

WESTERN AUSTRALIA.



ANNO QUINTO
GEORGI QUINTI REGIS,
LV.

No. 28 of 1915.

AN ACT to amend the Lunacy Act, 1903, and for other relative purposes.

[Assented to 2nd March, 1915.]

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:—

1. This Act may be cited as the *Lunacy Act Amendment Act*, 1914, and shall be read and construed as one Act with the Lunacy Act, 1903 (hereinafter called the principal Act). Short title.

2. Section five of the principal Act is hereby repealed, and the following section is substituted therefor, that is to say:— Substitution of new section for Section 5.

5. (1) Upon complaint on oath before a Justice that a person is insane and— Arrest of insane persons.

- (a) is without sufficient means of support; or
- (b) is wandering at large; or
- (c) has been discovered under circumstances that denote a purpose of committing some offence against the law; or
- (d) is not under proper care and control,

such justice may by warrant require a police officer to arrest such person and bring him before two justices.

(2.) If any police officer shall discover any person whom he shall, on reasonable grounds, believe to be insane—

(a.) wandering at large; or

(b.) without apparent sufficient means of support; or

(c.) under circumstances that denote a purpose of committing some offence against the law; or

(d.) appearing to be not under proper care and control,

he may arrest such person without warrant and take him before two justices.

Amendment of
Section 6.

3. Section six of the principal Act is hereby amended by the substitution of the word “complaint” for the word “information” wherever that word occurs therein, and of the expression “make complaint” for the expression “give information,” and by the insertion of the words “or whom he on reasonable grounds believes” after the word “deemed.”

Amendment of
Section 7.

4. The following paragraph is hereby added to Sub-section one of Section seven of the principal Act, that is to say—

It shall not be necessary that the medical practitioners shall attend personally before the justices unless they are specially ordered by the justices so to do, or unless so required by or on behalf of the alleged insane person, and the justices shall be deemed to have called such medical practitioners to their assistance, within the meaning of this section, if they have the certificates of such practitioners before them.

Insertion of new
sections after
Section 16.

5. The following sections are hereby inserted in the principal Act after Section sixteen thereof, that is to say—

Power of Court to
amend orders, re-
quests, and other
documents.

16A. (1) Whenever on any application to the Supreme Court having for its direct or indirect object the release of any person confined in a hospital for the insane or licensed house, the validity or effect of any warrant, order, request, certificate, or document under which such person is held or which is relied on as justifying or purports to authorise his detention is questioned, the Court may make any such amendments therein as shall be in accordance with the facts existing when such order, request, certificate, or document was made or signed and as may be necessary to give due validity thereto for the purposes of this Act, and the document so amended shall have effect and be deemed to have had effect as if granted, made, or signed in the amended form.

Effect to be given
to orders and other
documents as if
proper amendments
made therein.

(2.) Whenever an action is brought in any Court against any person for the detention of any person in a hospital for the insane, licensed house, or reception house, all such amendments shall be deemed to have been made in any warrant, order, request, certificate, or other document relied upon as justifying or purporting to justify the detention which might have been

made therein if the validity or effect of such document had been questioned in such a proceeding as is mentioned in the last preceding subsection, and such document may be pleaded and relied on as a defence in the action accordingly.

(3.) Whenever any application is made to the Supreme Court having for its direct or indirect object the release of any person confined in a hospital for the insane or licensed house, and the Court considers that apart from this section the application should be granted, but is satisfied that such person is in fact insane and that it is desirable that he be kept under restraint either for his own protection or benefit or the protection of any other person or the public, then the Court may, instead of granting his application, make such order for his restraint and proper care and control as the Court shall deem proper, and may (if it appears to the Court to be right to validate any detention prior to the date of the order) declare as from what date such order shall have effect, and the order shall have effect accordingly.

Court may make order for restraint of person actually insane who applies for release.

(4.) "Supreme Court" in this section includes any judge thereof.

16B Whenever it appears to any Court, Judge, or magistrate that any order, warrant, request, certificate, or other document issued, signed, or given under this Act has been lost or mislaid, the Court, Judge, or magistrate may order that any document purporting to be a copy of such document or to be a certificate of the contents thereof, and verified by such evidence as shall appear sufficient to such Court, Judge, or magistrate, shall be received and be available in lieu of the original, in any proceeding before such Judge, Court, or magistrate.

Lost documents.

5. All orders heretofore made or signed by any justice or justices authorising or purporting to authorise the reception, detention, or treatment of any person in any hospital for the insane or licensed house, on the ground of his insanity, shall be deemed to be and to have been as from the making thereof valid and effectual in law notwithstanding that there is not mentioned therein any ground for such reception, detention, or treatment, other than the insanity of such person, or that there is or was any formal error, defect, or omission therein, or in any medical certificate or other document mentioned therein or connected therewith, or in the proceedings in which the order was made.

Validation of orders made under principal Act.

6. Section fifty-four of the principal Act is hereby amended by the substitution of the word "nine" for the word "ten" wherever the word occurs therein.

Amendment of Section 54.

Amendment of
Section 94.

7. Section ninety-four of the principal Act is hereby amended by the substitution of the word "three" for the word "two" in the third line, and by inserting after the word "visitors" the words "one of whom shall be a female."

Addition of new
section.

8. The following new section is hereby inserted in the principal Act after Section One hundred and eighty-nine, that is to say:—

Application of
Justices Act, 1902.

189A. For the purpose of applying the provisions of the Justices Act, 1902, to acts, matters, things, and proceedings under this Act, every act, matter, or thing (not being an offence) in respect of which a complaint can be made under this Act shall be deemed a breach of duty.

Amendments
retrospective.

9. The amendments made by this Act shall have effect as from the commencement of the principal Act, provided that no order, certificate, warrant, document, judgment, proceeding, act, matter, or thing shall be invalidated by the passing of this Act.