

WESTERN AUSTRALIA.

CONVICTED INEBRIATES' REHABILITATION.

12° Elizabeth II, No. LXIII.

No. 63 of 1963.

[As affected by Act No. 113 of 1965; and reprinted pursuant to the
Amendments Incorporation Act, 1938.]

**AN ACT to make better provision for the
Rehabilitation of Convicted Inebriates and for
incidental and other purposes.**

[Assented to 18th December, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the 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 *Convicted Inebriates' Rehabilitation Act, 1963.* Short title and citation.

Commence-
ment.

2. This Act shall come into operation on the day on which the Mental Health Act, 1962,¹ comes into operation.

Interpreta-
tion.

3. In this Act unless the context otherwise requires—

“Board” means the Inebriates Advisory Board to be established under this Act;

“Chairman” means the chairman of the Board;

“Comptroller General” means the Comptroller General of Prisons appointed under the Prisons Act, 1903;

“court of summary jurisdiction” includes a Children’s Court established under the Child Welfare Act, 1947;

“inebriate” means a person who habitually uses intoxicating liquor to excess;

“institution” means a place set apart by the Governor, under the provisions of the Prisons Act, 1903, as an institution for the reception of convicted inebriates;

“member” means a member of the Board;

“Minister” means the Chief Secretary or other Minister of the Crown charged with the administration of the Prisons Act, 1903;

“psychiatrist” has the same meaning as is given to that term in, and for the purposes of, the Mental Health Act, 1962.

Convicted
inebriates
may be
placed in
institutions.

4. (1) Where a person is convicted summarily, or on indictment, of an offence and drunkenness is an element, or was a contributory cause, of the offence, the court, if satisfied that the offender is an inebriate, may order him to be placed in an institution, for a period not exceeding twelve months.

¹ Mental Health Act, 1962, Proclaimed to come into operation on 1/7/66, see Gazette 11/3/66, p. 702.

(2) The powers conferred on a court by subsection (1) of this section may, in the case of a person convicted on indictment (but not otherwise), be exercised, notwithstanding the award of any punishment; and, where the award is one of imprisonment, the imprisonment shall be served before the person is placed in an institution.

(3) Without limiting any inquiries that it may see fit to make, the court, in order to satisfy itself that an offender is an inebriate, shall—

- (a) inspect, or appoint some other person to inspect and report on, the offender;
- (b) unless, having regard to all the circumstances of the case, it sees fit to dispense with the requirement, require the production of the certificate of a legally qualified medical practitioner that the offender is, in the opinion of the medical practitioner, an inebriate; and
- (c) require the evidence of some person (other than the medical practitioner mentioned in paragraph (b) of this subsection) in corroboration of the fact that the offender is an inebriate.

(4) Every medical practitioner who gives a certificate under, and for the purposes of, this section shall specify, in the certificate, the history of the offender's inebriety, elicited on the examination of the offender and communicated to the medical practitioner by others, and any facts observed by him upon which he has formed the opinion that the offender is an inebriate.

(5) Every report and certificate made or given pursuant to this section may be received in evidence.

5. Notwithstanding the provisions of any other Act but subject to the succeeding provisions of this Act, every person ordered to be placed in an institution shall remain in the institution for the period

Period
ordered to be
spent in
institution
to be a net
period.

Convicted Inebriates' Rehabilitation.

ordered and is, during that period, in legal custody; and, where, by reason of any offence or misconduct of which he was guilty prior to, or is guilty during the currency of, that period, the person is imprisoned, the period of imprisonment then served shall not be taken into account in reckoning the period spent by him in the institution.

Advisory
Board to be
established.

6. (1) For the purpose of overseeing, advising on, and assisting in, the clinical treatment and the rehabilitation of convicted inebriates and of making recommendations to the Comptroller General as to the exercise of the powers conferred on him by the succeeding provisions of this Act, a board of three members to be known as the Inebriates Advisory Board, shall be established by the Minister.

(2) The Board shall comprise—

- (a) two psychiatrists, of whom one shall be appointed Chairman, by the Minister; and
- (b) a welfare officer in the service of the Minister,

each to hold office during the Minister's pleasure; and the Minister may, during the illness or absence of a member, appoint a person of the same category as that of the ill or absent member to act in that member's stead.

(3) The members are, while engaged in the business of the Board or for the purposes of this Act, entitled to receive such fees as the Governor may, from time to time, determine.

Meetings and
proceedings
of the Board.

7. (1) The Board shall meet whenever convened by the Chairman or directed by the Minister and, except that all matters to be determined by the Board shall be determined by a majority of the votes of the members, the Board may act without any

regard to formality; and a decision or recommendation of the Board shall not be questioned on the ground only of any lack of formality in its proceedings.

(2) A member of the Board may pursue any inquiry independently of the other members and shall, at all reasonable times, be afforded access to any person placed in an institution.

(3) At any meeting of the Board any two members shall constitute a quorum.

8. (1) The powers and duties of the Board include—

Powers and
duties of
Board.

- (a) the examination of, and the oversight of the clinical treatment of, persons placed in an institution; and the recommending of occupational pursuits or therapies, pastimes and diversions for those persons;
- (b) the recommending to the Comptroller General, that the period for which a person is ordered to be placed in an institution be reduced or increased, that the order be rescinded, or that the person be released on trial, subject to such conditions as may be set out in the recommendation;
- (c) the recommending to the Comptroller General that a person be permitted to leave an institution, temporarily, under the provisions of section sixty-four Q of the Prisons Act, 1903, for such period, and under such conditions, as may be set out in the recommendation;
- (d) the making of provision for the treatment, adjuvant therapies and aftercare of any person released from an institution;
- (e) the furnishing of any reports that may be required by a court, a judge or the Minister; and

Convicted Inebriates' Rehabilitation.

(f) the recommending to the Minister of the making of regulations under this Act.

(2) Judicial notice shall be taken of the signature of the Chairman subscribed to a recommendation or report of the Board.

(3) The Comptroller General and the superintendent or other officer in charge of an institution shall have regard to the advice, or a recommendation, of the Board and, where it is intended not to accept that advice or not to act on that recommendation, the Comptroller General shall inform the Minister of that intention.

Powers of
courts
to mitigate
orders.

9. (1) The Court that ordered a person to be placed in an institution may vary the order, by reducing the period for which that person was ordered to be placed in the institution or by permitting him to be released on trial, subject to such conditions as the court may see fit to impose.

(2) Where, under the provisions of subsection (1) of this section, an order has been varied by permitting a person to be released on trial, the court that made the variation order may, upon proof that the person has been guilty of a breach of any condition to which his release on trial was subject, rescind the variation order and the order as originally made, shall, thereupon, again take effect; and the period during which the person was released on trial shall, in that event, not be taken into account in reckoning the period spent by him in the institution.

Rescission
of orders.

10. (1) The court that ordered a person to be placed in an institution may, upon the application of the Comptroller General and upon being satisfied that that person is resisting, or is not prepared to co-operate in, his clinical treatment or his rehabilitation, rescind the order and may, there-

upon, award such punishment, or, where punishment was awarded, such additional punishment, as it might have awarded for the offence of which he was convicted, had the order not been made.

(2) In awarding punishment, or additional punishment under the provisions of subsection (1) of this section, the court is not required to take into account any period spent by the offender in an institution.

11. (1) The Supreme Court or a judge may, on the application of the Comptroller General and on being satisfied that it is in the interest of the rehabilitation of that person, order that the period for which a person was initially ordered to be placed in an institution be extended for a further period, not exceeding one year from the termination of the prior period.

Extension
of periods
fixed by
original
orders.

(2) In extending a period for which a person is placed in an institution, the court or judge may direct that the person to whom the order relates be released on trial, as though under the provisions of section nine of this Act, and the provisions of that section shall, thereupon, have effect.

12. (1) This section relates to proceedings under sections nine, ten and eleven of this Act.

Procedure
under ss. 9,
10 and 11.

(2) Proceedings to which this section relates shall be brought by, or with the consent of, the Comptroller General, only, but every person interested in the proceedings is entitled to be heard.

(3) Proceedings to which this section relates shall, where brought in a court of summary jurisdiction, be initiated by way of complaint, under the Justices Act, 1902, and, where brought in any other court, by notice of motion, in accordance with the Rules of Court.

(4) There shall be produced to the court, in any proceedings to which this section relates, such recommendations as the Board may have made to the Comptroller General that are relevant to those proceedings.

(5) Where the powers conferred on a court by sections nine and ten of this Act fall to be exercised by a court of summary jurisdiction or a court of session, they may be exercised by the Supreme Court or a judge.

Courts of
summary
jurisdiction
to comprise
a magistrate.

13. Where any powers conferred by this Act on a court fall to be exercised by a court of summary jurisdiction, they shall not be exercised unless the court comprises a stipendiary magistrate.

Regulations.
Amended by
No. 113 of
1965, s. 8.

14. (1) The Governor may make such regulations as he considers necessary or expedient for giving effect to the provisions of, and for the due administration of, this Act.

(2) The regulations may impose a fine not exceeding one hundred dollars for a breach of any regulation made under this section.

Powers of
Governor.

15. Notwithstanding any other provisions of this Act, the Governor may grant such relief to a person placed in an institution as he thinks fit.

Provisions of
this Act
to apply to
persons
already in
institutions.

16. The provisions of this Act apply, and shall be deemed always to have applied, to a person who was placed in an institution for the reception of convicted inebriates, by order made under the provisions of the Inebriates Act, 1912, and who is, on the coming into operation of this Act, still subject to that order.

Repeal of
s. 8 of
Act No. 35
of 1962.

17. Section eight of the Criminal Code Amendment Act, 1962 (Act No. 35 of 1962) is repealed.