

(3) Notwithstanding subsection (1) of section thirty-four A of the Principal Act (as enacted by section two of this Act), for the purpose of securing the rotational retirement of wardens of the Marine Board of Flinders, of the wardens elected at the first election—

- (a) the warden who obtains the largest number of primary votes at that election shall hold office for a term of three years from the date of that election;
- (b) the warden who obtains the next largest number of primary votes at that election shall hold office for a term of two years from that date; and
- (c) the remaining warden shall hold office for a term of one year from that date.

ALCOHOL AND DRUG DEPENDENCY.

No. 61 of 1968.

AN ACT to make provision with respect to the treatment and control of persons suffering from alcohol dependency or drug dependency, to bring to an end the provisions of the *Inebriates Act* 1885 and the *Inebriate Hospitals Act* 1892 and certain provisions of the *Dangerous Drugs Act* 1959, and to make provision with respect to incidental and consequential matters.

[5 December 1968.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I. PRELIMINARY.

1—(1) This Act may be cited as the *Alcohol and Drug Dependency Act* 1968. Short title and commencement.

(2) This Act shall come into force on a date to be fixed by proclamation.

Interpretation.

2—(1) In this Act, unless the contrary intention appears—

- “absent without leave” has the meaning assigned to that expression by subsection (2) of section forty-six;
- “admission application” has the meaning assigned to that expression by subsection (1) of section twenty-three;
- “alcohol” means any form of alcohol or any liquid containing any form of alcohol, and includes any spirituous or fermented liquors, methylated spirits, and any mixture containing any such liquor or spirits;
- “Board” means the Alcohol and Drug Dependency Board;
- “Commission” means the Mental Health Services Commission;
- “convey” includes any other expression denoting removal from one place to another;
- “Director-General” means the Director-General of Health Services;
- “drug” has the meaning assigned to that expression by subsection (3) of section four;
- “hospital” and “hospital authority” have respectively the same meanings as they have for the purposes of the *Mental Health Act 1963*;
- “initial period”, when used in relation to a patient, has the meaning assigned to that expression by subsection (2) of section thirty;
- “Medical Commissioner” means the Medical Commissioner of Mental Health Services;
- “medical practitioner” means a legally-qualified medical practitioner;
- “medical treatment” includes nursing, and also includes care and training under medical supervision;
- “officer of the mental health service” has the meaning assigned to that expression by the *Mental Health Services Act 1967*;
- “officer of the Public Service” includes a person holding office temporarily in the Public Service;
- “patient” means a person suffering, or appearing to be suffering, from alcohol dependency or drug dependency, and includes any person liable to be detained under this Act;
- “personal application” has the meaning assigned to that expression by subsection (2) of section twenty-three;
- “place of safety”, when used in relation to a patient, means—
 - (a) a treatment centre the superintendent of which is willing to receive the patient;
 - (b) a hospital the hospital authority of which is willing to receive the patient;
 - (c) a police station; or

- (d) any other place the occupier of which is willing to receive the patient;
- “relative”, in relation to a patient, has the same meaning as it has for the purposes of the *Mental Health Act 1963*;
- “responsible medical officer”, when used in relation to a patient liable to be detained in a treatment centre, means the medical practitioner in charge of the treatment of the patient;
- “superintendent”, when used in relation to a treatment centre, means the superintendent of that centre appointed under section fifteen;
- “treatment centre” means a hospital or other institution declared to be a treatment centre under section fifteen;
- “treatment order” means an order made under section thirty;
- “transfer direction” means a transfer direction made under section thirty-seven;
- “welfare officer” means a welfare officer appointed under section sixteen.

(2) References in this Act to a person liable to be detained shall be construed as references to a person who, in pursuance of any application, order, or direction is liable under this Act to be detained in a treatment centre, whether or not he is for the time being absent from that centre with leave or otherwise.

(3) References in this Act to a sentence of imprisonment shall be deemed to include references to—

- (a) a sentence or order of a court whereby a person is authorized to be detained in—
 - (i) a reformatory prison within the meaning of the *Indeterminate Sentences Act 1921*; or
 - (ii) an institution within the meaning of section seventy-two of the *Police Offences Act 1935*; and
- (b) a sentence or order of a court whereby a person is committed to prison—
 - (i) on his refusal, failure, or neglect to enter into a recognizance that he has been required to enter into on his conviction for an offence or under Part X of the *Justices Act 1959*; or
 - (ii) in default of the payment of any sum adjudged to be paid on his conviction for an offence,

and for the purposes of this Act a person shall be deemed to be liable to serve a sentence of imprisonment during the period between the taking effect of that sentence and its expiration.

(4) An order of a judge under section fifty of the *Prison Act 1868* directing a person to be imprisoned for a term shall for the purposes of this Act be deemed to be a sentence of imprisonment for that term passed on that person by the Supreme Court.

(5) Where sentences of imprisonment have been passed on a person so as to run concurrently or consecutively those sentences shall, subject to this Act, be treated for the purposes of this Act as one sentence of imprisonment for the term during which, if no treatment order or transfer direction had been made in respect of him, he would have been liable to be detained in pursuance of those sentences.

(6) Where a sentence of imprisonment is passed on a person and the further execution of that sentence after a specified term (in this subsection referred to as "the initial term") is suspended that sentence shall, for the purposes of this Act, be treated as a sentence of imprisonment for the initial term together with a further sentence, the execution of which is suspended, for a term equivalent in length to the amount by which the full term of the sentence so passed exceeds the initial term.

(7) For the purposes of subsection (3) of this section a sentence of imprisonment the execution of which is suspended shall be deemed not to have taken effect unless it has been put into execution.

(8) Where a person is liable to serve a sentence of imprisonment he shall, for the purpose of determining the date of the expiration of that sentence, be deemed to be serving that sentence throughout any period during which he would have been liable to be detained in custody in pursuance of that sentence if a treatment order or a transfer direction had not been made in respect of him.

(9) References in this Act to the expiration of a sentence of imprisonment passed on a person shall be construed as references to the expiration of the period during which he is liable to be detained in custody in pursuance of that sentence or would be so liable if a treatment order or a transfer direction had not been made in respect of him.

(10) References in this Act to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction on imprisonment imposed by or under any enactment by reference to the age of the offender.

Meaning of
alcohol
dependency.

3 For the purposes of this Act a person shall be regarded as suffering from alcohol dependency if he consumes alcohol to excess and—

- (a) is thereby dangerous at times to himself or others or incapable at times of managing himself or his affairs; or
- (b) shows prodromal signs of becoming so dangerous or so incapable.

Meaning of
drugs and
drug
dependency.

4—(1) For the purposes of subsections (2) and (4) of this section, dependency means a condition of a person arising from the taking of a substance that is manifested by—

- (a) an interference with his bodily or mental health;
or

- (b) an interference with his capacity to engage in ordinary relations with other persons or to earn his own livelihood or to undertake any duties or perform any functions that he might reasonably be expected to undertake or perform.

(2) Where the Governor is satisfied that a substance is of such a nature that it can give rise to dependency he may, by order, declare that substance to be a drug to which this Act applies, and he may, if he thinks fit, revoke or vary any order made under this section.

(3) References in this Act to a drug shall be construed as references to a substance that is, for the time being, declared under subsection (2) of this section to be a drug to which this Act applies.

(4) For the purposes of this Act a person shall be regarded as suffering from drug dependency if he takes drugs to the extent that—

- (a) he is thereby dangerous at times to himself or others or incapable at times of managing himself or his affairs; or
- (b) he shows prodromal signs of becoming so dangerous or so incapable.

5—(1) Nothing in this Act shall be construed as preventing a patient who requires treatment for alcohol dependency or drug dependency from being admitted to a treatment centre or any other place in pursuance of arrangements made in that behalf, and without any application, order, or direction rendering him liable to be detained under this Act, or from remaining in a treatment centre in pursuance of any arrangements made in that behalf after he has ceased to be so liable to be detained.

Informal admission of patients.

(2) In the case of an infant who has attained the age of sixteen years and is capable of expressing his own wishes, any such arrangements as are mentioned in subsection (1) of this section may be made, carried out, and determined notwithstanding any right of custody or control vested by law in his parent or guardian.

6 Except as otherwise expressly provided therein, nothing in this Act prejudices or affects the operation of the *Mental Health Act 1963*, and the fact that a person is, or appears to be, suffering from alcohol dependency or drug dependency does not of itself prevent the making of any application, order, or direction under that Act in respect of him.

Saving for *Mental Health Act 1963*.

PART II.

ADMINISTRATION.

Division I—The Alcohol and Drug Dependency Board.

7—(1) There shall be established a board to be called the Alcohol and Drug Dependency Board, which shall be a body corporate with perpetual succession and a common seal.

Establishment and functions of the Alcohol and Drug Dependency Board.

(2) Subject to this Act, it is the duty of the Board to keep under review all matters relating to the prevention and treatment of alcohol dependency and of dependency as defined in subsection (1) of section four, and—

- (a) to advise the Minister with respect to the making of orders under section four or section twenty, and the making of regulations for the purposes of Part V, and with respect to such other matters as he may refer to the Board for its consideration;
- (b) to advise the Commission in relation to the exercise of its functions in respect of alcohol dependency and of dependency as defined in subsection (1) of section four;
- (c) to advise the Director-General in relation to the exercise of his functions under Part III; and
- (d) to hear and determine applications made by or in respect of patients under Part IV.

(3) The Board may cause such investigations to be carried out as it considers necessary to enable it properly to perform its functions.

(4) The Commission shall supply the Board with such information as the Board may reasonably require, and, as may reasonably be required by the Board, arrange for the members, or any of the members, of the Board to visit and inspect treatment centres.

(5) Any dispute under subsection (4) of this section as to whether any requirement of the Board is reasonable shall be determined by the Minister, whose decision thereon is final.

**Constitution
of the Board.**

8—(1) The Board shall consist of a chairman, a deputy chairman, and six other members.

(2) The chairman of the Board shall be a barrister or solicitor appointed by the Governor.

(3) The deputy chairman of the Board shall be the Medical Commissioner or a person nominated by him.

(4) The members of the Board (other than the chairman and the deputy chairman) shall be persons appointed by the Governor, of whom—

- (a) one shall be the chairman of the Council of Social Services or a person appointed on his recommendation;
- (b) one shall be a medical practitioner appointed on the recommendation of the Royal Australian College of General Practitioners;
- (c) one shall be the Director of Public Health or a person appointed on his recommendation;
- (d) one shall be an officer of the mental health service (being a medical practitioner) appointed on the recommendation of the Commission;
- (e) one shall be a police officer appointed on the recommendation of the Commissioner of Police; and

- (f) one shall be a person whose name is registered in the Pharmaceutical Register of Tasmania, appointed on the recommendation of the Director-General.

(5) Where a body referred to in paragraph (a) or paragraph (b) of subsection (4) of this section ceases to exist, or ceases to exist under the name so referred to, the Governor may, by order, make such provision as he considers suitable to provide for some other person to be a member of the Board in place of the person for whose membership of the Board provision is made by the one of those paragraphs in which that body is referred to, and that subsection has effect subject to the provisions of any order made under this subsection.

(6) If a recommendation required to be made for the appointment of a person as a member of the Board is not made by the person or body by whom it is required to be made within thirty days after that person or body has been requested by the Minister to make the recommendation, the Governor may, on the recommendation of the Minister, appoint a person to be a member of the Board and, subject to this section, the person so appointed holds office as if he were the member of the Board required to be appointed on that recommendation.

(7) A document addressed to the Minister and purporting to be signed by an officer of a body referred to in this section or in any order made thereunder that states that a person named therein has been recommended for appointment as a member of the Board is, for the purposes of this Act, sufficient evidence that that person has been so recommended.

9—(1) Subject to this section—

- (a) the chairman of the Board holds office under the terms of the instrument under which he is appointed; and
- (b) the other members of the Board appointed by the Governor hold office for a term of three years commencing on the date of their appointment.

Term of
office, etc., of
members of
the Board.

(2) Where a member of the Board appointed by the Governor (other than the chairman) dies or ceases to hold office otherwise than by the effluxion of time, the person appointed to fill the vacancy ceases to hold office at the expiration of the unexpired term of office of the member in whose place he is appointed.

(3) A member of the Board appointed by the Governor may resign his office by notice in writing to the Minister.

(4) A member of the Board appointed by the Governor ceases to hold office if he ceases to hold the qualifications or office by virtue of which he was appointed a member of the Board.

(5) If a member of the Board appointed by the Governor—

(a) in the opinion of the Governor—

(i) has become incompetent or incapacitated or has for any reason become incapable of performing the duties of his office; or

(ii) has been guilty of conduct that renders his continuance as a member of the Board undesirable; or

(b) is absent, without leave granted by the Board, from three or more consecutive meetings of the Board,

the Governor may remove that member from his office as a member of the Board.

(6) The powers conferred by subsection (5) of this section are in addition to, and not in derogation of, those conferred by section twenty-one of the *Acts Interpretation Act 1931*.

(7) Subsections (1) and (2) of this section do not apply to a person appointed temporarily in the place of, or to perform the duties of, a member of the Board.

Proceedings
of the Board.

10—(1) Subject to this section, the chairman of the Board, or in his absence or if there is no chairman, the deputy chairman, shall preside at each meeting of the Board.

(2) If at any meeting of the Board there is no person present who, pursuant to the foregoing provisions of this section, is required to preside at the meeting such one of the other members present, as they may choose, shall preside at the meeting.

(3) The chairman, deputy chairman, or other person presiding at a meeting of the Board has a deliberative vote only and, in the event of an equality of votes on any matter before a meeting of the Board, the matter stands adjourned until the next meeting of the Board.

(4) Four members of the Board constitute a quorum at any meeting of the Board.

(5) Subject to this Act the Board may regulate its own proceedings.

Committees
of the Board.

11—(1) The Board may appoint committees for the consideration or investigation of such matters in relation to the exercise of its functions as the Board considers may conveniently be so considered or investigated.

(2) The number of members of a committee appointed under this section shall be fixed by the Board, and those members hold and vacate office under the terms of the instruments under which they are respectively appointed.

(3) A committee appointed under this section may consist wholly or partly of persons who are not members of the Board.

(4) The chairman and deputy chairman of any committee appointed under this section shall be appointed, and the terms under which they respectively hold and vacate office shall be determined, either by the Board or in such manner as the Board may direct.

(5) Subject to any direction given by the Board, a committee appointed under this section may regulate its own proceedings.

(6) The Minister may pay to members of a committee appointed under this section such remuneration as the Governor may approve.

12 With the approval of the Minister, and subject to such restrictions as he may determine, the Board may delegate the exercise of any of its functions to a member of the Board or to a committee constituted under section eleven all the members of which are members of the Board.

Delegation of functions of the Board.

13—(1) The Minister may appoint a person to be secretary of the Board and may make arrangements to render available to the Board such staff and accommodation as the Board may require.

Staff of the Board.

(2) With the consent of the Public Service Commissioner, an officer of the Public Service, or, with the consent of the Commission, an officer of the mental health service, may, in conjunction with his office as such, hold office as secretary of the Board or serve the Board in any other capacity.

14—(1) The Board shall, as soon as practicable after the thirtieth day of June in each year, submit to the Minister a report on its proceedings during the period of twelve months ending on that day.

Annual report of the Board.

(2) As soon as practicable after receiving a report under this section the Minister shall cause a copy thereof to be laid before each House of Parliament.

Division II—Treatment centres, welfare officers, &c.

15—(1) On the recommendation of the Commission, the Governor may, by order, declare any hospital or other institution at which mental health services are provided under the *Mental Health Services Act 1967* to be a treatment centre for the purposes of this Act.

Treatment centres and the superintendents thereof.

(2) For the purposes of this Act, the Commission shall for each treatment centre appoint a medical practitioner to be the superintendent thereof.

(3) The Commission shall publish in the *Gazette* notice of the appointment under this section of a person as superintendent of a treatment centre and notice of any person ceasing to be such a superintendent.

(4) Regulations under this Act may regulate the manner in which the functions of the superintendent of a treatment centre may be exercised under this Act and may authorize,

in such circumstances and subject to such conditions (if any) as may be prescribed, those functions to be exercised by some other person acting on behalf of the superintendent.

Welfare
officers.

16—(1) The Commission may appoint welfare officers for the purposes of this Act.

(2) The Commission shall publish in the *Gazette* notice of the appointment under this section of a person as a welfare officer and notice of any person ceasing to be a welfare officer.

PART III.

NOTIFICATION OF DRUG DEPENDENCY AND REGULATION OF THE SUPPLY OF DRUGS TO PATIENTS.

Interpretation
of Part III.

17 Where a medical practitioner prescribes drugs, or supplies them, or authorizes them to be supplied, for administration to any person he is, for the purposes of this Part, regarded as making those drugs available for the use of that person.

Notification
of patients
suffering
from drug
dependency.

18—(1) Where it appears to a medical practitioner that a person consulting, or attended or treated by, him is suffering from drug dependency, the medical practitioner shall, in the prescribed form and within the prescribed time, give notice of the fact to the Director-General.

Penalty: Two hundred dollars.

(2) This section does not require notice to be given by a medical practitioner on the staff of, or attending at, a treatment centre in respect of any person receiving medical treatment at that centre if such a notice has already been given in respect of that person by a medical practitioner on the staff of, or attending at, that treatment centre.

Restriction on
supply of
drugs in
cases of
drug
dependency.

19 Except in accordance with an authority given under section twenty-two a medical practitioner shall not make drugs available for the use of any person who, in his opinion, suffers from drug dependency.

Penalty: Two hundred dollars.

Restriction on
supply of
drugs for
continuous
use.

20—(1) Where the Governor is satisfied that a drug is of such a nature that the period for which it is made available for the continuous use of any person without special authority should be limited, he may, by order—

(a) declare that drug to be a drug to which this section applies; and

(b) specify a period as the maximum period for which that drug may be made available for the continuous use of a person without special authority,

and in relation to that drug the period so specified is referred to in this section as “the prescribed period”.

(2) The Governor may vary or revoke any order made under this section.

(3) For the purposes of this section, in relation to the drugs to which this section applies made available for the continuous use of any person over a period, the "relevant limited period" is the prescribed period for the drugs supplied for the use of that person at any time within that period or, if there are different prescribed periods for different of those drugs, the shortest of those prescribed periods.

(4) Subject to this section, where drugs to which this section applies are made available for the continuous use of any person over a period longer than the relevant limited period the making so available of those drugs requires an authority given under section twenty-two.

(5) In determining whether, over any period, drugs have been made available for the continuous use of any person regard shall be had to all the drugs to which this section applies made available for the use of that person within that period, whether or not those drugs are of the same kind and whether or not they are made available by the same medical practitioner.

(6) A medical practitioner who, otherwise than in accordance with an authority given under section twenty-two, makes drugs to which this section applies available for the use of a person where, pursuant to subsection (4) of this section, such an authority is required for the making of those drugs so available is guilty of an offence unless, at the time at which he makes those drugs so available, he is unaware of the facts and circumstances that give rise to the need for that authority.

(7) A medical practitioner who is guilty of an offence under this section is liable to a penalty of two hundred dollars.

21 Nothing in section nineteen or section twenty prevents the making of drugs available for the use of a person receiving medical treatment at a treatment centre, if those drugs are so made available by, or with the authority of, a medical practitioner on the staff of, or attending at, that treatment centre. Saving in respect of treatment centres.

22—(1) In accordance with this section the Director-General may, on an application made under this section in respect of any person (in this section referred to as "the patient"), give authority for the making available of drugs for the use of that person. Authority for making drugs available to certain patients.

(2) An application under this section shall be in writing in the prescribed form signed by the medical practitioner by whom it is made and shall—

(a) specify the patient in respect of whom it is made;

- (b) state whether, in the opinion of the medical practitioner, the patient is suffering from drug dependency; and
- (c) contain such other information as may be prescribed.

(3) An application under this section shall be enclosed in a sealed envelope, marked "Confidential", and be lodged with, or forwarded by certified mail to, the Director-General.

(4) An application under this section that states that, in the opinion of the medical practitioner by whom it is made, the patient is suffering from drug dependency, shall be referred by the Director-General to the Board, and any other application may be so referred.

(5) Where the Director-General refers an application under this section to the Board, he shall, before granting an authority under this section on that application, take into consideration any report relating to the application that may have been made to him by the Board.

(6) An authority given under this section in respect of a patient shall specify—

- (a) the drugs that may be made available for his use in pursuance of the authority, and the quantities of those drugs that may so be made available; and
- (b) the period for which those drugs may so be made available,

and may specify the conditions under which, or the circumstances in which, they may so be made available.

(7) An authority given under this section shall be in writing signed by the Director-General unless, in a case of emergency, it is given orally, and an authority given orally shall be confirmed in writing as soon as practicable after it is given.

(8) An authority given under this section authorizing a medical practitioner to make drugs available for the use of a patient authorizes that medical practitioner, or some other medical practitioner authorized by him in writing in that behalf, to make those drugs available for the use of the patient in accordance with the terms of the authority.

PART IV.

ADMISSION OF PATIENTS TO TREATMENT CENTRES.

Division I—Admission on application.

Admission
applications.

23—(1) A patient may be admitted to a treatment centre, and there detained in accordance with this Act, in pursuance of an application (in this Act referred to as an admission application) made in accordance with this Act.

(2) An admission application may be made by the patient himself or by a relative of his or by a welfare officer, and an admission application made by the patient himself is in this Act referred to as a personal application.

(3) An admission application shall be in the prescribed form, specifying the treatment centre to which admission is sought, and shall be addressed to the superintendent of that centre.

(4) An admission application that is made by a relative of the patient shall state the relationship of the applicant to the patient, and an admission application that is made by a welfare officer shall state that it is so made.

(5) An admission application (other than a personal application) shall not be made by any person unless that person has personally seen the patient within the period of fourteen days ending with the date of the application.

(6) An admission application for the admission of a patient to a treatment centre may be made notwithstanding that the patient is already an in-patient in that treatment centre, not being liable to be detained therein under this Part, and where an admission application is so made the patient shall be treated for the purposes of this Part as if he had been admitted to the treatment centre at the time when the application is received by the superintendent of that treatment centre or some other person acting on his behalf under this Act.

24—(1) This section does not apply to personal applications.

Provisions
as to
applications
other than
personal
applications.

(2) An admission application may be made in respect of a patient on the grounds—

- (a) that he is suffering from alcohol dependency or drug dependency to a degree that warrants his detention in a treatment centre for medical treatment; and
- (b) that it is necessary in the interests of his health or safety or for the protection of other persons that he be so detained.

(3) An admission application shall be founded on the recommendation of a medical practitioner made in accordance with this Part, and such a recommendation is in this Act referred to as a medical recommendation.

(4) A medical recommendation upon which an admission application is founded shall include a statement that in the opinion of the medical practitioner by whom it is given the conditions set out in paragraphs (a) and (b) of subsection (2) of this section are complied with in respect of the patient and shall contain—

- (a) such particulars as may be prescribed of the grounds of the opinion so far as it relates to the conditions set out in paragraph (a) of that subsection; and

- (b) a statement of the reasons for the opinion so far as it relates to the conditions set out in paragraph (b) of that subsection.

(5) An admission application shall specify whether it is made on grounds that the patient is suffering from alcohol dependency or from drug dependency or from both of those conditions.

(6) The medical recommendation necessary to found an admission application shall not be given by a medical practitioner unless he has personally examined the patient, and shall be signed on or before the date of the application.

(7) A medical recommendation upon which an application is founded shall not be made by the applicant himself.

Rectification
of admission
applications
and medical
recommendations.

25—(1) If, within the period of fourteen days beginning with the day on which a patient has been admitted to a treatment centre in pursuance of an admission application, the application or the medical recommendation on which it is founded, is found to be in any respect incorrect or defective, the application or recommendation may, within that period, and with the consent of the superintendent of the treatment centre, be amended by the person by whom it was signed.

(2) Upon an amendment being made to an admission application or a medical recommendation under subsection (1) of this section the application or recommendation has effect and shall be deemed always to have had effect as if it had been originally made as so amended.

Effect of
admission
applications.

26—(1) An admission application (not being a personal application) for the admission of a patient to a treatment centre is sufficient authority for the applicant, or any person authorized by him, to convey the patient to the treatment centre at any time during the period of fourteen days beginning with the day on which the patient was examined by the medical practitioner upon whose medical recommendation the application is founded for the last time before he signed that recommendation.

(2) An admission application for the admission of a patient to a treatment centre is sufficient authority for the superintendent of the treatment centre to cause him to be detained in the treatment centre in accordance with this Act if—

- (a) the application is a personal application and he is admitted to the treatment centre within the period of fourteen days beginning with the day on which he made the application; or
- (b) he is conveyed to the treatment centre in pursuance of subsection (1) of this section and admitted therein.

(3) Notwithstanding anything in the foregoing provisions of this section an admission application (not being a personal application) ceases to have effect at the expiration of a period of fourteen days beginning on the day on which the patient was admitted to a treatment centre in pursuance of that application unless, during that period, the appropriate medical officer issues a certificate stating that in his opinion the conditions referred to in paragraphs (a) and (b) of subsection (2) of section twenty-four are complied with in respect of the patient and, in relation to that opinion, that certificate contains such particulars and statements as are referred to in paragraph (a) or paragraph (b) of subsection (4) of that section.

(4) Where an admission application ceases to have effect under subsection (3) of this section the patient ceases to be liable to be detained thereunder.

(5) For the purposes of subsection (3) of this section, "the appropriate medical officer", in relation to an admission application, means a medical practitioner (not being the medical practitioner who gave the medical recommendation on which the admission application was founded) who is either the superintendent of the treatment centre in which the patient is liable to be detained or a medical practitioner directed by that superintendent to examine the patient.

27—(1) Subject to this Part, a patient admitted to a treatment centre in pursuance of an admission application may be detained in that centre for a period of six months beginning with the day on which he was so admitted and for such further periods for which authority for his detention may be renewed under this section.

Duration of
authority for
detention in
treatment
centres.

(2) Within the period of one month ending on the day on which a patient who is liable to be detained in pursuance of an admission application would cease under this section to be so liable in default of the renewal of the authority for his detention, it is the duty of the responsible medical officer to examine the patient or to obtain from a medical practitioner a report on an examination of the patient made within that period by that practitioner on the request of the responsible medical officer; and if it appears to the responsible medical officer that it is necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained he shall furnish to the superintendent of the treatment centre at which the patient is liable to be detained a report to that effect.

(3) Subject to this section, where a report is furnished under subsection (2) of this section, the authority for the detention of the patient is thereby renewed for a further period of six months.

(4) Notwithstanding anything in subsection (3) of this section such a report as is referred to therein does not have the effect of renewing the authority for the detention of the patient who is liable to be detained under a personal application or under an admission application made by a relative of the patient unless—

(a) in the case of a patient who is liable to be detained under a personal application, the patient consents in writing to the renewal of the authority; or

(b) in the case of a patient who is liable to be detained under an admission application made by a relative of his, the patient or that relative consents in writing to the renewal of the authority.

(5) Where a report under this section is furnished in respect of a patient the superintendent shall, unless he discharges the patient, cause him to be informed of the effect of the report.

Discharge of
patients by
treatment
centre.

28—(1) Where a patient is liable to be detained in a treatment centre in pursuance of an admission application the superintendent of that treatment centre may, by order, discharge the patient from detention on such date as may be specified in the order, and, on the date so specified, the patient ceases to be liable to be detained in pursuance of that application.

(2) An order shall not be made under this section in respect of a patient by the superintendent of a treatment centre except after consultation with the medical practitioner on whose medical recommendation the admission application pursuant to which the patient is liable to be detained was founded, unless it appears to the superintendent that, in the circumstances, that consultation is not reasonably practicable or is undesirable.

Discharge of
patients by
Board.

29—(1) Application may at any time be made to the Board by a patient liable to be detained in the treatment centre in pursuance of an admission application, or by some relative of his on his behalf, for an order for the discharge of the patient.

(2) On an application under this section the Board, if in all the circumstances it considers it proper so to do, may order the discharge of the patient, and it shall order the patient to be discharged if it is satisfied—

(a) that the patient was admitted to a treatment centre in pursuance of an application made as the result of a mistake or any false representation; or

(b) that there is no sufficient cause for his remaining liable to be detained in a treatment centre.

(3) On the making of an order under this section that a patient be discharged he ceases to be liable to be detained under the admission application.

Division II—Persons convicted of offences.

30—(1) Subject to this section, where a person is convicted of an offence punishable with imprisonment and the court is of the opinion that the offence was committed—

Powers of courts in dealing with persons suffering from alcohol dependency or drug dependency.

- (a) while that person was in a state or condition of drunkenness or was under the influence of alcohol or any drug; or
- (b) as a consequence of his suffering from alcohol dependency or drug dependency,

the court, if it is satisfied that that person is suffering from alcohol dependency or drug dependency, may, in addition to, or in lieu of, exercising any other powers exercisable by it in respect of that person, make a treatment order in respect of him.

(2) Where a court makes a treatment order in respect of any person it shall specify in that order the length of the period for which that person is to remain liable to be detained in pursuance of that order, being a length of not more than two years, and, in relation to such an order, the period of that length beginning on the day on which the order is made is referred to in this Act as “the initial period”.

(3) Where in respect of the conviction of a person for an offence the court both makes a treatment order in respect of him and imposes on him a sentence of imprisonment or where the court makes a treatment order in respect of a person who is liable to serve a sentence of imprisonment it may direct that the operation of the order be postponed until the expiration of that sentence or such part thereof as the court specifies.

(4) Where a court would under subsection (1) of this section have power to make a treatment order in respect of any person it may, if it does not make such an order, pass sentence upon him in respect of the offence for which he is convicted and, upon such conditions as the court specifies (being conditions mentioned in subsection (5) of this section)—

- (a) suspend the execution of the sentence; or
- (b) in the case of a sentence of imprisonment, suspend the further execution of the sentence after such term as it thinks fit.

(5) The conditions referred to in subsection (4) of this section may be all or any of the following conditions, that is to say:—

- (a) That the person convicted, within such time as the court specifies, is admitted to a treatment centre in pursuance of a personal application;

- (b) That, for such period, not exceeding three years, after he ceases to be liable to be detained in pursuance of that application he remains under the supervision of a welfare officer; and
- (c) That during the period during which he so remains liable to be detained and during the period referred to in paragraph (b) of this subsection, he abstains from taking alcohol or drugs, except at the direction or with the approval of a medical practitioner.

(6) Where a patient has made a personal application pursuant to this section his consent is not required for the renewal of the authority for his detention under subsection (4) of section twenty-seven.

(7) The powers conferred on a court of petty sessions by this section shall not be exercised by such a court unless it consists of, or one of its members is, a police magistrate.

Supple-
mentary
provisions as
to evidence.
&c.

31—(1) A court shall not exercise the jurisdiction conferred on it by section thirty on the ground that a person is suffering from alcohol dependency or drug dependency unless it is satisfied, on the written or oral evidence of a medical practitioner, that he is so suffering.

(2) For the purposes of subsection (1) of this section, a report in writing purporting to be signed by a medical practitioner may, subject to this section, be received in evidence without proof of the signature of that medical practitioner; but the court may in any case require him to be called to give oral evidence.

(3) Where, in pursuance of the directions of the court, any such report as is referred to in subsection (2) of this section is tendered in evidence, otherwise than by or on behalf of the person on whom it is made, then—

- (a) if that person is represented by counsel, the court shall cause a copy of the report to be given to his counsel;
- (b) if he is not so represented, the court shall cause the substance of the report to be disclosed to him; and
- (c) in any case, he, or the person by whom he is represented, may require the medical practitioner by whom the report is signed to be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by him or on his behalf.

(4) A treatment order shall not be made in respect of any person unless the court is satisfied that appropriate arrangements have been made for his admission to the treatment centre to which the order authorizes him to be admitted.

(5) A court shall not suspend the execution of a sentence or the further execution of a sentence on the conditions referred to in paragraph (a) of subsection (5) of section thirty unless the court is satisfied that arrangements have been, or will be, made for the admission of the person convicted to a treatment centre within the time specified by the court pursuant to that paragraph.

32—(1) Where the execution, or further execution, of sentence passed on any person has been suspended under subsection (4) of section thirty and the appropriate court is satisfied that—

Failure to comply with conditions of suspended sentence.

- (a) he has failed to comply with any of the conditions upon which the execution, or further execution, of the sentence was suspended;
- (b) having made a personal application as required by the conditions, he has absented himself without leave from the treatment centre in which he is liable to be detained pursuant thereto, or has wilfully and repeatedly resisted or hindered his medical treatment at that centre, or has wilfully and repeatedly engaged in conduct prejudicial to the orderly carrying on of the centre; or
- (c) being required by those conditions to place himself under the supervision of a welfare officer, has wilfully and repeatedly, and without reasonable excuse, failed to comply with the directions or instructions given to him by the welfare officer directed by the Commission, or some person acting with the authority of the Commission, to have his supervision,

that court may, by order, direct that the sentence be executed, or further executed, as the case may be.

(2) Where a justice is satisfied by evidence on oath that there is reason to believe that grounds exist upon which a court may make such an order as is referred to in subsection (1) of this section in respect of any person he may issue a summons requiring that person to appear before that court to show cause why the order should not be made, or, whether or not such a summons has been issued, issue a warrant authorizing the apprehension of that person and his detention in custody until he can be brought before the court.

(3) A summons issued under this section may be served in like manner as a summons issued on a complaint for an offence, and a warrant so issued may be executed according to its tenor.

(4) For the purposes of this section “appropriate court” means—

- (a) when used in relation to a sentence passed by the Supreme Court, or a judge thereof, a judge; and

- (b) when used in relation to a sentence passed by a court of petty sessions, a court of petty sessions that consists of, or one of the members of which is, a police magistrate.

Effect of
treatment
orders.

33—(1) Subject to this section, a treatment order (other than a treatment order the operation of which is postponed under subsection (3) of section thirty) is sufficient authority for a police officer or a welfare officer to convey the person to whom it relates to the treatment centre specified therein—

- (a) in any case, at any time during the period of twenty-eight days beginning with the day on which the order was made; or
(b) where that person is liable to serve a sentence of imprisonment, at such later time as the Attorney-General may authorize.

(2) Where the operation of a treatment order has been postponed under subsection (3) of section thirty until the expiration of a sentence of imprisonment, or part of such a sentence, that order is, subject to this section, sufficient authority for a police officer or a welfare officer to convey the person to whom it relates to the treatment centre specified in the order at any time during the period of twenty-eight days ending on the day on which that sentence, or that part thereof, as the case may be, would otherwise expire, or at such earlier time as the Attorney-General may direct.

(3) The Attorney-General shall not give a direction for the purposes of subsection (2) of this section in respect of any person unless, after a consideration of the written report of a medical practitioner on an examination made of that person, he is satisfied that it is in the public interest that he be removed to a treatment centre.

(4) Where a patient is admitted to a treatment centre in pursuance of a treatment order he may be detained in that centre for the initial period and for such further periods for which authority for his detention is renewed under section thirty-four.

(5) If it appears to the Attorney-General that by reason of an emergency or of other circumstances that have arisen since the making of the treatment order it is not practicable or desirable for the patient to be received into the treatment centre specified in the order, he may give directions for the admission of the patient to such other treatment centre as appears to him to be appropriate in the circumstances.

(6) Where any directions are given in respect of a patient under subsection (5) of this section, the Attorney-General shall cause the person having the custody of the patient to be informed, and thereupon the treatment order has effect as if the treatment centre specified in the directions were substituted for the treatment centre specified in the order.

34—(1) Within the period of one month ending on the day on which a patient would cease to be liable to be detained under section thirty-three in default of the renewal of the authority for his detention, it is the duty of the responsible medical officer to examine the patient or to obtain from a medical practitioner a report on an examination of the patient made within that period by that medical practitioner at the request of the responsible medical officer; and if it appears to the responsible medical officer that it is necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained under the order he shall furnish to the superintendent of the treatment centre in which the patient is liable to be detained a report to that effect.

Extension of
period of
detention
under
treatment
orders.

(2) Where a report is furnished under subsection (1) of this section in respect of a patient, the authority for his detention is thereby renewed for a further period of six months.

(3) Where the authority for the detention of a patient is renewed under this section for a further period the superintendent of the treatment centre at which the patient is liable to be detained may at any time during that period order the patient to be discharged.

(4) Where the authority for the detention of a patient pursuant to a treatment order has been renewed under this section application may, at any time while the patient remains liable to be detained under the order, be made to the Board by the patient, or by some relative on his behalf, for an order for the discharge of the patient.

(5) On an application under subsection (4) of this section the Board, if in all the circumstances it considers it proper so to do, may order the discharge of the patient and it shall order the patient to be discharged if it is satisfied that there is no sufficient cause for his remaining liable to be detained in a treatment centre.

(6) On the making of an order under subsection (3) or subsection (5) of this section that a patient be discharged he ceases to be liable to be detained under the treatment order.

35—(1) Where a treatment order is made in respect of a person who is liable to serve a sentence of imprisonment any powers and authorities that may be exercised in pursuance of that order may be so exercised notwithstanding that that person is liable to serve that sentence of imprisonment or any sentence imposed so as to run concurrently or consecutively with that sentence.

Effect of
treatment
orders on
sentences
of imprison-
ment.

(2) For the purposes of this section where a treatment order is made on the conviction of a person for any offence or any offences and a sentence of imprisonment is also passed upon him for that offence or any of those offences that person shall be deemed at the time the treatment order is made to be liable to serve that sentence of imprisonment.

(3) Nothing in subsection (1) of this section prevents the putting into execution in respect of any person in respect of whom a treatment order is in force of any sentence of imprisonment passed on him the execution of which has been suspended, or the carrying out in respect of him of any sentence, order, or other determination of a court other than such a sentence as is referred to in that subsection.

(4) Where a treatment order has been made in respect of a person who is liable to serve a sentence of imprisonment that person may, until he is admitted to a treatment centre in pursuance of that order, be detained or otherwise dealt with as if that treatment order had not been made, but nothing in this subsection has the effect of authorizing a transfer direction to be made in respect of such a person.

Effect of
treatment
orders on
recognizances.

36 Where a court makes a treatment order in respect of any person it may vary or discharge any recognizance that has been previously entered into by that person upon his discharge on his conviction for an offence or under the *Probation of Offenders Act 1934* (in this section referred to as "his former discharge"); but nothing in this section authorizes a court to vary a recognizance in such a manner that if so varied it would have effect in a manner or for a period different from that of any recognizance that he could have been required to enter into on his former discharge under the enactment by virtue of which he was then discharged.

Division III—Transfer of persons in custody.

Transfer to
treatment
centres of
persons in
custody.

37—(1) Where a person is being detained in custody in any of the following circumstances, that is to say:—

- (a) He is being detained in custody under a sentence of imprisonment;
- (b) He has been charged with an offence and (otherwise than under a sentence of imprisonment or sentence of death) is being detained in custody in consequence of the making of that charge; or
- (c) He has been committed by a court to prison for a limited term (including committal in pursuance of a writ of attachment) otherwise than in the circumstances referred to in the foregoing paragraphs of this subsection,

the Attorney-General may, if he is satisfied on the written report of a medical practitioner that that person is suffering from alcohol dependency or drug dependency, by warrant direct that that person be removed to and detained in a treatment centre specified in the direction.

(2) A direction under subsection (1) of this section is referred to as a transfer direction and references in this Act to the making of a transfer direction shall be construed as references to the issue of the warrant containing the direction.

(3) A transfer direction ceases to have effect after the expiration of a period of fourteen days beginning with the day on which it is made unless within that period the person to whom it relates has been received into the treatment centre specified in the direction.

(4) A transfer direction is sufficient authority for a police officer or a welfare officer to convey the person to whom it relates to the treatment centre specified in the direction.

38—(1) A transfer direction made in respect of a person serving a sentence of imprisonment ceases to have effect on the expiration of that sentence.

Provisions as to transfer directions made in respect of persons under sentence of imprisonment.

(2) Where a transfer direction ceases to have effect under subsection (1) of this section, the person in respect of whom it is made nevertheless continues to be liable to be detained under this Act as if, on the date on which the transfer direction so ceased to have effect, he had been admitted to the treatment centre in which he was last liable to be detained under the transfer direction in pursuance of a personal application, and the provisions of this Act apply in respect of him accordingly.

39—(1) A transfer direction made in respect of a person referred to in paragraph (b) of subsection (1) of section thirty-seven ceases to have effect when by virtue of any verdict or sentence passed or any order made by a court the charge against that person is finally disposed of by that court.

Provisions as to transfer directions made in respect of persons on remand, &c.

(2) Where a transfer direction made in respect of any person ceases to have effect under this section then unless it ceases to have effect by reason of—

- (a) the passing of a sentence of imprisonment (other than a sentence of imprisonment the execution of which is suspended);
- (b) the passing of any other sentence or the making of any order by virtue of which he is liable forthwith to be detained in custody;
- (c) the making of a hospital order or guardianship order under the *Mental Health Act* 1963; or
- (d) the exercise by a court of its powers under section thirty,

he nevertheless continues to be liable to be detained under this Act as if, on the date on which the transfer direction so ceased to have effect, he had been admitted to the treatment centre in which he was last liable to be detained under the transfer direction in pursuance of a personal application and the provisions of this Act apply to him accordingly.

(3) The making of such a transfer direction as is referred to in this section does not prejudice or affect the powers of a court to make any order by virtue of which a person is authorized or required to be brought, or required to appear, before a court, but, notwithstanding anything in any other enactment, where a person has been admitted to a treatment centre in pursuance of such a direction, a court is not required

to make any order whereby that person, until he is brought or appears before a court in proceedings on any charge, is authorized or required to be kept in custody otherwise than in pursuance of the transfer direction.

(4) Where a person is admitted to a treatment centre in pursuance of such a transfer direction as is referred to in this section, any order of a court whereby he is authorized or required to be detained in custody until he is brought or appears before a court or for the purpose of securing his attendance before a court, shall be deemed to be sufficiently complied with so long as that direction remains in force and the powers and authorities conferred by this Act are exercisable in relation to him in pursuance of that transfer direction.

(5) Where a person has been admitted to a treatment centre in pursuance of such a transfer direction as is referred to in this section any order of a court whereby he is authorized or required to be brought, or is required to appear, before a court is, without prejudice to the exercise of any other powers conferred by that order, sufficient authority for a police officer, a welfare officer, or any person on the staff of the treatment centre in which the person to whom the transfer direction relates is liable to be detained to bring him before the court.

(6) Subject to the following provisions of this section where in any proceedings on a charge against any person for an offence, he is acquitted or discharged, or any sentence is passed on him, or any order is made, by a court on his conviction for that offence, the proceedings on the charge shall be deemed to have been finally disposed of by that court, notwithstanding that any further proceedings may be taken consequent upon that acquittal, discharge, conviction, sentence, or order.

(7) Where a person is charged before justices with an indictable offence an order committing him for trial or sentence shall, for the purposes of this section, be deemed not to be a final disposal of the charge.

(8) The making by a court of any order that any proceedings shall be taken, or any matter shall be heard or determined, in that or any other court shall, for the purposes of this section, be deemed not to be a final disposal by that court of the charge to which those proceedings relate.

(9) An order made in respect of any person under subsection (4) of section three hundred and eighty of the *Criminal Code* shall be deemed, for the purposes of this section, to constitute the final disposal by the Supreme Court of the proceedings on the charge in the indictment to which the order relates.

Provisions as
to transfer
directions
made in
respect of
civil
prisoners.

40—(1) A transfer direction made in respect of such a person as is referred to in paragraph (c) of subsection (1) of section thirty-seven ceases to have effect on the expiration of the period during which he would, but for his removal to a treatment centre, be liable to be detained in prison.

(2) Where such a transfer direction made in respect of a person ceases to have effect by virtue of subsection (1) of this section, he continues nevertheless to be liable to be detained in the treatment centre in which he was last liable to be detained under that direction as if he had been admitted thereto, on the date on which the direction ceased to have effect, in pursuance of a personal application, and the provisions of this Act apply to him accordingly.

Division IV—Supplementary provisions as to persons subject to criminal and other proceedings.

41—(1) This section applies to—

Removal of
certain
patients to
gaol, &c.

- (a) any person who is liable to serve a sentence of imprisonment and is liable to be detained in a treatment centre in pursuance of a treatment order; and
- (b) any person who is liable to be detained in a treatment centre in pursuance of a transfer direction, and that order or direction is, in this section, referred to as “the relevant order or direction”.

(2) Where on a report made to him by the responsible medical officer the Attorney-General is satisfied that a person to whom this section applies—

- (a) no longer requires medical treatment in a treatment centre;
- (b) has absented himself without leave from the treatment centre;
- (c) has wilfully and repeatedly resisted or hindered his medical treatment at that centre; or
- (d) has wilfully and repeatedly engaged in conduct prejudicial to the orderly carrying on of the centre,

he may by warrant direct that that person be removed to any gaol or other place in which he could, at the time the warrant is issued, have been detained if the relevant order or direction had not been made, there to be dealt with as if he had not been admitted to that centre in pursuance of the treatment order or transfer direction.

(3) A warrant under this section is sufficient authority to a police officer to apprehend the person to whom it relates and to convey him to the gaol or other place specified in the warrant.

(4) Where a person is conveyed to a gaol or other place under this section any treatment order or transfer direction in force in respect of him ceases to be of effect.

42 Where a person who—

Addition to
term of
sentence of
period of
absence
without leave.

- (a) is liable to serve a sentence of imprisonment for a specified term or has been committed to prison for a limited term; and

(b) is liable to be detained under a treatment order or transfer direction,

is or has been absent without leave, the length of that term shall be deemed to be increased by the length of the period during which he is so absent.

Special provisions as to indeterminate sentences.

43—(1) In imposing under any enactment an indeterminate sentence on a person in respect of whom the court makes a treatment order, or who is liable to be detained in pursuance of a treatment order or of a transfer direction made while he was liable to serve a sentence of imprisonment, the court, instead of sentencing or directing him to be committed to or detained in a reformatory prison, either forthwith or at the expiration of a term of imprisonment, shall direct that he shall be liable to be removed to such a prison and there detained during the Governor's pleasure, but an order so made shall, subject to this Act, have the like effect as an indeterminate sentence imposed under that enactment.

(2) Where a person who is liable to be detained in a treatment centre is required in pursuance of an order made under section six of the *Indeterminate Sentences Act 1921* to be brought up before a judge of the Supreme Court the Attorney-General may by warrant direct that he be brought before such a judge at the sittings of the Supreme Court specified in the warrant and such a warrant authorizes any police officer to bring that person before the Supreme Court at those sittings and in due course to return him to that treatment centre.

(3) The bringing of a person before the Supreme Court in accordance with a warrant under this section shall be deemed to be sufficient compliance with the order referred to in subsection (2) of this section and the judge before whom he is brought has the like powers of dealing with him as if he had been brought before the court in accordance with that order.

(4) References in this section to the imposition of an indeterminate sentence shall be construed as references to the imposition of a sentence whereby the person on whom it is imposed is liable to be detained in custody during the Governor's pleasure in a reformatory prison and where, under such a sentence, that person will not become so liable until after the expiration of a term of imprisonment that sentence shall for the purposes of the provisions of this Act (other than those of section forty-two) be deemed to be imposed so as to run consecutively with that term of imprisonment.

Division V—General provisions as to patients liable to detention.

Transfer of patients from one treatment centre to another.

44—(1) Where a patient is liable to be detained in a treatment centre the superintendent of that treatment centre may, by a direction in writing, direct that he be transferred to another treatment centre.

(2) A direction under this section directing the transfer of a patient from one treatment centre to another is sufficient authority during the period of twenty-eight days beginning with the date of the direction for a person authorized in that behalf by the superintendent of either treatment centre to convey the patient to the treatment centre to which he is so directed to be transferred.

(3) Where a patient who is liable to be detained in pursuance of an admission application is transferred under this section the provisions of this Part apply in respect of him as if the admission application were an application for admission to the treatment centre to which he is transferred and as if he had been admitted to that treatment centre at the time he was originally admitted to a treatment centre in pursuance of the application.

(4) Where a patient who is liable to be detained in pursuance of a treatment order or a transfer direction is transferred under this section the provisions of this Part apply in respect of him as if the order or direction specified as the treatment centre in which he is to be detained in pursuance of the order or direction, the treatment centre to which he is transferred, and as if he had been admitted to that treatment centre at the time he was originally admitted to a treatment centre in pursuance of the order or direction.

(5) Such a patient as is referred to in subsection (1) of section forty-one shall not be transferred under this section from one treatment centre to another without the consent of the Attorney-General.

45—(1) The responsible medical officer may grant to a patient who is for the time being liable to be detained in a treatment centre leave to be absent from the centre subject to such conditions (if any) as he considers necessary in the interests of the patient or for the protection of other persons. Leave of absence.

(2) Leave of absence may be granted to a patient under this section either indefinitely or on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the patient.

(3) Where it appears to the responsible medical officer that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon the granting of leave of absence under this section, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient may be kept in the custody of any officer on the staff of the treatment centre or of any person authorized in that behalf in writing by the superintendent of the treatment centre.

(4) Where a patient is absent from a treatment centre in pursuance of leave of absence granted under this section, and it appears to the responsible medical officer that it is necessary so to do in the interests of the patient's health or safety or for the protection of other persons, the responsible medical officer may, by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the treatment centre.

(5) A patient to whom leave of absence has been granted under this section shall not be recalled under subsection (4) of this section after he has ceased to be liable to be detained in a treatment centre.

(6) The power to grant leave of absence under this section to such a patient as is referred to in subsection (1) of section forty-one shall not be exercised without the consent of the Attorney-General, and if leave of absence is granted to such a patient under this Act, the power to recall the patient is vested in the Attorney-General as well as in the responsible medical officer.

Patients
absent
without
leave.

46—(1) Where a patient who is for the time being liable to be detained in a treatment centre under this Part—

- (a) absents himself from the centre without leave granted under section forty-five;
- (b) fails to return to the centre on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that section, or upon being recalled thereunder; or
- (c) absents himself without permission from any place at which he is required to reside in accordance with conditions imposed on the grant of leave of absence under that section,

he may be taken into custody and returned to the treatment centre, or that place, by any officer on the staff of the centre, by a police officer, or by any person authorized in writing by the superintendent of the treatment centre.

(2) For the purposes of this Act a patient shall be regarded as being absent without leave at any time at which he is absent from a treatment centre or other place and liable or, if he were then in the State, would be liable, to be taken into custody and returned under this section.

Effect of
absence
without leave
on period
of detention.

47—(1) If on the day on which, apart from this section, a patient would cease to be liable to be detained in a treatment centre, or within the period of seven days ending on that day, he is absent without leave, he does not cease to be so liable until the expiration of the period of seven days beginning with the day on which he is returned or returns to the treatment centre in which he is liable to be detained.

(2) Where the period for which a patient is liable to be detained is extended by virtue of this section any examination, report, recommendation, or authority for the extension of the period for which he is liable to be detained that is required or authorized to be made under section twenty-seven or section thirty-four may be made, furnished, or issued within the period as so extended.

(3) Where the authority for the detention of a patient is renewed by virtue of this section after the day on which, apart from this section, that authority would have expired, the renewal takes effect as from that day.

48—(1) Where a person who is liable to be detained under this Act is detained in custody in pursuance of any sentence, order, direction, or other determination passed or made by a court having jurisdiction in the State for a period exceeding, or for successive periods exceeding in the aggregate, three months, the application, order, or direction by virtue of which he is so liable to be detained ceases to have effect at the expiration of that period of three months.

Patients taken into other custody while liable to detention.

(2) Where a person is detained in such custody as is referred to in subsection (1) of this section, but on or before the day on which he was discharged from that custody he would, apart from this section, have ceased to be liable to be detained under an application, order, or direction under this Act, then, unless that application, order, or direction has ceased to have effect under that subsection, he shall be deemed to have continued, in pursuance of that application, order, or direction, to have remained so liable until the end of the day on which he was so discharged from that custody.

(3) Section forty-seven applies in relation to a patient referred to in subsection (2) of this section as if he had absented himself without leave on the day on which he was discharged from the custody referred to in that subsection.

49 For the purposes of advising whether an application to the Board should be made by or in respect of a patient who is liable to be detained, or of furnishing information as to the condition of a patient for the purposes of such an application, or of advising as to the exercise by a relative of a patient of his power to consent to the renewal of the authority for the detention of the patient, a medical practitioner authorized in that behalf by the patient or a relative of his may, at any reasonable time, visit the patient and examine him in private.

Visiting and examination of patients in relation to applications to the Board, &c.

PART V.

APPLICATIONS TO THE ALCOHOL AND DRUG DEPENDENCY BOARD.

50 No application shall be made to the Board by or in respect of a patient except in such cases and at such times as are expressly provided by this Act.

Limitation on applications.

Determina-
tion, &c., of
applications
by committees
of the Board.

51—(1) Regulations under this Act may authorize or require, either generally or in such circumstances or cases as may be specified in the regulations, the exercise of any of the functions of the Board in relation to the hearing and determination of an application under this Act by a committee of the Board constituted in accordance with the regulations, all the members of which are members of the Board, and, in particular, any such regulations may make provision—

- (a) for the hearing of such an application by such a committee and the submission to the Board of a report thereon; or
- (b) for the hearing and determination of such an application by such a committee.

(2) Any determination made by a committee of the Board in accordance with the regulations made for the purposes of this section has the like effect as if it were made by the Board.

(3) Sections eleven and twelve do not apply to the functions of the Board in relation to the hearing or determination of applications to which this Part applies.

Regulations as
to procedure,
&c.

52—(1) Regulations under this Act may make provision with respect to the making of applications to the Board and with respect to the proceedings thereon and matters incidental thereto or consequential thereon, and, in particular, may make provision—

- (a) for regulating the manner in which any application is to be made to the Board;
- (b) authorizing the postponement of the consideration of any application by or in respect of a patient, or of any such application of any specified class, until the expiration of such period (not exceeding three months) as may be prescribed from the date on which an application by or in respect of the same patient was last considered and determined under this Act;
- (c) for enabling the Board to dispose of an application without a formal hearing where such a hearing is not requested by the applicant or it appears to the Board that such a hearing would be detrimental to the health of the patient;
- (d) for enabling the Board to exclude members of the public, or any specified class of members of the public, from any proceedings of the Board or to prohibit the publication of reports of any such proceedings or the names of any persons concerned in those proceedings;
- (e) for specifying the persons who have a right to be heard by, or to make representations to, the Board in respect of any application;
- (f) for specifying the circumstances in which, and the persons by whom, persons who have a right to be heard by the Board in respect of any

application may, if not desiring to appear or to be heard in person, be represented for the purposes of that application;

- (g) for regulating the methods by which information relevant to an application may be obtained by or furnished to the Board and, in particular, for authorizing the members of the Board, or any one or more of them, to visit and interview in private any patient by or in respect of whom an application has been made;
- (h) for making available to any person having a right to be heard by the Board copies of any documents obtained or furnished to the Board in connection with an application, and a statement of the substance of any oral information so obtained or furnished, except where the Board considers it undesirable in the interests of the patient or for other special reasons and except in such cases as may be prescribed;
- (i) for requiring the Board, if requested as prescribed, but subject to any regulations made for the purposes of paragraph (j) of this subsection, to furnish such statements as to the reasons for any decision of the Board as may be prescribed;
- (j) for authorizing the Board to withhold any such statements as are referred to in paragraph (i) of this subsection from a patient or any other person in cases where it considers that the furnishing of the statements would be undesirable in the interests of the patient or for other special reasons and in such other cases as may be prescribed; and
- (k) for conferring on the Board such ancillary powers as the Governor considers necessary for the purposes of the exercise of its functions under this Act.

(2) Regulations for the purposes of this section may be so framed as to apply to all applications or to applications of any specified class and may make different provision in relation to different classes of applications.

(3) In this section references to the Board shall be construed as including references to a committee appointed pursuant to section fifty-one.

53—(1) Subject to this section, where an application has been made to the Board by or in respect of a patient and the patient or the relative of the patient by whom the application was made is dissatisfied with any direction or other decision of the Board on that application, he may appeal to the Supreme Court.

Appeals to
the Supreme
Court.

(2) No appeal shall be brought under this section in respect of a direction that the patient be discharged.

(3) On the hearing of an appeal under this section in respect of an application the court (unless it dismisses the appeal) may—

- (a) revoke or vary any direction or decision given by the Board on the application;
- (b) give any direction or decision that the Board could have given on the application;
- (c) give such other directions to the Board in relation to the consideration of the application as it considers proper in the circumstances.

(4) Any direction or decision given by the court under paragraph (b) of subsection (3) of this section has the like effect as a direction or decision of the Board, and any direction or decision of the Board has effect subject to any direction or decision given by the court under this section.

(5) References in this section to a direction or decision of the Board shall be construed as including references to a direction or decision of the chairman of the Board, or of any committee of the Board, or the chairman of such a committee.

Supple-
mentary
provisions as
to appeals.

54 Without prejudice to any other powers it may have, the court, for the purpose of determining an appeal under this Part in respect of a patient, may—

- (a) require the superintendent of the treatment centre in which the patient is liable to be detained, to cause the patient to be brought before the court;
- (b) authorize a person appointed by the court to examine or interview the patient and require that superintendent to allow the person so appointed to examine or interview the patient in private; and
- (c) require the production to the court or to a person authorized by it in that behalf of any medical records relating to the patient,

and, for the purpose of exercising the powers of the court under this section, the court or a judge thereof may issue such warrants and summonses as the circumstances may require.

Reference of
matters to a
commissioner
appointed by
court.

55—(1) The court, on the hearing of an appeal under this Part in respect of a patient, may appoint an officer of the court or some other suitable person as a commissioner to inquire into the case of the patient or into any matter on which the court desires to be informed in relation to the patient, and to furnish to the court a report of his findings thereon and the court may act on those findings as if they were findings of the court made on the hearing of that appeal.

(2) Subject to this section and to any direction of the court, a commissioner has, in relation to any inquiry that he is authorized to carry out under this section, the powers, authorities, protection, and immunities of a judge and, in respect of any matter arising in connection with the attend-

ance of any witness or of the giving of any evidence before a commissioner or in respect of any act or thing done in connection with any proceedings before the commissioner or any failure to comply with or disobedience to any order or requirement of the commissioner, any proceedings before a commissioner shall be regarded as proceedings before a judge.

(3) Notwithstanding anything in subsection (2) of this section a commissioner shall not have power to issue a warrant requiring a person to bring a patient before him, but a commissioner may order the superintendent referred to in paragraph (a) of section fifty-four to cause the patient to be brought before him or to be conveyed to such place as may be specified in the order to be examined by the commissioner or some person authorized by him in that behalf.

(4) A commissioner shall not have power to commit a person for contempt of court; but if he is satisfied that a contempt of court has been committed by any person in relation to proceedings in an inquiry that the commissioner is authorized to make he may report the matter to a judge who, on being satisfied that a contempt of court has been committed by that person, may deal with him accordingly.

56 The Board may state in the form of a special case for determination by the Supreme Court any question of law which may arise on the hearing or determination of any application made to the Board under this Act.

Statement of
case to
Supreme
Court.

PART VI.

MISCELLANEOUS AND SUPPLEMENTAL.

57—(1) If it appears to a justice, on complaint on oath laid by a welfare officer, that there is reasonable cause to suspect that a person believed to be suffering from alcohol dependency or drug dependency—

Warrants to
remove
certain
patients.

(a) has been, or is being, ill-treated, neglected, or kept otherwise than under proper control; or

(b) being unable to care for himself, is living alone, the justice may issue a warrant authorizing a police officer to enter, if need be by force, any premises specified in the warrant in which the person is believed to be, and, if thought fit, to remove him therefrom and convey him to a place of safety with a view to the making of an application in respect of him, or of other arrangements for his treatment or care.

(2) In the execution of a warrant under this section, the police officer by whom it is executed may be accompanied by a medical practitioner or a welfare officer, or by both such a practitioner and such an officer.

(3) It is not necessary in any complaint or warrant under this section to name the patient concerned.

Patients found in public places.

58 If a police officer finds in a public place a person who appears to him to be suffering from alcohol dependency or drug dependency and to be in immediate need of care or control, the police officer may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety for the purpose of enabling him to be examined by a medical practitioner and to be interviewed by a welfare officer and of enabling any necessary arrangements to be made for his treatment or care.

Warrant to search for patients liable to be retaken.

59—(1) If it appears to a justice, on complaint on oath laid by a police officer or a welfare officer, that a person is liable under this Act to be conveyed to a treatment centre or to be taken into custody and—

- (a) that there is reasonable cause to believe that that person is to be found on any premises; and
- (b) that admission to those premises has been refused or that a refusal of admission thereto is apprehended,

the justice may issue a warrant authorizing a police officer to enter those premises, if need be by force, and remove that person therefrom and convey him to the place to which under this Act he may be conveyed or to some place of safety.

(2) In the execution of a warrant under this section the police officer by whom it is executed may be accompanied by a medical practitioner or by a welfare officer, or by both such a practitioner and such an officer.

Period of detention in place of safety.

60 Where a person has been conveyed to a place of safety under this Part he may, during the period of seventy-two hours following that conveyance, be detained in any place of safety, and during that period may be conveyed from one place of safety to another by a police officer or a welfare officer.

Supplementary provisions as to detention, &c.

61—(1) A person required or authorized under this Act to be conveyed to any place, or to be detained in a place of safety shall, while being so conveyed or detained, be deemed to be in legal custody.

(2) A police officer or other person required or authorized under this Act to convey or detain any person, has all the powers, authorities, protection, and privileges of a constable.

(3) If any person who is deemed to be in legal custody by virtue of this Act escapes he may, subject to this section, be retaken—

- (a) in any case, by the person who had his custody immediately before his escape, or by any police officer or welfare officer; and

- (b) if, at the time of his escape, he was liable to be detained in a treatment centre, by any other person who could take him into custody under section forty-six on his absenting himself without leave.

(4) A person who escapes while being taken to or detained in a place of safety under this Part shall not be retaken under this section after the expiration of a period of seventy-two hours beginning with the time he escapes or of the period during which he is so liable to be detained, whichever of those periods expires first.

62—(1) No person shall induce or knowingly assist any other person—

Assisting patients to absent themselves without leave, &c.

- (a) being liable to be detained under this Act to absent himself without leave; or
(b) being in legal custody by virtue of subsection (1) of section sixty-one to escape from that custody.

Penalty: Two hundred dollars or twelve months' imprisonment.

(2) No person shall—

- (a) knowingly harbour a patient who is absent without leave or is otherwise at large and liable to be retaken under this Act; or
(b) give to any such patient as is referred to in paragraph (a) of this subsection any assistance with intent to prevent, hinder, or interfere with his being taken into custody or returned to a treatment centre.

Penalty: Two hundred dollars or twelve months' imprisonment.

63 No person, being on the staff of, or otherwise employed in, a treatment centre shall ill-treat or wilfully neglect a patient for the time being receiving medical treatment at the centre.

Ill-treatment of patients.

Penalty: Two hundred dollars or twelve months' imprisonment.

64 No person shall—

Obstruction.

- (a) without reasonable cause, refuse to allow the visiting, interviewing, or examination of any person by any other person authorized in that behalf under this Act;
(b) where a person is authorized under this Act to be interviewed or examined in private, remain in any room or other place in which that person is being interviewed or examined after being requested to withdraw by the person conducting the interview or making the examination; or
(c) obstruct any person in the exercise of any function conferred on him by this Act.

Penalty: Two hundred dollars or twelve months' imprisonment.

Offences in
relation to
documents.

65—(1) Subsections (2) and (3) of this section apply to the following documents, that is to say:—

- (a) An admission application;
- (b) A medical recommendation;
- (c) A report on any person or in respect of any matter required or authorized to be made under this Act; and
- (d) Any other document required or authorized to be made for the purposes of this Act.

(2) No person shall, with intent to deceive, forge any document to which this subsection applies.

(3) No person shall use, or allow another person to use, or shall make or have in his possession, any document to which this subsection applies that he knows to have been forged or any document so closely resembling a document to which this section applies as to be calculated to deceive.

(4) No person shall make any entry or statement in any application, recommendation, report, or other document required or authorized to be made for any of the purposes of this Act, that he knows to be false or does not believe to be true, or, with intent to deceive, make use of any such entry or statement that he knows to be false or does not believe to be true.

(5) A person who is guilty of an offence under this section is liable to a penalty of two hundred dollars or twelve months' imprisonment.

(6) In this section "forge" has the same meaning as it has for the purposes of Chapter XXXII of the *Criminal Code*.

Protection
for acts
done in
pursuance of
Act.

66—(1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act, unless the act was done in bad faith or without reasonable care.

(2) No civil or criminal proceedings shall be brought against any person in any court in respect of any such act as is referred to in subsection (1) of this section without the leave of the Supreme Court, and the Supreme Court shall not give leave under this section unless satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith or without reasonable care.

Regulations.

67 The Governor may make regulations for the purposes of this Act.

Cessation of
operation of
existing laws.

68—(1) Subject to this section, after the commencement of this Act—

- (a) no order shall be made under section twenty-one or section twenty-three of the *Inebriates Act* 1885;

(b) no order shall be made under section six, section eight, or section fifteen of the *Inebriate Hospitals Act 1892*; and

(c) no person shall be committed to an appointed institution under Part III of the *Dangerous Drugs Act 1959*.

(2) Nothing in subsection (1) of this section prevents the making of an order under section fifteen of the *Inebriate Hospitals Act 1892* in respect of any person before the determination of his detention under an order made under section six, section eight, or section fifteen of that Act.

(3) The fact that a person is being, or is liable to be, detained under any of the enactments referred to in subsection (1) of this section does not prevent the making of an admission application, treatment order, or transfer direction under this Act in respect of him, and, on his being admitted to a treatment centre in pursuance of such an application, order, or direction, the order or other authority by which he was, or was liable to be, detained under that enactment ceases to be of effect.

(4) The following enactments expire on such date as may respectively be fixed by proclamation in relation thereto, namely:—

The *Inebriates Act 1885*; and
The *Inebriate Hospitals Act 1892*.

RACING AND GAMING.

No. 62 of 1968.

AN ACT to amend the *Racing and Gaming Act 1952*.
[5 December 1968.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Racing and Gaming Act 1968*. Short title and citation.

(2) The *Racing and Gaming Act 1952*, as subsequently amended, is in this Act referred to as the Principal Act.