

**LUNACY.**

11° GEO. V., No. XLII.

No. 42 of 1920.

**AN ACT to amend the Lunacy Act, 1903.**

[Assented to 11th January, 1921.]

**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:—

Short title.

1. This Act may be cited as the *Lunacy Act Amendment Act*, 1920.

Amendment of  
Section 4.

2. Section four of the Lunacy Act, 1903 (hereinafter referred to as the principal Act) is hereby amended, by the insertion of the following definitions:—

“Board of Visitors” or “Board” means a board of visitors constituted under this Act;

“Institution” means any hospital for the insane, hospital for the criminal insane, licensed house, reception house, or other place where insane patients are detained;

“Medical Officer” includes the medical practitioner resident in or visiting any licensed house pursuant to the requisitions of this Act.

3. Section sixty-three of the principal Act is hereby amended, by the addition of a paragraph, as follows:— Amendment of Section 63.

One person may be appointed both medical officer and superintendent of any such reception house.

4. Section sixty-eight of the principal Act is hereby repealed. Repeal of Section 68.

5. Section seventy of the principal Act is hereby amended, by the addition of a paragraph, as follows:— Amendment of Section 70.

The offices of superintendent and medical officer may be held by one person.

6. Subsection one of section seventy-five of the principal Act is hereby amended by the excision of all words after the word "officer," in the seventh line thereof, and the substitution of the following words, that is to say:—"or the Inspector General or a majority (which shall include a medical practitioner) of the board of visitors to be of sound mind, whereupon the Minister shall order his removal to the prison from whence he came, in order to be tried for such offence." Amendment of Section 75.

7. Sections ninety-four and ninety-five of the principal Act are hereby repealed, and the following sections are substituted therefor, that is to say:— Substitution of new section for Sections 94 and 95.

94. (1.) There shall be a board of visitors for every institution. Board of Visitors.

(2.) Such board shall consist of five members appointed by the Governor. One of such members shall be a legal practitioner in actual practice, two shall be medical practitioners, the remaining two members shall belong neither to the legal nor to the medical profession, and one of them shall be a woman.

(3.) A member shall hold office for three years and no longer, but he may within that period resign or be removed from office by the Governor. He shall be deemed to have vacated his position if he becomes incapable of discharging the duties of his office. A person who has been a member shall, if capable of acting, be eligible for re-appointment.

(4.) The members for the time being of any board may act notwithstanding any vacancy in their body.

(5.) There shall be a chairman, who shall be a member appointed by the board, of every board, and if any chair-

man dies or declines or becomes incapable to act as chairman or ceases to be a member of the board, then the board may appoint some other member to be chairman. If the chairman is absent from any meeting, the majority of the members present at the meeting may elect a chairman for the meeting.

(6.) Meetings of a board may be summoned by the chairman or any three members. Three shall form a quorum at any meeting, and subject to this Act questions shall be decided by a majority of votes. The chairman of a meeting shall have a vote, and in the event of equality of votes he shall have a casting vote.

(7.) One board may be appointed for two or more institutions, and any person may be a member of two or more boards.

(8.) Members of a board shall receive, out of moneys appropriated by Parliament, such fees as may be prescribed by regulation.

(9.) No person who is directly or indirectly interested in any institution shall be or act as a member of the board thereof, or sign any certificate for the admission of any person thereinto, and no medical practitioner shall professionally attend on any patient in any licensed house if he is a member of the board thereof.

(10.) A board may make regulations for prescribing the procedure and method to be followed and observed in the transaction and performance of the board's business and duties.

(11.) No person in the service of the Crown or of any department or agency of the Crown shall be eligible for appointment as a member of a board.

**Powers and  
duties of  
Boards.**

95. (1.) The board of any institution or a majority of such board shall, once at least in every month, and also at such other times as the Minister may direct—

- (a) visit such institution with or without any previous notice and at such hours of the day or night and for such length of time as they may think fit;
- (b) inspect every part of such institution and every outhouse thereof whether communicating therewith or detached therefrom;

- (c) see every patient confined therein so as to give everyone, so far as possible, full opportunity of complaint;
- (d) inspect and consider, so far as may be deemed necessary, the orders, requests, and certificates relating to the patients;
- (e) make such inquiries, examinations, and inspections as are set forth in section eighty-seven of this Act;
- (f) enter in the Inspector General's book a minute of the then condition of the institution and such other remarks as they may deem proper.
- (g) give instructions to the Inspector General as to the management of the institution, otherwise than in regard to medical treatment of patients. but subject to regulations.

(2.) After every visit the board shall transmit to the Minister a statement of the number of patients admitted or discharged since the date of the last visitation, together with a copy of the entry made by them in the Inspector General's book, and any other information they may consider necessary.

(3.) A board may at any time make a special investigation of any case, and visit and report to the Minister upon the mental and bodily condition and treatment of any lunatic or alleged lunatic in any such institution as aforesaid.

(4.) The board shall from time to time make reports to the Minister upon the management of the institution, and the observance of the regulation concerning the welfare and conduct of patients, and may make recommendations with regard to the management, and the amendments of regulations generally.

Copies of all such reports and recommendations to be laid before both Houses of Parliament.

8. Section one hundred and three of the principal Act is hereby amended, by the excision of all words after "Inspector General," and the insertion of the following words in lieu thereof:—"or a majority (which shall include a medical practitioner) of the board after such certificate has been produced to him or them give his or their consent that such patient shall be discharged."

Amendment of  
Section 103.

Substitution of  
new section for  
section 104.

9. Section one hundred and four of the principal Act is hereby repealed, and a section is substituted therefor as follows:—

Power to dis-  
charge patients.

104. (1.) The superintendent or a majority of the board of any hospital for the insane, or reception house, or the medical officer or a majority of the board of any licensed house may order the discharge of any person detained therein or permitted to be absent therefrom under the provisions of section ninety-eight hereof.

(2.) The Inspector General may order the discharge of any such person from any hospital for the insane, reception house, or licensed house.

(3.) Such discharge may be ordered whether the person is recovered or not.

(4.) No majority of a board shall be deemed sufficient for the exercise of any power under this section unless such majority includes a medical practitioner.

(5.) If in any case a discharge is ordered under this section of which the superintendent disapproves, he shall forward to the Inspector General a statement in writing of the reasons for such disapproval, and the Inspector General shall record such statement in his book.

(6.) In this section "reception house" includes any place appointed or set apart for the temporary detention of the insane under Part VII. of this Act.

Amendment of  
Section 105.

10. Section one hundred and five of the principal Act is hereby amended, by the substitution of the words "the board of visitors" for the words "any official visitor," in the second line, and of the word "board" for the words "official visitor," in the fifth line.

Amendment of  
Section 106.

11. Section one hundred and six of the principal Act is hereby amended, by the substitution of the words "the board of visitors" for the words "an official visitor."

Amendment of  
Section 107.

12. Section one hundred and seven of the principal Act is hereby amended, by the insertion of the words "reception house" after the word "insane," in the third line, and after the word "hospital," in the fourth line, and after the word "hospital," in the twelfth line of the section, and by adding thereto a paragraph, as follows—

Except where a person has been declared of unsound mind under Part X. and the question was determined by

a jury, the judge may, if he thinks fit, on the application of the person so brought before him, order that the question whether such person is of unsound mind be determined by a jury, and in such case the provisions of section one hundred and fifteen shall apply.

13. Section one hundred and eight of the principal Act is hereby repealed. Repeal of Section 108.

14. Section one hundred and eighty-one of the principal Act is hereby amended, by the excision of the words "hospital for the insane, licensed house, or reception house for the temporary treatment of the insane," and the substitution of the word "institution," and by the substitution of the word "crime" for "misdemeanour," and of the word "five" for "two." Amendment of Section 181.

15. Section one hundred and eighty-two of the principal Act is hereby amended, by the substitution of the word "institution" for the words "hospital for the insane, licensed house, reception house, public hospital or prison," in the second and third lines of the section, and for the words "hospital, licensed house, reception house or prison," in the fourth and fifth lines of the section. Amendment of Section 182.

16. Section one hundred and eighty-three of the principal Act is hereby amended by the deletion of the word "official" wherever it occurs in subsection (2) thereof. Amendment of Section 183.

17. Section one hundred and eighty-four of the principal Act is hereby amended, by striking out the word "official" wherever it occurs therein, and substituting in paragraphs (a) and (b) of subsection (2) the words "member of the board of." Amendment of Section 184.

18. Section one hundred and eighty-five of the principal Act is hereby amended, by deleting the words "an official" and substituting the word "any," in subsection one, and by striking out the words "an official," in the second line of subsection (2), and substituting the word "a," and by striking out of subsection (2) the words "hospital, licensed house, or reception house" and substituting the word "institution," and by striking out from subsection (2) the word "official" before "visitors," in the ninth line of the subsection, and substituting the words "board of." Amendment of Section 185.

Insertion of new section between Sections 187 and 188.

19. The following section is hereby inserted between sections one hundred and eighty-seven and one hundred and eighty-eight of the principal Act, that is to say:—

Power of Inspector General to deal with misconduct or incompetence of attendants in hospitals.

187a. (1.) If it shall be proved to the satisfaction of the Inspector General that any attendant or employee in any hospital for the insane, hospital for the criminal insane, or reception house has been or is—

- (a) guilty of any wilful disobedience or disregard of any lawful order made or given by any person having authority to give such order; or
- (b) negligent or careless in the discharge of his duties; or
- (c) inefficient or incompetent; or
- (d) using intoxicating beverages to excess; or
- (e) guilty of any disgraceful or improper conduct,

then it shall be lawful for the Inspector General to dismiss such attendant or employee or reduce him to a lower class or grade or fine him a sum not exceeding ten pounds.

Suspension.

(2.) If the superintendent of any such institution as aforesaid shall have reason to believe that any such offence or matter as is hereinbefore described can be imputed to any attendant or employee, he may formally charge the attendant or employee in respect thereof by written notice given to the Inspector General, and shall forthwith serve a copy of the notice on the attendant or employee, and may suspend him pending the hearing of the charge. If the charge is found not to be proven, the suspension shall be immediately removed, and the attendant or employee shall receive arrears of salary in full from the date of the suspension.

Appeal.

(3.) If any attendant or employee who has been permanently employed in any such institution as aforesaid is fined or reduced to a lower class or grade or dismissed, he may appeal in the prescribed manner and within the prescribed time, to the board of visitors of the institution, and the decision of the board shall be final:

Provided that such attendant or employee shall have the right to be represented at such appeal by any person whom he may appoint.

(4.) The board may affirm, reverse, or modify the decision appealed from, and may give such decision as in the opinion of the board ought to have been given in the first instance.

(5.) No person shall be deemed to have been permanently employed within the meaning of this section unless he has been continuously employed for at least one year immediately prior to the Inspector General having found the charge proven against him.

(6.) This section does not apply to any attendant or employee who is subject to the Public Service Act, 1904.

(7.) Nothing in this section shall abridge the power of making any necessary classification or reduction of or in the staff of an institution.

20. Section one hundred and eighty-eight of the principal Act is hereby repealed, and a section is inserted in lieu thereof, as follows:—

Amendment of  
Section 188.

188. (1) The Inspector General or the board of visitors of any institution may require, by summons according to the form in the eighteenth schedule, any person to appear before him or them to testify on oath touching any of the matters respecting which the Inspector General or board is or are by this Act authorised to inquire, and to produce for the inspection of the Inspector General or board any document in his possession, custody, or power relating to any of the matters aforesaid.

Power of In-  
spector General  
or Board to  
summon  
witnesses.  
18th Schedule.

(2.) Every person who does not appear pursuant to such summons (having had his reasonable expenses paid or tendered to him at the time of service of such summons) and does not assign some reasonable excuse for not so appearing or appears and refuses to be sworn or examined or to produce any such document when required so to do, shall be liable to a penalty not exceeding ten pounds.

(3.) The Inspector General or board may also examine on oath any person appearing as a witness or present at the time of any inquiry touching any of the matters aforesaid, although no such summons aforesaid may have been served upon him.

21. Section one hundred and eighty-nine A of the principal Act is hereby repealed.

Repeal of Sec-  
tion 189A.



Repeal of 18th  
schedule,  
and substitution  
of new schedule.

22. The eighteenth schedule of the principal Act is hereby repealed, and a new schedule is substituted therefor, as follows:—

Schedule Eighteen.

To.....

.....  
The Inspector General of the Insane [*or the Board of Visitors of here specify the Institution*] hereby summon(s) and require(s) you personally to appear before him [*or them*] at..... on the..... day of.....19.....at the hour of.....o'clock in the.....noon, then and there to be examined and to testify the truth touching [*here specify the matter*] respecting which the Inspector General [*or the said Board*] is [*or are*] holding [*or about to hold*] an inquiry.

And you are required to have and produce at the time and place aforesaid for the inspection of the Inspector General [*or the Board*] all documents in your possession, custody or power relating to the matter aforesaid and particularly [*here specify the document*].

And take notice that if you disobey this summons you will be liable to a penalty not exceeding Ten Pounds.

Dated this.....day of.....19.....

.....  
Inspector General,  
[*or Chairman of the Board.*]

Power to alter  
forms.

23. The Governor may by regulation alter any of the forms in the schedules to the principal Act, in such manner as is necessitated by the amendments made in the said Act since the passing thereof, and any reprints of the said Act and its amendments may embody any alterations made in the said forms.

Short title  
principal Act  
and amend-  
ments.

The said Act and amendments may be cited as the *Lunacy Act, 1903-1920*, and this may appear as the short title in the reprints.