



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 96 of 1976

An Act to amend the Alcohol and Drug Addicts (Treatment) Act, 1961-1971.

[Assented to 16th December, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Alcohol and Drug Addicts (Treatment) Act Amendment Act, 1976".

(2) The Alcohol and Drug Addicts (Treatment) Act, 1961-1971, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Alcohol and Drug Addicts (Treatment) Act, 1961-1976".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

**Amendment of principal Act, s. 2—
Arrangement of Act.**

3. Section 2 of the principal Act is amended by inserting after the item—
PART III—Provisions relating to the admission, custody, control, leave and discharge of patients, sections 13-29

the item—

PART IIIA—Apprehension and care of persons under the influence of a drug, sections 29a-29d.

**Amendment of principal Act, s. 4—
Interpretation.**

4. Section 4 of the principal Act is amended—

(a) by striking out the definition of "committal centre" and inserting in lieu thereof the following definition:—

"committal centre" means an institution declared under this Act to be a committal centre;;

(b) by striking out the definition of "institution" and inserting in lieu thereof the following definition:—

"institution" means an institution established pursuant to the provisions of this Act;

(c) by inserting after the definition of "relative" the following definition:—

"sobering-up centre" means an institution declared under this Act to be a sobering-up centre;

and

(d) by striking out the definition of "voluntary centre" and inserting in lieu thereof the following definition:—

"voluntary centre" means an institution declared under this Act to be a voluntary centre.

5. Section 5 of the principal Act is amended by striking out subsections (2) and (3) and inserting in lieu thereof the following subsections:—

Amendment of principal Act, s. 5—
Establishment and categorization of institutions.

(2) The Governor may, upon the recommendation of the Board, by proclamation, declare any such institution or part of an institution—

(a) to be a committal centre;

(b) to be a voluntary centre;

or

(c) to be a sobering-up centre.

(3) The Governor may, by subsequent proclamation, revoke or vary a declaration under subsection (2) of this section.

6. Section 8 of the principal Act is amended by striking out from subsection (1) the passage "committal centre and voluntary centre" and inserting in lieu thereof the passage "committal centre, voluntary centre and sobering-up centre".

Amendment of principal Act, s. 8—
Superintendent.

7. Sections 17, 18, 19, 20, 21 and 22 of the principal Act are repealed.

Repeal of ss. 17, 18, 19, 20, 21 and 22 of principal Act.

8. The following Part comprising the following sections is enacted and inserted in the principal Act after Part III thereof:—

Enactment of Part IIIA of principal Act.

PART IIIA

APPREHENSION AND CARE OF PERSONS UNDER THE INFLUENCE OF A DRUG

29a. (1) Where a member of the police force or an authorized person has reasonable grounds to believe—

Apprehension of persons under the influence of a drug.

(a) that a person, who is in a public place is under the influence of a drug;

and

(b) that by reason of that fact that person is unable to take proper care of himself,

the member of the police force or the authorized person may apprehend that person.

(2) The member of the police force or authorized person may—

(a) exercise such force as is reasonably necessary to apprehend a person under this section;

and

(b) search the person apprehended for the purpose of removing any object that may be a danger to that person or to others.

(3) Where a member of the police force or an authorized person has apprehended a person under subsection (1) of this section, he shall take that person as soon as reasonably practicable to—

(a) a sobering-up centre;

(b) premises approved by the Minister for the purposes of this paragraph;

or

(c) the apprehended person's own home.

(4) Where a person apprehended under this section is taken to a sobering-up centre in pursuance of this section, and is admitted as a patient into the centre, the superintendent of the centre may detain that patient—

(a) in the first instance, for a period not exceeding eighteen hours;

(b) where a medical practitioner has, before the expiration of those eighteen hours certified in the prescribed manner that further detention of the patient is necessary to enable him to recover from the effects of the drug—for a further period not exceeding twelve hours;

and

(c) where a court of summary jurisdiction is, upon the application of the superintendent of the sobering-up centre, satisfied that further detention is necessary to enable the patient to recover from the effects of the drug and has ordered that the period of detention be extended—for a further period not exceeding seventy-two hours.

(5) Where a person apprehended under this section is admitted as a patient into a sobering-up centre, the officer by whom he is admitted shall, in the presence of the member of the police force or the authorized person, take custody of—

(a) any object removed from the apprehended person in pursuance of subsection (2) of this section;

and

(b) any valuable object on his person at the time of his admission, and any such object shall, on or before discharge of the patient, be returned to him.

(6) Notwithstanding any other provision of this section, the superintendent of a sobering-up centre may, at his discretion, discharge a patient at any time.

(7) Where a person is detained in a sobering-up centre in pursuance of this section, the superintendent shall allow him a reasonable opportunity to communicate with a solicitor, relative or friend.

29b. (1) A person may, before the expiration of thirty days from the date of his discharge from a sobering-up centre, apply to a court of summary jurisdiction, constituted of a special magistrate, for a declaration that at the time of his detention he was not under the influence of a drug.

(2) Where, in proceedings under this section, the court of summary jurisdiction is satisfied that the applicant was not under the influence of a drug at the time of his detention under this Part, it shall make a declaration accordingly.

(3) In any proceedings under this section, the superintendent of the sobering-up centre in which the applicant was detained, and the person by whom the applicant was apprehended, shall be entitled to appear.

29c. (1) No member of the police force, or authorized officer, incurs any personal liability for any act or omission, on his part, in the exercise of his powers under this Part.

Immunity
from personal
liability.

(2) This section does not relieve the Crown, or any authority or person from liability for acts or omissions of their servants.

29d. In this Part—

Interpretation.

“authorized person” means any person authorized in writing by the Minister to exercise the powers conferred by section 29a of this Part:

“drug” means—

- (a) alcoholic or intoxicating liquor;
- or
- (b) any specified drug.

9. The following sections are enacted and inserted in the principal Act after section 32 thereof:—

Enactment of
ss. 32a to 32e
of principal
Act.

32a. (1) A patient detained in pursuance of this Act shall, until he is discharged in accordance with this Act, be deemed to be in lawful custody so long as he—

Patient to
be in lawful
custody and to
comply with
rules.

- (a) is kept at an institution, hospital or place in pursuance of this Act;
- or
- (b) is in the custody of any person in whose care or charge he is placed by, or with the authority of, the Board or the superintendent of the institution,

and shall comply with and observe all the rules of discipline and regulations applicable to patients and obey all directions given to patients generally or to him specifically by, or with the authority of, the Board or the superintendent.

(2) A patient who escapes from lawful custody, or who leaves an institution or a person in whose care or charge he has been placed without lawful authority to do so, may, without any authority other than this Act, be retaken by any officer of the Board, any member of the police force, or by any person authorized for the purpose by the Board or an officer of the Board, and returned to the institution or to his former custody, as the case may require.

(3) The time between the person's escape or unauthorized absence and his return shall not be regarded as part of the period for which he was admitted or committed to any institution.

Police to assist in enforcing Act.

32b. (1) It shall be the duty of all members of the police force to assist the person in whose care or charge a person has been placed pursuant to any order or direction made or given under this Act to enforce or ensure compliance with such order or direction and otherwise to assist in enforcing and ensuring the observance of the provisions of this Act.

(2) For the purposes of this section, any order or direction made or given by the superintendent or person in charge of an institution to an officer of that institution under whose care or charge a patient has for the time being been placed shall be deemed to be an order or direction made or given under this Act.

Removal of patient to hospital or other establishment.

32c. (1) Where the superintendent or person in charge of an institution is satisfied that a patient is in need of medical, dental, or other treatment which cannot be provided at the institution, he may cause the patient to be removed to any hospital or place for such treatment.

(2) A patient may be escorted by the superintendent or person in charge or any other person authorized by the superintendent or person in charge to and from such hospital or place.

Transfer of patient from one institution to another.

32d. (1) The Board may cause a patient to be transferred from one institution to another, but shall not cause a patient to be transferred from a voluntary centre, or a sobering-up centre, to a committal centre, unless he has been committed thereto pursuant to this Act.

(2) Upon such transfer the patient shall be admitted to the other institution for treatment and the patient shall remain a patient at that other institution and, subject to this Act, shall be held there for the unexpired portion of the period for which he was admitted to the institution from which he was transferred.

Power to bring patients before courts.

32e. (1) When a patient is charged with an offence the Board or any judge or any justice may, by order in writing direct the person under whose care or charge the patient has for the time being been placed under this Act, to bring the patient before any court or such judge or justice, or before such judge or justice as may be present, to be dealt with according to law.

(2) Such person shall obey the order and bring the patient accordingly.

(3) After the patient has been so dealt with he shall be restored to his former custody, without any further process or authority, and without prejudice to any cause or matter for which he was in custody.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. NICHOLLS, Governor