

Lunacy and Inebriates (Commonwealth Agreement Ratification) Act 1937 No 37

[1937-37]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Responsible Minister

- Minister for Health
- Minister for Regional Health
- Minister for Mental Health

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

Authorisation

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Lunacy and Inebriates (Commonwealth Agreement Ratification) Act 1937 No 37



New South Wales

An Act to ratify an agreement made between the Honourable Herbert Paton FitzSimons, the Minister for Health of the State of New South Wales, for and on behalf of the said State, of the one part, and the Honourable Thomas Paterson, the Minister of State for the Interior of the Commonwealth of Australia, for and on behalf of the said Commonwealth, of the other part; to provide for the carrying into effect of the said agreement; to validate certain matters; to amend the [Lunacy Act of 1898](#), and certain other Acts; and for purposes connected therewith.

1 Name of Act

- (1) This Act may be cited as the [Lunacy and Inebriates \(Commonwealth Agreement Ratification\) Act 1937](#).
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 Ratification of agreement

- (1) The agreement, a copy of which is set out in the First Schedule to this Act (in this section hereinafter referred to as **the agreement**), is hereby ratified and validated and the doing or performance of all such acts, matters or things as are to be or may be done or performed under or in pursuance of the agreement is hereby authorised and the agreement may be carried into effect notwithstanding the provisions of any other Act.
- (2) Without prejudice to the generality of subsection one of this section all acts, matters and things for or with respect to which provision is made in the agreement or which, by the agreement, are agreed, directed, authorised or permitted to be done or performed by or on behalf of the State or the Minister or the Director-General of State Psychiatric Services or by or on behalf of any authority or any other officer of the State (including any officer of police, justice of the peace, magistrate, judge or court) are hereby sanctioned, authorised and confirmed.

3 Ratification of supplemental agreement

- (1) The agreement, a copy of which is set out in the Second Schedule to this Act (in this Act hereinafter referred to as **the supplemental agreement**), is hereby approved, ratified and validated and the doing or performance of all such acts, matters or things as are to be or may be done or performed under or in pursuance of the supplemental agreement is hereby authorised and the supplemental agreement may be carried into effect notwithstanding the provisions of any other Act.
- (2) Without prejudice to the generality of subsection one of this section all acts, matters and things for or with respect to which provision is made in the supplemental agreement or which, by the supplemental agreement, are agreed, directed, authorised or permitted to be done or performed by or on behalf of the State or the Minister or the Director-General of the State Psychiatric Services or by or on behalf of any authority or any other officer of the State (including any officer of police, justice of the peace, magistrate, judge or court) are hereby sanctioned, authorised and confirmed.

3A Validation of certain matters

Any act, matter or thing done or performed by the Governor, the Minister, the Director-General of State Psychiatric Services or any authority or any other officer of the State (including any officer of police, justice of the peace, magistrate, judge or court) or by any authority or other officer of the Australian Capital Territory (including any officer of police, justice of the peace, magistrate, judge or court) which would have been lawful if the [Mental Health \(Commonwealth Agreement Ratification\) Amendment Act 1962](#) had been in force at the time such act, matter or thing was done or performed, is hereby validated.

3B Evidence

A notification published in the Commonwealth of Australia Gazette and the New South Wales Government Gazette to the effect that the form of certificate or manner of endorsement set out in the notification has been agreed upon pursuant to clause four, five or eight of the supplemental agreement shall be conclusive evidence of the matters stated and set out therein.

4 (Repealed)

First Schedule

(Section 2)

AGREEMENT made the eighteenth day of March in the year one thousand nine hundred and thirty-six between The Honourable Herbert Paton FitzSimons the Minister for Health of the State of New South Wales for and on behalf of the said State who with his Successors in such office is hereinafter called the Minister for Health of the one part and The Honourable Thomas Paterson the Minister of State for the Interior of the Commonwealth of Australia for and on behalf of the said Commonwealth who with his successors in such office is hereinafter called the Minister of the other part whereby it is agreed as follows:

1.

In this agreement unless the contrary intention appears the singular shall include the plural and the plural the singular and the masculine the feminine and the following expressions shall have the meanings respectively set opposite to them:—

“Commonwealth” means the Commonwealth of Australia.

“Institution” shall in respect of an insane person or patient or resident referred to in clause 4 mean a hospital for the insane or reception house or other place of the State appointed under the law of the State for the reception of the insane and in respect of an inebriate an institution established by the State for the reception control and treatment of inebriates.

“Inspector General” means the Inspector General of the Insane appointed under the [Lunacy Act of 1898](#) of the State and includes a Deputy Inspector-General for the time being performing the duties of such Inspector-General.

“Master” means the Master in Lunacy of the State and includes the Deputy Master in Lunacy of the State and also includes the Chief Clerk in Lunacy of the State when performing the duties of the master in Lunacy.

“Resident of the Territory” includes any person who is in the Territory whether a resident or not.

“State” means the State of New South Wales.

“Territory” means the Territory for the Seat of Government of the Commonwealth.

2.

(a)

Subject to this agreement when a Court or Judge or magistrate or justice of the peace acting or purporting to act under any law of or in force in the Territory orders or authorises a person to be removed into or detained in any hospital for the insane in New South Wales within the meaning of the [Lunacy Act of 1898](#) of the State and such person is by an officer of the Territory handed over in New South Wales to and received into the custody of an officer of Police of the State such person shall be apprehended and conveyed by the officer of the State to such hospital and he shall by the authorities of the State be received therein and detained therein or in any other hospital or reception house or other place under the said Act in all respects as if two Justices of the State had within the State after the proper certificates inquiries and proof duly made an order under subsection (1) of section 6 of the [Lunacy Act of 1898](#) of the State directing such person to be removed into such hospital and the order statement and certificates referred to therein had been produced and such person shall when so received and detained as aforesaid be deemed to be an insane patient within the meaning of the said Act of the State.

(b)

When such person is handed over as aforesaid by the officer of the Territory to the officer of Police of the State such person shall be identified to the officers of the State to their satisfaction and there shall be delivered to such officers the order or authority of the Court Judge magistrate or justice of the peace for the removal or detention of the said person and the medical certificates and evidence leading to such order or authority or office copies thereof.

(c)

Where any person is by an officer of the Territory handed over in New South Wales to and received into custody by an officer of Police of the State in purported or intended execution of this agreement no action suit or proceeding shall lie against the State or any authority or officer of the State by reason of the apprehension of such person and his conveyance to and detention in a hospital for the insane of the State or other institution of the State.

3.

Any resident of the Territory may be received and detained as an insane patient in a hospital for the insane of the State on the authority of a request statement of particulars and two medical certificates made under any law of or in force in the Territory corresponding to section 9 of the [Lunacy Act of 1898](#) of the State.

4.

If a written application is made by a resident of the Territory to an authority or authorities of the State nominated by the Minister for Health that such resident be received into a hospital for the insane in New South Wales within the meaning of the [Lunacy Act of 1898](#) of the State such resident shall be entitled to be received and to remain therein if and while the medical officer for such hospital considers that course advisable in the interest of such resident Provided that he shall not be detained in any institution contrary to his wish in the absence of any order request or other authority under the [Lunacy Act of 1898](#) or any present or future amendment thereof or under this agreement requiring or authorising the same Provided further that any such person may be discharged by the medical officer for any institution if he should think such course necessary in the interests of such person or of the institution.

5.

Subject to this Agreement all the provisions of the [Lunacy Act of 1898](#) of the State (including any amendments heretofore and hereafter made) and the rules and regulations thereunder for the time being in force shall apply to and with respect to every person handed over in New South Wales by an officer of the Territory to and received into custody by an officer of Police of the State as provided in clause 2 and to every resident of the Territory received in a hospital for the insane of the State as provided in clause 3 and to every resident of the Territory received into a hospital for the insane as provided in clause 4 and to and with respect to the property and estate of every such person or resident (whether in New South Wales or in the Territory) including the applying for and enforcing payment by relatives whether resident in the Territory or in the State of sums for or towards maintenance clothing medicine and care of every such person or resident.

6.

In case any such person or resident shall die in an institution of the State the State shall do all such things for his burial as would be done if he had been a resident of the State in like case.

7.

Justices of the Peace or a Stipendiary or Police Magistrate for New South Wales may make the application referred to in subsection (1) of section 142 of the [Lunacy Act of 1898](#) of the State to, and a summons issued in the State under subsection (2) of that section or under section 145 of that Act may be served on, the relatives of any patient within the meaning of the said section 142 who are within the Territory as if they were within the State and all orders may be made and proceedings

had thereon as if such relatives had been within the State.

8.

(a)

Subject to this agreement when an order has been made in pursuance or intended execution of the *Inebriates Act 1900* and the *Inebriates (Amendment) Act 1909* of the State as continued in force in the Territory or of any other law of or in force in the Territory amending the same or in substitution therefor that a person shall be placed in an institution in New South Wales established or deemed to be established by the Government of the State under section 9 of the *Inebriates Act 1912* and such person is by an officer of the Territory handed over in New South Wales to and received into the custody of an officer of Police of the State such person shall be apprehended and conveyed by the officer of the State to such institution and he shall by the authorities of the State be received therein and detained therein or in any other State institution under the *Inebriates Act 1912* of the State in all respects as if such person had been in New South Wales and an order had been duly made under subsection (1) of section 3 of the *Inebriates Act 1912* by a Judge of the Supreme Court of New South Wales on the proper application proof certificate and procedure that such person be placed in a State institution established under section 9 of such Act for the same period as may be mentioned in the order first referred to in this subclause.

(b)

When such person is handed over as aforesaid by the officer of the Territory to the officer of Police of the State such person shall be identified to the officers of the State to their satisfaction and there shall be delivered to such officers the order first mentioned in subclause (a) of this clause or an office copy thereof.

(c)

Where any person is by an officer of the Territory handed over in New South Wales to and received into custody by an officer of Police of the State in purported or intended execution of this agreement no action suit or proceeding shall lie against the State or any authority or officer of the State by reason of the apprehension of such person and his conveyance to and detention in any State institution established or deemed to be established under the *Inebriates Act 1912* of the State.

9.

(a)

Subject to this agreement all the provisions of the *Inebriates Act 1912* of the State (including any amendments heretofore or hereafter made) and the rules and regulations thereunder for the time being in force and including the enactments of the *Lunacy Act of 1898* as applied by section 9 of the *Inebriates Act 1912* shall apply to and with respect to every person handed over in New South Wales by an officer of the Territory to and received in custody by an officer of Police of the State as provided in clause 8 and to and with respect to the property and estate of every such person (whether in New South Wales or in the Territory) including the applying for and enforcing payment by relatives whether resident in the Territory or in the State of sums for or towards maintenance clothing medicine and care of every such person and including the extending for further periods of any period mentioned in any order.

(b)

For the purposes of this clause an order as first described in subclause (a) of clause 8 shall be deemed to be an order made under paragraph (f) of subsection (1) of section 3 of the *Inebriates Act 1912* of the State and the person the subject thereof shall be deemed to be an inebriate the subject of an order under such Act and any Judge of the Supreme Court or Judge of any District Court the Master in Lunacy or any stipendiary or police magistrate may exercise the powers of sections 18 and 20 of the said Act in respect of such person as if he had made an order under the said Act in or with respect to such person.

10.

Justices of the Peace or a Stipendiary or Police Magistrate for New South Wales may make the application referred to in subsection (1) of section 142 of the *Lunacy Act of 1898* as applied by section 9 of the *Inebriates Act 1912* of the State to, and a summons issued in the State under subsection (2) of the said section 142 or under section 145 of the *Lunacy Act of 1898* as applied as aforesaid may be served on, the relatives of any person in any institution established or deemed to be established under the said section 9 who are within the Territory as if they were within the State and all orders may be made and proceedings had thereon as if such relatives had been within the State.

11.

(a)

In respect of each and every person who is handed over by an officer of the Territory to and received into custody by an officer of Police of the State under clause 2 or under clause 8 of this agreement and of each and every resident of the Territory who is received in a hospital for the insane of the State under clause 3 of this agreement or in a hospital for the insane under clause 4 thereof (all such persons and residents being hereinafter referred to as “persons in respect of whom the Commonwealth may be liable”) the Commonwealth shall pay to the State the amounts that are equal to the excess (if any) of the cost to the State of—

- (i) obtaining any order certificates or authority in respect of such person or resident and conveying such person or resident to an institution and from one institution or place to another and returning him to the Territory under this agreement on his discharge or otherwise;
- (ii) maintaining such person or resident in an institution or otherwise; and
- (iii) consulting with specialists in mental or other diseases or with specialists in the treatment of inebriates concerning such person or resident and treating him; and
- (iv) burying such person or resident if he shall die in an institution or while otherwise in the custody of the State in terms of this agreement,

over any moneys in respect of the committal or other authority conveyance maintenance treatment and burial of such person or resident as aforesaid received by the State therefor from such person or resident or from his estate or from a relative or friend.

(b)

For the purpose of this clause the cost to the State of maintaining a person or resident in an

institution for any period shall be ascertained by means of the following formula:

$$\frac{A}{7} \times B = C$$

In the above formula:

A represents the number of days in the period during which the person was maintained;

B represents the amount determined by the Master or the Inspector-General (as the case may be) as being the average cost per head per week of maintaining persons in that institution during the period; and

C represents the cost of maintaining the person or resident in the institution for the period.

(c)

A certificate under the hand of the Master or the Inspector General stating the amount which was the average cost per head per week of maintaining persons in an institution during a period shall as between the parties hereto be conclusive evidence of the matters stated.

12.

(a)

In the month of July in each year during the continuance of this agreement the Inspector General shall furnish to the Minister particulars of—

- (i) the names of all persons in respect of whom the Commonwealth may be liable who in the period of twelve calendar months (or in the case of the first period in the period commencing on the commencement of this agreement and) ending on the thirtieth day of June then last past were apprehended received detained cared for maintained or otherwise dealt with by the State or its officers or authorities under or in pursuance of this agreement; and
- (ii) the institutions in which such persons respectively were maintained and the period of maintenance in each institution; and
- (iii) the cost to the State in such period of twelve calendar months (or in the case of the first period the shorter period aforesaid) of the matters or things set forth in paragraphs (i) to (iv) inclusive of subclause (a) of clause 11 of this agreement; and
- (iv) the moneys received during such period of twelve calendar months (or in the case of the first period the shorter period aforesaid) by the State from any of the persons in respect of whom the Commonwealth may be liable or from their estates or relatives or friends in respect of the committal conveyance maintenance treatment or burial of any of such persons;

together with certificates under the hand of the Master or the Inspector General pursuant to clause 11 of this agreement in respect of each institution in which any of the persons in respect of whom the Commonwealth may be liable were maintained for any time during the said period of twelve calendar months or shorter period as aforesaid.

(b)

In the calendar month after the termination of this agreement the Inspector General shall furnish to the Minister the particulars mentioned or referred to in paragraphs (i) to (iv) inclusive of subclause (a) of this clause (together with certificates under the hand of the Master or the Inspector General as mentioned in that subclause) in regard to all persons in respect of whom the Commonwealth may be liable but in reference to the period commencing on the 1st day of July last past and ending on the termination of this agreement instead of a period of twelve calendar months ending on the 30th day of June mentioned in that subclause.

(c)

Without impairing the operation of subclause (c) of clause 11 any particulars furnished in regard to the matters referred to in paragraphs (i) to (iv) inclusive of subclause (a) of this clause shall as between the parties hereto be prima facie evidence of the matters stated.

13.

(a)

Any moneys payable by the Commonwealth to the State pursuant to clause 11 of this agreement shall be paid to the Master at Sydney.

(b)

Within a period of one calendar month after the particulars referred to in subclause (a) of clause 12 of this agreement have been furnished to the Minister in respect of any and every period ending on the 30th day of June in each year as mentioned in such subclause and after the particulars referred to in subclause (b) of the said clause 12 have been furnished to the Minister in respect of the period ending on the termination of this agreement the Commonwealth will pay to the State as herein provided the moneys payable under clause 11 in regard to all persons in respect of whom the Commonwealth may be liable for or in relation to the period ending on the 30th day of June or termination of this agreement as the case may be to which the particulars relate.

14.

Any of the persons in respect of whom the Commonwealth may be liable who on being discharged from an institution of the State under the [Lunacy Act of 1898](#) or the [Inebriates Act 1912](#) or this agreement desire to be returned to the Territory shall be conveyed to the Territory by the State.

15.

Upon service upon the officer in charge of an institution of the State of an order under the hand of the Minister directing the removal from such institution to an institution in the Territory of a person detained in such institution under clause 2 or clause 8 of this agreement such officer in charge shall forthwith deliver such person into the custody of the person named in the order as authorised to receive such custody and he shall immediately convey to the Territory the person so delivered to him.

16.

(a)

Either of them the Minister for Health or the Minister may terminate this agreement at any time

by giving at any time to the other of them six calendar months' previous notice in writing of such termination.

(b)

Upon any such termination the Minister may make an order directing the removal from the institutions of the State to a hospital for the insane or other place in the Territory of persons at such termination detained in such institutions of the State under clauses 2, 3, 4 and 8 of this agreement and may cause such order to be served upon the respective officers in charge of the institutions of the State in which such persons are respectively detained and such officers in charge shall forthwith deliver such persons respectively into the custody of the persons respectively named in the orders as authorised to receive such custody and they shall immediately convey to the Territory the persons so delivered to them.

(c)

Notwithstanding any such termination of this agreement the provisions of this agreement (including clause 11) shall continue to apply to and with respect to the persons at the said termination detained in the institutions of the State under clauses 2, 3, 4 and 8 of this agreement until delivered in pursuance of subclause (b) of this clause by the officers in charge of such institutions to the persons authorised to receive such first mentioned persons into custody by the orders of the Minister served upon such officers in charge in accordance with the said subclause (b).

17.

Unless the context otherwise requires any notice demand request or communication that may or is to be given or made by the Commonwealth or the Minister to the State or to any authority of the State or to the Inspector General in pursuance of or under this agreement shall be deemed to have been duly given or made if signed by or on behalf of the Minister and delivered to the Inspector General or sent in a prepaid letter addressed to the Inspector General at his usual official address.

18.

Unless the context otherwise requires any notice demand request communication certificate statement or particulars that may or are to be given or made or furnished by the State or the Inspector General or any authority of the State to the Commonwealth or to the Minister in pursuance of or under this Agreement shall be deemed to have been duly given made or furnished if signed by or on behalf of the Minister for Health or the Inspector General or the Master or other authority and delivered or left at the office of the Secretary, Department of the Interior of the Commonwealth, or sent in a prepaid letter addressed to the Secretary, Department of the Interior, Canberra.

19.

This agreement is subject to ratification by the Parliament of the said State and by a law of the Territory so as to validate its execution and so as to authorise the doing or performance of all such acts matters or things as are to be done or performed under or in pursuance of this Agreement and shall not be of any force or effect until so ratified.

In witness whereof the parties hereto have hereunto set their hands the day and year first hereinbefore written.

Signed by the Minister for Health of the State
of New South Wales for and on behalf of the
State in the presence of—

C. B. STINSON, J.P.

} H. P. FITZSIMONS.

Signed by the Minister of State for the Interior
of the Commonwealth of Australia for and on
behalf of the said Commonwealth in the
presence of—

R. ROWE.

} T. PATERSON.

Second Schedule

(Sections 3, 3A, 3B)

A SUPPLEMENTAL AGREEMENT made the Eighteenth day of October One thousand nine hundred and Sixty One BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called “the Commonwealth”) of the one part and THE STATE OF NEW SOUTH WALES (in this agreement called “the State”) of the other part.

WHEREAS by the agreement referred to in this agreement as the principal agreement provision was made for the reception, detention and maintenance in institutions in the State of insane persons and inebriates committed to those institutions by a Court, Judge, Magistrate or Justice of the Peace of the Territory for the Seat of Government acting or purporting to act under any law of or in force in the Territory, and for other purposes:

AND WHEREAS by the *Insane Persons and Inebriates (Committal and Detention) Ordinance 1936-1937* of the said Territory and the *Lunacy and Inebriates (Commonwealth Agreement Ratification) Act, 1937* of the State the principal agreement was ratified, approved and validated and the doing or performance of all such acts, matters or things as are or may be done or performed under or in pursuance of the principal agreement was authorised:

AND WHEREAS it is necessary and desirable to make further provision for the admission and detention of residents of the Territory in institutions in the State and for other matters:

NOW IT IS HEREBY AGREED as follows—

1.

This agreement shall have no force or effect and shall not be binding on either party until it is approved by the Parliament of the State and by a law of the Territory, so as to validate its execution and so as to authorise the doing or performance of all such acts, matters or things as are to be done or performed under or in pursuance of this agreement.

2.—

(1.)

In this agreement, unless the context otherwise requires—

“the Lunacy Act in its application to the Territory” means the [Lunacy Act of 1898](#) of the State as in force in the Territory as amended from time to time by Ordinance of the Territory;

“the Mental Health Act” means the *Mental Health Act, 1958* of the State as amended from time to time;

“the principal agreement” means the agreement made the eighteenth day of March, 1936, between the Honourable Herbert Paton FitzSimons, then Minister for Health of the State, for and on behalf of the State, and the Honourable Thomas Paterson, then Minister of State for the Interior of the Commonwealth, for and on behalf of the Commonwealth, and set out in the Schedule to the said *Insane Persons and Inebriates (Committal and Detention) Ordinance 1936–1937* of the Territory and the said *Lunacy and Inebriates (Commonwealth Agreement Ratification) Act, 1937* of the State; and words importing the masculine gender include females, words in the singular include the plural, and words in the plural include the singular.

(2.)

In the principal agreement, notwithstanding anything contained therein, and in this agreement

“the Minister” means the Minister of State of the Commonwealth for the time being administering the Ordinances of the Territory by which the principal agreement and this agreement are approved and includes a member of the Federal Executive Council for the time being acting for and on behalf of that Minister;

“the Minister for Health” means the Minister of the State administering the Mental Health Act and includes a member of the Executive Council of the State for the time being acting for and on behalf of that Minister; and

“the Territory” means the Australian Capital Territory and includes the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Acceptance Act 1915* of the Commonwealth and described in the agreement set out in the Schedule to that Act.

(3.)

The principal agreement shall, notwithstanding anything contained therein, be construed as follows:—

- (a) a reference to the *Lunacy Act of 1898* of the State shall be read as a reference to the Mental Health Act;
- (b) a reference to a specific provision of the *Lunacy Act of 1898* of the State shall be read as a reference to the corresponding provision for the time being in force, if any, of the Mental Health Act; and
- (c) a reference to an authority or institution of or in the State mentioned in the *Lunacy Act of 1898* of the State shall be read as a reference to the corresponding authority or institution, whether of the same or some other name, mentioned in the Mental Health Act.

(4.)

A reference in the principal agreement or in this agreement to an act, matter or thing done or to be done or performed or to be performed by the Minister shall be read so as to include an act, matter or thing done or to be done or performed or to be performed by a delegate of, or a person authorised by, the Minister in that behalf under the laws for the time being in force in the Territory.

(5.)

Subject to the preceding sub-clauses of this clause, words and expressions used in this agreement which are the same as words and expressions to which a meaning is attributed in the principal agreement shall, unless the contrary intention appears, have the respective meanings attributed to them by the principal agreement.

3.

The principal agreement is amended by omitting clause 3 thereof.

4.

A resident of the Territory will be admitted to and detained in an admission centre in the State for observation and treatment upon the certificate of one registered medical practitioner of the Territory in or to the effect of the form set out in Part I of the schedule to this agreement or in such other form as may from time to time be agreed upon by the Minister and the Minister for Health.

5.—

(1.)

When two medical practitioners of the Territory have given certificates in or to the effect of the form set out in Part I of the schedule to this agreement, endorsed in or to the effect of the form set out in Part II of the schedule to this agreement, or in such other form or endorsed in such other manner as may from time to time be agreed upon by the Minister and the Minister for Health, and the person with respect to whom the certificates were given is taken by a member of the Police Force of the Territory to the admission centre named in the certificates and presented to a responsible person there, the person presented shall be admitted to the admission centre by the authorities of the State and detained in the admission centre or in some other admission centre in the State.

(2.)

When a person is presented to a responsible person at an admission centre in accordance with the last preceding sub-clause, the person presented shall be identified to the satisfaction of the responsible person and there shall be delivered to the responsible person the medical certificates relating to the person presented.

6.

A person admitted to an admission centre in pursuance of clause 4 or clause 5 of this agreement shall be deemed to be subject to the provisions of the Mental Health Act and any act, matter or thing may be done or performed with respect to that person, in all respects as if the person had been admitted to and detained in the admission centre in pursuance of subsection (1.) of section 12 of the Mental Health Act.

7.—

(1.)

A resident of the Territory who makes application or for whom application is made, in accordance with the provisions of Part VI of the Mental Health Act, for admission to and detention in an admission centre, mental hospital or authorised hospital as a voluntary patient may, subject to the provisions of that Part, be so admitted by the superintendent of the admission centre, mental

hospital or authorised hospital.

(2.)

A person so admitted and detained shall be subject in all respects to the provisions of the Mental Health Act as a voluntary patient and any act, matter or thing may be done or performed in accordance with those provisions with respect to that person and, by the Master in the Protective Jurisdiction of the Supreme Court of the State, with respect to the estate of that person.

8.—

(1.)

Where—

- (a) the Governor-General of the Commonwealth, acting or purporting to act under any law of or in force in the Territory, orders or directs a person to be conveyed to and kept in a mental hospital in the State during the Governor-General's pleasure; or
- (b) the Minister, acting or purporting to act under any law of or in force in the Territory, orders or directs by order that a person be removed to and kept or detained in or re-committed to a mental hospital in the State,

and the person is by a member of the Police Force of the Territory handed over in the State to and received into the custody of an officer of the Police of the State, the person shall be apprehended and conveyed by the officer of the State to the hospital and shall by the authorities of the State be received therein and detained in the hospital or in any other mental hospital in the State.

(2.)

Where a person is handed over to an officer of the Police of the State in accordance with the last preceding sub-clause, the person shall be identified to the satisfaction of the officer and there shall be delivered to the officer the warrant or order of the Governor-General or Minister, as the case may be, and the Court order, or medical certificates and statement of particulars, leading to the warrant or order, together with a statement signed by the Minister showing the provision of the Law of the Territory under the authority of which the warrant or order of the Governor-General or Minister or Court order was made, and showing further shortly the requirements of such provision.

(3.)

In any case where medical certificates and a statement of particulars are required they shall be in the form of that in Schedule Two of the [Lunacy Act of 1898](#) in its application to the Territory or in such other form as may be agreed upon by the Minister and the Minister for Health.

(4.)

The names of the hospitals in the State which may be referred to in any such warrant or order shall be communicated to the Minister by the Minister for Health.

9.

A person confined or detained in a mental hospital in pursuance of clause 8 of this agreement shall be deemed to be subject to the provisions of the Mental Health Act and any act, matter or thing may be done or performed with respect to that person in all respects as if the person had been so

confined or detained pursuant to the order of the Governor of the State or the Minister for Health, as the case may be, but that person shall be dealt with in accordance with such orders as the Governor-General or the Minister may make from time to time in pursuance of any law of or in force in the Territory, and, except in pursuance of any such order or in accordance with this agreement, shall not be liberated or discharged.

10.—

(1.)

Where the Governor-General of the Commonwealth, acting or purporting to act under any law of or in force in the Territory, permits a person confined in a mental hospital under the last preceding clause to be liberated therefrom, the warrant of the Governor-General shall be sent by the Minister to the Minister for Health who shall arrange for the liberation of the person upon such terms and conditions, if any, as are prescribed in the said warrant.

(2.)

If any condition upon which a person is liberated under the last preceding clause is broken, the State will, at the request and the expense of the Commonwealth, take such action to retake that person as it would have taken if the person had been liberated with the permission of the Governor and a condition on which he had been liberated had been broken.

11.

When the Minister, acting or purporting to act under a law of or in force in the Territory, orders or directs a person detained in pursuance of clause 8 of this agreement to be returned to the Territory or any gaol or other place of detention in the Territory a copy of the order shall be sent by the Minister to the Minister for Health who shall arrange for the delivery of the person to a member of the Police Force of the Territory.

12.

If at any time a person escapes from the custody of a member of the Police Force or other officer of the Territory by whom the person is being conveyed within the State for the purposes of the principal agreement or of this agreement, the State will, at the expense of the Commonwealth, take all reasonable action for the retaking of the person and for his return to custody or his delivery to the institution to which he was being conveyed.

13.

Subject to this agreement and the principal agreement, the provisions of clauses 5, 6, 11, 12, 13 and 14, and of sub-clauses (b) and (c) of clause 16, of the principal agreement shall apply to and with respect to every person, and to and with respect to the property of every person handed over to, and received into custody by, an officer of the Police of the State and to every person and to the property of every person admitted to an admission centre, mental hospital or authorised hospital in the State in pursuance of this agreement.

14.

Until such time as is otherwise provided by or in accordance with the laws in force in the Territory the Master in the Protective Jurisdiction of the Supreme Court, Deputy Master and Chief Clerk in the Protective Jurisdiction of the Supreme Court respectively of the State shall carry out the functions of the offices of Master in Lunacy, Deputy Master in Lunacy and Chief Clerk, respectively, under the

Lunacy Act in its application to the Territory.

15.

Except in so far as it is varied by this agreement, the principal agreement is confirmed, and clauses 17 and 18 and sub-clause (a) of clause 16 of the principal agreement shall apply with respect to this agreement as if this agreement were incorporated in and formed part of the principal agreement.

16.

A notification published in the Commonwealth Gazette and the New South Wales Government Gazette and purporting to have been signed by the Minister and the Minister for Health to the effect that the form of certificate or manner of endorsement set out in the notification has been agreed upon pursuant to this agreement shall be conclusive evidence of the matters stated and set out.

SCHEDULE.

Part I.

I,

(Name in full)

of,

Medical Practitioner,

(Address)

do hereby certify that on the

day of

19 , at

(Address of place where examination took place)

I personally examined

(Name of person in full)

of

(Address of person examined)

independently of any other medical practitioner and I am of the opinion that the said person is a mentally ill person and is a suitable case for admission to the Admission Centre at

.....

(Name of institution)

for observation and treatment.

In my opinion the person examined is:—

- (a) suicidal;
- (b) dangerous to others;
- (c) unable to care for himself;
- (d) not under proper care and control.

*Strike out and initial any of the conditions that are not applicable.

The facts and other matters upon which I have formed these opinions are as follows:—

The following treatment and medication (if any) have been administered in respect of the mental illness of the person examined:—

So far as I am aware—

(a) the bodily health and condition of the person examined is; and

†(b) the person examined has not suffered any recent injury; *or*

†(b) the person examined has suffered a recent injury of which particulars are as follows:—

†Strike out words inapplicable.

‡Signed this day of, 19 ,

Signature

‡Omit when the form in Part II of the Schedule is used.

Part II.

I am of the opinion that the assistance of a member of the Police Force is desirable in conveying the person examined to the Admission Centre at
.....

(Name of institution)

The facts and other matters upon which I have formed this opinion are as follows:—

Signed this day of, 19 ,

Signature

IN WITNESS WHEREOF this agreement has been executed the day and year first above written.

SIGNED for and on behalf of THE
COMMONWEALTH OF AUSTRALIA by The
Honourable GORDON FREETH, Minister of
State for the Interior of the Commonwealth,
in the presence of—

DAVID I. SMITH,
Private Secretary
Canberra, A.C.T.

}

GORDON FREETH.

SIGNED for and on behalf of THE STATE OF
NEW SOUTH WALES by The Honourable
WILLIAM FRANCIS SHEAHAN, Minister for
Health of the State, in the presence of—

K. H. GAIN,
156 Raglan Street,
Mosman.



W. SHEAHAN.