

1958/54

**THE HEALTH (INFIRM AND NEGLECTED PERSONS)
REGULATIONS 1958**

COBHAM, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 17th day of April 1958

Present:
THE RIGHT HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to the Health Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Health (Infirm and Neglected Persons) Regulations 1958.

(2) These regulations shall come into force on the 1st day of May 1958.

2. (1) Every application to a Magistrate's Court, under section 126 of the Health Act 1956, for an order for the committal to a hospital or institution of any person to whom that section applies shall be made in form 1 in the Schedule hereto, or to the like effect, and, subject to the provisions of the said section 126 and of these regulations, the provisions of the Magistrates' Courts Rules 1948 shall apply.

(2) Unless, having regard to the circumstances of the case, the Court or a Magistrate otherwise directs, notice of the application shall be served on the person to whom it relates not less than three clear days before the day of hearing.

3. Every order made by a Magistrate's Court under the said section 126 shall be in form 2 in the Schedule hereto, or to the like effect.

4. (1) Every such order of committal shall, unless it is sooner rescinded under regulation 5 hereof, continue to have effect until the Medical Officer of Health certifies in writing to the medical officer or other person in charge of the hospital or institution that the detention of the person committed is no longer necessary.

(2) On the request of the person committed, or of any other person acting on his behalf and with his consent, the Medical Officer of Health shall give a certificate under this regulation if he is satisfied that the person committed will, if discharged from the hospital or institution, be living in satisfactory conditions and under such care or attention (if any) as may in the opinion of the Medical Officer of Health be required in the circumstances of the case.

(3) Every certificate given by the Medical Officer of Health under this regulation shall be sufficient authority for the discharge from the hospital or institution of the person committed.

5. (1) If the Medical Officer of Health refuses, on any such request being made as aforesaid, to give a certificate under regulation 4 hereof, the person committed, or any other person acting on his behalf and with his consent, may apply to a Magistrate's Court for the rescission of the order:

Provided that no such application shall be made sooner than two weeks after the date of the order.

(2) Every application under this regulation shall be made by way of originating application on notice under the Magistrates' Courts Rules 1948, and the provisions of those rules shall apply accordingly.

(3) If on any such application the Court is satisfied that the person committed will, if discharged from the hospital or institution, be living in satisfactory conditions and under such care or attention (if any) as may in the opinion of the Court be required in the circumstances of the case, the Court may in its discretion rescind the order of committal and make an order for the discharge of the person committed.

6. (1) The regulations made for the purposes of section 142 of the Health Act 1920 on the 19th day of July 1921* and on the 30th day of March 1925† are hereby revoked.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any order or document made or any thing whatsoever done under the provision so revoked, and every such order, document, or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations, shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the order or document was made or the thing was done.

**Gazette*, 21 July 1921, Vol. II, p. 1943

†*Gazette*, 9 April 1925, Vol. I, p. 1028

SCHEDULE

Form 1

Reg. 2

NOTICE OF APPLICATION FOR COMMITTAL UNDER SECTION 126 OF
HEALTH ACT 1956In the Magistrate's Court
held atIn the matter of the Health Act 1956
andIn the matter of an application for the
committal of to a hospital
or institution.Between of,
Medical Officer of Health,
Applicant,

and

....., of, [*Occupation*],
Respondent.

TAKE notice that the above-named applicant will apply to the Magistrate's Court at on [*To be filled in by the Registrar*] day the day of 19....., at o'clock in thenoon, for an order that the above-named respondent be committed to a hospital or institution under the control of the Hospital Board, on the grounds that the respondent is an aged (*or infirm or incurable or a destitute*) person within the meaning of section 126 of the Health Act 1956, and is living (*or habitually lives*) in insanitary conditions (*or without proper care or attention*).

Signature:

To the Registrar of the Magistrate's Court at
andTo the above-named [*Respondent*].

This notice of application is filed by whose address for service is at

NOTE—If in doubt, consult a solicitor or the Registrar immediately.

Form 2

Reg. 3

ORDER OF COMMITTAL UNDER SECTION 126 OF HEALTH ACT 1956

(General Title as in form 1)

It is ordered that [*Insert name of respondent*] be committed to the [*Insert name of hospital or institution*] to be detained there until he is discharged on the certificate of the Medical Officer of Health.

Dated at this day of 19.....

.....
Registrar.T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations relate to the procedure for the committal to hospital of aged, infirm, or neglected persons who are living in insanitary conditions or without proper care or attention. They replace regulations made in 1921.

Regulation 2 prescribes the form of application to be made to a Magistrate's Court by the Medical Officer of Health under section 126 of the Health Act 1956. Three days' notice of the application is to be given to the person concerned, unless the Court or a Magistrate otherwise orders. In other respects, the Magistrates' Courts Rules 1948 will apply to the service and hearing of the application and the making of the order.

Regulation 3 prescribes the form of order of committal that may be made by the Court.

Regulation 4 provides that an order of committal continues in force until the Medical Officer of Health certifies that the further detention of the person committed is unnecessary, or until the Court rescinds the order under regulation 5.

Regulation 5 provides that if the Medical Officer of Health refuses to give a certificate for the purpose of terminating the order the person committed, or anyone acting on his behalf, may apply to a Magistrate's Court for the rescission of the order and the discharge of the patient.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 April 1958.

These regulations are administered in the Department of Health.