

Act No. 24, 1912.

An Act to consolidate the Acts providing for the care, control, and treatment of inebriates, and for purposes incidental to the above-mentioned objects. [26th November, 1912.]

INEBRIATES.
—

BE it enacted by the King'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:—

Preliminary.

- 1.** (1) This Act may be cited as the "Inebriates Act, 1912" Short title.
(2) The Acts mentioned in Schedule One hereto are hereby Repeals and savings. repealed; but such repeal shall not prejudice or affect the validity or duration of any certificate, license, permit, or authority lawfully granted, or order lawfully made under any such Act. All licenses granted under any such repealed Act shall be held in all respects, and all renewals thereof shall be applied for, under and subject to the provisions of this Act, unless hereinafter otherwise specially provided for. **All**

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All boards and persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall remain in office as if this Act had been in force at the time they were appointed and they had been appointed hereunder, and this Act shall apply to them accordingly.

All institutions licensed or established under the provisions of any Act hereby repealed, and being so licensed or established at the time of the passing of this Act, shall be deemed to have been licensed or established under this Act.

All rules and regulations made under the authority of any Act hereby repealed and being in force at the passing of this Act shall be and continue in force hereunder, and shall be deemed to have been made under the authority of this Act.

Definitions.

No. 32, 1900, s. 16.

No. 2, 1909, s. 11.

2. For the purposes of this Act—

“Inebriate” means a person who habitually uses intoxicating liquor 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.

“Justice” means justice of the peace.

“Narcotic drug” does not include tobacco, cigars, or cigarettes.

“State institution” means institution established by the Government as aforesaid.

Applications to commit inebriates.

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

No. 32, 1900, s. 1.

No. 2, 1909, s. 2.

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

(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,

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 enter into a recognizance, with or without sureties, that he will abstain from intoxicating liquor and intoxicating or narcotic drugs for the period therein mentioned, not being less than twelve months; or

(e)

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- (e) that the inebriate be placed for any period mentioned in the order not exceeding twenty-eight days 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; or
- (f) that the inebriate be placed in a licensed institution or a State institution established under section nine for such period not exceeding twelve months as may be mentioned in the order; or;
- (g) 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, or of a guardian who is willing to act in that capacity :

Provided that no such order shall be made except—

- (i) 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
- (ii) on personal inspection of the inebriate by the Judge or Master in Lunacy or magistrate, or by some person appointed by him in that behalf.

(2) 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.

(3) 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.

(4) On the order of a Judge of the Supreme Court or of a District Court, or of the Master in Lunacy, any period mentioned in an order made under paragraph (f) or paragraph (g) of subsection one of this section may from time to time be extended for further periods not exceeding twelve months each. The inebriate shall be afforded an opportunity of being heard in objection to any such order.

4. (1) Where an inebriate is placed as aforesaid under the charge and care of a guardian, the guardian—

- (a) shall prescribe for the inebriate a place of residence in New South Wales, either in the house of the inebriate or in that of the guardian ;
- (b)

Powers and duties of guardian.
No. 2, 1909, s. 3.

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- (b) shall provide for the inebriate such medical attendance as may be necessary ;
- (c) may deprive the inebriate of intoxicating liquor and intoxicating or narcotic drugs, and prevent him from obtaining them ;
- (d) may prevent the inebriate from leaving the prescribed residence, unless attended by a responsible person ;
- (e) may require the inebriate to submit to the attendance of such nurses or attendants as the guardian thinks necessary ;
- (f) may warn persons against supplying the inebriate with intoxicating liquor or intoxicating or narcotic drugs.

Any person warned in writing under paragraph (f) of this section who supplies the inebriate with any intoxicating liquor or intoxicating or narcotic drug shall be liable to a penalty not exceeding twenty pounds.

Removal of guardian.

(2) On application, by or on behalf of the Minister, to a Judge of the Supreme Court or of a District Court, or to the Master in Lunacy, or any stipendiary or police magistrate, a guardian may be removed, and on like application by the guardian he may be relieved of and discharged from his guardianship. In either case, the Judge, Master, or magistrate may appoint another guardian, or may make an order under section three.

Voluntary recognizances.
No. 2, 1909, s. 3.

5. (1) Any person may enter into a recognizance, with or without sureties, before a stipendiary or police magistrate that he will abstain from intoxicating liquor and intoxicating or narcotic drugs for the period therein mentioned, not being less than twelve months.

An application to enter into a recognizance under this section shall be in the form of Schedule Two.

(2) A magistrate, before a recognizance is taken before him under this section or under section three, shall satisfy himself that the person before him understands the nature and effect of the recognizance, and the consequences of its breach, and shall sign a certificate to that effect in the form of Schedule Three.

Private hearing.
Ibid.

6. The hearing of any application under either of the three last preceding sections may, at the request of the alleged inebriate, or where the application is made by him, be in private.

Forfeiture of recognizances.
Ibid.

7. If, during the period specified in a recognizance taken under any of the preceding provisions of this Act, it is proved to any justice that the person bound thereby has failed to observe any of the conditions of the recognizance, the justice before whom such proof is given may forfeit the recognizance.

Medical practitioner who is also applicant not to sign certificate.
No. 32, 1900, s. 2.

8. 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

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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.

9. (1) The Governor may establish institutions for the reception, control, and treatment of inebriates who have, under section three, been ordered to be placed in an institution established under this section, and of inebriates who, in pursuance of this Act or any Act hereby repealed, have been transferred to any such institution, and shall appoint for every such institution a superintendent and such officers as he may deem necessary.

Such officers shall be appointed in the same manner as officers in hospitals for the insane.

The establishing of any such institution, and a description of the land included within the limits thereof shall be notified in the Gazette.

(2) Such institutions shall, subject to this Act, be under the care, direction, and control of the Inspector-General of the Insane, and during his absence from the State or his inability to act from illness or other cause, of the deputy Inspector-General.

(3) The enactments of the Lunacy Act, 1898, mentioned in Schedule Four to this Act, shall, mutatis mutandis, apply to such institutions, and to inebriates detained therein.

In so applying such enactment—

- “hospital” or “hospital for the insane” shall be read as and mean an institution established under this section;
- “insane patient,” or “patient,” shall be read as and mean an inebriate in any such institution;
- “this Act” shall be taken to refer to the Inebriates Act, 1912.

10. Whosoever without lawful authority—

- (a) is found within the boundaries of an institution established under the last preceding section; or
- (b) in any manner communicates or attempts to communicate with any inebriate therein,

shall be liable to a penalty not exceeding twenty pounds, or to imprisonment with or without hard labour for any term not exceeding three months, or to both penalty and imprisonment.

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Order not to be made upon certain certificates.

Institutions for inebriates committed under s. 3. No. 2, 1909, s. 4

Control of such institutions.

Incorporation of sections of Lunacy Act.

Penalty for interfering with such institutions. *Ibid.*

*Inebriates.**Convicted inebriates.*

Inebriates convicted
of certain offences.
No. 2, 1909, s. 5.

11. (1) Where a person is convicted before a stipendiary or police magistrate, or on indictment,—

(i) of an offence of which drunkenness is an ingredient ; or
(ii) of assaulting women, cruelty to children, attempted suicide, or wilful damage to property, and it appears that drunkenness was a contributing cause of such offence,
and on inquiry it appears that the offender is an inebriate, the court may either—

- (a) sentence the offender according to law ; or
(b) discharge the said offender conditionally on his entering into a recognizance, with or without sureties, that during the period named by the court, not being less than twelve months,—
(i) he will be of good behaviour ;
(ii) he will not take or use any intoxicating liquor or intoxicating or narcotic drugs ;
(iii) he will, once at least in every three months, report his address and occupation to the principal officer of police at the place where such conviction was had, or at such other place as the Inspector-General of Police may appoint, such report being made either personally or by letter, unless the Minister directs that the report be made personally, in which case it must be made in that mode only ;
(iv) he will not do or omit to do any act whereby the recognizance would become forfeited ; or
(c) order the said offender to be placed for a period of twelve months in a State institution established under section thirteen :

Provided that such order shall only be made on the production of such certificate and on such evidence and inspection as in the case of an order made under section three.

(2) 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.

(3) 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 in a hospital, or private house, under the supervision of the police.

12. If, during the period specified in any such recognizance, the offender so discharged—

- (a) is proved to any justice to have contravened any of the conditions of the recognizance ; or

(b)

Forfeiture of
recognizances.
Ibid.

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- (b) is charged by a member of the police force with getting his livelihood by dishonest means, and being brought before any justice, it appears to such justice that there are reasonable grounds for believing that he is getting his livelihood by dishonest means ; or
- (c) on being charged with an offence punishable on indictment or summary conviction, and on being required by the justice before whom he is charged to give his name and address, refuses to do so, or gives a false name or a false address ; or
- (d) is convicted of any offence against the Vagrancy Act, 1902, the justice before whom such proof is given, or before whom the said offender is so charged or convicted, may forfeit the recognizance and order the offender to be placed in a State institution established under section thirteen for the remainder of the period mentioned in the recognizance.

13. (1) The Governor may establish institutions for the reception, control, and treatment of inebriates who have, under section eleven, been ordered to be placed in a State institution, or who, in pursuance of this Act or any Act hereby repealed, have been transferred to any such institution. Institutions for inebriates committed under s. 11. No. 2, 1909, s. 5.

(2) The Governor may appoint a visiting justice, who shall exercise in respect of a State institution the same powers and jurisdiction as are conferred on a visiting justice in respect of a prison under the Prisons Act, 1899.

(3) The Comptroller-General of Prisons shall, subject to the control of the Governor, have the care, direction, and control of such institution and the custody of all persons placed therein.

(4) All the keepers and under-keepers of such institutions and the assistants of such keepers and under-keepers and all other persons required and employed for the safety and care of such institutions and of the inebriates detained therein shall be nominated and appointed by the Comptroller-General of Prisons, subject to the approbation of the Governor. Appointment of keepers.

General and supplemental.

14. The Governor may release on license any person detained in a State institution, and may revoke such license. Release on license. Ibid.

The conditions of the license shall be that the licensee shall, for a period therein specified, not exceeding twelve months, be of good behaviour and abstain from taking or using any intoxicating liquor or intoxicating or narcotic drugs.

Any such license shall be revoked by a justice on proof in a summary way before him that the licensee has been guilty of a breach of any condition of the license ; or the license may be revoked by the Governor at his discretion. Where

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Where a license is revoked as aforesaid, the person released on license may be taken by any member of the police force and returned to the State institution, and may be detained there during the remainder of the period for which he was placed in the institution.

Release.

No. 2, 1909, s. 5.

15. A Judge of the Supreme Court or of a District Court may order that any person detained in an institution be released on such conditions (if any) as he may impose.

Committal on second offence.

Ibid. s. 5.

16. Where a person has, after the ninth day of September, one thousand nine hundred and nine, been discharged from a State institution, or released on license, or discharged under section eleven on recognizances, and within twelve months thereafter has been convicted for an offence of which drunkenness is an ingredient, and has subsequently and during the said twelve months been charged with any offence mentioned in section eleven, the court before which he is so charged may, in dealing with him under that section, order him to be placed in a State institution for a period not exceeding three years.

Form of recognizance.
Ibid.

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

No. 32, 1900, s. 4.

No. 2, 1909, s. 6.

17. A recognizance taken under this Act shall be in the form of Schedule Five.

18. The Judge, Master in Lunacy, or magistrate, or a court making an order in respect of an inebriate, 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 from the inebriate in any court of competent jurisdiction at the suit of the person under whose care, charge, or control the inebriate has been placed, or the owner of the licensed institution in which the inebriate is or has been detained, or when the inebriate is detained in a State institution, at the suit of the Minister.

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

No. 32, 1900, s. 5.

19. (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 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

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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.

20. 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. Directions may be given, and orders varied, renewed, or rescinded. No. 32, 1900, s. 6.

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 or any Act hereby repealed.

21. 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. Order shall authorise attendant to prevent supply of intoxicant to inebriate. *Ibid.* s. 7.

22. 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 State of New South Wales during the continuance of such order, unless permitted to do so by some variation or amendment of the order. Inebriate not to leave the State. *Ibid.* s. 8.

23. 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. Inebriate escaping from custody may be arrested. *Ibid.* s. 9.

24. 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 section three of 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 section three of this Act, to compel the inebriate to comply with the directions of such order. Inspector-General of Insane and other officers to inspect places where inebriates are under control. *Ibid.* s. 10. No. 2, 1909, s. 7.

25. 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. No. 32 1900, s. 11

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Proceedings not to be published without permission.
No. 32, 1900, s. 12.

Judges may make rules.
Ibid. s. 13.
No. 2, 1909, s. 8.

Governor may license institutions for inebriates and may make regulations.
No. 32, 1900, s. 14.
No. 2, 1909, s. 9.

Supervising board.
No. 2, 1909, s. 10.

26. 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.

27. The Judges of the Supreme Court, or any three of them, 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.

28. The Governor may license institutions for the reception, control, and treatment of 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, and providing for the proper and suitable employment of persons detained in such institutions ;
- (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 ;
- (e) providing for the release of inebriates from State institutions on license, and for the retaking of inebriates who break the conditions of any such license, and for returning them to such institutions ; and
- (f) 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.

29. (1) There shall be a supervising board for inebriates (in this Act referred to as the "supervising board") consisting of the Chief Government Medical Officer, the Inspector-General of the Insane, and the Comptroller-General of Prisons.

(2) The supervising board—

- (a) may, subject to this Act, recommend the removal of inebriates from one State institution to another State institution ;
- (b) may, at the request of the Minister, inquire into the administration of any institution, examine the inebriates therein detained, and shall report to the Minister as to any matter arising from such inquiry or examination.

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30. (1) The Minister may, on the recommendation of the supervising board, direct the removal of any inebriate from any one State institution to another State institution.

Removal of inebriates from State institutions. No. 32, 1900, s. 5.

(2) Every such order shall be in duplicate, and one copy shall be delivered to the superintendent of the institution from which the inebriate is ordered to be removed, and the other shall be delivered to the superintendent of the institution into which the inebriate is ordered to be removed; and such order for removal shall be a sufficient authority for the removal of such inebriate, and also for his reception into the institution into which he is ordered to be removed and for his detention therein.

(3) A copy of the order or other proper authority with which such inebriate was received into the institution from which he is removed, together with an abstract of his treatment and progress certified by the superintendent of such institution, shall be delivered with one copy of the said order of removal to the superintendent of the institution to which such inebriate is removed.

31. (1) No suit or action shall lie against any person for or on account of any act, matter, or thing done or commanded to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, if that person has acted in good faith and with reasonable care.

Proceedings for acts done in carrying out provisions of Act. *Ibid.*

(2) No such suit or action as aforesaid shall be maintainable unless it is commenced within three months after the alleged cause of action, or, in the case of a suit or action by a person detained in an institution or placed under the care and control of some person in pursuance of this Act, within three months or, by special leave of the Court, within six months after his discharge from such institution or after his release from such care or control.

(3) Proceedings in such suit or action as aforesaid may, on summary application to the Supreme Court, be stayed upon such terms as to costs or otherwise as the Court may think fit, unless the Court is satisfied that there is reasonable ground for alleging want of good faith or reasonable care.

32. All penalties imposed by this Act or by any regulations made thereunder or by any Act hereby repealed may be recovered before any court of petty sessions.

Recovery of penalties. *Ibid.* s. 15.

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SCHEDULES.

SCHEDULE ONE.

Reference to Act.	Short Title.
Act No. 32, 1900	Inebriates Act, 1900.
Act No. 2, 1909	Inebriates (Amendment) Act, 1909.

Schedule Two.
Sec. 5.

SCHEDULE TWO.

I, _____, of _____ hereby apply to enter into a recognizance that I will abstain from intoxicating liquor and intoxicating or narcotic drugs for the period of _____ months.

(Signature of applicant.)

Witness—

The _____ day of _____, 19 _____.

Schedule Three.
Secs. 3, 5.

SCHEDULE THREE.

This is to certify that _____ came before me and entered into a recognizance to abstain from intoxicating liquor and intoxicating or narcotic drugs for a period of _____ months, and that before his entering into such recognizance I explained to him the nature of the same and the consequences of the breach thereof.

The _____ day of _____, 19 _____, Stipendiary (or Police) Magistrate,

Schedule Four.
Sec. 9.

SCHEDULE FOUR.

Enactments of the Lunacy Act, 1898, applied to certain institutions.

- Section 15—Amendment of orders and certificates.
- Section 27—Register of patients.
- Section 28—Medical journal.
- Section 29—Entries of deaths, discharges, &c.
- Section 30—Notice of deaths.
- Section 78—Visits of Inspector-General
- Section 79—Inquiries by Inspector-General.
- Section 81—Annual Report by Inspector-General.
- Section 139—Relative may agree for maintenance of patient.
- Section 142—Order upon relations of patient for his support.
- Section 143—Application for maintenance supported by affidavit.
- Section 144—Proceedings on complaint under section 142.
- Section 145—Arrears of maintenance.
- Section 146—Procedure if amount unpaid.
- Section 147—The foregoing of arrears.
- Section 171—Superintendent may plead general issue, &c.
- Section 173—Ill-treatment of insane.
- Section 174—Penalty on escape.
- Section 176—Visit by Inspector-General and official visitors.
- Section 177—Letters of patients.

SCHEDULE

Act No. 25, 1912.

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Gaming and Betting.

SCHEDULE FIVE.

New South Wales, }
to wit. }

Schedule Five.
Sec. 17.

Be it remembered that on the _____ day of _____ 19____,
of _____ (and _____ of _____) personally came before me, one of His Majesty's
justices of the peace, and acknowledged themselves (or himself) to owe to our Sovereign
Lord the King the sum of _____ pounds sterling to be made and levied of their
several (or his) goods and chattels, lands, and tenements respectively to the use of our
said Lord the King, His Heirs, and Successors if the said _____ shall, during a
period of _____ months from the date of the presents, fail to [here set out conditions
of recognizance].

Taken and acknowledged the day and year first above mentioned at
in the said State, before me

Stipendiary (or Police) Magistrate.
