



MENTAL HEALTH SERVICES.

No. 52 of 1973.

ANALYSIS.

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**AN ACT to amend the *Mental Health Services Act 1967.*
[16 October 1973.]**

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Mental Health Services Act 1973.* Short title and citation.

(2) The *Mental Health Services Act 1967*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

2 Section two of the Principal Act is amended—

(a) by inserting after the definition of “appointed day” the following definition:—

“ ‘authorized officer’ , used in relation to an institution, means an officer of the mental health service appointed as the authorized officer of that institution by the managing authority;” ; and

(b) by inserting after the definition of “management order” the following definition:—

“ ‘managing authority’ means—

(a) when used in relation to an institution in the charge of a board of management, that board of management; and

(b) when used in relation to any institution (other than a public hospital) at which any mental health service is provided under this Act, the Commission;” .

3 After section twenty-five of the Principal Act the following sections are inserted in Part IV:—

Removal of property from patients.

“ 25A—(1) Where a medical officer of the mental health service considers it desirable to do so, the managing authority of an institution may cause to be removed from a patient any property in the possession of the patient in the institution and shall cause to be kept in safe custody any property so removed until it is dealt with in accordance with subsection (2) of this section.

“(2) Any property kept under this section may at any time be returned to the patient and shall be so returned when he ceases to be a patient.

“(3) Notwithstanding anything contained in the foregoing provisions of this section any property removed from a patient under this section shall, on a claim being made by any other person lawfully entitled thereto, be delivered to that person.

Patients' trust accounts.

“ 25B—(1) Where moneys are received by the authorized officer of an institution from a patient in that institution for custody on behalf of that patient or from some other person for the benefit, use, or enjoyment of that patient, those moneys shall be paid into a trust fund referred to in this section as the patients' trust fund for that institution.

“(2) The authorized officer of an institution shall, in respect of each patient, keep a separate account (in this section referred to as ‘the patient’s account’) of all moneys paid into the patients’ trust fund for that institution in respect of that patient.

“(3) Moneys standing to the credit of a patient’s account may be withdrawn by that patient for any purpose which, in the opinion of the authorized officer, is for the benefit, use, or enjoyment of that patient.

“(4) Where a patient is, in the opinion of the authorized officer, incapable, through infirmity arising from disease, or age, or other reason, of withdrawing and safeguarding money from that patient’s account, the authorized officer may authorize the withdrawal of such sum from the patient’s account as he considers necessary for the purchase of goods or services for the benefit, use, or enjoyment of that patient.

“(5) In the circumstances referred to in subsection (4) of this section, a certificate by any two officers of the mental health service authorized by the managing authority to the effect that the goods or services represented by the sum withdrawn have been received by the patient for his benefit, use, or enjoyment is evidence that that patient received those goods or services.

“(6) Subject to this section, moneys in a patients’ trust fund for an institution may, with the approval of the managing authority, be invested by the authorized officer of that institution in any manner in which trustees are authorized to invest trust funds.

“(7) Interest received from the investments shall be credited by the authorized officer to an account referred to in this section as the patients’ amenities account for the institution.

“(8) The authorized officer shall apply moneys standing to the credit of the patients’ amenities account for the institution towards the payment for goods, services, or amenities for the benefit, use, or enjoyment of patients generally in the institution.

“(9) Any capital profit made upon realization of investments from the patients’ trust fund for an institution shall be carried to the patients’ amenities account for the institution and any loss upon realization of those investments shall be met from that account.

“(10) After a person ceases to be a patient at an institution the authorized officer of that institution shall pay to that person any moneys standing to the credit of that person’s account in the patients’ trust fund for that institution.

“(11) Nothing in this section shall prejudice or affect the operation of Part VI of the *Mental Health Act* 1963.

“(12) Regulations under this Act may regulate the exercise by an authorized officer of his powers under this section and may require or regulate the keeping of records and accounts for the purposes of this section.

Disposal of unclaimed property of patients.

“25C—(1) Where there is left at an institution any money or personal effects of a patient who has died in the institution or ceased to be a patient in the institution and no claim is made by a person lawfully entitled thereto within a period of twelve months after the death of the patient or his ceasing to be a patient, as the case may be, the authorized officer shall—

- (a) in the case of money, pay it over to the Public Trustee; and
- (b) in the case of personal effects, sell them by public auction and pay over the proceeds, after deducting the expenses of the sale, to the Public Trustee.

“(2) The Public Trustee shall hold any money received by him under subsection (1) of this section in trust for the owner thereof.

“(3) Where property to which this section applies left by any one patient exceeds two hundred dollars in value and is not claimed as mentioned in subsection (1) of this section within a period of three months after the death of the patient, the authorized officer shall so inform the Public Trustee.

“(4) When moneys are paid over to the Public Trustee under subsection (1) of this section the authorized officer shall give the Public Trustee such information as he can to enable the Public Trustee to deal with, or establish the true ownership of, the moneys.”.

Validation of existing accounts.

4 Section twenty-five B of the Principal Act (as amended by this Act) applies in respect of any moneys which have been received before the commencement of this Act by an officer of the mental health service from or on behalf of a patient in an institution as if it had been in force at the time the moneys were so received and as if the officer for the time being having charge of those moneys were the authorized officer.