

MENTAL DEFECTIVES AMENDMENT BILL

EXPLANATORY NOTE

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

The effect of *clause 2* is that licensees of licensed institutions must obtain the consent of the Minister to all future appointments of medical staff. At present this rule applies only to appointments of Medical Superintendents and of Medical Officers required by the Governor-General to be appointed to institutions having one hundred or more patients.

Clause 3 authorizes the Superintendent of an institution to grant leave of absence to a patient or boarder for periods not exceeding twelve months at any one time. At present he may grant leave only for twenty-eight days, and any extension of leave must be obtained from the Director of the Division of Mental Hygiene.

Clauses 4 to 6: Under section 81 of the principal Act the Director of the Division of Mental Hygiene may order the transfer of a patient from an institution to any other institution. It sometimes happens that a patient who is absent on leave or has escaped from one institution is taken by relatives to an institution in another part of the country, with a request for his reception. In these cases the usual practice is for the Director to order the transfer of the patient to that other institution, but such orders have been found to be invalid, because section 81 contemplates only the transfer of patients who are actually "detained". *Clauses 4* and *5* therefore amend sections 79 (dealing with escapes) and 80 (dealing with absence on leave) so as to permit the temporary reception of a patient in any such case; and *clause 6* authorizes the Director, within fourteen days, to make an order transferring the patient to the institution to which he has been taken. If he does not make an order, the patient is to be returned as soon as possible to the institution from which he came.

Clause 7 is intended to deal with the case where a person is committed to an institution under a reception order, and it is subsequently discovered that he is a patient who is on leave or has escaped from another institution. The effect of the clause is that in such a case the original reception order remains in force, and the later one has no effect.

Clause 8 validates transfers made in the past according to the procedure now authorized by *clauses 4* to *6*.

Clause 9: Section 85 of the principal Act lays down the procedure for the discharge of a patient who is "detained" under the Act, when he is fit to be discharged. This clause makes it clear that a discharge may be granted to a patient notwithstanding that by reason of his absence, on leave or otherwise, he is not actually detained in the institution.

Hon. Mr. Marshall

MENTAL DEFECTIVES AMENDMENT

ANALYSIS

Title.	5. Power to receive patient on leave from institution in another institution.
1. Short Title.	6. Power to transfer patient who has escaped or is on leave.
2. Appointment of medical officers of licensed institutions. Repeal.	7. Where reception order is in force, subsequent reception order to have no effect.
3. Section 80 of principal Act (as to absence on leave) amended. Repeal.	8. Validation of transfers made in anticipation of this Act.
4. Power to receive escaped patient in another institution.	9. Section 85 of principal Act (as to discharge of patients) amended.

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

5 of the same, as follows:—

1. This Act may be cited as the Mental Defectives Amendment Act 1951, 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

10 2. (1) The principal Act is hereby amended by repealing section fifty-four, and substituting the following section:— Appointment
of medical
officers of
licensed
institutions.

15 “ 54. (1) For every licensed institution in which for the time being the number of persons received under this Act is not less than one hundred there shall be, if so

required by the Governor-General, a Medical Officer in addition to the Superintendent. The Medical Officer shall reside in the institution.

“(2) For any licensed institution there may be, in addition to the Superintendent, a Medical Officer and such assistant medical officers as may be required. 5

“(3) Every Medical Officer or assistant medical officer under this section shall be a medical practitioner, and shall be appointed by the licensee or licensees with the consent in writing of the Minister. 10

“(4) Any licensee who is a medical practitioner and who is not the Superintendent of the institution may be appointed under this section as the Medical Officer or an assistant medical officer of the institution.”

Repeal.
1950, No. 56

(2) The First Schedule to the Mental Defectives Amendment Act 1950 is hereby consequentially amended by repealing so much thereof as relates to section fifty-four of the principal Act. 15

Section 80 of
principal Act
(as to absence
on leave)
amended.

3. (1) Section eighty of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:— 20

“(2) The Superintendent of any institution may from time to time permit any patient or boarder to be absent from the institution, under proper control, on leave for such period, not exceeding twelve months (exclusive of the days of departure and return) at any one time, and on such conditions as the Superintendent thinks fit.” 25

Repeal.

(2) The First Schedule to the Mental Defectives Amendment Act 1950 is hereby consequentially amended by repealing so much thereof as relates to subsection two of section eighty of the principal Act. 30

Power to
receive escaped
patient in
another
institution.

4. Section seventy-nine of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:— 35

“(2) Any patient or boarder who is so retaken may be returned to the institution or house from which he has so escaped, or, in the case of a patient, may be taken to any other institution. If any patient is so taken to another institution the Superintendent of that institution shall, within twenty-four hours after the patient is received there, notify the Director of that fact, and shall detain the patient, subject to the provisions of this Act, until the receipt of an order or notification under section eighty-one of this Act.” 40 45

5. Section eighty of the principal Act is hereby further amended as follows:—

Power to receive patient on leave from institution in another institution.

(a) By inserting in subsection seven, after the words “ institution or house ”, the words “ or taken to any other institution ”:

(b) By adding to the said subsection seven the words “ If he is so taken to another institution the Superintendent of that other institution shall, within twenty-four hours after the patient is received there, notify the Director of that fact, and shall detain the patient, subject to the provisions of this Act, until the receipt of an order or notification from the Director under section eighty-one of this Act.”:

(c) By inserting in subsection eight, after the words “ in which he was detained ”, the words “ or is not received in any other institution ”.

6. Section eighty-one of the principal Act is hereby amended by inserting, after subsection four, the following subsections:—

Power to transfer patient who has escaped or is on leave.

“(4A) Where—

(a) Any patient escapes from any institution or house and, before he is discharged or deemed to be discharged, is taken pursuant to section seventy-nine of this Act to any other institution; or

(b) Any patient is absent on leave from any institution or house and, before he is discharged or deemed to be discharged, is taken pursuant to section eighty of this Act to any other institution,—

the Director may, in accordance with this section, order the transfer of the patient to the institution to which he has been so taken. On the receipt by the Superintendent of that institution of the duplicate of the order the patient shall be deemed for the purposes of this Act to have been transferred to that institution.

“(4B) If the Superintendent of the institution to which there has been taken a patient to whom subsection *four A* of this section applies does not, within fourteen days after the date on which the patient

was so taken to the institution, receive notice of an order of transfer made under that subsection, or if at any earlier time the Director notifies the Superintendent that no such order of transfer is to be made, the Superintendent shall, as soon as may be practicable, cause the patient to be returned to the institution or house from which he so escaped or was absent on leave. Until the patient is so transferred or returned as aforesaid, the Superintendent of the institution to which he has been taken as aforesaid may detain him as if he had originally been received there pursuant to this Act.”

Where reception order is in force, subsequent reception order to have no effect.

7. If at any time while a reception order remains in force in respect of any patient under the principal Act another reception order is made in respect of that patient, that other reception order shall have no effect, and the patient shall continue to be subject to the first mentioned order, and the provisions of the principal Act shall apply accordingly.

Validation of transfers made in anticipation of this Act.

8. All transfers of patients during their absence from any institution or house, before the passing of this Act, which would have been validly made if this Act had been in force, are hereby validated and declared to have been lawfully made, and any patient who has been received or detained in any institution pending any such transfer as aforesaid is hereby declared to have been lawfully received and detained.

Section 85 of principal Act (as to discharge of patients) amended.

9. Section eighty-five of the principal Act is hereby amended by adding the following subsection:—

“(13) For the purposes of this section, a patient shall be deemed to be detained in an institution or house if he is legally detained there pursuant to this Act, whether or not he is for the time being absent from the institution or house on leave or otherwise.”