ill at the time when the act or omission alleged to constitute the offence occurred,

the court may if it thinks fit order a plea of “Not guilty” to be entered on behalf of the accused person, and such plea so entered shall have the same effect as if it had been actually pleaded.

(3) If on the appearance for sentence of any person charged with an indictable offence, whether alleged to have been committed before or after the commencement of this Act, who has pleaded guilty before and has been ordered by justices to be committed for sentence under section one hundred and thirteen of “*The Justices Acts, 1886 to 1960*,” it is alleged or appears—

(i) that he is mentally ill ; or

(ii) that he was mentally ill at the time when the act or omission alleged to constitute the offence occurred,

the court may if it thinks fit order a plea of “Not guilty” to be entered on behalf of the accused person, and such plea so entered shall have the same effect as if it had been actually pleaded, and the trial of such accused person shall proceed in the same manner as if he had been committed by the justices for trial and not for sentence.

(4) If in the case of any person charged with an indictable offence, whether alleged to have been committed before or after the commencement of this Act, who, on

being asked under and pursuant to “*The Justices Acts, 1886 to 1960*,” whether he wishes to say anything in answer to the charge says that he is guilty of the charge but it is alleged or appears—

- (i) that he is mentally ill ; or
- (ii) that he was mentally ill at the time when the act or omission alleged to constitute the offence occurred,

the justices may if they think fit, instead of ordering the accused person to be committed for sentence before some court of competent jurisdiction, commit him for trial as provided in such lastmentioned Acts.

When
Minister
for Justice
may order
detention of
mentally ill
person

32. (1) (a) Where, before or after the commencement of this Act, a person indicted for an indictable offence is, by reason of his having been found to be mentally ill by a jury, ordered by the court to be kept in strict custody until he is dealt with under the laws relating to mentally ill persons or until Her Majesty’s pleasure is known, or under the aforesaid circumstances some other order to the like effect is made by the court, or where a person has been committed to take his trial or to be sentenced for an indictable offence and is found by two medical practitioners to be mentally ill, or where any such person has been ordered or directed to be detained in any hospital, the Minister for Justice may by order under his hand give such direction for the detention of that person in such security patients’ hospital, prison, or other place of confinement and in such manner as that Minister thinks fit.

(b) The provisions of this subsection shall be in addition to and not in substitution for or in diminution of the provisions of any other Act, and where under the provisions of any other Act in any of the circumstances set forth in paragraph (a) of this subsection some person other than the Minister for Justice may make such an order for detention or a like order, then the order for detention may be made either by that other person or the Minister for Justice.

(2) Where any order referred to or made under subsection (1) of this section specifies a special hospital as a place of detention for the person the subject of the order, the Governor in Council may at any time further order that the person be transferred to any security patients’ hospital or prison, and for the purpose of giving

effect to any determination of the Governor in Council hereunder, the Minister may at any time direct the transfer of the person the subject of the determination from the hospital where he then is to the security patients' hospital or prison specified therein and every such direction shall be given effect according to its tenor.

(3) (a) If at the hearing or examination of witnesses before or by a stipendiary magistrate of or in respect of a complaint or charge or information of an offence punishable by imprisonment, whether with or without a fine and whether the offence is punishable on summary conviction or on conviction on indictment, the stipendiary magistrate is satisfied, on the evidence of two medical practitioners, that the defendant is mentally ill and is also of the opinion, having regard to all the circumstances including other available procedures for that person's treatment that the most suitable procedure of disposing of the case is by means of a hospital order issued as if an application had been made for such an order under Division III. of Part III. of this Act, or, in a case to which paragraph (c) of this subsection applies, by means of an order under the said paragraph (c), the stipendiary magistrate may issue such an order.

Power of stipendiary magistrate to issue an order for detention

(b) Where a hospital order is issued under paragraph (a) of this subsection, for the purposes of this Act, it shall be deemed to have been issued under Division III. of Part III. of this Act, and the patient shall be deemed to be detained pursuant to a hospital order issued under the said Division, and, notwithstanding anything to the contrary contained in this Act, the provisions of this Act shall apply in relation to that hospital order and patient accordingly.

(c) Where the complaint or charge or information referred to in paragraph (a) of this subsection is of an offence which is punishable on indictment and is not one which is punishable on summary conviction, the stipendiary magistrate on issuing an order under the said paragraph (a) shall direct the detention of the patient in such security patients' hospital, prison, or place of confinement and in such manner as the stipendiary magistrate thinks fit.

(4) Where any person is charged with having attempted to commit suicide and is found by two medical practitioners to be mentally ill, he shall forthwith be

Persons attempting to commit suicide

removed to a hospital and, when found by two medical practitioners to be no longer mentally ill, shall be discharged from treatment and detention and shall not be put upon his trial or be liable to any charge or indictment for having attempted such act of suicide.

Regulations may be made for the removal for observation or for treatment of certain patients

(5) Without limiting the power to make regulations conferred by section sixty-one of this Act, regulations may be made under that section for the purposes of all or any of the aforesaid provisions of this Part as well as providing for the transfer for observation or treatment of persons suffering or appearing to be suffering from mental illness and who are in confinement on being apprehended or on a charge or awaiting trial or sentence for any offence punishable by imprisonment, whether with or without a fine, or are being imprisoned or confined or otherwise detained in any reformatory institution, industrial school, or other place of confinement, whether of the same kind or not, to security patients' hospitals or hospitals and for the return of all or any such persons in such events or circumstances as prescribed to the places from which they were transferred or other place as prescribed, and for the purpose of regulating and controlling the conveyance to and the reception and detention of those patients at the places to which they are removed.

Special provisions as to patients imprisoned, &c.

(6) Where a patient who is liable to be detained under this Act in a hospital by virtue of an application for admission for treatment or a hospital order under Part III. of this Act is detained in custody in pursuance of any order under this Part or under any other Act or in pursuance of any sentence or order passed or made by a court or stipendiary magistrate or justices in Queensland (including an order committing or remanding him in custody), he shall not cease at any time before he is discharged from such custody to be liable to be detained under this Act in a hospital or cease to be otherwise subject to this Act pursuant to the application for admission for treatment or hospital order, and—

(a) if apart from this subsection, the patient would have ceased to be liable to be detained under this Act in a hospital on or before the day on which he is discharged from custody, he shall not cease and shall be deemed not to have ceased to be so liable or subject until the end of that day; or

- (b) if the patient is still liable to be detained under this Act in a hospital after the day on which he is discharged from custody, he shall continue to be so liable and to be so subject as if his detention in custody had been a detention under this Act in a hospital,

and in any case, section thirty-six of this Act shall apply in relation to the patient as if he had absented himself from hospital without leave on the day of his discharge from custody.

(7) The Governor in Council, on the recommendation of two medical practitioners nominated by the Governor in Council in that behalf, may release on parole, subject to such conditions as the Governor in Council may fix, any person detained pursuant to any of the provisions of "*The Criminal Law Amendment Act of 1945*" and, without limiting the power to make regulations conferred by section sixty-one of this Act, regulations may be made under that section for the carrying out of the objects of this subsection including, but without limiting the generality thereof, the apprehension of any person released on parole for a breach of the conditions so fixed or otherwise.

33. (1) In this section "security patient" means any prisoner or security patient, within the meaning of "*The Prisons Act of 1958*," who has been removed from any prison or security patients' hospital pursuant to a direction or order under that Act to any hospital for observation or examination or treatment for mental illness.

(2) Every security patient shall be detained in such hospital as the Director with the consent of the Minister from time to time may order and shall, unless the Comptroller-General of Prisons sooner directs his return to a prison or security patients' hospital, be so detained until the responsible medical practitioner certifies that he is recovered or is not mentally ill, when he shall be returned to such prison or security patients' hospital as the Comptroller-General of Prisons shall specify for lawful discharge or further detention or being otherwise lawfully dealt with.

(3) Subject to the provisions of subsection (2) of this section, the provisions of this Act relating to the treatment or custody of any patient (including the provisions of sections fifty-seven and fifty-eight of this Act) shall, with all necessary adaptations, apply in relation to a security patient.

(4) The provisions of this section shall be in addition to and not in substitution for or in diminution of the provisions of "*The Prisons Act of 1958*," or any other Act or any law.

PART V.—TRANSFER AND DISCHARGE OF PATIENTS, &C.

Transfer of
patients by
arrangements

34. (1) A patient being liable to be detained in a hospital by virtue of an application for admission for observation or for treatment may be transferred from any hospital to another hospital (other than a special hospital) in pursuance of arrangements made in that behalf and without any order or direction under this Act for that purpose.

Transfer of
patients by
order

(2) The Director, for the purpose of the provision of suitable treatment or for any other reason which he thinks sufficient, may, by writing under his hand, order the transfer of any patient from any hospital to any other hospital.

(3) An order under subsection (2) of this section shall be sufficient authority for the transfer, removal, conveyance, and admission of the patient in accordance with the terms thereof.

(4) Where a patient, being liable to be detained in a hospital by virtue of an application for admission for observation or for treatment or a hospital order under this Act, is transferred to another hospital pursuant to arrangements referred to in subsection (1), or an order under subsection (2), of this section, the provisions of this Act shall, thereafter apply to him as if the application were an application for admission to that other hospital or, as the case requires, the hospital order were an authority originally directed to the other hospital, and as if the patient had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application or order.

(5) Without limiting the power to make regulations conferred by section sixty-one of this Act, regulations may be made under that section providing for such matters and things as may be considered necessary or desirable for the purpose of enabling, regulating, and controlling the transfer, removal, conveyance, and reception and detention of patients in pursuance of the foregoing provisions of this section.

(6) If it is made to appear to the Supreme Court or a Judge thereof that a patient has relations or friends in any place beyond Queensland who are willing to undertake the care and charge of him, and that it would be for his benefit that he should be removed to such place, the Court or Judge may order him to be removed from Queensland, and make such further or any other order authorising or directing his removal, and touching his safe custody and maintenance, as to the Court or Judge seems fit, and may order that security shall be given for the safe custody and maintenance of such patient in any place beyond Queensland:

Removal of patients out of Queensland

Provided that no order shall be made for the removal of such patient until after fourteen days' notice of the intention to apply for such order has been given to the person in whose care or custody such patient is, unless such person himself is applying for the order.

Leave of Absence

35. (1) Subject to this Act, the responsible medical practitioner may grant to any patient who is for the time being liable to be detained under this Act (other than the provisions of Part IV. hereof) in a hospital leave to be absent from the hospital subject to such conditions, if any, as that medical practitioner considers necessary in the interests of the patient or for the protection of other persons.

Leave of absence from hospital

(2) Leave of absence under subsection (1) of this section may be granted to a patient either indefinitely or on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may from time to time be extended, and, where the responsible medical practitioner thinks fit, any such extension may be granted on the recommendation of some other medical practitioner.

(3) Where it appears to the responsible medical practitioner that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient shall not be absent from the hospital on such leave unless he is kept in the custody of the person who is authorised in that behalf in writing by the hospital administrators which writing shall be sufficient authority for that person to keep the patient in his custody and at the place where the patient is required to reside in accordance with the conditions imposed, and at any time while the authority remains in force to return the patient to the hospital.

(4) In any case where a patient is absent from a hospital in pursuance of leave of absence granted under this section and it appears to the responsible medical practitioner or the hospital administrators or the Director that it is necessary so to do in the interests of the patient's welfare or for the protection of other persons, that medical practitioner or the hospital administrators or the Director, as the case may be, may, subject to subsection (5) of this section, by notice in writing given to the patient or to the person for the time being having custody of the patient, revoke the leave of absence and recall the patient to the hospital.

(5) A patient to whom leave of absence is granted under this section shall not be recalled under subsection (4) of this section after he has ceased to be liable to be detained under this Act in a hospital; and without prejudice to any other provision of this Act any such patient shall cease to be so liable at the expiration of the period of six months beginning from the first day of his absence on leave unless either—

- (a) he has returned or has been returned to the hospital, or has been transferred or removed to another hospital or a security patients' hospital under the provisions of this Act or any other Act before the expiration of that period; or
- (b) he is absent without leave at the expiration of that period.

36. (1) Where a patient who is for the time being liable to be detained under this Act in a hospital—

- Return and
re-admission
of patients
absent
without
leave
- (a) absents himself from the hospital without leave granted under section thirty-five of this Act; or
- (b) fails to return to the hospital on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that section, or upon being recalled thereunder; or
- (c) absents himself without permission from any place where he is required to reside in accordance with conditions imposed on grant of leave of absence under that section,

if the hospital administrators or the responsible medical practitioner or the Director so requires, he may, subject to the provisions of this section, be taken into custody and returned to the hospital or, pursuant to an order of the Director or the Minister admitted to some other hospital, or where he has absented himself without permission from any place where he is so required to reside, to the hospital or some other hospital as aforesaid or to the place from which he has absented himself, by any member of the Police Force, by any person authorised in writing by the hospital administrators, or by any other prescribed person.

(2) (a) A patient may be taken into custody under this section at any time before he ceases to be liable to be detained under this Act in a hospital or before the expiration of three months beginning from the first day of his absence without leave, whichever is the later period, but a patient who has not returned or been taken into custody under this section within the said period shall cease to be liable to be so taken into custody.

(b) Where a patient is taken into custody under this section after the time when he would otherwise have ceased to be liable to be detained under this Act in a hospital, he shall continue to be liable to be so detained until the expiration of the period of two days beginning from the day on which he is taken into custody.

(3) In this Act “absent without leave” means absent from any hospital or other place and liable to be taken into custody and returned under this section, and kindred expressions shall be construed accordingly.

Duration of Authority for Detention and Discharge of certain Patients

Duration of authority

37. (1) Unless otherwise provided in this Act, a patient admitted to hospital in pursuance of an application for admission for treatment or a hospital order under Part III. of this Act, may be detained in a hospital for a period not exceeding twelve months beginning from the day on which he was so admitted, but shall not be so detained or kept as a result of that application or order for any longer period unless the authority for his detention is renewed by an application as referred to subsequently in this section or a report by the responsible medical practitioner made under section thirty-eight of this Act.

(2) Authority for the detention as aforesaid of a patient may, unless the patient has previously been discharged, be renewed under this Act—

(a) from the expiration of the period referred to in subsection (1) of this section, for a further period of twelve months ;

(b) from the expiration of any period of renewal under paragraph (a) of this subsection, for a further period of twenty-four months,

and so on for periods of twenty-four months at a time.

(3) The authority for the detention as aforesaid of a patient who has been detained under this Act in a hospital may be renewed by means of an application for admission for treatment made in accordance with the provisions of Division II. of Part III. of this Act relating to such applications within the period of two months ending on the day on which the patient would cease under this section to be liable to be detained, and the provisions aforementioned of the said Division II. of Part III. shall, with all necessary adaptations, apply for the purposes hereof.

Duty of responsible medical practitioner to examine patient before expiration of period of detention prescribed by s. 37

38. (1) It shall be the duty of the responsible medical practitioner to examine a patient who is liable to be detained under this Act in a hospital within the period of two months ending on the day on which the patient would cease under this Act to be so liable, and if it appears to him that it is necessary in the interests of the patient's welfare or for the protection of other persons that the patient should continue to be liable

to be so detained, he shall furnish to the hospital administrators in relation to the hospital where the patient is then liable to be detained and to the Director a report to that effect in the prescribed form.

(2) Where a report is duly furnished to the hospital administrators under this section, the authority for the detention in a hospital of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) of section thirty-seven of this Act.

39. Where a report under section thirty-eight of this Act is furnished in respect of a patient, the hospital administrators shall cause all prescribed persons and, if he is of the age of eighteen years or over, the patient to be so informed and an application for the patient's discharge may be made by the patient or in respect of the patient by any of those other persons, within the period for which the authority for his detention is renewed by virtue of the report, to the Tribunal.

Action to be taken upon report under s. 38

Discharge of Patients

40. (1) Subject to the provisions of this section and section forty-one of this Act, a patient who is for the time being liable to be detained under this Act in a hospital (other than under the provisions of Part IV. or than in pursuance of the provisions of section thirty-eight hereof by reason of a report made thereunder) shall cease to be so liable if an order in writing discharging him from detention (in this Act referred to as an order for discharge) is made in accordance with the following provisions of this section.

Discharge of patients

(2) An order for discharge may be made in respect of a patient—

- (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for observation, by the responsible medical practitioner or by the hospital administrators, or by the Director, or, where the application for admission was made by an authorised person, by the authorised person; and
- (b) where the patient is liable to be so detained in pursuance of an application for admission for treatment or a hospital order under

Part III. of this Act by the responsible medical practitioner, or by the hospital administrators, or by the Director, or, subject to section thirty of this Act, by the nearest relative of the patient or, in a case of an application for admission for treatment made by an authorised person, by the authorised person.

(3) Nothing in this Part shall be read as preventing the discharge from hospital of a person forthwith upon his recovery from mental illness.

Restrictions
on discharge
by nearest
relative, &c .

41. (1) Without derogating from any other provision of this Act relating to the discharge of any patients, an order for the discharge of a patient who is liable to be detained in a hospital shall not be made by his nearest relative or an authorised person except after giving at least seventy-two hours' notice in writing to the hospital administrators of the intention to make the order for discharge as well as, in a case where the responsible medical practitioner considers that certain conditions relating to the care of the patient on his discharge should be observed, the giving before the making of the order for discharge of an undertaking in writing to the hospital administrators that such conditions will be so observed. If, within seventy-two hours after such notice of intention to make the order for discharge has been given, the responsible medical practitioner furnishes to the hospital administrators a report certifying that in the opinion of that medical practitioner the patient, if discharged, would be likely to act in a manner dangerous to other persons or to himself—

- (a) any order for discharge of the patient made by that relative or authorised person in pursuance of the notice shall be of no effect; and
- (b) no further order for the discharge of the patient shall be made by that relative or authorised person during the period of six months beginning from the date of the report.

A copy of the report made by the responsible medical practitioner shall be forwarded to the Director.

(2) In any case where a report under subsection (1) of this section is furnished in respect of a patient or where the responsible medical practitioner considers that certain conditions relating to the care of the patient on his discharge should be observed, the hospital administrators shall cause the nearest relative of the patient to be informed, and that relative, within the period of twenty-eight days beginning from the day on which he is so informed, may apply to the Tribunal in respect of the patient.

PART VI.—MISCELLANEOUS AND GENERAL

Functions of Relatives of Patients

42. (1) In this Act, “relative” means any of the following, that is to say—

Definition
of relative
and nearest
relative

- (a) husband or wife;
- (b) son or daughter;
- (c) father;
- (d) mother;
- (e) brother or sister;
- (f) grandparent;
- (g) grandchild;
- (h) uncle or aunt;
- (i) nephew or niece;
- (j) other relative or relatives as may be prescribed.

(2) In deducing relationships for these purposes, an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person; and subject as aforesaid, any relationship of the half-blood shall be treated as a relationship of the whole blood, and an illegitimate person shall be treated as the legitimate child of his mother.

(3) In this Act, the “nearest relative” means the person first described in subsection (1) of this section who is for the time being surviving (relatives of the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of two or more relatives described in any paragraph of that subsection

being preferred to the other or others of those relatives, regardless of sex), or in the circumstances prescribed, the acting nearest relative.

(4) Where the person who, under subsection (3) of this section, would be the nearest relative of a patient—

- (a) is not ordinarily resident within Queensland;
or
- (b) being the husband or wife of the patient, is permanently separated from the patient, either by agreement or under an order of a court, or has deserted or has been deserted by the patient for a period which has not come to an end; or
- (c) not being the husband, wife, father, or mother of the patient, is for the time being under twenty-one years of age;

the nearest relative of the patient for the purposes of this Act shall be ascertained as if that person were dead.

Nearest
relative of
infant under
guardianship,
&c.

43. (1) Where a patient—

- (a) is, by virtue of an order made by a court in the exercise of its jurisdiction, or by virtue of a deed or will executed by his father or mother, under the guardianship of a person not being his nearest relative, or is under the joint guardianship of two persons of whom one is such a person as aforesaid; or
- (b) is, by virtue of an order made by a court in the exercise of its jurisdiction, or by virtue of a separation agreement between his father and mother, in the custody of any such person,

the person or persons having the guardianship or custody of the patient shall, for the purposes of this Act to the exclusion of any other person, be deemed to be his nearest relative.

(2) Subsection (4) of section forty-two of this Act shall apply in relation to a person who is, or who is one of the persons, deemed to be the nearest relative of a patient by virtue of this section as it applies in relation to a person who would be the nearest relative under subsection (3) of that section.

Patients in Hospitals

44. (1) Subject to the provisions of this section and as may be otherwise prescribed, any postal matter addressed by a patient detained under this Act in a hospital and delivered by him for despatch may be withheld from posting—

Corres-
pondence
of patients

- (a) if the addressee has given notice in writing to the hospital administrators or to the responsible medical practitioner requesting that communications addressed to him by the patient should be withheld; or
- (b) if it appears to the hospital administrators or to the responsible medical practitioner that the postal matter would be unreasonably offensive to the addressee, or is defamatory of other persons (other than persons on the staff of the hospital) or would be likely to prejudice the interests of the patient:

Provided that this subsection does not apply to any postal matter addressed as follows, that is to say—

- (i) to the Minister ;
- (ii) to any member of the Legislative Assembly ;
- (iii) to the hospital administrators ;
- (iv) to any official visitor ;
- (v) to any Judge of the Supreme Court ;
- (vi) to any authority or person having power to discharge the patient under this Act ;
- (vii) to the Public Curator;
- (viii) at any time when the patient is entitled to make application to a Mental Health Review Tribunal, to that Tribunal;

and regulations may except from this subsection, subject to such conditions or limitations (if any) as may be prescribed by the regulations, postal matter addressed to such other classes of persons as may be so prescribed.

(2) Without limiting the power to make regulations conferred by section sixty-one of this Act, regulations may be made under that section providing for the withholding from all or any patients detained under this Act in hospitals of postal matter addressed to them, which is calculated to interfere with their treatment or to cause them unnecessary distress or to prejudice their safety or the safety of others.

(3) In this section "postal matter" includes any letter, parcel, and any other article, whether of the same description or not, which may be transmitted by post.

Visiting and
examination
of patients

45. For the purpose of advising whether an application to the Tribunal should be made by or in respect of a patient who is liable to be detained under this Act in a hospital, or of furnishing information as to the condition of a patient for the purposes of such an application, or of advising as to the exercise by the nearest relative of any such patient of any power to order his discharge, any medical practitioner authorised by or on behalf of the patient or other person who is entitled to make or who has made the application, or by the nearest relative of the patient, as the case may be, may, at any reasonable time, visit the patient and examine him in private.

Management of the Estates of Patients

Management
of the estates
of patients,
Schedule III.

46. (a) The provisions of the Third Schedule to this Act shall apply in relation to the management and administration of the property and affairs of patients as therein defined.

(b) The responsible medical practitioner, in the case of a person liable to be detained by virtue of an application, order, or direction under this Act, shall, forthwith upon his forming the opinion that the person is mentally ill and incapable of managing and administering his property and affairs, notify the Public Curator in writing his opinion as well as the name of the patient and place where the patient is then to be found.

Patients Needing Coercion or Restraint

Notification
of patient
needing any
coercion or
restraint

47. (1) Any person having the care or custody of a patient, although a relative, shall, if the patient has needed any coercion or restraint for the patient's own safety or for the protection of others for a period of four weeks, forthwith upon the expiration of that period notify the Director-General of such need and of his name and address as well as the name and address of the patient, and, if it is desired that the patient remain under private care, shall include in that notification a statement of the reasons why the patient should be permitted to so remain.

(2) Any medical practitioner attending a patient who has needed any coercion or restraint for the patient's own safety or for the protection of others for a period of four weeks, shall forthwith upon the expiration of that period, notify the Director-General of such need and of the name and address of the patient as well as the name and address of the person who to the best of his knowledge and belief has the care or custody of the patient.

(3) In this section—

“ address ” means—

(a) (in relation to the person who has, or who to the best of the informant's knowledge and belief has, the care or custody of the patient,) the place of residence or of business of that person; and

(b) (in relation to the patient,) the place where the patient then is to be found;

“ patient ” means a person suffering from mental illness.

(4) Nothing in this section shall apply—

(a) to any patient detained under this Act; or

(b) to any person detained under this Act who is absent on leave under this Act and who is under the care or custody of any person while so absent pursuant to any condition imposed on the granting of such leave.

Offences

48. Any person who, with intent to deceive, forges any of the following documents, that is to say—

(a) any application under this Act;

(b) any medical recommendation or report under this Act; or

(c) any other document required or authorised to be made for any of the purposes of this Act,

or who uses, allows another person to use, or makes or has in his possession any such document which he knows to have been forged, or any document so closely resembling any such document so as to be calculated to deceive, shall be guilty of an offence against this Act.

Forgery,
false
documents,
&c.

In this section "forge" has the same meaning as in section four hundred and eighty-six of "*The Criminal Code*".

Wilfully
making false
entry, &c.

49. Any person who wilfully makes a false entry or statement in any application, recommendation, report, record, or other document required or authorised to be made for any of the purposes of this Act or, with intent to deceive, makes use of any such entry or statement which he knows to be false, shall be guilty of an offence against this Act.

Penalty for
offences
against
ss. 48, 49

50. Any person guilty of an offence under section forty-eight or section forty-nine of this Act shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand pounds, or to both.

Ill treatment
of patients

51. (1) Any person, being a person associated with the treatment of the patient, or a member on the staff of, or otherwise employed in or about, a hospital, or being in charge of or any section of a hospital, who—

- (a) ill-treats or wilfully neglects a patient for the time being receiving treatment for mental illness as an in-patient in that hospital; or
- (b) ill-treats or wilfully neglects, on the premises of the hospital or of which the hospital forms part, a patient for the time being receiving such treatment there as an out-patient,

shall be guilty of an offence against this Act.

(2) Any person who ill-treats or wilfully neglects a patient who is for the time being in his custody or care (whether by virtue of any legal or moral obligation or otherwise) shall be guilty of an offence against this Act.

(3) Any person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding one thousand pounds, or to both.

(4) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director-General.

52. (1) Any person who fails to allow the inspection of any premises, or, without reasonable cause, fails to allow the visit, interviewing, or examination of any person by a person authorised in that behalf by or under this Act, or to produce for the inspection of any person so authorised any document or record the production of which is duly required by him, or otherwise obstructs any person in the exercise of his functions under this Act, shall be guilty of an offence against this Act. Obstruction

(2) Without prejudice to the generality of the foregoing subsection, any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private, shall be guilty of an offence against this Act.

(3) Any person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

53. The provisions of this Part relating to offences shall be in addition to and not in substitution for or in derogation of the provisions of "*The Criminal Code*" or any other Act. Offence sections not to derogate from other Acts

54. (1) Any person who contravenes or fails to comply with any provision of this Act or of any order, direction, or requirement made or given under this Act shall be guilty of an offence against this Act. Penalties

(2) Any person guilty of an offence against this Act shall be liable, unless some specific penalty is prescribed for that offence—

- (a) if the offence is prosecuted summarily, to a penalty not exceeding one hundred pounds ;
or
- (b) if the offence is prosecuted on indictment, to a penalty not exceeding five hundred pounds or to imprisonment for any term not exceeding one year.

(3) In any proceedings before a stipendiary magistrate for an offence against this Act in a case where a penalty is prescribed for that offence when prosecuted on indictment, if the stipendiary magistrate is of the opinion that the offence is a fit subject for prosecution by indictment, he may abstain from dealing with the offence summarily and may commit the offender for trial for that offence.

(4) Proceedings for an offence against this Act may be instituted at any time within twelve months after the commission of that offence or within six months after the commission of the offence comes to the knowledge of the complainant whichever is the later period.

(5) In hearing and determining any offence against this Act which is dealt with summarily the Court shall be constituted by a stipendiary magistrate sitting alone.

(6) Without derogating from the right of any person to proceed for any offence against this Act, any officer engaged in the administration of this Act may proceed for any such offence.

(7) Subject to the foregoing provisions, all offences against this Act may be prosecuted in a summary way under "*The Justices Acts, 1886 to 1960.*"

Application
of provisions
of Traffic
Acts to use
of vehicles
in special
hospital
grounds

55. (1) In this section—

“Special hospital grounds” means the land on which a special hospital is situated including all land appurtenant to the special hospital and, where the special hospital is situated on any reserve within the meaning of "*The Land Acts, 1910 to 1962,*" the whole of that reserve ;

“ Vehicle ” means a vehicle within the meaning of “ *The Traffic Acts, 1949 to 1961.*”

(2) Subject to such exceptions as may be prescribed, any part of any special hospital grounds which at any time is used by a vehicle shall, in relation to and for the purposes of that use, be deemed to be a road within the meaning of “ *The Traffic Acts, 1949 to 1961,*” and the provisions of those Acts and the regulations thereunder, subject as aforesaid, shall apply and extend accordingly.

(3) The provisions of this section shall apply for the purpose of assisting in the regulation and control and the prohibition of the use of vehicles in special hospital grounds, but shall not apply for any other purpose whatsoever and shall not prejudice or otherwise affect the provisions of any other Act and shall not limit the power to make regulations under this Act for the purpose of regulating, controlling, and prohibiting traffic (or for any of these purposes) in relation to all or any special hospital grounds.

56. In any proceeding under or for the purposes of ^{Evidentiary provisions} this Act—

- (a) any certificate purporting to be under the hand of the Director that any place described therein in such manner as the Director thinks sufficient to identify the same, is a special hospital, a public hospital, a private hospital, a place of safety, or other prescribed place within the meaning of this Act, or that any land, described in such manner as the Director thinks sufficient to identify the same, is a part of special hospital grounds, as specified therein, within the meaning of section fifty-five of this Act, shall, upon its production, be conclusive evidence of such matter;
- (b) it shall not be necessary to prove the appointment of the Director-General or the Director, or of any official visitor or of any member or the chairman of any Mental Health Review Tribunal, or of any member of the Police Force, or of any authorised person;

- (c) a signature purporting to be that of the Director, a responsible medical practitioner or a medical practitioner in charge of the treatment of a person shall be taken to be the signature it purports to be until the contrary is proved;
- (d) any certificate purporting to be under the hand of the Director of the receipt or non-receipt of any notice or application required or authorised or permitted by this Act to be given or made to him shall be evidence of the matter or matters certified to therein, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters.

Provisions as to custody, conveyance, and detention

57. (1) Any person required or authorised by or by virtue of this Act to be conveyed to any place or to be kept in custody or detained in any place, shall, while being so conveyed, detained, or kept, as the case may be, be deemed to be in legal custody.

Meaning of convey

(2) In subsection (1) of this section "convey" includes any other expression denoting transfer or removal from one place to another.

Retaking of persons escaping from legal custody

58. (1) If any person being in legal custody by virtue of section fifty-seven of this Act escapes, he may be retaken under the provision of this section.

(2) Without derogating from the meaning of "escapes" in this section, a patient to whom section thirty-six of this Act applies by reason of absenting himself without leave from any hospital or without permission from any place where he is required to reside shall be deemed to have escaped from legal custody within the meaning of section fifty-seven of this Act, and may be retaken either under the provisions of the said section thirty-six or under this section, and for this purpose the said section thirty-six as well as this section shall be each read as being in addition to and not in derogation of the other.

(3) A person may be retaken under the provisions of this section by the person who had his custody immediately before the escape or by any person

authorised in writing by the person who so had his custody, or by any member of the Police Force, or by any prescribed person.

(4) A person (not being a person who is for the time being liable to be detained under the provisions of Part IV. of this Act) may be retaken under this section before the expiration of three months beginning from the day of his escape unless he is a person who escapes while being taken to or detained in a place of safety under Division III. of Part III. of this Act, when he may be retaken before the expiration of two days beginning from the day of his escape. In any case as aforesaid the person who has escaped may be retaken after the period prescribed by this subsection in his case under a warrant authorising his apprehension issued as prescribed.

(5) In computing for the purposes of any provision of this Act any period of time therein set forth during which the person who has escaped is liable to be detained upon his being retaken under this section, no account shall be taken of any time during which the patient was at large and liable to be retaken by virtue of this section.

Protection for acts done in Pursuance of this Act

59. (1) No matter or thing done or omitted to be done by any person in good faith and without negligence for the purpose of executing this Act or in the execution of his functions, powers, or duties under this Act, shall subject that person to any liability in respect thereof.

Protection
for acts
done in the
execution
of this Act

(2) When any question arises as to whether any liability for any act or omission, the subject of any proceedings, is negatived under the provisions of subsection (1) of this section, and it appears that the act or omission of the person proceeded against was for the purpose of executing this Act or in the execution of any of his functions, powers, or duties under this Act, the burden of proof of negligence and the absence of good faith shall lie upon the person taking those proceedings.

(3) Any proceedings taken against any person for any act or omission which apparently was for the purpose of executing this Act or in the execution of any of his functions, powers, or duties under this Act, may, upon

application to the court in which they are taken, be stayed if the court is satisfied that there is no reasonable ground for alleging negligence or, as alleged, want of good faith, or both, or, without limiting the provisions of any other Act or any rule thereunder, that the proceedings are frivolous or vexatious.

(4) Nothing in this section shall be so construed as to deprive any person of any defence which he would have independently of this section.

Judge may
direct
inquiry as to
condition of
patient, &c.

60. (1) A Judge of the Supreme Court may, whenever he thinks fit, whether of his own motion or on the application of any person, by order under his hand, direct any one or more persons whom he may select in that behalf to visit and examine any person who the said Judge has reason to believe is detained as mentally ill in any hospital, or other place, or by any person, and inquire into and report on such matters relating to that person as the Judge thinks fit.

Order for
production
of patient

(2) A Judge of the Supreme Court may, whenever he thinks fit, whether on his own motion or on the application of any person, and whether any such order as is referred to in the last preceding subsection has been made or not, by order under his hand direct any hospital administrators, or the occupier or inmate of any house or other place in which the Judge has any reason to believe or suspect that any person is detained as mentally ill, or any person having the custody or care of that person, to bring that person before the said Judge in open court or in chambers for examination at a time to be specified in the order.

(3) If, on the examination of the person so ordered to be brought before him and on the evidence of any medical or other witnesses (power to summon whom to testify on oath in the matter of such examination and to produce any documents is hereby conferred on the Judge), it appears to the satisfaction of the Judge that such person is not mentally ill, or that his state of mind does not require his detention as a patient, or that such person is illegally detained as a patient, the Judge shall by order direct that he shall be immediately discharged or caused to be discharged by the hospital administrators, or the occupier or inmate of the house or other place in which he

is detained, or by any other person in whose custody or charge he is, unless the person so detained is a security patient or is legally detained for some other cause.

(4) In determining in pursuance of this section whether the state of mind of any person requires that he should be detained as a patient, the Judge may take into consideration the fact that some relative or friend of that person is able and willing to exercise sufficient care and control over him, and may, as a condition of making an order for his discharge, require an undertaking in writing from such relative or friend to exercise such care and control over such person so discharged for such time and in such manner as the Judge requires and as are in the said undertaking set forth. Any person who wilfully fails to fulfil any undertaking so given by him shall be deemed guilty of a contempt of the Supreme Court, and may be dealt with accordingly in due course of law.

(5) Nothing in this section shall be deemed to prevent the exercise of any other remedy or proceeding available by or on behalf of any person who is or is alleged to be unlawfully detained, confined, or imprisoned.

Regulations

61. (1) The Governor in Council may from time to time make regulations providing for all or any matters and things required or permitted by this Act to be so prescribed, or to be prescribed, where the manner by which those matters and things are to be prescribed is not indicated, and for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or desirable to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying any such omission or insufficiency. Regulations

(2) The power to make with respect to any persons or any matters or things whatsoever, any regulation under this Act shall include power to make that regulation so that it may be of general or specially limited

application according to time, place, purposes, class, or circumstances, or otherwise as is prescribed, and so that any regulation of specially limited application may or may not differ from any other regulation of specially limited application with respect to the same persons, matters, or things.

The power to make regulations with respect to any matter or thing shall include power to make regulations under this section prohibiting that matter or thing either generally or to meet particular cases.

Schedule IV. (3) Without limiting the generality of the foregoing provisions of this section, regulations may be made for or in respect of all or any of the purposes, matters, and things set forth in the Fourth Schedule to this Act.

(4) Regulations may be made under this Act at any time after the passing hereof.

Rules of the
Supreme
Court

62. All such rules of court as may be deemed necessary or desirable or convenient for regulating the procedure and practice of the Supreme Court for the purpose of giving full effect to this Act may be made and the provisions of "*The Supreme Court Act of 1921*" and "*The Supreme Court Acts Amendment (Rules Ratification) Act of 1928*," shall apply and extend in respect of such rules of court.

Rules made
by Governor
in Council

63. (1) The Governor in Council may from time to time, by Order in Council, make any rules which in his opinion are necessary or desirable or convenient for carrying this Act into full effect by such means, and, without limiting the generality of the foregoing powers, for all or any of the following matters, that is to say—

(a) providing for appeals from the decisions, under such provisions of this Act as prescribed, of stipendiary magistrates;

(b) making provision with respect to applications and references to and inquiries (including examinations) by Tribunals under this Act, and with respect to the proceedings under this Act of such Tribunals and matters incidental to or consequential on such proceedings, including, but without limiting the generality of the foregoing—

- (i) for enabling the Tribunal, or the chairman of the Tribunal, to postpone the consideration of any application by or in respect of a patient, or of any such application of any specified class, until the expiration of such period (not exceeding twelve months) as may be specified in the rules from the date on which an application by or in respect of the same patient was last considered and determined by that or any other Tribunal under this Act;
- (ii) for the transfer of proceedings from one Tribunal to another in any case where, after the making of the application, the patient is removed out of the area of the Tribunal to which it was made;
- (iii) for restricting the persons qualified to serve as members of the Tribunal for the consideration of any application or for any reference or inquiry, or of an application, or for a reference or inquiry, of any specified class;
- (iv) for enabling the Tribunal to dispose of an application, reference, or inquiry with or without a formal hearing, or partly with and partly without such a hearing, at its discretion;
- (v) for enabling a Tribunal to exclude members of the public, or any specified class of members of the public, from all or any hearings of the Tribunal, or to prohibit the publication of reports of any proceedings or any parts of any proceedings of the Tribunal or the names of any persons concerned in such proceedings;
- (vi) for regulating, subject as otherwise prescribed, the circumstances in which, and the persons by whom, applicants and patients in respect of whom applications or references are made to or inquiries are made by a Tribunal may be represented or heard for the purposes thereof;

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- (vii) for regulating the methods, by personal investigations and otherwise, by which information or evidence or both relevant to an application, reference, or inquiry may be obtained or collected by or furnished to the Tribunal and any members thereof, and in particular for authorising the members of a Tribunal, or any one or more of them or of a prescribed class of members, to visit and interview and, at the Tribunal's discretion examine, in private any patient by or in respect of whom an application or reference or inquiry has been or is made;
 - (viii) for empowering the Tribunal to have examinations made by specialists within the meaning of "*The Medical Acts, 1939 to 1958,*" and authorising and compelling the attendance of witnesses before such Tribunal;
 - (ix) for requiring a Tribunal, if so requested in accordance with the rules, to furnish to such persons such statements of the reasons for any decision of the Tribunal as may be prescribed by the rules, subject to any provision made by the rules for withholding such a statement from a patient or any other person in cases where the Tribunal considers that furnishing it would be undesirable in the interests of the patient or for other special reasons;
 - (c) (without limiting the provisions of section sixty-two of this Act) determining the fees to be charged and paid in any proceedings under the Third Schedule to this Act, and regulating the form and mode of proceeding in all matters under the said Schedule, and for carrying into effect the several objects of this Act so far as the same relate to the judicial powers or duties of the Supreme Court or of any stipendiary magistrate acting in pursuance of the Third Schedule to this Act: Provided that matters relating to the judicial powers of the Supreme Court shall be made with the concurrence of the judges of the Supreme Court or any two of them.

(2) Rules may be made under this Act at any time after the passing hereof.

(3) Where there is any inconsistency between the provisions of any rule and the provisions of any regulation, the latter shall prevail to the extent of the inconsistency but no further.

64. (1) Every Proclamation, Order in Council, regulation and rule made under this Act shall— Control by Parliament of regulations, &c.

- (a) be published in the *Gazette*;
- (b) upon its publication in the *Gazette* be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication unless, in the case of any such Order in Council, regulation, or rule a later date is specified in that or any other Order in Council, regulation or as the case may be, rule for its commencement when in such event it shall take effect from that later date; and
- (d) be laid before Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If Parliament passes a resolution of which notice has been given at any time within fourteen days after any such Proclamation, Order in Council, regulation, or rule has been laid before Parliament disallowing such Proclamation, Order in Council, regulation, or rule, or part thereof, that Proclamation, Order in Council, regulation, rule, or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council, regulation, or rule.

*Transitional Provisions*Transitional
Provisions

65. (1) This section applies to those persons who immediately before the commencement of this Act were patients or detained in mental hospitals or licensed hospitals under the repealed Acts of the following classes, that is to say—

- (a) voluntary patients ;
- (b) temporary patients ;
- (c) patients who had been received into a mental hospital under Division IV. of Part VI. of the repealed Acts pursuant to a private request for reception ;
- (d) patients who had been received into a mental hospital under Division IV. of Part VI. of the repealed Acts under the authority of a reception order ;
- (e) patients and persons in respect of whom an inquiry for the purposes of, or an application for, a reception order under Division IV. of Part VI. of the repealed Acts is not completed or determined ; and
- (f) persons detained pursuant to an order under Part VII. of the repealed Acts.

(2) Every voluntary patient, as referred to in paragraph (a) of subsection (1) of this section, shall be deemed to have been duly admitted, in pursuance of arrangements in that behalf, as referred to in section seventeen of this Act, and without any application, order, or direction rendering him liable to be detained under this Act.

(3) Every temporary patient, as referred to in paragraph (b) of subsection (1) of this section, shall be deemed to have been duly admitted for treatment, pursuant to section nineteen of this Act, to the hospital where he then is, and the provisions of this Act shall apply to him accordingly :

Provided that any such patient who at any time during which he is consequently liable to be detained under this Act, in the opinion of the responsible medical practitioner, becomes capable of expressing himself as willing or unwilling to receive treatment, shall within twenty-eight days after such patient has so expressed

himself be discharged from such hospital unless in the meantime, in the opinion of the responsible medical practitioner, he has again become incapable of so expressing himself, or an application is made under section nineteen of this Act for his admission for treatment.

(4) Every patient who belongs to any of the classes referred to in paragraphs (c) and (d) of subsection (1) of this section, shall be deemed to have been duly admitted for treatment under the authority of a hospital order issued under Division III. of Part III. of this Act, to the hospital where he then is, and the provisions of this Act shall apply to him accordingly.

(5) Every patient or person who belongs to any of the classes referred to in paragraph (e) of subsection (1) of this section, shall be deemed to have been duly removed to or detained under Division III. of Part III. of this Act, in a place of safety, being the place where he then is, and the inquiry for the purposes of, or, as the case may be, the application for, a reception order shall immediately proceed or continue as if that inquiry or application were for the purposes of a hospital order under Division III. of Part III. of this Act, and the provisions of this Act, with any necessary modifications, shall apply and extend for the purpose of completing or determining the same, and a hospital order may be issued under this Act.

(6) Every person detained pursuant to an order under Part VII. of the repealed Acts shall, without otherwise affecting that order, be deemed to have been duly detained pursuant to an order under Part IV. of this Act and may either subject to this Act remain in the hospital where he then is or be transferred to a security patients' hospital or prison, as the Governor in Council thinks fit; and for the purpose of giving effect to any determination of the Governor in Council hereunder, the Minister at any time may, by writing under his hand, direct the transfer of the person the subject of the determination from the hospital where he then is to the security patients' hospital or prison specified therein and every such direction shall be given effect according to its tenor.

SCHEDULES

FIRST SCHEDULE

[Section 4 (1)]

Year and Number of Act	Short Title	Extent of Repeal
2 Geo. VI. No. 21 .. 10 Eliz. 2 No. 11 ..	" <i>The Mental Hygiene Act of 1938</i> " " <i>The Criminal Code and Other Acts Amendment Act of 1961</i> "	The whole Section thirty-eight

SECOND SCHEDULE

[Section 4 (2)]

Year and Number of Act	Short Title	Extent of Amendment
1 Geo. VI. No. 4	" <i>The Hospitals Act of 1936</i> "	The last paragraph of subsection (1) of section twenty-six is amended by inserting after the words "including maternity and obstetrics and motherhood", the words "mental illness".
1 Geo. VI. No. 31	" <i>The Health Act of 1937</i> "	<ol style="list-style-type: none"> 1. The definition of "Private hospital" in section sixty-three is amended by repealing therein the words "or of mental cases" and by inserting, in lieu thereof, the words "or of mentally ill patients". 2. Section sixty-four is amended by repealing subparagraph (c) therein and by inserting, in lieu thereof, the following subparagraph:— “(c) A hospital for the reception, care, and treatment of mentally ill patients only, not being a public hospital or a special hospital within the meaning of “<i>The Mental Health Act of 1962</i>”.” 3. Section sixty-six is amended— <ol style="list-style-type: none"> (a) by repealing subparagraph (c) therein and by inserting, in lieu thereof, the following subparagraph:— “(c) A hospital for the reception, care, and treatment of mentally ill patients only.” (b) By repealing wherever occurring therein the words "mental cases" and by inserting, in lieu thereof, the words "mentally ill patients". 4. Section sixty-nine is amended by repealing in subparagraph (c) therein the words "for a mental hospital" and by inserting, in lieu thereof, the words "for a hospital for the reception, care, and treatment of mentally ill patients only".

SECOND SCHEDULE—continued

Year and Number of Act	Short Title	Extent of Amendment
7 Eliz. II. No. 64	"The Prisons Act of 1958"	<p>1. Section four is amended—</p> <p>(a) by inserting in the definition of "medical officer" after the word "prison" the words "or security patients' hospital";</p> <p>(b) by inserting in the definition of "prison officer" after the word "prison", where secondly occurring, the words "or security patients' hospital";</p> <p>(c) by inserting after the definition of "Prisoner" the following definitions:—</p> <p>" 'Security patient'—Any person who by reason of mental illness is lawfully ordered to be kept in a security patients' hospital;</p> <p>'Security patients' hospital'—Any building, premises, or place, or part thereof, declared under this Act to be a security patients' hospital;"</p> <p>(d) by inserting in the definition of "Superintendent" after the word "prison" wherever occurring, the words "or security patients' hospital".</p> <p>2. Section five is amended by adding to subsection (1) thereof the following subparagraph:—</p> <p>"(j) Declare, in such manner as the Governor in Council thinks sufficient to identify the same and the limits thereof, that any building, premises, or place, or part thereof, be a security patients' hospital".</p> <p>3. Section six is amended by inserting after the word "prison", wherever occurring therein, the words "or security patients' hospital".</p> <p>4. Section seven is amended by adding to the second paragraph of subsection (1) thereof the following subparagraphs:—</p> <p>"(q) Providing for the control, safe custody, classification, care, discipline and treatment of security patients;</p> <p>(r) Visiting of security patients by relatives, friends, and other persons;</p> <p>(s) Providing generally for the management and good government of security patients' hospitals and security patients;</p> <p>(t) Prescribing the procedure to be followed upon the recovery of security patients who await trial or sentence or a hearing and determination in relation to any offence punishable by imprisonment; prescribing the conditions on which a security patient who is in confinement after acquittal on the ground of mental illness in relation to any indictable</p>

SECOND SCHEDULE—*continued*

Year and Number of Act	Short Title	Extent of Amendment
		<p>offence or other security patients may be discharged or allowed to be absent on probation; and prescribing all matters and things considered necessary or desirable in relation thereto.”</p> <p>5. Section ten is amended by inserting after the word “prison”, wherever occurring, the words “or security patients’ hospital”.</p> <p>6. Section eleven is amended by inserting after the word “prison”, wherever occurring, the words “or security patients’ hospital”.</p> <p>7. Section twelve is amended by inserting after the word “prison” the words “or security patients’ hospital”.</p> <p>8. Section thirteen is amended by inserting after the word “prison”, wherever occurring, the words “or security patients’ hospital”.</p> <p>9. Section fifteen is amended—</p> <p>(a) by inserting after the word “prisons”, twice occurring, the words “and security patients’ hospitals”;</p> <p>(b) by inserting after the word “prison” in subparagraph (b) the words “and security patients’ hospital”;</p> <p>(c) by inserting in subparagraph (c), after the word “prison”, where firstly, fourthly and fifthly occurring, the words “or security patients’ hospital”.</p> <p>10. Section sixteen is amended—</p> <p>(a) by repealing in subparagraph (ii) of subsection (1) the words “mental hospital” and by inserting in lieu thereof the words “security patients’ hospital”;</p> <p>(b) by inserting after subsection (1) the following subsections:—</p> <p>“(1A) The Comptroller-General shall have authority to direct, and may accordingly order the removal of a security patient—</p> <p>(i) from one security patients’ hospital to another as he thinks fit;</p> <p>(ii) from a security patients’ hospital to any hospital, clinic, dental hospital, or surgery where a medical officer or dentist satisfies him that such removal is required for the medical, optical, or dental treatment, observation, or examination of the security patient concerned;</p>

SECOND SCHEDULE—*continued*

Year and Number of Act	Short Title	Extent of Amendment
		<p>(iii) in a case where the security patient had been previously removed from a prison to a security patients' hospital, from a security patients' hospital to a prison;</p> <p>(iv) from a security patients' hospital to any court or other place whatsoever to appear as a party or witness to any proceeding or for examination;</p> <p>(v) from a security patients' hospital to any place not such a hospital specified in the order.</p> <p>(1B) The removal pursuant to a direction or order under the preceding subsections of this section of any prisoner or security patient to any hospital, clinic, or other place whatsoever which is subject to administration by the Director-General of Health and Medical Services or the Director of Psychiatric Services or both shall not be made except with the consent first obtained of the said Director-General of Health and Medical Services or the said Director of Psychiatric Services, as the case requires, or where the place to which the security patient is sought to be removed is subject to administration by both such officers, except with the consent first obtained of either of those officers."</p> <p>(c) By inserting in subsection (2) after the word "prisoner", twice occurring, the words "or security patient"; after the word "prison", where firstly and thirdly occurring, the words "or security patients' hospital", and after the words "subsection one" the words "or subsection 1A".</p> <p>(d) By inserting in subsection (4) after the word "prisons" the words "and security patients' hospitals".</p> <p>11. Section twenty is repealed and the following section is inserted in lieu thereof—</p> <p>When "20. (1) A prisoner or security patient prisoner, &c., in legal custody shall be deemed to be in legal custody—</p> <p>(a) while he is being taken or removed to or from, or is confined in, any prison or security patients' hospital in which he may be lawfully confined or detained;</p>

SECOND SCHEDULE—continued

Year and Number of Act	Short Title	Extent of Amendment
		<p>(b) while he is working outside, or is otherwise beyond the walls of, any prison or security patients' hospital in which he may for the time being be lawfully confined or detained, in the custody or under the control of a prison officer or member of the Police Force;</p> <p>(c) while he is outside any prison or security patients' hospital in which he may for the time being be, or was last, lawfully confined or detained, pursuant to and in accordance with any provision of this or any other Act or of any order or direction made under this or any other Act or by a Judge of the Supreme Court.</p> <p>(2) Any prisoner or security patient in legal custody by virtue of subsection (1) of this section shall be deemed to be in the custody—</p> <p>(a) (where he is being removed from one such place to the other or another) of the superintendent of the place from which he is removed until he is received by the superintendent of the place to which he is removed;</p> <p>(b) (where he is outside any such place in which he may for the time being be, or was last, lawfully confined or detained) of the superintendent of that place.”</p>

THIRD SCHEDULE

[Section 46]

1. In this Schedule, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

- “ Court ”—The Supreme Court or any Judge thereof; Court
- “ Management of the estate ”—In relation to any patient, the custody, management and administration of the property and affairs of the patient; Management of the estate
- “ Patient ”—A person— Patient
- (a) who is declared by the Court to be mentally ill and incapable of managing his estate;
- (b) who is notified to the Public Curator pursuant to the provisions of this Act, by the responsible medical practitioner, as being, in the medical practitioner's opinion, mentally ill and incapable of managing his estate; or
- (c) (without limiting the provisions of paragraph (b) hereof) who is notified to the Public Curator by the superintendent or person charged with the control of the hospital, security patients' hospital, or other place where such person is receiving treatment for mental illness as being, in the opinion of a psychiatrist, mentally ill and incapable of managing his estate;
- “ Property ”—Includes both real and personal property of every description or kind whatsoever and every thing in action, and every interest in real or personal property; Property
- “ Psychiatrist ”—A medical practitioner registered under “ *The Medical Acts, 1939 to 1958,*” as a specialist with respect to the specialty of psychiatry, and whose name remains upon the Register of Specialists, Queensland, with respect to such specialty; Psychiatrist
- “ Public Curator ”—The Public Curator within the meaning of “ *The Public Curator Acts, 1915 to 1957* ”; Public Curator
- “ Stock ”—A share or other interest in any company, society, or association, and any fund, annuity, or security transferable in books kept by any company, society, or association or transferable by deed alone, or by deed accompanied by other formalities, and any money payable in respect thereof, and any share or interest therein. Stock

2. (1) Subject to this Schedule, the Public Curator shall, without further or other authority, manage the estate of every person who is a patient by virtue of the provisions of either paragraph (b) or paragraph (c) of the definition of “ Patient ” in section one of this Schedule. General function of the Public Curator in relation to the estate of a patient

(2) The authority of the Public Curator under this section to manage the estate of any patient shall cease—

- (a) when the patient dies and the Public Curator receives notice thereof as prescribed; or

- (b) when a committee of the estate of the patient is appointed under the provisions of this Act; or
- (c) when the Court so orders or the Public Curator is sooner satisfied that the patient is able to manage his estate;
- (d) when the Public Curator is notified pursuant to the provisions of the regulations, by the responsible medical practitioner or the medical practitioner for the time being in charge of the treatment of the patient that the patient is recovered from his mental illness or, if the patient is still mentally ill, that he is able to manage his estate:

Provided that if, immediately prior to the ceasing of the authority of the Public Curator as previously provided by this subsection, there is anything, within the powers of the Public Curator in relation to the estate, which having been commenced by him is not completed, then, subject to any order of the Court to the contrary, that thing, if the Public Curator thinks fit, may be completed by him as if his authority still continued, and for this purpose the provisions of this Schedule with all necessary adaptations shall apply and extend accordingly.

(3) Notwithstanding anything to the contrary contained in the aforementioned provisions of this section, the Public Curator shall supervise and enforce the performance of the obligations and duties of all committees of mentally ill persons and receivers of their estates heretofore or hereafter to be appointed.

(4) This section shall not apply in the case of a patient who is a protected person within the meaning of Part IIIA. of "*The Public Curator Acts, 1915 to 1957.*"

Particulars
to be
furnished
to Public
Curator

3. (1) Within fourteen days from the admission of a patient into any hospital, the hospital administrators shall cause to be given to the Public Curator—

- (a) the name of such patient and his age;
- (b) such information concerning his property as the hospital administrators have in their possession;
- (c) copies of the medical certificates relating to his admission; and
- (d) the names and residences of his relatives known or supposed to be able to maintain or contribute to his maintenance.

(2) Every hospital administrator and official visitor shall communicate to the Public Curator all particulars that may come to his knowledge respecting the property of any patient, and if any such hospital administrator or official visitor has reason to believe that the property of any patient is not duly protected, or that the income thereof is not duly applied for his maintenance or benefit such hospital administrator or official visitor shall report thereon to the Minister as well as to the Public Curator.

Appointment
of committee
of estate

4. (1) The Court may, on petition by the Public Curator or any other person, appoint the Public Curator or any other person or persons as the committee of the estate of any patient.

(2) Any committee so appointed shall have the same powers, duties, and functions as if such committee had been appointed after inquisition by the Court in accordance with the provisions in that behalf hereinafter contained.

(3) Any committee appointed in pursuance of this section shall continue in office until the person of whose estate he is or they are committee dies, or the order appointing him or them as such committee is rescinded by the Court.

(4) The Court may at any time, on the petition of the person of whose estate a committee has been so appointed, or of the committee, or of any other person, rescind the order appointing the committee on proof that such first-mentioned person is able to manage his estate.

(5) The Court may at any time, on the petition of the person of whose estate a committee has been so appointed, or of the committee, or of any other person, and on proof that there is good cause for so doing, make an order appointing any other person or persons as the committee of the said estate in lieu of the committee so appointed.

5. (1) No commission *de lunatico inquirendo* shall be issued.

Application to Supreme Court in lieu of commission *de lunatico inquirendo*

(2) In any case in which it is proved to the satisfaction of the Court that a person is mentally ill and incapable of managing his estate, the Court may—

- (a) make a declaration to that effect;
- (b) direct a reference to the Public Curator to make inquiries concerning the property of such person;
- (c) make all proper orders for rendering the property of such person or the income thereof available for the payment of his debts, and for the maintenance or benefit of himself and his family, and for carrying on his trade or business (if any); and
- (d) if necessary, appoint a committee of his estate, and also, when desirable, a committee of his person.

6. If it is proved to the satisfaction of the Court that any patient is capable of managing his estate, the Court may make a declaration to that effect and may make all proper orders to give effect to such declaration and for releasing the estate of such person from the control of the Court and discharging the committee of his estate and person.

Superseding orders, &c., when person recovered

7. Applications under the last two preceding sections shall be by petition supported by affidavit. Copies of the petition and affidavits shall be served in the prescribed manner upon the person alleged to be mentally ill and incapable of managing his estate or, in the case of a petition by or with respect to a person so declared, upon his committee and the persons on whose application he was so declared; they shall also be served upon the Public Curator and such other persons as the Court may direct.

Application to be by petition

8. Every deponent may be cross-examined upon his affidavit, either at the hearing or at such time and place as the Court directs, and at such hearing the Court may receive or require the oral evidence of witnesses, and such other proof as it thinks necessary.

Cross-examination on affidavit, &c.

Court may order inquiry before a jury

9. (1) The Court may in any case, instead of determining whether or not the person the subject of inquiry is mentally ill and incapable of managing his estate, order that question to be tried by a jury, and in such order shall direct whether the jury shall be a jury of four or of twelve men, and thereupon the like proceedings for summoning a jury shall be had and taken as are provided by the law for the time being in force for the return of juries for the trial of issues in civil actions in the Supreme Court.

Inquiries before jury

(2) When an inquiry before a jury is ordered the Court shall direct the question to be tried before the Court, and the trial of every such question and the verdict thereon shall be had and dealt with in all respects in accordance with the law for the time being in force relating to trials in the Supreme Court.

After verdict court may make declaration, &c.

(3) When the verdict of the jury has been returned, unless a new trial is granted the Court may make such declaration and orders as are hereinbefore provided.

Examination of the alleged mentally ill person

(4) On the hearing of a petition before the Court or a trial before a jury the person the subject thereof shall, if he can be produced in court, be so produced and be examined in open court or in private as is deemed expedient.

The word "commission" shall apply to petition and declaration

10. Where in any Act, Rule of Court, or instrument reference is made to a commission of insanity, or a writ in the nature of a writ *de lunatico inquirendo*, or to any inquisition thereon, or to a traverse or supersedeas of any inquisition or commission, the proceedings hereby respectively substituted for them shall respectively be taken to be intended by and comprehended in such reference.

Persons found mentally ill in places beyond the State

11. When the Court is satisfied upon the report of the Public Curator or otherwise that any person has been found to be mentally ill, and incapable of managing himself and his estate, by any competent court or commission in any place outside Queensland, the Court may appoint the Public Curator or any other person or persons a committee of the patients' estate or person, or both, and may give such other orders in respect of the management of his estate or person as it may deem expedient, and such committee shall have the same duties, powers, and liabilities as the committee of the estate of a patient under this Act.

Court may order costs

12. The Court may make such order as to the costs, charges, and expenses of and incidental to any proceeding authorised by this Act as the Court thinks proper, and every such order shall have the same effect as orders for the payment of money made by the Court.

Appeal

13. The powers of the Court under this Act may be exercised by a Judge thereof, but an appeal shall lie to the Full Court from every order made by a single Judge.

Powers of Public Curator

14. When the Public Curator is appointed as the committee of the estate of a patient, or under this Act is authorised to manage the estate of a patient, the estate shall not thereby become vested in the Public Curator, but he shall be entitled to the possession and management of the same in accordance with the provisions hereinafter contained.

Property not to vest in Public Curator when acting as committee, &c.

15. (1) The Public Curator, being appointed as the committee of the estate of a patient, or having under this Act the authority to manage the estate of a patient, may, without the leave of the Court, but subject to any order of the Court to the contrary, do any of the following things:—

Power of Public Curator so acting

- (a) take possession and control and manage all the property of that patient;
- (b) sell any property of that patient, other than freehold or leasehold property, either by public auction or private contract, and subject to such terms and conditions as the Public Curator thinks fit;
- (c) grant or concur in granting leases or sub-leases of any property of that patient for any term not exceeding three years (to take effect in possession within six months of the date of the lease or sub-lease), or from year to year or for a weekly, monthly, or other like tenancy, or at will;
- (d) repair, and insure against fire or accident, any property of that patient;
- (e) pay all rates, taxes, insurance premiums, or other outgoings payable in respect of the property of that patient, or under any policy of insurance of any kind;
- (f) surrender any policy of life assurance, or have any policy of life assurance converted into a paid-up or other suitable policy;
- (g) grant powers of attorney to any person in or out of Queensland to do any act or thing with respect to the property of such patient which the Public Curator can do as committee of the estate of that patient, or as authorised to manage that estate;
- (h) institute proceedings in his corporate name or in the name of the patient for the recovery or protection of any property belonging to the patient, or to which the patient is or may be entitled, or for the recovery of any debt or damage whatsoever, and defend in a like manner any proceedings brought against the patient in respect of any such property, or for the recovery of any debt or damage whatsoever, and compromise, compound, or otherwise settle such proceedings and consent to any judgment, decree, or order in any such proceedings upon such terms as the Public Curator thinks fit or suffer judgment therein to be entered by default;
- (i) compromise any claims or demands made against or upon the patient or his estate or made by the patient before he became a patient or made by the Public Curator upon

- such terms as the Public Curator thinks fit and upon such evidence as he deems sufficient, or submit such claims or demands to arbitration, and do all acts and things necessary to render any such compromise or arbitration effectual;
- (j) take proceedings to cause to be adjudicated a bankrupt or placed in liquidation any person or company indebted to such patient, and vote and act either personally or by proxy at all meeting of creditors, and in all other matters relating to the bankruptcy or liquidation;
 - (k) take criminal proceedings respecting the property of that patient;
 - (l) demand, receive, and recover all moneys payable or belonging to that patient, as well as all documents (including wills and all testamentary instruments) belonging to the patient or of which he is entitled to possession or custody;
 - (m) repudiate or refuse to recognise contracts or transactions of every description to which the patient is or, prior to his becoming a patient, became a party, to the same extent as the patient could have done had he not become a patient and, to the like extent, to elect in the name of and on behalf of the patient to avoid any such contract or transaction;
 - (n) apply moneys belonging to that patient, whether arising from real or personal property, and whether income or capital, in or towards the payment of any debt, obligation, or liability of that person, or incurred by the Public Curator in the exercise of the powers vested in him by this Act;
 - (o) surrender, assign, or otherwise dispose of, with or without consideration, any onerous property belonging to that patient;
 - (p) surrender or concur in surrendering any lease, and accept a new lease;
 - (q) accept a surrender of any lease;
 - (r) carry out and perform contracts entered into by that patient before the Public Curator was appointed as the committee of his estate or was authorised to manage it;
 - (s) apply in his discretion, and in such manner and to such extent as he thinks fit, any moneys belonging to that patient, whether arising from real or personal property, and whether income or capital, for the maintenance or benefit of that patient, or of the husband or wife of the patient, or for the maintenance, education, advancement, or benefit of the children or grandchildren of the patient or of any relative of the patient or of any person wholly or partially dependent upon the patient;
 - (t) where that patient is a mortgagor or mortgagee of any land, agree to extend or vary the mortgage on such terms as the Public Curator thinks fit;
 - (u) on behalf of and in the name of the patient, enter into any scheme of family arrangement to which the patient is a necessary party;

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- (v) apply any moneys recoverable by the patient under any policy of insurance or any moneys belonging to the patient in the reinstatement or rebuilding of any property of that patient destroyed by fire or otherwise, either wholly or partially;
 - (w) exercise any power of sale or other power vested in that patient as mortgagee or lessor;
 - (x) carry on any trade or business of that patient and for that purpose expend moneys belonging to the patient;
 - (y) continue such acts of bounty or charity exercised or promised to be exercised by that patient as the Public Curator, having regard to the circumstances and the amount or value of the estate of that patient, considers proper and reasonable;
 - (z) discharge any mortgage or encumbrance on his property;
 - (aa) enter into any share farming agreement or agree to the variation of the terms of any share farming agreement whether entered into by that patient or by the Public Curator;
 - (bb) carry out all such work and do all such things with regard to the property of that patient as may be required to be carried out or done by the provisions of any Act, regulation, or rule, or of any by-law of any competent authority having jurisdiction in respect of such property and, in particular, but without affecting the generality of the foregoing, erect fencing, install sewerage and eradicate noxious weeds;
 - (cc) continue investments in the name of that patient in the form in which they are at the time when the Public Curator is appointed the committee of the estate or becomes authorised to manage the estate of that patient and reinvest the same from time to time in similar investments;
 - (dd) attend and vote either personally or by proxy at any meeting of a company, corporation, or other institution in which the patient is the holder of any shares, debentures, units or stock, whether debenture, inscribed or otherwise, as fully and effectually as the patient could do if he were not a patient;
 - (ee) where that patient is holding any shares, debentures, units, or stock whether debenture, inscribed or otherwise, and is offered an option to take up additional shares, debentures, units, or stock, take up such additional shares, debentures, units, or stock or any part of them and for such purpose apply moneys belonging to that patient or sell the rights to take up such additional shares, debentures, units, or stock or any or part of them;
 - (ff) borrow money not exceeding five hundred pounds or agree to the increase by a sum not exceeding five hundred pounds in the amount of any overdraft, loan, or advance obtained by that patient prior to his becoming a patient and secure the payment of such money or increase in overdraft, loan, or advance by mortgage or charge of any

property of that patient and enter into such covenants provisions and agreements as may be agreed upon by the Public Curator and the lender;

- (gg) consent on behalf of that patient to a grant of administration being made to some other person and execute on behalf of that patient a release from filing and passing of accounts by an executor administrator or trustee of any estate in which that patient has an interest.

Public Curator authorised to receive moneys and give a valid discharge

(2) The Public Curator is hereby authorised and empowered to receive and give a valid discharge for the receipt of any legacy or other interests in estates in which the patient concerned may be interested in any place outside Queensland.

Certain powers exercisable with sanction of Court

16. The Public Curator being appointed as the committee of the estate of a patient, or being under this Act authorised to manage the estate of a patient, may, with the sanction of an order of the Court, do any of the following things:—

- (a) sell, join in or consent to the sale of any freehold or leasehold property of the patient or in which the patient has a share or interest either by public auction or private contract in such manner and on such terms and conditions as the Public Curator thinks fit;
- (b) grant or concur in granting leases or sub-leases of any property of that patient for such terms and on such covenants and conditions as the Public Curator thinks fit;
- (c) make exchange or partition of any property belonging to that patient, and give or receive any money for equality of exchange or partition;
- (d) expend moneys belonging to the patient in the improvement, by way of building or otherwise, development and maintenance of the property of the patient or in the purchase of livestock, machinery, plant, implements and other chattels or in the purchase of a home for the patient, or for the wife, husband, or children of the patient, or for any person wholly or partially dependent upon the patient;
- (e) bring or defend any action, suit, or other proceeding in respect of any contract or transaction referred to in paragraph (m) of section fifteen of this Schedule;
- (f) exercise any power, or give any consent required for the exercise of any power, where the power is vested in that patient for his own benefit or the power of consent is in the nature of a beneficial interest in that patient;
- (g) exercise any power and carry out, perform, and do any duty, act, matter, or thing which the Court deems necessary to confer or impose upon the Public Curator or authorise him to do in relation to the estate of the patient or the management thereof;

The provisions of this section 16 shall not derogate from any of the powers conferred upon the Public Curator by section 15 of this Schedule.

17. Notwithstanding anything contained in section 16 of this Schedule the Public Curator may, without the sanction of an order of the Court, exercise in relation to the estate of a patient any of the powers conferred upon him by paragraphs (a) to (d) inclusive of section 16 of this Schedule if the value of the property in respect of which the power is to be exercised or of the share or interest of the patient therein as estimated by the Public Curator or if the amount of moneys to be expended at any one time does not exceed the sum of two thousand pounds.

Cases where value does not exceed £2,000

18. The Public Curator, being appointed as the committee of the estate of a patient, or being under this Act authorised to manage the estate of a patient, may, with the sanction of an order of the Court, mortgage or charge (with or without a power of sale, and on such terms as the Public Curator thinks fit) any property of that patient for the purpose of raising or securing or repaying with or without interest, money which is to be or which has been applied to all or any of the purposes following:—

Power of the Public Curator to execute mortgages for certain purposes

- (a) the payment of the debts or engagements of the patient;
- (b) the payment of or provision for the expenses of the future maintenance of that patient or his family;
- (c) the payment of any debts or liabilities incurred by the Public Curator in the exercise of the powers conferred upon him by this Act with respect to the management of the estate of that patient;
- (d) the discharge of any mortgage or other encumbrance on any property of the patient;
- (e) the improvement or maintenance of the property of the patient.

The provisions of this section 18 shall not derogate from any of the powers conferred upon the Public Curator by section 15 of this Schedule.

19. When a power is vested in any patient in the character of trustee or guardian, or the consent of any such person to the exercise of a power is necessary in the like character or as a check upon the undue exercise of the power, and it appears to the Court to be expedient that the power should be exercised or the consent given, the Public Curator, being appointed as the committee of the estate of that patient or being under this Act authorised to manage that estate, may, in the name and on behalf of the patient, and under an order of the Court made upon the application of any person interested, exercise the power or give the consent in such manner as the order directs.

Public Curator may under order of the Court exercise powers or give consent on behalf of patients

20. The Public Curator may, in the name and on behalf of any patient, execute and do all such assurances and things as the Public Curator may deem necessary for effectuating any of the powers conferred upon him by this Act or by any order of the Court; and all assurances and things so executed or done shall have the same force and effect as if executed or done by the patient had he not been a patient.

Public Curator may execute assurance on behalf of such person

Certificate by Public Curator of his appointment as committee, &c., to be received in evidence

21. A certificate under the hand of the Public Curator, and sealed with his corporate seal, certifying that he has been appointed under this Act as the committee of the estate of any person, or that he is under this Act authorised to manage the estate of any person, and stating the date at which he was so appointed or authorised to manage such estate, and that such appointment or authority is still in force, shall, until the contrary is proved, be accepted by all courts, officers, and other persons as sufficient evidence of the facts so certified and stated.

Capital moneys to form part of common fund

22. All capital moneys coming to the hands of the Public Curator under the provisions of this Act shall form part of the common fund of the Public Curator, and shall be entitled to the guarantee which is afforded to that common fund.

Provisions of Public Curator Act to apply to estates of patients

23. Subject to this Act, all the provisions of "*The Public Curator Acts, 1915 to 1957*," and of every other relevant Act shall, with all necessary adaptations, apply and extend for the purposes of the management of the estate of any patient by the Public Curator.

Public Curator may take proceedings on behalf of patients under "*The Testator's Family Maintenance Acts*"

24. The Public Curator may, in the name and on behalf of any patient, and whether such patient is possessed of any estate or not, make any application to the Supreme Court under "*The Testator's Family Maintenance Acts, 1914 to 1952*," which that person would be entitled to make if he were not a patient.

Powers of Public Curator in respect of partnership

25. Where any patient whose estate is being managed by the Public Curator is a member of a partnership the Public Curator may, in the name of such patient, agree to any alteration of the conditions of such partnership and dissolve the partnership in the same manner in all respects as such patient could have done had he not been a patient or do either of these things.

On such dissolution the Public Curator, in the name and on behalf of the patient, may join with the other partner or partners in disposing of the partnership property, as well real as personal, whether to such partner or partners or to any other persons, upon such terms and conditions and in such manner as the Public Curator thinks fit.

Public Curator exempt from personal liability

26. The Public Curator acting in pursuance of any provision of this Schedule or exercising any power conferred or carrying out any duty imposed upon him by this Schedule or by the Court shall not be officially or personally liable for any injury, damage, or loss incurred in relation thereto, but such injury, damage, or loss shall be recovered from the estate of the patient.

27. (1) No person of whose estate the Public Curator or any other person has been appointed the committee, or whose estate the Public Curator is under this Act authorised to manage, shall be capable, without the leave of the Court, of making any transfer, lease, mortgage, or other disposition of his property, or of any part thereof, or of entering into any contract except for necessities; and every such transfer, lease, mortgage, or other disposition, and every contract other than for necessities, shall be voidable by that person or by the Public Curator or other committee on his behalf.

Limitation
of
contractual
powers of
persons of
whose
estate a
committee,
&c.,
appointed

(2) The Court may by order give leave to any such person to make any transfer, lease, mortgage, or other disposition of his property, or of any part thereof, or to enter into any contract, if the said court is satisfied that such transfer, lease, mortgage, disposition, or contract is for the benefit of that person, and that he consents thereto with adequate understanding of the nature thereof.

(3) Nothing in this Schedule shall affect the law relating to the validity of wills or other testamentary dispositions.

(4) Nothing in this Schedule shall invalidate any transfer, lease, mortgage, disposition, or contract made or entered into by any such person if the other party thereto proves that he acted in good faith and for valuable consideration and without knowledge that any committee has been so appointed or that the Public Curator has under this Act been authorised to manage the estate.

28. (1) All expenses incurred by the Public Curator in respect of the maintenance of any patient, or the management of his estate, shall be charged against and payable out of that estate; and, in addition, there shall be payable in respect of all moneys forming part of that estate and coming under the control of the Public Curator such commissions and other charges as are prescribed by regulations made under "*The Public Curator Acts, 1915 to 1957.*"

Maintenance
payable out
of estate

(2) The amount of all deductions for expenses, commissions, and other charges shall be paid to the Public Curator's account.

(3) The expenses, commissions, and other charges aforesaid shall be payable out of the estate, although the patient dies or the estate otherwise ceases to be under the management of the Public Curator before payment thereof.

29. (1) The Public Curator may, out of the estate of a patient who is detained under this Act in any hospital (other than a person detained under Part IV. of this Act), pay such sum or sums as may be prescribed for the maintenance of such person.

Maintenance
of patients

(2) The Public Curator may agree with any relative or friend of a patient for his maintenance while detained in a hospital, and such relative or friend shall be entitled to be reimbursed all necessary sums expended in such maintenance with interest thereon out of the estate of the patient.

Relative, &c.,
may agree
for
maintenance
of patient

Justices may make an order upon relations of patient for his support

(3) If it appears to the Public Curator that any patient has not an estate or any sufficient estate applicable to his maintenance, he may make an application in writing—

- (a) to the father of the patient; or
- (b) if the father is dead, to his mother; or
- (c) if the patient is a married woman, to her husband; or
- (d) in other cases to one or more of his or her children being of the age of twenty-one years or upwards,

for the payment of a reasonable sum weekly or monthly or otherwise for or towards the maintenance, clothing, medicine, and care of such patient.

Such application shall be served either personally or by post.

And if such sum is not paid pursuant to such application, the patient, if a wife, or a child of a living father or mother (whatever the age of such child may be), shall be adjudicated, on complaint made by the Public Curator, by a stipendiary magistrate a deserted wife or child within the meaning of the law for the time being in force relating to the maintenance of destitute or deserted wives and children.

And if the patient is a father or mother, with one or more than one child of age and ability to maintain or contribute towards the maintenance of the patient, the Public Curator shall on such complaint as aforesaid, be entitled to such order for maintenance and the enforcement thereof as against such child or children, as the case may be, as by law a deserted child is entitled to as against its father: Provided that if the father of the patient is dead and his mother living, the mother shall be deemed for the purposes of this enactment to be liable in the same manner as the father of a deserted child is made liable.

Every such sum so applied for or ordered to be paid shall be paid to the Public Curator, whose receipt shall be sufficient discharge for such payments.

For the purposes of this Schedule where the patient is an illegitimate child, the father of such illegitimate child shall be liable for such patient's maintenance.

A complaint as aforesaid may be heard and determined within the Petty Sessions District of Brisbane or within any petty sessions district within which the person proceeded against resides.

Public Curator may obtain information on oath

30. (i) The Public Curator shall have power, in the execution of his powers and duties under this Act, to summon persons to appear before him, or before some person appointed in writing by him in that behalf, at such time and place as is set out in the summons, and the Public Curator or the person so appointed shall have power to administer oaths and take evidence as to any matters relating to the estate and affairs of the person of whose estate the Public Curator is committee or whose estate he is under this Act authorised to manage, and to require the production of books and documents relating to those matters.

The Public Curator shall pay or tender to the person so summoned the same amount as such person would have been entitled to had he been summoned as a witness in proceedings before justices sitting in petty sessions at the place to which such person has been summoned.

(2) Every person on whom any such summons is served by delivering it to him or by leaving it at his usual place of business or abode who without reasonable justification or excuse fails to appear according to the exigency of the summons or, being present, refuses to be sworn or to give evidence or to answer such questions as are put to him by the Public Curator or the person so appointed as aforesaid, or to produce any books or documents required by the summons to be produced, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds.

31. Without restricting any other powers and authorities conferred by this Act, the Public Curator may apply to the Court, *ex parte*, for directions with respect to the exercise of any of his powers, authorities, and discretions conferred upon him by this Act with respect to any patient, and the Court may, on such application, make such order in the premises as it thinks fit.

32. Nothing in this Act shall be construed to derogate from or otherwise affect the powers, duties, authorities, and responsibilities of the Public Curator conferred or imposed upon him by the provisions of Part IIIA. of "The Public Curator Acts, 1915 to 1957."

33. (1) Where any stock is standing in the name of or is vested in a patient beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of a patient in trust for him, or as part of his property, and the committee dies intestate or himself becomes mentally ill, or is out of the jurisdiction of or not amenable to the process of the Court, or it is uncertain whether the committee is living or dead, or he fails to transfer the stock, and to receive and pay over the dividends or income thereof to a new committee, for the space of fourteen days after a request in writing for that purpose made by the Public Curator or a new committee, then the Court may order some fit person to transfer the stock to the name of the Public Curator or a new committee or otherwise, and also to receive and pay over the dividends or income thereof, or such sum or sums of money and in such manner as may be ordered by the Court.

(2) Where any stock is standing in the name of or vested in a person residing out of Queensland, the Court upon proof to its satisfaction that a declaration or order to the effect that such person is a mentally ill person according to the laws of the place where he is residing, and that his personal estate has been vested in a Curator or other person appointed for the management thereof according to the laws of that place, may order some fit person to make such transfer of the stock to the name of such Curator or other person appointed as aforesaid, or otherwise, and also to receive and pay over the dividends or income thereof as may be ordered by the Court.

Who shall be appointed to make transfer

(3) Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society or association in whose books the transfer is to be made.

Proceedings for protection of property of patients

34. If any real or personal property of a patient is wrongfully held, detained, converted, or injured, or if any sum of money is due and owing to such patient by any person (without limiting or otherwise affecting his right of proceeding under any other Act) the Public Curator may claim and recover possession of such property or damages for the conversion or injury thereof, or payment of the said sum by proceedings, instituted by way of originating summons, before a Judge who is hereby authorised and required, on proof to his satisfaction of the cause of the proceedings, to make an order requiring the person proceeded against to give up possession of such property or to pay reasonable damages, to be fixed by the order, for the conversion or injury thereof, or to pay the sum due, and, in default of compliance by such person, to order in and by the same or any subsequent order that he be committed to prison for any period not exceeding six months; or the Judge may direct an action to be brought in respect of the matter of the proceedings.

The Judge may make such order as to costs as he thinks fit, and every order under this section shall have the same effect and may be enforced in the same manner, as any judgment of the Court.

Committees other than the Public Curator

The Court may, on sufficient reason given, appoint committee other than Public Curator

35. (1) The Court shall not appoint any person other than the Public Curator as the committee of the estate of any person in pursuance of this Act unless it is proved to the satisfaction of the Court that there is some sufficient reason why such person should be so appointed in preference to the Public Curator.

(2) When any application is made to the Court to appoint any person other than the Public Curator as the committee of the estate of any person, notice of the application shall be given to the Public Curator by the person making the same.

Any such application shall be made to the Court within three months after the person the subject of the application has been first examined and found by a medical practitioner to be mentally ill and incapable of managing his estate, and during such period and until the appointment of a committee other than the Public Curator is made the Public Curator shall *ex officio* be the committee under this Act.

(3) The Public Curator shall be entitled to be heard on any such application, and the costs of the Public Curator (including the costs of obtaining such reports as the Public Curator deems necessary) shall be allowed to the Public Curator out of the estate of such person.

36. (1) When any person other than the Public Curator has been appointed as the committee of an estate under this Act, that person shall have in respect of the estate such of the powers conferred on the Public Curator by sections fourteen to twenty, both inclusive, and by sections twenty-four and twenty-five of this Schedule as the Court in the order appointing the committee, or in any subsequent order or orders, directs; and in the exercise of such powers he shall be subject to any orders that may be made in the matter by the Court.

Power of such committee

(2) On the application of the Public Curator or any relative of the patient, any such order may from time to time be varied or rescinded by the Court.

37. (1) No person other than the Public Curator shall be appointed as the committee of the estate of any person in pursuance of this Act until he has given to the Public Curator such security as the Court directs and approves for the due management of the estate.

Person so appointed to give security to Public Curator

(2) Such security may be a bond, with or without a surety or sureties, or such other security as the said court directs and approves.

(3) The Court may at any time, on the application of the Public Curator, require such committee to give to the Public Curator further or other security for the due management of the estate.

(4) The Court may at any time give leave to the Public Curator to enforce any such security, and the Public Curator shall thereupon proceed by action or otherwise to enforce the same accordingly. All moneys so received by the Public Curator shall be deemed part of the estate of which such person is or was the committee, and all costs and expenses so incurred by the Public Curator shall be paid out of the said estate.

The Public Curator may commence or institute proceedings against such committee for any breach of duty, and may apply to the Court *ex parte* for an injunction to restrain any such breach or any threatened breach of duty.

38. (1) It shall be the duty of every person, other than the Public Curator, who has been appointed the committee of the estate of any person in pursuance of this Act to render to the Public Curator, at such times and in such form as he shall prescribe, a statement showing the property comprised in the estate, and the manner in which that property has been managed and applied, and the condition of that property, and such other particulars relating to the said estate as may be prescribed or directed by the Public Curator.

Statement as to estate to be rendered to Public Curator

(2) Every such statement shall be verified by the statutory declaration of the committee, and, where the Public Curator so directs shall be supported by vouchers.

(3) If any committee fails or refuses to render any such statement verified as aforesaid, in the manner and at the times so prescribed, every member of such committee shall be liable to a penalty not exceeding three hundred pounds for every such offence.

(4) The Public Curator may cause any such statement or the accounts relating thereto to be examined and reported upon by any person he may appoint in that behalf.

Percentage of moneys in hands of committee to be paid to Public Curator

39. (1) When any person other than the Public Curator is appointed the committee of any estate in pursuance of this Act, there shall be payable out of that estate by the committee thereof to the Public Curator, at such times as the Public Curator prescribes, such percentage, not exceeding one pound for every hundred pounds, as may from time to time be prescribed, on all moneys collected by or coming under the control of the committee and forming part of the estate.

(2) All moneys so paid to the Public Curator shall form part of the Public Curator's account.

Special provisions relating to property of patients residing outside Queensland

Inter-pretation and application of ss. 40-42

40. (1) In sections forty to forty-two, both inclusive, of this Schedule—

- (a) "Reciprocating State" means any State, country or territory outside Queensland which has been declared under subsection (2) of this section to be a Reciprocating State for the purposes of the said section forty-one or section forty-two or both such sections;
- (b) "Persons who are mentally ill" (without derogating from the meaning of the expression elsewhere in this Act) include persons of unsound mind and lunatics.

Application of ss. 41 and 42 by Proclamation

(2) (a) If at any time the Governor in Council is satisfied that the laws in force in any State, country or territory outside Queensland are such as to enable powers to be exercised in that State, country or territory in cases of patients residing in Queensland substantially similar to the powers conferred by either section forty-one or forty-two, or both such sections, of this Schedule in cases of persons who are mentally ill and residing in that State, country or territory, the Governor in Council may by Proclamation declare that State, country or territory to be a Reciprocating State for the purposes of either the said section forty-one or the said section forty-two or both such sections, as the case may be, and thereupon that State, country or territory shall become a Reciprocating State within the meaning of subsection (1) of this section.

(b) The Governor in Council at any time may, by Proclamation, revoke or vary any Proclamation under this subsection.

(c) Notwithstanding the repeal of the repealed Acts, every Proclamation in force immediately prior to the commencement of this Act and made—

- (i) under subsection (1) of section one hundred and ten of the repealed Acts shall be deemed to be a Proclamation under this section for the purposes of section forty-one of this Schedule;
- (ii) under subsection (2) of section one hundred and ten of the repealed Acts shall be deemed to be a Proclamation made under this section for the purposes of section forty-two of this Schedule.

41. (1) If the officer charged by the laws of a Reciprocating State with the care, recovery, collection, preservation, and administration of the property and estates of persons who are mentally ill in that State—

- (a) certifies in writing under his hand and seal to the Public Curator that any person is mentally ill and residing in that State and that he is possessed of or entitled to or appears to be entitled to or interested in real or personal property in Queensland; and
- (b) by instrument in writing under this hand and seal authorises the Public Curator to collect, recover, manage, sell or otherwise dispose of, and administer such property or to make inquiry respecting such property,

the Public Curator shall have and may exercise over and in respect of such property the same powers of collection, recovery, management, sale, disposition, administration, and inquiry as he would have had and may have exercised over such property if such mentally ill person had been resident in Queensland and a patient; and the provisions of this Schedule apply in respect of such property accordingly.

(2) Where the Public Curator has, pursuant to any such authority as is referred to in paragraph (b) of subsection (1) of this section and in the exercise of the powers conferred upon him by that subsection, received any moneys or properties, the Public Curator may, after—

- (a) payment of all costs, charges and expenses incurred in the exercise of those powers pursuant to that authority; and
- (b) satisfying or providing for the following debts and claims of which he has notice, namely, debts of the patient named in such authority owing to persons resident in Queensland and the claims of persons so resident against that patient,

pay over or deliver the balance of such moneys or properties to the officer of the Reciprocating State who signed such authority or his successor in office, without seeing to the application thereof and without incurring any liability in respect of such payment over or delivery, and shall duly account to that officer or his successor for that balance.

Powers of
Public
Curator
as to
property
in
Queensland
of patients
in
Recipro-
cating
State

Order or declaration in lunacy in a Reciprocating State to be effective in Queensland on being resealed

42. (1) When any order or declaration made by a court of competent jurisdiction under the laws of any Reciprocating State in the exercise of its jurisdiction in lunacy is produced to and a copy thereof deposited with the Registrar of the Supreme Court of Queensland, such order or declaration shall, subject to the payment of the prescribed duties or fees (if any) be sealed with the seal of the Court and shall have the like force and effect and have the same operation, and the Public Curator and every guardian, committee, or receiver acting thereunder shall perform the same duties and be subject to the same liabilities in Queensland as if such order or declaration had been originally made by the Court :

Provided that a guardian, committee, or receiver other than the Public Curator appointed under any such order shall not have or exercise any power or authority thereunder after the same has been so sealed until his appointment has been confirmed by the Court, which confirmation may be granted upon such terms as the Court thinks fit, or may be refused.

Retrospective operation

(2) This section shall apply to such orders and declarations whether made before or after the commencement of this Act.

Saving

(3) This section shall not be construed as in derogation of the provisions of section eleven of this Schedule.

[Section 61
(3)]

FOURTH SCHEDULE

Subject Matters for Regulations

Officers administering this Act

1. Prescribing the functions, powers, duties, and privileges of all or any persons engaged in the administration of this Act.

Official visitors

2. Prescribing the functions, powers, and duties of official visitors including, but without limiting the generality of the foregoing, the inquiries to be made by official visitors upon their visits under this Act, the books and documents to be produced to them upon their visits, and providing for the assistance by official visitors in administering this Act and for their assistance to the Court, the Public Curator, the Director, and Tribunals with such object.

Tribunals

3. Regulating and controlling inquiries by and applications to and the proceedings of Tribunals and, without limiting the generality of the foregoing, prescribing the purposes for which, the times when, and the persons by whom, applications may be made to Tribunals; regulating and controlling and in such circumstances as prescribed prohibiting representation before Tribunals, providing for inquiries for the purpose of the reclassification of patients in hospitals and the reduction or alteration of their periods of detention under this Act upon such reclassification, and otherwise for achieving all or any of the objects for which Tribunals are constituted; for conferring on Tribunals and on any members (including the chairman) thereof

such ancillary powers as the Governor in Council thinks necessary for the purpose of the exercise of their functions under this Act; providing for the appointment of a clerk to each Tribunal and prescribing his functions and duties.

4. Providing for the administration and good government of all or any special hospitals and of any places administered by the Director, including the prescribing of the functions, powers, and duties of all officers (medical officers and others), nurses and employees in or about such hospitals and of all officers, nurses, and employees in respect of the treatment and control of patients in such hospitals.

5. Making provision for ensuring treatment of patients in special hospitals: without limiting the foregoing, prohibiting in any special hospital without the Director's consent in writing, such operations or medical or therapeutic treatments as may be specified, and making provision for the giving of that consent—

- (a) where the Director is satisfied upon the report of the medical superintendent that such operation or treatment is necessary or desirable for the safety or welfare of the patient or is a reasonable and proper type of operation or treatment to be performed upon or applied to the patient; and
- (b) in the case of leucotomy and any other operation or medical or therapeutic treatment in respect of which a Consultative Committee has been constituted as prescribed, the appropriate Consultative Committee has recommended the subjection of the patient to such operation or medical or therapeutic treatment:

Providing, in relation to all or any of the cases where the Director's consent is to be first obtained as aforesaid, for the giving of notices by the Director prior to such consent, and specifying the persons to whom such notices shall be given as well as the information to be contained therein; providing for the lodging with the Director of objections to the proposed operation or treatment and for the reference to and the inquiry and determination by any prescribed person or court of the matter; providing for the constitution of, and prescribing the functions, powers, and duties of Consultative Committees for the purpose of making recommendations to the Director relating to the subjection of patients to such prohibited operations and treatments; conferring powers and protection, subject as aforesaid, in relation to the subjection of patients in special hospitals to operations and medical or therapeutic treatments; providing for such matters as may be considered necessary or desirable to give effect to these objects.

6. Providing for and in relation to the visitation by private medical practitioners of in-patients in special hospitals and for and in relation to the nursing of such patients, at the patient's expense, by private nurses.

7. Providing charges for the treatment and care and control of patients with resources in relation to special hospitals.

Courts and prescribed persons

8. Providing for the purposes of this Act any matters considered necessary or desirable in relation to any prescribed appeals from decisions of stipendiary magistrates and in relation to applications or references to, and enquiries by, and the determinations by any court or prescribed person in relation to any prescribed matters, including, where considered necessary—

- (a) for the inquiry, hearing, and determination otherwise than in open court;
- (b) for the admission of evidence of such descriptions as may be specified notwithstanding anything to the contrary in any enactment or rule of law relating to the admissibility of evidence;
- (c) for the visiting and interviewing of patients in private by or under the directions of the court or prescribed person.

Production of patients before courts, &c.

9. Prescribing the circumstances wherein and the conditions subject to which a patient who is for the time being liable to be detained in a hospital under this Act may be brought before any court or tribunal or person as a party or witness to any proceeding or for examination.

Forms

10. Prescribing forms for the purposes of all or any of the provisions of this Act and such other forms as may be necessary or convenient for the administration of this Act; providing for the information required to be set forth in such forms or necessary to render all or any such forms effective for the purpose for which they are used; but so that when any forms are prescribed, forms to the like effect may be used and shall be sufficient; prescribing the manner in which any application, recommendation, report, order, notice, or other document under or for the purposes of this Act may be proved.

Records, &c.

11. Providing for the keeping, form and production for inspection and inspection of such books, records, registers, and other documents, and the furnishing of such returns, reports, and statistics as may be necessary or convenient for the purposes of all or any of the objects of this Act or the administration of this Act, including, but without limiting the foregoing in relation to in-patients and out-patients of all or any hospitals, and prescribing the persons responsible for the keeping, production, or furnishing of the same, or for any of these things.

Notices

12. Providing for the purposes for which notices shall or may be given under this Act, and providing for all or any matters in relation to all or any notices required or permitted to be given or served by this Act, including the means whereby all or any of such notices may be given or served, the persons to and by whom the same shall or, as the case requires, may be given or received; providing that in all or any of such cases the giving or service of such a notice by any of the prescribed means shall be deemed to be sufficient giving or service of the notice, and providing for the time when such giving or serving in all or any such cases, shall be deemed to have been effected.

13. Conferring powers of making a direction or order or other act of authority, whether of the same description or not, under this Act effective by means of a telegram or other speedy means. Direction, &c., by telegram

14. Regulating and controlling for the purposes of this Act the visitation of all or any patients in all or any hospitals, and permitting visitations (including making provision for and with respect to the granting of permissions) in cases where visitations are prohibited by or under this Act. Visitation of patients

15. Prescribing the rules to be observed in making and signing and amending medical certificates under and for the purposes of all or any of the provisions of this Act or for making any examination for the purposes of making any such medical recommendation; making provisions for and in relation to the certificates to be given by medical practitioners who find patients mentally ill for the purposes of this Act, empowering in such circumstances as may be prescribed the Director or any medical superintendent or any hospital administrators to require any medical certificate or recommendation to be amended where the same is in any respect incorrect or deficient and providing as to the effectiveness of any certificate or recommendation as so amended, and providing for any matters in relation thereto; providing for the payment of prescribed fees for all or any examinations and certificates or recommendations authorised or, as the case may be, required under this Act by any stipendiary magistrate, member of the Police Force, or other prescribed person, or by any court. Medical recommendations and medical findings

16. Providing offences against this Act in relation to patients, including in-patients and out-patients of all or any hospitals as well as in relation to other patients, and prescribing the penalties for those offences. Offences

17. Prescribing fees to be paid in respect of any matters relating to the administration of this Act by the Director and providing for exemptions from the payment of such fees; providing for the remuneration, whether by way of allowances or otherwise, of the chairman and members of Tribunals, and of official visitors, and of other prescribed officers. Fees and remuneration

18. Providing for investigations as to the capacity of any patient to manage his estate or otherwise for the purposes of this Act. Investigations as to capacity of patients

19. Prescribing the circumstances when appointments may be made of an acting nearest relative and an acting relative (or either) for the purposes of this Act and providing for the manner in which such appointments may be made and enabling an acting nearest relative or relative respectively to have, in relation to any patient, all the functions, powers, and duties or any of these, of the nearest relative or as the case may be, relative, for the purposes of all or any of the provisions of this Act. Acting nearest relative

- Traffic** **20. Regulating, controlling, and prohibiting traffic of all or any descriptions in or upon all or any special hospital grounds.**
- Reclassification of patients in hospitals** **21. Providing for and with respect to the reclassification, according to their mental condition or other medical considerations, of patients who are for the time being detained in hospitals and providing for the reduction or extension or other alteration of their periods of detention under this Act upon such reclassification.**
- Removal of patients, &c.** **22. Making provision for and in relation to the transfer, removal, discharge, and conveyance of patients under and for the purposes of this Act, including, but without limiting the generality thereof, prescribing procedures to be followed in relation to all or any of these matters.**