

(2) Subject to subsection (3) of this section, if any person -

- (a) who has been served with a summons to attend before the Tribunal fails without reasonable excuse to attend in obedience to the summons;
- (b) who has been served with a summons to produce any books, papers or documents, fails without reasonable excuse to comply with the summons;
- (c) misbehaves himself before the Tribunal, wilfully insults the Tribunal or any member thereof, or interrupts the proceedings of the Tribunal;
or
- (d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Tribunal,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars. .

(3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In any proceedings, the Tribunal shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms and it shall not be bound by the rules of evidence, but it may inform itself on any matter in such manner as it thinks fit.

Division II - Functions of the Tribunal

Review of
detention
orders.

37. (1) Where a patient is detained in a reception centre, the Tribunal shall before the expiration of the first six months of his detention and thereafter at periodic intervals of not more than six months review the circumstances of his detention.

(2) Unless the Tribunal is satisfied in proceedings under this section that there is good cause for the continuing detention of the patient, it shall direct that the order under which he is detained be discharged.

Appeals by
patients and
relatives of
patients.

38. (1) Where a patient believes that he is being detained in a reception centre without due cause, he may appeal to the Tribunal against his detention.

(2) Where a relative of a patient believes that the patient is being detained in a reception centre without due cause, he may appeal to the Tribunal against the detention.

(3) Unless the Tribunal is satisfied in proceedings under this section that there is good cause for the continuing detention of the patient, it shall direct that the order under which he is detained be discharged.

(4) An appeal may not be instituted under this section in respect of a patient if a previous appeal in respect of the same patient has been instituted in the last preceding period of six months.

Appeals from
orders of
the Board.

39. (1) Where the Board has made an order -

(a) by which a person is received into the guardianship of the Board;

or

(b) by which an administrator is appointed in respect of the estate of a person,

the person in respect of whom the order was made, or a relative of that person, may appeal to the Tribunal against the order.

(2) If, in proceedings under this section, the Tribunal is satisfied that the person in respect of whom the appeal is brought does not suffer from a mental illness or incapacity by which he is rendered incapable of administering his own affairs, it shall revoke the order of the Board.

Division III - Appeals from Decisions of the Tribunal

40. (1) Any person aggrieved by a decision or order of the Tribunal shall, subject to this section, be entitled to appeal to the Supreme Court against the decision or order of the Tribunal.

(2) The appeal must be instituted within one month of the making of the decision or order appealed against, but the Supreme Court may, if it is satisfied that it is just and equitable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The Supreme Court may, on the hearing of the appeal, exercise one or more of the following powers, according to the nature of the case:-

(a) affirm, vary or quash the decision or order appealed against, or substitute, and make in addition, any decision or order that should have been made in the first instance;

(b) remit the subject matter of the appeal to the Tribunal for further hearing or consideration, or for re-hearing;

or

(c) make any further or other order as to costs, or any other matter, that the case requires.

(4) Where the appellant in proceedings under this section is the person in respect of whom the appeal is brought, no order for costs shall be made against him.

Appeal from
decisions of
the Tribunal.

Division IV - Representation of Patients in Appeals

Representation
of patients
upon appeals.

41. (1) In every appeal to the Tribunal or the Supreme Court, the person in respect of whom the appeal is brought shall, subject to subsection (2) of this section, be represented by counsel.

(2) Where the Tribunal or the Court is satisfied that a person does not desire to be represented by counsel upon an appeal and that he has sufficient command of his mental faculties to make a rational judgment in the matter, it may dispense with the requirement that he be represented by counsel at the hearing of the appeal.

(3) Unless the person in respect of whom the appeal is brought decides to engage counsel at his own expense, the counsel by whom he is to be represented shall be chosen -

(a) by that person himself;

or

(b) in default of his making a choice, by the Law Society of South Australia,

from a panel of legal practitioners who have indicated their willingness to represent persons in proceedings under this Act, compiled by the Law Society of South Australia.

(4) A legal practitioner, who is chosen from the panel referred to in subsection (3) of this section, shall be entitled to receive fees for his services, from the Commission, in accordance with a prescribed scale and shall not be entitled to demand or receive from any other person any further fee.

PART VI - LICENSING OF PSYCHIATRIC REHABILITATION CENTRES

42. (1) No person shall operate a psychiatric rehabilitation centre unless the centre is licensed under this Act.

Penalty: One thousand dollars.

(2) This section does not apply in respect of an incorporated hospital or health centre.

Prohibition
against operation
of psychiatric
rehabilitation
centre without
licence.

Psychiatric
rehabilitation
centres.

43. (1) Subject to this section, the Minister may, on the application of a person who operates or proposes to operate a psychiatric rehabilitation centre, licence the premises to which the application relates as a psychiatric rehabilitation centre.

(2) A licence under subsection (1) of this section -

(a) shall specify the premises to which the licence applies;

and

(b) shall be for a period not exceeding twelve months.

(3) A licence granted under subsection (1) of this section shall be subject to all or any of the following conditions specified in the licence:-

(a) that a number of persons stipulated in the licence shall be employed in the operation of the psychiatric rehabilitation centre;

(b) that those persons will have qualifications specified in the licence;

(c) that those persons will competently discharge the functions assigned to them by and specified in the licence;

(d) that persons of the class or classes specified in the licence will not be permitted to reside in the psychiatric rehabilitation centre;

(e) that the number of persons receiving care in the psychiatric rehabilitation centre will not exceed the number specified in the licence;

(f) that the accommodation and facilities provided for persons receiving care in the psychiatric rehabilitation centre will at all times conform to standards specified in the licence;

(g) that the standard of diet provided for persons receiving care in the centre will conform to a standard specified in the licence;

- (h) that the psychiatric rehabilitation centre will at all times be open to inspection by any person authorized by the Commission to inspect the centre;
 - (i) that the holder of the licence will comply with any directions of the Commission in relation to the operation of the centre and the care of the persons resident therein;
- and
- (j) such other conditions as the Minister may think fit to include in the licence.

(4) The Treasurer may, on the recommendation of the Commission, and on the application of the holder of a licence under this section, guarantee the repayment of any advance or loan made or proposed to be made to the holder of the licence where the advance or loan is made for the purpose of carrying out such works or the purchase of such property as may be approved by the Minister.

44. (1) Where the holder of a licence under this Part contravenes, or fails to comply with, a condition of the licence, the Minister may, by instrument in writing served personally or by post upon him, give notice of his intention to revoke the licence.

(2) The holder of the licence may appeal against the proposed revocation of the licence to the Tribunal.

(3) Where -

- (a) a month has expired since service of the notice under subsection (1) of this section and no appeal has been instituted against the proposed revocation of the licence;

or

- (b) an appeal against the proposed revocation of the licence has been dismissed by the Tribunal,

the Minister may revoke the licence.

evocation
of licence.

PART VII

MISCELLANEOUS

neglect or
ill-treatment
of a person
suffering from
mental illness
or mental
handicap.

45. Any person having the oversight, care or control of a person who is suffering from a mental illness or mental handicap who ill-treats or wilfully neglects that person, shall be guilty of a misdemeanour.

offences in
relation to
certificates
and orders.

46. (1) Any medical practitioner who signs any certificate or order for the purposes of this Act without having seen and personally examined the person to whom the certificate or order relates shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(2) Any medical practitioner who wilfully certifies that any person is suffering from a mental illness or mental handicap not believing him to be suffering from a mental illness or mental handicap or who wilfully makes any other false or misleading statement in any certificate given under or for the purposes of this Act shall be guilty of a misdemeanour.

(3) Any person who, not being a medical practitioner, signs any certificate or order for the purposes of this Act in which he describes himself as, or pretends to be, a medical practitioner or registered psychiatrist, or otherwise purports to act under this Act in the capacity of a medical practitioner or registered psychiatrist shall be guilty of a misdemeanour.

(4) Any person who, by the production of a false certificate or other fraudulent means, procures or attempts to procure any person who is not suffering from a mental illness or mental handicap to be received into or detained in a reception centre shall be guilty of a misdemeanour.

47. Any person who removes a patient who has been detained in a reception centre, or aids any such person to escape from a reception centre, shall be guilty of a misdemeanour.

48. Any person who is guilty of a misdemeanour under this Act shall, on conviction, be liable to a penalty not exceeding two thousand dollars or to imprisonment to a term not exceeding one year.

49. A person who does any act in pursuance or purported pursuance of the provisions of this Act, or omits to exercise any power conferred by this Act, shall not be under any civil or criminal liability in respect of that act or omission if he has acted, or omitted to act, in good faith, and with reasonable care.

50. Proceedings in respect of an offence under this Act (not being a misdemeanour) shall be disposed of summarily.

51. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may -

- (a) define the functions, powers and duties of the Commission;
- (b) define the functions, powers and duties of superintendents of reception centres and other officers and servants employed in reception centres;
- (c) provide for the management and control of reception centres;
- (d) provide for the classification of patients;
- (e) provide for the care and treatment of patients of the various classes;

- (f) empower the superintendent of a reception centre to decline to forward a letter written by a patient;
- (g) prescribe any matter relating to procedure to be adopted under this Act;
- (h) prescribe any form to be used for the purposes of this Act;
and
- (i) prescribe a penalty not exceeding two hundred dollars for breach of any regulation.