



ANNO TERTIO

# GEORGI VI REGIS.

A.D. 1939.

\*\*\*\*\*

## No. 4 of 1939.

An Act to amend the Mental Defectives Act, 1935-1936.

[Assented to 14th September, 1939.]

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

Short titles.

1. (1) This Act may be cited as the "Mental Defectives Act Amendment Act, 1939".

(2) The Mental Defectives Act, 1935-1936, as amended by this Act, may be cited as the "Mental Defectives Act, 1935-1939".

(3) The Mental Defectives Act, 1935-1936, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 37—

2. Section 37 of the principal Act is amended by inserting therein after subsection (3) thereof the following subsection :—

Discharge from receiving house or ward.

(3a) If, either at the time of or subsequent to the discharge of any patient as aforesaid, the superintendent is satisfied that the person so discharged is able to manage his own affairs, the superintendent may in the order of discharge or, as the case may require, at any time subsequent to the discharge (whether the discharge occurred before or after the passing of the Mental Defectives Act Amendment Act, 1939), certify that the person so discharged is able to manage his own affairs.

Amendment of principal Act, s. 49—

3. Section 49 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Discharge of criminal mental defective.

(1a) If the Inspector-General or, as the case may be, the superintendent of the said hospital and the other

medical practitioner, are satisfied that the said person is able to manage his own affairs, the Inspector-General or, as the case may be, the superintendent and other medical practitioner may, in the said certificate or at any time subsequent to the granting of the said certificate (whether the said certificate was granted before or after the passing of the Mental Defectives Act Amendment Act, 1939), certify that the said person is able to manage his own affairs. If the Inspector-General so certifies at any time after the granting of the said certificate, he shall give to the superintendent of the hospital notice in writing that he has so certified.

4. Section 89 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of principal Act, s. 89—

(3) If, either at the time of or subsequent to the discharge from any institution of any patient as aforesaid, the superintendent of the institution is satisfied that the person so discharged is able to manage his own affairs, the superintendent may in the order of discharge or, as the case may require, at any time subsequent to the discharge (whether the discharge occurred before or after the passing of the Mental Defectives Act Amendment Act, 1939) certify that the person so discharged is able to manage his own affairs.

Patient discharged upon request.

5. Section 90 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of principal Act s. 90—

(3) If, either at the time of or subsequent to the discharge of any person as aforesaid, the superintendent is satisfied that the person so discharged is able to manage his own affairs, the superintendent may in the order of discharge or, as the case may require, at any time subsequent to the discharge (whether the discharge occurred before or after the passing of the Mental Defectives Act Amendment Act, 1939), certify that the person so discharged is able to manage his own affairs.

Discharge of patient on trial leave.

6. The principal Act is amended by inserting therein after section 92 thereof the following section :—

Amendment of principal Act—

92a. If the Inspector-General, pursuant to any power conferred by section 91 or section 92, orders the discharge of any patient and the Inspector-General is, either at the time of or subsequent to the discharge, satisfied that the patient is able to manage his own affairs, the Inspector-General may in the order of discharge or, as the case may require, at any time subsequent to the discharge (whether the discharge occurred before or after the passing of the

Order that patient is able to manage his affairs.

## Mental Defectives Act Amendment Act, 1939.

Mental Defectives Act Amendment Act, 1939), certify that the person so discharged is able to manage his own affairs. If the Inspector-General so certifies at any time subsequent to the said discharge, he shall give to the superintendent of the institution from which the patient was discharged notice in writing that he has so certified.

Amendment of  
principal Act,  
s. 94—

7. Section 94 of the principal Act is amended by adding at the end thereof the following subsection (the preceding part of the said section being read as subsection (1) thereof) :—

Discharge on  
undertaking by  
relative or  
friend.

(2) If, either at the time of or subsequent to the order for the discharge of any patient as aforesaid, the Inspector-General is satisfied that the person so discharged is able to manage his own affairs, the Inspector-General may in the order or, as the case may require, at any time subsequent to the discharge (whether the discharge occurred before or after the passing of the Mental Defectives Act Amendment Act, 1939), certify that the person so discharged is able to manage his own affairs. If the Inspector-General so certifies at any time after the making of the order, he shall give to the superintendent of the institution notice in writing that he has so certified.

Amendment of  
principal Act,  
s. 98—  
Estates of  
patients.

8. Section 98 of the principal Act is amended—

(a) by adding at the end of paragraph (d) of subsection (2) thereof the passage “or if it appears from a certificate given pursuant to section 37, 49, 89, 90, 92a or 94, that the person discharged is able to manage his own affairs or if the discharge is made pursuant to section 33, 41, or 95” ; and

(b) by adding at the end thereof the following subsection :—

(3) If any person, of whose estate the Public Trustee has by virtue of this section the custody and administration, is in any place beyond the State (whether the said person was removed to that place before or after the passing of the Mental Defectives Act Amendment Act, 1939, or pursuant to section 79 or otherwise) and the Public Trustee is satisfied that some person has pursuant to the laws in force in the said place been appointed to have the custody and administration of the estate of the first mentioned person, the Public Trustee may pay over or deliver to the person appointed as aforesaid the balance of the moneys or property belonging to the estate of the first mentioned person and received by the Public Trustee after—

(a) payment of all costs, charges, and expenses incurred in the matter ; and

(b) satisfying or providing for, wholly or in so far as appears to be necessary for the due administration of the estate, the claims against the estate of all persons residing in the State of whose claims he had notice,

without seeing to the application thereof and without incurring any liability in regard to such payment.

The provisions of this subsection are in addition to the provisions of Division IV. of Part V.

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

C. M. BARCLAY-HARVEY, Governor.