

Act No. 32, 1900.

An Act to provide for the care, control, and treatment of inebriates ; and for purposes incidental to the above-mentioned objects. [10th October, 1900.]

INEBRIATES.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for a Judge of the Supreme Court or a Judge of any District Court, the Master in Lunacy, or any Stipendiary or Police Magistrate, hereinafter termed magistrate, on the application of—

A Judge or Magistrate, on application, and after evidence of medical practitioner and on inspection, may make an order as to control of inebriate.

(a) an inebriate or any person authorised in writing in that behalf by an inebriate while sober;

(b)

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- (b) the husband, or wife, or a parent, or a brother, sister, son, or daughter of full age, or a partner in business of an inebriate; or
- (c) a member of the police force of or above the rank of sub-inspector acting on the request of a duly qualified medical practitioner in professional attendance on the inebriate, or on the request of a relative of the inebriate, or at the instance of a justice of the peace,

and on proof to the satisfaction of the Judge, Master in Lunacy, or Magistrate, that the person in respect of whom the application is made is an inebriate, to order—

- (d) that the inebriate be placed under the care and control of some person or persons to be named in the order, in the house of the inebriate, or in the house of a friend of the inebriate, or in a public or private hospital, or in a licensed Institution, or in a receiving house for any period not exceeding twenty-eight days; or
- (e) that the inebriate be placed in a licensed Institution for such period not exceeding twelve months as may be mentioned in the order; or
- (f) that the inebriate be placed for any period not exceeding twelve months, to be mentioned in the order, under the care and charge of an attendant or attendants to be named in the order, and who shall be under the control of the Judge, Master in Lunacy, or Magistrate making the order:

Provided that no such order shall be made except—

- (g) on production of the certificate of a legally qualified medical practitioner that the person in respect of whom the application is made is an inebriate together with corroborative evidence by some other person or persons; and
- (h) on personal inspection of the inebriate (where the application is to a Judge or the Master in Lunacy) by the Judge or Master in Lunacy, or by some person appointed by him in that behalf, or (where the application is to a Magistrate) by the Magistrate.

Every medical practitioner who signs any certificate under or for the purposes of this Act shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is an inebriate, and shall distinguish in such certificate facts observed by himself from facts communicated to him by others, and no such order shall be made upon any certificate which purports to be founded only upon facts communicated by others.

The inebriate shall be afforded an opportunity of being heard in objection. The Judge, Master in Lunacy, or Magistrate may direct that the inebriate shall be brought before him in Court or in Chambers.

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2. A medical practitioner who is an applicant under this Act for an order in respect of an inebriate shall not sign a certificate under or for the purposes of this Act in respect of such inebriate.

If on the production of the certificate of a medical practitioner in respect of an inebriate it appears to the Judge, Master in Lunacy, or Magistrate that the said medical practitioner, or his father, brother, son, partner, or assistant—

- (a) is the superintendent or medical officer of any institution, or a regular professional attendant therein; or
- (b) is wholly or in part the proprietor, licensee, mortgagee, or lessee of any institution; or
- (c) is interested in the payments to be made by or on account of any inebriate received into any institution,

an order that the inebriate be placed in such institution shall not be made upon such certificate.

3. Where an inebriate has thrice within the preceding twelve months been convicted for an offence of which drunkenness is a necessary ingredient, it shall be lawful for any Court of Petty Sessions to order that the inebriate be placed for such period of not less than six or more than twelve months, as may be mentioned in the order, in any Institution which may be established by the Government for the reception, control, and treatment of inebriates so convicted; and on the order of a Judge of the Supreme Court, or of a District Court Judge, or of the Master in Lunacy, such period may from time to time be extended for further periods not exceeding twelve months each.

Court of Petty Sessions may make an order in case of an inebriate frequently convicted of drunkenness.

Where the inebriate is physically unfit to travel to the Institution named in such order, the Court making the order may direct that he be placed for immediate medical treatment for such time as it thinks fit in a gaol, or lock-up, or hospital, or private house, under the supervision of the police.

4. The Judge, Master in Lunacy, or Magistrate may in the same or any subsequent order direct that the expense of the care, charge, and maintenance of the inebriate be paid out of any property of the inebriate, and may fix the amounts to be so paid, and the amounts so fixed may be recovered in any court of competent jurisdiction.

Judge or Magistrate may make order as to property and treatment of inebriate.

5. (1) Where it is proved to the satisfaction of the Supreme Court in its Lunacy jurisdiction, or a Judge thereof, that any inebriate the subject of an order under this Act is incapable of managing his affairs, the Court or Judge may make all proper orders for rendering the property and income of the inebriate available for the payment of his debts and for the maintenance and benefit of himself and his family; and may make orders for the care and management of his property in all respects as if he were an insane person within the meaning of the

Court in Lunacy jurisdiction may make orders as to property of inebriate who is incapable.

Lunacy

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Lunacy Act, 1898; and may, if necessary, appoint any person, either with or without security, to undertake the care and management of his property under the order and direction of the Court.

(2) The person so appointed shall, subject to the said orders and directions and to the rules of Court, have the same powers and be subject to the same obligations and control as a committee of the estate of an insane person, and the powers and provisions contained in the Lunacy Act, 1898, relating to the management and administration of the estates of insane persons shall apply to the estates of such inebriates.

Directions may be given, and orders varied, renewed, or rescinded.

**6.** The Judge, Master in Lunacy, or Magistrate making an order with respect to an inebriate may give such directions as he thinks fit as to the control of the inebriate, and may vary, renew, or rescind any order or direction made by him.

The Supreme Court in its Lunacy jurisdiction or a Judge thereof in Chambers may give such directions as may be thought fit as to the control of any inebriate the subject of an order under this Act, and may vary, renew, or rescind any order or direction made under this Act.

Order shall authorise attendant to prevent supply of intoxicant to inebriate.

**7.** The order of a Judge or Magistrate or Master in Lunacy made under this Act shall be sufficient authority for the carrying out by any persons of any directions therein contained, and where the order is that the inebriate be placed under the care and charge of an attendant it shall authorise and direct the attendant to prevent any person from supplying the inebriate while under his charge with any intoxicating liquor or with any drug or instrument which may be used for the purpose of producing a state of inebriation: And any such attendant who neglects to comply with any such direction shall be liable to a penalty not exceeding five pounds.

Inebriate not to leave the Colony.

**8.** When by the order of a Judge or Magistrate or of the Master in Lunacy an inebriate has been placed under the charge of an attendant, the inebriate shall not be allowed to leave the Colony of New South Wales during the continuance of such order, unless permitted to do so by some variation or amendment of the order.

Inebriate escaping from custody may be arrested.

**9.** Any inebriate who escapes from the institution in which or from the attendant under whom he has been placed may be arrested and returned to his former custody under the order made.

Inspector-general of Insane and other officers to inspect places where inebriates are under control.

**10.** It shall be lawful for the Inspector-General of the Insane, or such person as he may depute, to inspect any inebriate the subject of an order under this Act and any place where an inebriate is under control, and he, or his deputy, shall have power to enter at all reasonable times any such place for the fulfilment of this duty. It shall also be the duty of all police officers or constables to assist the person under whose care an inebriate has been placed by an order under this Act to compel the inebriate to comply with the directions of such order.

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**11.** Any person who supplies an inebriate, being the subject of an order under this Act, with intoxicating liquor, or any drug or instrument which may be used for the purpose of producing a state of inebriation shall be liable to a penalty not exceeding ten pounds.

Persons supplying inebriate with intoxicant liable to penalty.

**12.** It shall not be lawful for any person, except by permission of the Judge, Master in Lunacy, or Magistrate adjudicating, to publish a report of any proceedings under this Act, and no report published in contravention of this section shall in any action for defamation be deemed to be privileged.

Proceedings not to be published without permission.

**13.** The Judges of the Supreme Court, or any three of them, may make rules—

Judges may make rules.

- (a) for regulating the form and mode of proceeding under this Act before the Court, or a Judge, or the Master in Lunacy, or a Magistrate;
- (b) for carrying out the provisions of this Act so far as they relate to the powers or duties of the Court, or of a Judge, or of the Master in Lunacy, or of a Magistrate;
- (c) for directing the Inspector-General of the Insane, or such person as he may depute, to visit any inebriate the subject of an order under this Act, and to report to the Master in Lunacy upon the health and general condition of the inebriate; and
- (d) for directing that any fees and expenses connected with such visit be paid out of the estate of the inebriate.

**14.** The Governor may license Institutions for the reception, control, and treatment of inebriates, and may make regulations—

Governor may license institutions for inebriates and may make regulations.

- (a) for the issue and revocation of such licenses;
- (b) for the regulation, management, and inspection of licensed Institutions, and of Institutions established by the Government;
- (c) for determining the fees payable by inebriates placed in any Institution;
- (d) for the control and discipline of inebriates and the discipline of officers and attendants under this Act, whether in Institutions or otherwise; and
- (e) for carrying out the provisions of this Act;

and may in these regulations impose any penalty not exceeding fifty pounds for any breach of the same. All such regulations on being published in the Gazette shall have the force of law, and shall be laid before both Houses of Parliament.

**15.** All penalties imposed by this Act or by any regulations made thereunder may be recovered before any Court of Petty Sessions.

Recovery of penalties.

## Act No. 33, 1900.

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*Medical Practitioners Amendment (No. 2).*

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**Definitions.**

**16.** For the purposes of this Act—

“ Inebriate ” means a person who habitually uses alcoholic liquors or intoxicating or narcotic drugs to excess.

“ Institution ” means a place licensed under this Act or established by the Government for the reception, control, and treatment of inebriates.

**Short title.**

**17.** This Act may be cited as the “ Inebriates Act, 1900.”

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