

MENTAL DEFECTIVES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Mental Defectives Act, 1911.

Clause 2: Under the principal Act a voluntary boarder is admitted to a mental hospital in the first instance at his own request. The Medical Superintendent is then required to send to the Director of the Division of Mental Hygiene, within twenty-four hours after the patient's admission, a certificate of his opinion of the case and any recommendations he wishes to make. The Director must place the documents before the Minister, who makes an order either requiring the patient to be discharged or consenting to his detention (subject to the patient's right to be discharged on his own application). This clause authorizes the Minister to delegate to the Director of the Division of Mental Hygiene his power to make any such order.

Clauses 3 and 4 provide that Superintendents of all public and licensed institutions must be medical practitioners. The principal Act contemplates the appointment of a lay Superintendent and a Medical Officer, but in all cases today the Superintendent is a medical practitioner.

Clause 5 makes amendments consequential on the provisions of *clauses 3 and 4*.

Clause 6 will enable annexes situated at some distance from main institutions to be declared parts of those institutions for administrative purposes.

Clause 7 provides for maintenance payments in respect of persons not ordinarily resident in New Zealand who are detained in public institutions either under reception orders or as voluntary boarders. It re-enacts, in a form limited to non-residents, and with minor modifications, the provisions of section 136 of the principal Act, which, before its repeal in 1938, applied to all inmates of public institutions.

Clause 8 validates the use, as public institutions or annexes, of the buildings and land referred to in the Second Schedule. The institution referred to in Part I of that Schedule was used for some months before it was gazetted as an institution. The institutions referred to in Part II have always been assumed to be annexes of the main institutions specified in the second column of that Part, and were not gazetted. The institutions referred to in Part III, which were only temporarily used for mental patients, were gazetted as public institutions, but were treated as annexes of the main institutions, and the reception orders were made in the names of the main institutions.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
14th November, 1950.*

Hon. Mr. Watts

MENTAL DEFECTIVES AMENDMENT

Title.	ANALYSIS
1. Short Title.	6. Buildings and land may be declared parts of public institutions.
2. Minister may delegate to Director power to discharge or detain voluntary boarders.	7. Maintenance of persons not ordinarily resident in New Zealand who are detained in public institutions. Consequential amendment. Repeals.
3. Superintendents of public institutions to be medical practitioners.	8. Validating use of certain institutions as public institutions or parts thereof.
4. Superintendents of Licensed institutions to be medical practitioners.	Schedules.
5. Consequential amendments and repeals.	

A BILL INTITULED

AN ACT to Amend the Mental Defectives Act, 1911.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Mental Defectives Amendment Act, 1950, and shall be read together with and deemed part of the Mental Defectives Act, 1911 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. V, p. 743

2. Section thirty-nine of the principal Act is hereby amended by inserting, after subsection five, the following subsection:—

Minister may delegate to Director power to discharge or detain voluntary boarders.

“(5A) The Minister may from time to time delegate to the Director, either generally or in any particular case or class of cases, his power to make an order under

subsection *five* of this section. The following provisions shall apply with respect to every delegation under this subsection, namely:—

“(a) Subject to any general or special directions given or conditions attached by the Minister, the Director may exercise the power so delegated with the same effect as if it had been directly conferred on him by this Act and not by delegation: 5

“(b) The Director, purporting to act pursuant to the delegation, shall be presumed to be acting in accordance with the terms of the delegation until the contrary is proved: 10

“(c) The delegation shall not prevent the personal exercise by the Minister of the power so delegated: 15

“(d) The delegation may at any time be revoked, either wholly or partially, by the Minister:

“(e) Subject to the foregoing provisions of this subsection, and to any directions given or conditions attached by the Minister as aforesaid, it shall not be necessary for the Director to place before the Minister the documents referred to in subsection *five* of this section.” 20

Superintendents
of public
institutions to
be medical
practitioners.

3. (1) The principal Act is hereby amended by repealing section forty-three, and substituting the following section:— 25

“43. (1) For every public institution there shall be a Medical Superintendent, who shall be a medical practitioner. 30

“(2) For every public institution there shall be appointed as Medical Officers such number of medical practitioners as may be required.

“(3) In the case of the death, illness, or absence of the Medical Superintendent or any Medical Officer of any public institution, any medical practitioner, whether or not he is an officer of the institution, may be appointed to act temporarily in his place.” 35

(2) All Medical Superintendents and Medical Officers of public institutions holding office on the passing of this Act shall be deemed to have been appointed pursuant to section forty-three of the principal Act, as substituted by this section. 40

4. (1) The principal Act is hereby further amended by repealing section fifty-two, and substituting the following section:—

Superintendents of licensed institutions to be medical practitioners.

5 “ 52. (1) For every licensed institution there shall be a Medical Superintendent, who shall be a medical practitioner and shall reside in the institution and shall be appointed by the licensee or licensees with the consent in writing of the Minister.

10 “(2) The licensee or one of the licensees may, if he is a medical practitioner, be appointed as the Medical Superintendent of the institution.”

15 (2) Every medical practitioner holding office as the Superintendent of a licensed institution on the passing of this Act shall be deemed to have been appointed pursuant to section fifty-two of the principal Act, as substituted by this section.

5. (1) The principal Act is hereby further amended in the manner indicated in the *First* Schedule to this Act.

Consequential amendments and repeals.

20 (2) Section four of the Mental Defectives Amendment Act, 1935, and section fifty-four of the Statutes Amendment Act, 1946, are hereby consequentially repealed.

1935, No. 7
1946, No. 40

6. (1) Section forty-four of the principal Act is hereby amended by inserting, after subsection one, the following subsection:—

Buildings and land may be declared parts of public institutions.

25 “(1A) The Governor-General may, by Order in Council, declare any such building as aforesaid, together with any land used or intended to be used in connection therewith, to be part of any public institution as from a date, being a date either before or after the making of
30 the Order in Council, to be specified therein, notwithstanding that the land may not be contiguous to the public institution or may be situated in another place.”

35 (2) The said section forty-four is hereby further amended by inserting in subsection three, after the words “ added to an institution ”, the words “ or to any part thereof ”.

7. (1) The principal Act is hereby further amended by inserting, before section one hundred and thirty-seven, the following section:—

Maintenance of persons not ordinarily resident in New Zealand who are detained in public institutions.

40 “ 136A. (1) The cost of the maintenance of any person who is not ordinarily resident in New Zealand and who

is detained in any public institution shall be a debt due to the Crown for which the following persons shall be jointly and severally liable, namely:—

“(a) The person so detained:

“(b) The husband or wife of that person: 5

“(c) The father of that person if and so long as that person is under the age of twenty-one years.

“(2) The cost of maintenance shall be such weekly sum, not exceeding five pounds five shillings a week, as the Director from time to time determines either generally or in any particular case, and either before or after the cost is incurred: 10

“Provided that in special circumstances arrangements may be made in any particular case for charging and recovering a higher sum. 15

“(3) When any such person detained as aforesaid is allowed to be absent from the institution on leave, all sums expended by the Crown in respect of his maintenance, care, and control during the period of his absence on leave, not exceeding five pounds five shillings a week, shall be recoverable in the same manner as the cost of his maintenance while detained in the institution. 20

“(4) When any such person detained as aforesaid dies, any funeral expenses incurred in respect of that person by the Crown shall be recoverable in the same manner as the cost of his maintenance in the institution. 25

“(5) All moneys payable for the maintenance of any person under this section shall accrue from week to week, and may be sued for and recovered by the Director or by any person authorized by him in writing in that behalf as a debt due to the Crown, and shall be payable to any person so entitled to sue. 30

“(6) When two or more persons are jointly and severally liable under this section for the same sum, they shall be entitled as against each other to such indemnity or contribution as any Court of competent jurisdiction thinks just in the circumstances of the case. 35

“(7) Notwithstanding anything in this section, when an order is made or proposed to be made pursuant to this Act for the reception or detention in a public institution of any person not ordinarily resident in New Zealand, the Minister or the Director may then or at any later time make an agreement with any person, not being the person to whom the order or proposed order relates, that the person with whom the agreement is made shall pay a fixed sum towards the maintenance of the person to whom 40 45

the order or proposed order relates while detained in any public institution. Every sum so agreed to be paid shall be a debt due to the Crown and shall be recoverable in accordance with the foregoing provisions of this section.

“(8) No agreement under subsection *seven* of this section shall take away or restrict any liability that would otherwise lie on the person making it or on any other person in respect of the maintenance of the person so detained.

“(9) In any case where it appears to the Director that payments agreed to be made by any person under subsection *two* or subsection *seven* of this section have fallen into arrears through circumstances beyond the control of that person, the Director may, in his discretion—

“(a) Forego the payment of the arrears; or

“(b) Accept a smaller sum in satisfaction of the arrears; or

“(c) Make such arrangements with respect to payment of the arrears as he thinks just and reasonable in the circumstances of the particular case.”

(2) Section thirty-nine of the principal Act is hereby amended by inserting in subsection four, before the words “ a statement ”, the words “ if the person so admitted is not ordinarily resident in New Zealand ”.

Consequential amendment.

(3) Section twelve of the Finance Act, 1926, and section fifteen of the Finance Act, 1931 (No. 4), are hereby repealed.

Repeals.
See Reprint of Statutes, Vol. V, p. 802; Vol. VII, p. 516

8. (1) The buildings and land referred to in the first column of Part I of the *Second* Schedule to this Act are hereby declared to have been a public institution to which section forty-four of the principal Act applies as from the date specified in the second column of that Part.

Validating use of certain institutions as public institutions or parts thereof.

(2) Each of the areas of land, with the buildings thereon, described or referred to in the first column of Part II of the *Second* Schedule to this Act is hereby declared to be part of the public institution specified, opposite the description of that area, in the second column of that Part, and to have been part of that institution as from the date so specified in the third column of that Part.

(3) Each of the areas of land, with the buildings thereon, referred to in the first column of Part III of the *Second* Schedule to this Act is hereby declared to have been part of the public institution specified, opposite the description of that area, in the second column of that Part as from the date so specified in the third column of that Part, and to have ceased to be part of that institution on the date so specified in the fourth column of that Part. 5

(4) Each of the Orders in Council firstly and secondly referred to in the first column of Part III of the *Second* Schedule to this Act shall be deemed to have been revoked as from the date specified, opposite the reference to the Order in Council, in the fourth column of that Part. 10

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 5.

CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT

Section Affected.	Nature of Amendment.
Section 2 ..	By omitting the definition of the term "Superintendent", and substituting the following definition:— " 'Superintendent' means the Medical Superintendent of an institution: "
Section 15 ..	By omitting the words "Medical Officer", wherever those words occur, and substituting in each case the word "Superintendent".
Sections 25 and 26	By omitting from each section the words "under the hand of the Medical Officer", and substituting in each case the words "under his hand".
Section 35 ..	By omitting the words "Medical Officer", and substituting the word "Superintendent".
Section 38 (3) ..	By inserting in the proviso, after the words "may be", the words "the Superintendent or".
Section 39 (2) ..	By omitting the words "the Medical Officer", and substituting the word "he".
Section 39 (3) and (6)	By omitting from each of these subsections the words "Medical Officer", and substituting in each case the word "Superintendent".
Section 40 (a) ..	By omitting the words "Medical Officer", and substituting the word "Superintendent".
Section 53 ..	By repealing this section.
Section 54 (1) ..	By omitting the words "in addition to the officers already mentioned, be an Assistant Medical Officer", and substituting the words "in addition to the Superintendent, be a Medical Officer".
Section 54 (2) ..	By omitting the words "or Medical Officer"; and by omitting the word "Assistant".
Section 55 (1) ..	By omitting the words "any of the three last preceding sections", and substituting the words "section fifty-two or section fifty-four of this Act".
Section 64 (1) ..	By inserting, after the words "A Register of Deaths; ", the following words: "A Weekly Report Book; A Case Book; A Prescription Book; A Register of Restraint and Seclusion; A Post-mortem Book;".
Section 64 (2) ..	By repealing this subsection.
Section 65 ..	By repealing this section.
Sections 66 (2), 66 (3), and 68 (1)	By omitting from each of these subsections the words "Medical Officer", and substituting in each case the word "Superintendent".
Section 69 ..	By omitting the words "or Medical Officer".
Section 70 (3) and (4)	By omitting from each of these subsections the words "or a medical officer on the staff of any public institution" (as inserted by section 4 of the Mental Defectives Amendment Act, 1935), and substituting in each case the words "or the Superintendent or a medical officer of any public institution".
Section 70 (5) ..	By omitting the words "or the authorized medical officer" (as substituted by subsection (2) of section 54 of the Statutes Amendment Act, 1946), and substituting the words "or the authorized Superintendent or medical officer".
Section 70 (6) ..	By omitting the words "or authorized medical officer" (as inserted by subsection (2) of section 54 of the Statutes Amendment Act, 1946), and substituting the words "or authorized Superintendent or medical officer".

*FIRST SCHEDULE—continued**CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT—continued*

Section Affected.	Nature of Amendment.
Section 71 (1) . .	By omitting the words " and every authorized medical officer " (as inserted by subsection (3) of section 54 of the Statutes Amendment Act, 1946), and substituting the words " and every authorized Superintendent or medical officer ".
Section 71 (2), (3), and (4)	By omitting from each of these subsections the words " or authorized medical officer " (as inserted by subsection (3) of section 54 of the Statutes Amendment Act, 1946), wherever those words occur, and substituting in each case the words " or authorized Superintendent or medical officer ".
Section 80 (2) . .	By omitting the words " on the recommendation in writing of the Medical Officer ".
Section 82 (1) . .	By omitting from the proviso the words " Medical Officer ", and substituting the word " Superintendent ".
Section 83 (1) . .	By omitting the words " Medical Officer ", and substituting the word " Superintendent ".
Section 85 (2) . .	By repealing this subsection.
Section 85 (4), (5), and (7)	By omitting from each of these subsections the words " Medical Officer ".
Section 132 . .	By omitting the words " or Medical Officer ".

Section 8

SECOND SCHEDULE

PART I

Land Declared a Public Institution

Reference.	Date of Becoming a Public Institution.
The buildings and land at Drury described in Order in Council dated the 11th day of September, 1946, and published in the <i>Gazette</i> of the 19th day of September, 1946, Volume III, at page 1267, declaring the said buildings and land to be a public institution	22nd December, 1945.

SECOND SCHEDULE—continued

PART II

Lands Declared to be Parts of Public Institutions

Description or Reference.	Institution of which Land forms Part.	Date of Becoming Part of Institution.
1. The areas at Stoke containing altogether 748 acres and 25 perches, more or less, being the whole of the lands comprised in certificates of title, Volume 33, folio 187, Volume 33, folio 255, and Volume 33, folio 256, Nelson Registry, and the balance of the lands comprised in certificate of title, Volume 7, folio 24, and in certificate of title, Volume 8, folio 128, Nelson Registry, and all the lands described in Proclamation dated the 17th November, 1931, and published in the <i>Gazette</i> of the 19th November, 1931, Volume III, at page 3364, and in Proclamation dated the 19th October, 1950, and published in the <i>Gazette</i> of the 26th October, 1950, Volume III, at page 1887	Nelson Mental Hospital	1st January, 1922.
2. The area at Stoke described in Proclamation dated the 23rd April, 1929, and published in the <i>Gazette</i> of the 26th April, 1929, Volume I, at page 1044, declaring the land therein described to be taken for the purposes of a mental hospital	Nelson Mental Hospital	2nd May, 1934.
3. The area at Stoke described in Proclamation dated the 31st January, 1947, and published in the <i>Gazette</i> of the 6th February, 1947, Volume I, at page 159, declaring the Crown land therein described to be set apart for the purposes of a mental hospital	Nelson Mental Hospital	10th February, 1947.
4. The area at Hornby containing 49 acres and 35.8 perches, more or less, situated in Block IX, Christchurch Survey District, being part of Rural Section 4334, and being the balance of the land comprised and described in certificate of title, Volume 306, folio 253, Canterbury Registry	Sunnyside Mental Hospital	3rd August, 1922.
5. The area, being part of the institution known as Cherry Farm, described in Proclamation dated the 9th June, 1926, and published in the <i>Gazette</i> of the 10th June, 1926, Volume II, at page 1587, declaring the land therein described to be taken for the purposes of the Seacliff Mental Hospital (but excluding therefrom the land directed to be sold by Order in Council dated the 28th day of October, 1942, and published in the <i>Gazette</i> of the 5th November, 1942, Volume III, at page 2552)	Seacliff Mental Hospital	9th June, 1926.
6. The area, being part of the institution known as Cherry Farm, described in Proclamation dated the 29th October, 1946, and published in the <i>Gazette</i> of the 31st October, 1946, Volume III, at page 1657, declaring the land therein described to be taken for a mental hospital	Seacliff Mental Hospital	29th October, 1946.
7. The area, on which is situated the institution known as the Neuropathic Hospital, described in Proclamation dated the 27th July, 1926, and published in the <i>Gazette</i> of the 29th July, 1926, Volume II, at page 2347, declaring the land therein described to be taken for the purposes of the Seacliff Mental Hospital	Seacliff Mental Hospital	27th July, 1926.
8. The area situated on Waiheke Island, in the North Auckland Land District, containing 5 acres and 3 roods, more or less, being Lots 76, 77, 78, and 79 on Deposited Plan Number 10723 (portion of Old Land Claim Number 248, Waiheke Island), and being the whole of the land comprised and described in certificate of title, Volume 339, folio 19, Auckland Registry	Auckland Mental Hospital	13th May, 1942.

SECOND SCHEDULE—continued**PART III***Lands Declared to have been Parts of Public Institutions*

Reference.	Institution of which Land formed Part.	Date of Becoming Part of Institution.	Date of Ceasing to be Part of Institution.
1. The area at Wairakei described in Order in Council dated the 28th October, 1942, and published in the <i>Gazette</i> of the 12th November, 1942, Volume III, at page 2735, declaring the said area and the buildings thereon to be a public institution	Tokanui Mental Hospital	1st September, 1942	12th March, 1946.
2. The area at Tongariro National Park described in Order in Council dated the 28th day of October, 1942, and published in the <i>Gazette</i> of the 12th November, 1942, Volume III, at page 2735, declaring the said area and the buildings thereon to be a public institution	Tokanui Mental Hospital	8th October, 1942	22nd December, 1945.
3. The area, known as Rotoroa Island, described in Order in Council dated the 3rd February, 1943, and published in the <i>Gazette</i> of the 11th February, 1943, Volume I, at page 104, declaring the said area and the buildings thereon to be a public institution (the said Order in Council having been revoked by Order in Council dated the 22nd December, 1943, and published in the <i>Gazette</i> of the 13th January, 1944, Volume I, at page 4)	Auckland Mental Hospital	8th January, 1943	22nd December, 1943.