

HEALTH (No. 2).

12° and 13° GEO. VI., No. LXX.

No. 70 of 1948.

AN ACT to amend the Health Act, 1911-1944.

[Assented to 21st January, 1949.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Health Act Amendment Act (No. 2), 1948*, and shall be read as one with the Health Act, 1911-1948 (Act No. 34 of 1911, as reprinted pursuant to the Amendments Incorporation Act, 1938, with amendments to and including Act No. 32 of 1937, incorporated in Volume I. of the Reprinted Acts of the Parliament of Western Australia, 1939, and further amended by Acts Nos. 34 of 1942 and 21 of 1944), hereinafter referred to as the principal Act.

2. The principal Act, as amended by this Act, may be cited as the Health Act, 1911-1948.

Citation of
the principal
Act as
amended by
this Act.

3. Section two of the principal Act is amended by inserting before the words "Part X." the following:— Amendment
of s. 2.

PART IXA.—TUBERCULOSIS, ss. 268A-268G.

4. The principal Act is amended by adding after the last word in section two hundred and sixty-eight the following:— Sections
268A-268G
added.

PART IXA.—TUBERCULOSIS.

268A. In this Part, unless the context otherwise requires— S. 268A
added.
Definitions.

"approved laboratory" means a laboratory established and maintained with the approval of the Governor pursuant to the provisions of this Part;

"approved medical officer" means a medical officer, approved in writing by the Commissioner or a person delegated by the Commissioner to approve on his behalf;

"communicable tuberculosis" means all forms of pulmonary tuberculosis in which the mycobacterium tuberculosis (tubercle bacillus) has been found in the sputum as the result of tests made in an approved laboratory;

"declared patient" means a person who is adjudged as such and is the subject of an order made by a magistrate pursuant to the provisions of this Part relating to entry and remaining in an institution;

"institution" means a hospital or sanatorium established and maintained pursuant to the provisions of this Part;

"magistrate" means a stipendiary, police or resident magistrate;

"tuberculosis" means all forms of tuberculosis;

"voluntary patient" means a person who is a patient in an institution otherwise than as a declared patient.

S. 268B
added.
Establish-
ment and
maintenance
of Tubercu-
losis
Control
Branch,
hospitals,
sanatoria
and clinics.

268B. (1) For the purpose of ascertaining the incidence of tuberculosis in the State and to prevent, treat and otherwise control it, the Governor may—

(a) establish and maintain—

(i) a Tuberculosis Control Branch of the Public Health Department;

(ii) hospitals and sanatoria for the treatment and care of cases of tuberculosis;

(b) hire, lease or purchase—

(i) buildings and premises for the establishment and maintenance of clinics for the diagnosis, treatment and after-care of cases of tuberculosis;

(ii) such equipment as is deemed expedient for the efficient and adequate operation of the clinics;

(c) engage and discharge such medical, nursing, technical and other staff as is expedient to conduct those clinics;

(d) maintain the buildings and equipment;

(e) approve of the establishment and maintenance of laboratories.

(2) From and after the coming into operation of this section the “Wooroloo Sanatorium”, a hospital established and maintained at Wooroloo for tuberculosis patients under the provisions of the Hospitals Act, 1927, shall, as from the commencement of this section, be regarded as established and maintained by the Governor pursuant to the provisions of this section.

S. 268C
added.
Notification
by medical
practitioner
obligatory.

268C. A medical practitioner attending any person shall on the day on which he becomes aware that there is reasonable evidence that the person is suffering from tuberculosis, notify the Commissioner and the local authority for the district in which the person resides on the form prescribed.

For the purpose of this section the expression “reasonable evidence” means radiological and bacteriological evidence or either and, in addition to both or either, clinical history and findings.

268D. When an approved medical officer appointed for a district suspects that any person resident in the district is suffering from tuberculosis, he may require the person to submit to such X-ray examination for tuberculosis as the Commissioner shall direct.

S. 268D
added.
X-ray exami-
nation for
tuberculosis.

268E. (1) (a) When, in the opinion of the Commissioner or an approved medical officer—

S. 268E
added.
Proceedings
on complaint.

- (i) a person is suffering from communicable tuberculosis and does not conduct himself so as to preclude infection by him of other persons, whether members of his family or not with tuberculosis; or
- (ii) a person is suffering from communicable tuberculosis and, having regard to his condition, consumes to excess, intoxicating liquor or intoxicating or narcotic drugs and does not conduct himself so as to preclude infection by him of other persons, whether members of his family or not with tuberculosis;

and in either case is not a voluntary patient he shall be directed in writing by the Commissioner or the approved medical officer to enter an institution as a patient for treatment.

(b) When a voluntary patient to whom the provisions of either subparagraph (i) or (ii) of the last preceding paragraph apply—

- (i) conducts himself in such a manner as is detrimental to the condition of other patients in the institution; or

(ii) prepares or attempts to leave the institution the medical superintendent may, by virtue of this enactment, restrain him in the institution pending the completion of the proceedings hereinafter referred to.

(2) When—

Grounds of
complaint.

- (a) a person referred to in subparagraph (i) or (ii) of paragraph (a) of the last preceding subsection does not enter an institution as directed; or

- (b) the provisions of subparagraph (i) or (ii) of paragraph (b) of the last preceding subsection apply to any person—

a complaint as to the circumstances applicable to that person may, with the approval of the Commissioner or an approved medical officer, be made against the person.

(3) A complaint so made shall be heard and determined by a magistrate.

(4) Subject to the provisions of this section, the provisions of the Justices Act, 1902-1942, relating to making of a complaint and proceedings in a case of a simple offence shall apply to the making of and the hearing and determination of the complaint under this section:

Provided that the magistrate may exclude all or any persons from the hearing and the publication of all or any part of the proceedings, when in his opinion, having regard to the purpose of this Part, the particular circumstances of any case justify that course.

(5) When the subject matter of the complaint is established to his satisfaction, the magistrate shall adjudge the person a declared patient and order that he enter an institution forthwith or at such time as shall be specified in the order and remain in an institution for such period not exceeding twelve months, as, having regard to the purposes of this Act, he shall consider fit, and shall specify in the order.

(6) In any proceedings on a complaint made under the provisions of this section the production of a certificate signed or purporting to have been signed—

- (a) by the Commissioner or an approved medical officer certifying—

(i) that he is of opinion that circumstances referred to in subparagraph (i) or (ii) of paragraph (a) of subsection (1) of this section apply to a person;

(ii) that he has directed a person to enter an institution for treatment;

Complaint to be heard and determined by a magistrate. Cf. Act No. 11 of 1902 with amendments to and including Act No. 14 of 1942.

Magistrate may direct hearing in camera.

Order as to entering and remaining in institution.

Certificates to be prima facie evidence in certain cases.

- (iii) that the person has not complied with the direction;
- (iv) that he approves of the making of a complaint against the person;
- (b) signed or purporting to have been signed by the director of a laboratory established and maintained with the approval of the Governor pursuant to the provisions of this Part certifying—
 - (i) that he is the director of such a laboratory;
 - (ii) that mycobacterium tuberculosis (tubercle bacillus) has been found in the sputum of a person as the result of tests made in the laboratory—

shall be *prima facie* evidence of the matters so certified and of the status of the person signing or purporting to have signed the certificate without further proof of his appointment or signature.

(7) If contrary to the terms of an order made by a magistrate pursuant to the provisions of this section—

a declared patient does not enter an institution—
or

having entered an institution does not remain therein while the order is operative—

- (a) he commits an offence against this Act; and
- (b) without prejudice to any liability to punishment in respect of the offence, the magistrate who made the order or some other magistrate or justice of the peace may issue a warrant directed to all officers and constables of the Police Force of the State to apprehend the declared patient and convey him to an institution and to deliver him with the warrant to the medical superintendent of the institution

Cf. s. 159 and form 61 in the Fourth Schedule of Act No. 11 of 1902 with amendments to and including Act No. 14 of 1942.

and directing the medical superintendent to receive him into his custody at the institution and there to keep him during the operation of the order and effect shall be given to the warrant.

Application
for extension
of term of
order.

(8) (a) While any order made by a magistrate pursuant to the provisions of this Part, that a declared patient shall remain in an institution for any period is operative, an application may be made in manner prescribed by the Commissioner or by any person with the approval of the Commissioner to a magistrate for an extension of that period.

(b) The provisions of this section relating to the hearing and determination of a complaint and any order made thereon shall, with appropriate adaptations, apply in respect of the hearing and determination of an application made pursuant to the provisions of this subsection and enforcement of any order made thereon.

(c) The magistrate may dismiss the application, or if, having regard to the purposes of this Part, the magistrate decides it is necessary, he may order the period to be extended for such further term as he shall think fit and adjudge that the declared patient shall continue to be such during the further term.

(d) The provisions of this subsection shall apply and may be exercised in respect of that or any further term, from time to time.

S. 268F
added.

268F. If, having regard to the objects of this Part, the Commissioner is of opinion that it is desirable, he may order that—

- (a) a declared patient be transferred from one institution to another;
- (b) the duration of any order made by a magistrate pursuant to the provisions of this Part that a declared patient shall remain in an institution, shall be terminated and that the patient shall be discharged from the operation of the order—

and effect shall be given to the Commissioner's order accordingly.

268G. The Governor may make any regulations, not inconsistent with the provisions of this Part, which may be necessary or convenient for carrying this Part into operation or for facilitating the operation of this Part and, without in any way limiting or restricting the generality of the foregoing provisions of this section may make regulations for—

S. 268G
added.
Regulations.

- (a) the administration of institutions and clinics established and maintained under the provisions of this Part or already established prior to the coming into operation of this Part and maintained under those provisions; Administra-
tion.
- (b) the discipline and good conduct and the maintenance of discipline and good conduct of patients, members of the staff, visitors and all persons in all such institutions and clinics; Discipline.
- (c) the prohibition of the possession and use of any intoxicating liquor and intoxicating and narcotic drug by any patient, in any such institution or clinic; Prohibition
of use of
intoxicants
and narcotics.
- (d) prohibiting any visitor from bringing into any such institution or clinic, any intoxicating liquor or intoxicating or narcotic drug; Prohibition
of introduc-
tion of
intoxicants
and narcotics
into
institutions.
- (e) enabling the medical superintendent of any such institution or clinic or any person authorised in writing by the medical superintendent, either generally or in any specific case to search the persons and possessions of any patient or visitor to a patient therein and to seize and send to the Treasurer any intoxicating liquor intoxicating drug and narcotic drug found as a result of the search; Search for
and seizure
of intoxicants
and narcotics.
- (f) enabling the Treasurer to destroy, sell or otherwise dispose of any intoxicating liquor or intoxicating narcotic drug seized under the provisions of any such regulation as in the circumstances he deems fit. Disposal of
intoxicants
and narcotics
seized.

Protection
of patients.

- (g) enabling the medical superintendent of any institution or clinic or any person authorised in writing by the medical superintendent either generally or in any specific case to control any declared patient whose control is detrimental to his own condition or that of any other of the patients therein by such means including personal restraint and detention as is most conducive to the welfare of the declared patient concerned and any of the other patients but so that no greater force is used than is reasonably necessary in the circumstances;
- (h) enabling the treatment in a suitable hospital within any prison of a declared patient who cannot be restrained conveniently in an institution or a patient who is serving a sentence of imprisonment;

Penalties

- (i) prescribing a penalty not exceeding twenty pounds for acting in contravention of or failing to comply with any of the provisions of any regulation made under the provisions of this section:

Provided that a penalty not exceeding fifty pounds or six months' imprisonment, or both, may be prescribed for acting in contravention of or failing to comply with any of the provisions of any regulation made under the provisions of paragraph (d) of this section.
