

WESTERN AUSTRALIA.



ANNO TERTIO

GEORGII QUINTI REGIS.

XXVIII.

\*\*\*\*\*

No. 47 of 1912.

AN ACT to provide for the care, control, and treatment of Inebriates.

[Assented to 24th December, 1912.]

**B**E 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 *Inebriates Act*, 1912.

Short title.

2. In this Act—

“Inebriate” means a person who habitually uses intoxicating liquor or intoxicating or narcotic drugs to excess;

“Inspector General” means the Inspector General of institutions for inebriates;

“Institution” means a place established by the Government for the reception, control, and treatment of inebriates;

“Judge” means a Judge of the Supreme Court;

“Justice” means justice of the peace;

“Magistrate” means a resident or police magistrate;

“Minister” means the Minister of the Crown charged for the time being with the administration of this Act;

Interpretation.

N.S.W., 1900, No. 32, s. 16.

N.S.W., 1900, No. 2, s. 11.

S.A., No. 954, s. 3.

Institutions for inebriates.  
See N.S.W., 1909, No. 2, s. 4.  
S.A., No. 954, s. 22.

3. (1.) The Governor may establish institutions for the reception, care, control, and treatment of inebriates.

(2.) The establishment of any such institution, and a description of the land included within the limits thereof, shall be published in the *Government Gazette*.

(3.) An institution may, if the Governor thinks fit, be established by setting apart some portion of an existing hospital of whatever kind, for the purpose of this Act.

Inspector General and officers.  
Cf., N.S.W., 1909, No. 2, s. 4.

4. The Governor may appoint—

(a.) An Inspector General of institutions for inebriates; and

(b.) For every institution a superintendent, and such other officers as the Governor may deem necessary.

Control of institutions.  
Cf., N.S.W., 1909, No. 2, s. 4.

5. Institutions shall, subject to this Act, be under the care, direction, and control of the Inspector General.

Power of Judge or Magistrate to make an order as to control of inebriate.

6. (1.) It shall be lawful for a Judge or a Magistrate, on the application of—

Cf., N.S.W., 1900, No. 32, s. 1.

(a.) an inebriate, or any person authorised in writing in that behalf by an inebriate; or

N.S.W., 1909, No. 2, s. 2.

(b.) the husband, or wife, or a parent, or a brother, sister, son, or daughter of full age, or a partner in business of an inebriate; or

S.A., No. 954, ss. 4, 5, 6, and 7.

(c.) a member of the police force of or above the rank of sub-inspector acting on the request of a duly qualified medical practitioner in professional attendance on the inebriate, or on the request of a relative of the inebriate, or at the instance of a justice,

and on proof to the satisfaction of the Judge or Magistrate, that the person in respect of whom the application is made is an inebriate, to order that the inebriate be placed in an institution for such period not exceeding twelve months, as may be mentioned in the order:

But subject as hereinafter provided no such order shall be made except—

(i.) on production of the certificate of a legally qualified medical practitioner that in his opinion the person in respect of whom the application is made is an inebriate, together with corroborative evidence by some other person or persons; and

(ii.) on personal inspection of the inebriate by the Judge or Magistrate, or by some person appointed by him in that behalf. Provided that the Judge or Magistrate may, in his discretion, dispense with the certificate and corroborative evidence required under paragraph (i) of this subsection.

(2.) Every medical practitioner who signs any certificate under or for the purposes of this Act shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is an inebriate, and shall distinguish

in such certificate facts observed by himself from facts communicated to him by others, and no such order shall be made upon any certificate which purports to be founded only upon facts communicated by others.

(3.) The inebriate shall be afforded an opportunity of being heard in objection; and the Judge or Magistrate may direct that the inebriate shall be brought before him.

(4.) On the order of a Judge or Magistrate, any period mentioned in an order made under subsection one of this section may from time to time be extended for further periods not exceeding twelve months each. The inebriate shall be afforded an opportunity of being heard in objection to any such order.

(5.) The hearing of any application under this section shall be in private:

Provided that the Judge or Magistrate may, in his discretion, at the request of the alleged inebriate, direct the hearing to be in open court.

7. (1.) Where a person is convicted summarily or on indictment of an offence, and drunkenness is an element, or was a contributing cause of such offence, and on inquiry it appears that the offender is an inebriate, the Court may, in its discretion, order the offender to be placed, for a period of not exceeding twelve months, in an institution established for the reception of convicted inebriates:

Convicted  
inebriates.  
Cf., N.S.W., 1909,  
No. 2, s. 5.

Provided that such order shall only be made on the production of such certificate and on such evidence and inspection as in the case of an order made under section *six*.

(2.) On the order of a Judge such period may from time to time be extended for further periods not exceeding twelve months each.

8. (1.) Any person arrested for drunkenness and visibly suffering from the effects thereof shall be kept under supervision, and supplied with adequate warmth and nourishment, and any necessary medical attendance.

Treatment of  
persons arrested  
for drunkenness.

(2.) If any such person arrested for drunkenness is convicted for such offence and sentenced to imprisonment, it shall be without hard labour.

(3.) If there is an institution to which such person can be conveniently committed, he shall not be committed to a prison, but shall be committed to the institution, and in such case he may be lawfully taken to and detained in the institution for the term of his sentence, and for the purposes of such detention shall be deemed an inebriate:

Provided that any such person shall during his detention be kept in some portion of the Institution set apart for the reception of such persons.

(4.) If such person is committed to a prison or police gaol, he shall be kept under supervision, and supplied with adequate warmth and nourishment, and any necessary medical attendance.

(5.) If any such person is, in the opinion of the Court, an inebriate, he may be remanded to be dealt with under the provisions of section *six*.

Directions may be given and orders varied.

N.S.W., 1900, No. 32, s. 6.  
S.A., No. 954, s. 11.  
N.S.W., 1900, No. 32, s. 7.  
S.A., No. 954, s. 12.

9. (1.) The Judge or Magistrate making an order with respect to an inebriate may give such directions as he thinks fit as to the control of the inebriate, and may vary, renew, or rescind any order or direction made by him.

(2.) The order shall be a sufficient authority for the carrying out by any person of any direction therein contained.

Judge or Magistrate may make order as to property and treatment of inebriate.  
N.S.W., 1900, No. 32, s. 4.  
S.A., No. 954, s. 9.

10. (1.) The Judge or Magistrate making an order in respect of an inebriate may, in the same or any subsequent order, direct that the expense of the care, charge, and maintenance of the inebriate be paid by him or out of any of his property, and may fix the amounts to be so paid.

(2.) The expenses so directed to be paid may be recovered in any court of competent jurisdiction at the suit of the Minister.

A Judge may make orders as to property of inebriate who is incapable.  
N.S.W., 1900, No. 32, s. 5.  
S.A., No. 954, s. 10.

11. (1.) Where it is proved to the satisfaction of a Judge that any inebriate the subject of an order under this Act is incapable of managing his affairs, the Judge may make all proper orders for rendering the property and income of the inebriate available for the payment of his debts and for the maintenance and benefit of himself and his family; and may make orders for the care and management of his property; and may, if necessary, appoint any person, either with or without security, to undertake the care and management of his property under the order and direction of the Court.

(2.) The person so appointed shall, subject to the said orders and directions and to the rules of Court, have the same powers and be subject to the same obligations and control as a committee of the estate of an insane person, and the powers and provisions contained in the Lunacy Act, 1903, relating to the management and administration of the estates of insane persons shall apply to the estates of such inebriates.

Release on license.  
N.S.W., 1909, No. 2, s. 5.

12. (1.) The Governor may release on license any person detained in an institution.

(2.) The conditions of the license shall be that the licensee shall for a period therein specified, not exceeding twelve months, be of good behaviour, and abstain from taking or using any intoxicating liquor, or intoxicating or narcotic drugs.

(3.) Any such license may be revoked by the Governor at his discretion, or by a justice, on proof in a summary way before him that the licensee has been guilty of a breach of any condition of the license.

(4.) Where a license is revoked as aforesaid, the person released on license may be, without any further or other authority than this Act, be arrested and returned to the institution, and may be detained there during the remainder of the period for which he was placed in the institution.

13. A Judge of the Supreme Court may order that any person detained in an institution be released on such conditions (if any) as he may impose.

Release.  
N.S.W., 1909, No. 2, s. 5.

14. Any person who supplies an inebriate, being the inmate of an institution and the subject of an order under this Act, with intoxicating liquor, or any intoxicating or narcotic drug (except in the course of treatment in an institution) shall be liable to a penalty not exceeding twenty pounds.

Penalty for supplying inebriate with liquor.  
Cf., N.S.W., 1900, No. 32, s. 11.

15. Whosoever without lawful authority—

(a.) is found within the boundaries of an institution; or

(b.) in any manner communicates or attempts to communicate with an inebriate therein,

Penalty for interfering with institutions.  
N.S.W., 1909, No. 2, s. 4.

shall be liable to a penalty not exceeding twenty pounds, or to imprisonment for any term not exceeding six months.

16. Any inebriate who escapes from an institution in which he has been placed may, without any further or other authority than this Act, be arrested and returned to his former custody under the order made.

Escape.  
N.S.W., No. 1900 No. 32, s. 9.

17. (1.) The Minister may direct the removal of any inebriate from any one institution to another institution.

Removal of inebriates from institutions.  
N.S.W., 1909, No. 2, s. 10.

(2.) Every such order shall be in duplicate, and one copy shall be delivered to the superintendent of the institution from which the inebriate is ordered to be removed, and the other shall be delivered to the superintendent of the institution into which the inebriate is ordered to be removed; and such order for removal shall be a sufficient authority for the removal of such inebriate, and also for his reception into the institution into which he is ordered to be removed and for his detention therein.

(3.) A copy of the order or other proper authority with which such inebriate was received into the institution from which he is removed, together with an abstract of his treatment and progress, certified by the superintendent of such institution, shall be delivered with one copy of the said order of removal to the superintendent of the institution to which such inebriate is removed.

Proceedings for  
acts done in carry-  
ing out provisions  
of Act.

N.S.W., 1909, No.  
2, s. 10.

18. (1.) No suit or action shall lie against any person for or on account of any act, matter, or thing done, or ordered, or directed to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, if that person has acted in good faith and with reasonable care.

(2.) No such suit or action as aforesaid shall be maintainable unless it is commenced within three months after the alleged cause of action, or, in the case of a suit or action by a person detained in an institution in pursuance of this Act, within three months or, by special leave of the Court, within six months after his discharge from such institution.

(3.) Proceedings in such suit or action as aforesaid may, on summary application to the Supreme Court, be stayed upon such terms as to costs or otherwise as the Court may think fit, unless the Court is satisfied that there is reasonable ground for alleging want of good faith or reasonable care.

Regulations.  
Cf., N.S.W., 1900  
No. 32, s. 14.

19. (1.) The Governor may make regulations—

- (a.) for the management and inspection of institutions, and providing for the proper and suitable employment of persons detained in such institutions;
- (b.) for determining the fees payable by inebriates placed in any institution;
- (c.) for the control and discipline of inebriates and the discipline of officers and attendants;
- (d.) providing for the release of inebriates from institutions on license, and for the retaking of inebriates who break the conditions of any such license, and for returning them to such institutions; and
- (e.) for carrying out the provisions of this Act;

and may, by such regulations, impose any penalty not exceeding fifty pounds for any breach of the same.

(2.) All such regulations on being published in the *Government Gazette* shall have the force of law, and shall be laid before both Houses of Parliament.

Repeal.

20. Part IV. of the Lunacy Act, 1903, is hereby repealed.