The Mental Hygiene Act

being

Chapter 238 of The Revised Statutes of Saskatchewan, 1940
(effective February 1, 1941).

NOTE:
This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SHORT TITLE</strong></td>
<td></td>
</tr>
<tr>
<td>1 Short title</td>
<td></td>
</tr>
<tr>
<td><strong>INTERPRETATION</strong></td>
<td></td>
</tr>
<tr>
<td>2 Interpretation</td>
<td></td>
</tr>
<tr>
<td><strong>ADMINISTRATION</strong></td>
<td></td>
</tr>
<tr>
<td>3 Designation of institutions</td>
<td></td>
</tr>
<tr>
<td>4 Administration by department</td>
<td></td>
</tr>
<tr>
<td>5 Commissioner of Mental Services</td>
<td></td>
</tr>
<tr>
<td>6 Superintendents and other of officers</td>
<td></td>
</tr>
<tr>
<td>7 Duties of superintendent</td>
<td></td>
</tr>
<tr>
<td>8 Bursar</td>
<td></td>
</tr>
<tr>
<td>9 Expenditures</td>
<td></td>
</tr>
<tr>
<td><strong>ADMSSION OF PATIENTS TO INSTITUTIONS</strong></td>
<td></td>
</tr>
<tr>
<td>10 Authority for admission</td>
<td></td>
</tr>
<tr>
<td>11 Admission and discharge of voluntary patients</td>
<td></td>
</tr>
<tr>
<td><strong>ADMISION BY TWO MEDICAL CERTIFICATES</strong></td>
<td></td>
</tr>
<tr>
<td>12 Admission on medical certificates</td>
<td></td>
</tr>
<tr>
<td>13 Restrictions as to persons giving medical certificates</td>
<td></td>
</tr>
<tr>
<td>14 Continued detention on medical certificates</td>
<td></td>
</tr>
<tr>
<td><strong>COMMITTAL BY MAGISTRATE</strong></td>
<td></td>
</tr>
<tr>
<td>15 Magistrate’s warrant for apprehension</td>
<td></td>
</tr>
<tr>
<td>16 Hearing by magistrate</td>
<td></td>
</tr>
<tr>
<td>17 Certificate of magistrate and warrant for detention</td>
<td></td>
</tr>
<tr>
<td>18 Order for discharge or further examination</td>
<td></td>
</tr>
<tr>
<td>19 Transmission of documents to department</td>
<td></td>
</tr>
<tr>
<td>20 Deputy minister’s warrant</td>
<td></td>
</tr>
<tr>
<td>21 Power to summon witnesses</td>
<td></td>
</tr>
<tr>
<td><strong>APPEAL FROM COMMITTAL</strong></td>
<td></td>
</tr>
<tr>
<td>22 Application to and powers of judge</td>
<td></td>
</tr>
<tr>
<td><strong>APPREHENSION WITHOUT WARRANT</strong></td>
<td></td>
</tr>
<tr>
<td>23 Procedure</td>
<td></td>
</tr>
<tr>
<td><strong>REMOVAL TO AN INSTITUTION</strong></td>
<td></td>
</tr>
<tr>
<td>24 Deputy minister’s warrant</td>
<td></td>
</tr>
<tr>
<td>25 Female patients</td>
<td></td>
</tr>
<tr>
<td>26 Warrant of Lieutenant Governor in Council</td>
<td></td>
</tr>
<tr>
<td><strong>ADMISION FOR OBSERVATION</strong></td>
<td></td>
</tr>
<tr>
<td>27 On order of judge or magistrate</td>
<td></td>
</tr>
<tr>
<td><strong>DISCHARGE</strong></td>
<td></td>
</tr>
<tr>
<td>28 Voluntary patients</td>
<td></td>
</tr>
<tr>
<td>29 Other patients</td>
<td></td>
</tr>
<tr>
<td>30 No discharge if home of patient unsuitable</td>
<td></td>
</tr>
<tr>
<td><strong>RELEASE ON TRIAL AND RECREATIONAL LEAVE</strong></td>
<td></td>
</tr>
<tr>
<td>31 Committal to custody of friends</td>
<td></td>
</tr>
<tr>
<td>32 Exemptions</td>
<td></td>
</tr>
<tr>
<td>33 Control over patients released on probation</td>
<td></td>
</tr>
<tr>
<td>34 Recreational leave</td>
<td></td>
</tr>
<tr>
<td><strong>REMOVAL TO ANOTHER INSTITUTION</strong></td>
<td></td>
</tr>
<tr>
<td>35 Procedure</td>
<td></td>
</tr>
<tr>
<td>36 Senile cases</td>
<td></td>
</tr>
<tr>
<td>37 Removal for medical, surgical or hospital treatment</td>
<td></td>
</tr>
<tr>
<td><strong>ESCAPE AND APPREHENSION</strong></td>
<td></td>
</tr>
<tr>
<td>38 Procedure for apprehension and recommittal</td>
<td></td>
</tr>
<tr>
<td><strong>APPROVED HOMES</strong></td>
<td></td>
</tr>
<tr>
<td>39 Homes approved by deputy minister</td>
<td></td>
</tr>
<tr>
<td>40 Release of patients to approved homes</td>
<td></td>
</tr>
<tr>
<td>41 Control over patients continues</td>
<td></td>
</tr>
<tr>
<td><strong>PSYCHOPATHIC WARDS</strong></td>
<td></td>
</tr>
<tr>
<td>42 Admission</td>
<td></td>
</tr>
<tr>
<td>43 Discharge</td>
<td></td>
</tr>
<tr>
<td>44 Transfer to institution</td>
<td></td>
</tr>
<tr>
<td><strong>EX-SOLDIERS</strong></td>
<td></td>
</tr>
<tr>
<td>45 Committal to institution</td>
<td></td>
</tr>
<tr>
<td>46 Application of sections 61 and 62</td>
<td></td>
</tr>
<tr>
<td>47 Powers of medical officers</td>
<td></td>
</tr>
<tr>
<td><strong>GENERAL PROVISIONS</strong></td>
<td></td>
</tr>
<tr>
<td>48 Use of buildings as institutions</td>
<td></td>
</tr>
<tr>
<td>49 Power to provide for psychopaths, etc.</td>
<td></td>
</tr>
<tr>
<td>50 Authority to return foreign patients</td>
<td></td>
</tr>
<tr>
<td>51 Post mortem examinations</td>
<td></td>
</tr>
<tr>
<td>52 Validity of warrant notwithstanding irregularities</td>
<td></td>
</tr>
<tr>
<td>53 Regulations</td>
<td></td>
</tr>
<tr>
<td>54 Liability for expenses of committal, care and maintenance</td>
<td></td>
</tr>
<tr>
<td>55 Payment and recovery of expenses prior to committal</td>
<td></td>
</tr>
<tr>
<td>56 Method of recovery</td>
<td></td>
</tr>
<tr>
<td>57 Lien for expenses on registration of statement</td>
<td></td>
</tr>
<tr>
<td>58 Effect of registration</td>
<td></td>
</tr>
<tr>
<td>59 Maintenance of indigents</td>
<td></td>
</tr>
<tr>
<td>60 Indians</td>
<td></td>
</tr>
<tr>
<td>61 Non-liability to civil proceedings</td>
<td></td>
</tr>
<tr>
<td>62 Stay of vexatious proceedings</td>
<td></td>
</tr>
<tr>
<td>63 Restrictions on actions against employees of department</td>
<td></td>
</tr>
<tr>
<td>64 Limitation of actions</td>
<td></td>
</tr>
<tr>
<td>65 Torts of patient</td>
<td></td>
</tr>
<tr>
<td>66 Assisting escape of patient</td>
<td></td>
</tr>
<tr>
<td>67 General penalty</td>
<td></td>
</tr>
</tbody>
</table>
CHAPTER 238
An Act respecting Mentally Defective and Mentally Ill Persons

SHORT TITLE

Short title
1 This Act may be cited as The Mental Hygiene Act.
1936, c.91, s.1; R.S.S. 1940, c.238, s.1.

INTERPRETATION

Interpretation
2 In this Act, unless the context otherwise requires, the expression:

“Approved home”
1. “Approved home” means a home to which patients may be released from a mental hospital or school for mental defectives under this Act;

“Commissioner”
2. “Commissioner” means the Commissioner of Mental Services for Saskatchewan;

“Department”
3. “Department” means the Department of Public Health;

“Deputy minister”
4. “Deputy minister” means the Deputy Minister of Public Health;

“Director”
5. “Director” means the medical officer in charge of a psychopathic ward;

“Inspector”
6. “Inspector” means an officer of the department appointed as an inspector for any of the purposes of this Act;

“Institution”
7. “Institution” includes a mental hospital and a school for mental defectives;

“Judge”
8. “Judge” means a judge of the Court of King’s Bench for Saskatchewan;

“Magistrate”
9. “Magistrate” means a justice of the peace or a police magistrate;

“Mental defective” or “mentally defective person”
10. “Mental defective” or “mentally defective person” means a person in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, and who requires care, supervision and control for his own protection or welfare or for the protection of others;

“Mental deficiency”
11. “Mental deficiency” means the condition of mind of a mental defective;

“Mental hospital”
12. “Mental hospital” means the provincial hospitals at Battleford and Weyburn, and includes any hospital hereafter established for the purposes of this Act;
“Mentally ill person”
13. “Mentally ill person” means a person other than a mental defective who is suffering from such a disorder of mind that he requires care, supervision and control for his own protection or welfare, or for the protection of others;

“Mental illness”
14. “Mental illness” means the disorder of mind from which a mentally ill person is suffering;

“Minister”
15. “Minister” means the Minister of Public Health;

“Patient”
16. “Patient” means a person admitted to an institution or to a psychopathic ward, and includes a person who is remanded to an institution for temporary detention or in respect of whom the certificates of two physicians have been issued or the certificate of a magistrate has been issued, under this Act;

“Physician” or “practitioner”
17. “Physician” or “practitioner” means a duly qualified medical practitioner on the register of the College of Physicians and Surgeons of Saskatchewan;

“Prescribed”
18. “Prescribed” means prescribed by the Lieutenant Governor in Council under the authority of this Act;

“Psychiatrist”
19. “Psychiatrist” means a practitioner specializing in mental illnesses and approved by the minister;

“Psychopathic ward”
20. “Psychopathic ward” means any ward in a hospital receiving public aid and declared by the Lieutenant Governor in Council to be a psychopathic ward;

“Regulations”
21. “Regulations” means regulations made under the authority of this Act;

“School for mental defectives”
22. “School for mental defectives” means any institution which may be established for the reception, care and training of mentally defective persons, or a part of an existing institution set aside for these purposes;

“Superintendent”
23. “Superintendent” means a physician appointed as the superintendent of a mental hospital or school for mental defectives.

1936, c.91, s.2; R.S.S. 1940, c.238, s.2.

ADMINISTRATION

Designation of institutions
3(1) This Act shall apply to such institutions as may from time to time be designated by the Lieutenant Governor in Council.

(2) Every mental hospital established under this Act shall be known as “The Saskatchewan Mental Hospital” followed by the name of the city or town at or near which the hospital is located.

(3) Every school for mental defectives established under this Act shall be known as “The Saskatchewan School for Mental Defectives” followed by the name of the city or town at or near which the school is located.

1936, c.91, s.3; R.S.S. 1940, c.238, s.3.
Administration by department

4 The administration of this Act and, subject to the provisions of The Public Works Act, the administration of every institution established under this Act shall be under the control of the department.

1936, c.91, s.4; R.S.S. 1940, c.238, s.4.

Commissioner of Mental Services

5 The Lieutenant Governor in Council may from time to time appoint a physician as Commissioner of Mental Services for Saskatchewan and prescribe his duties and powers.

1936, c.91, s.5; R.S.S. 1940, c.238, s.5.

Superintendents and other officers

6 In each mental hospital and school for mental defectives a superintendent and such medical and other officers as are deemed necessary may be appointed.

1936, c.91, s.6; R.S.S. 1940, c.238, s.6.

Duties of superintendent

7 The superintendent shall be the chief executive officer of the institution and shall:
   (a) direct and control the treatment of the patients;
   (b) watch over the internal management, and maintain the discipline and due observance of the regulations prescribed for the government of institutions;
   (c) direct the training of nurses in accordance with a scheme approved by the minister;
   (d) report conditions to the minister;
   (e) report annually to the minister upon the affairs of the institution, with such suggestions as may in his opinion tend to its improvement.

1936, c.91, s.7; R.S.S. 1940, c.238, s.7.

Bursar

8 The financial business and affairs of each institution shall be conducted by an officer of the department to be called “the bursar”, who shall be responsible to the superintendent, and shall:
   (a) report the state of the income and expenditure of the institution to the superintendent monthly;
   (b) perform such other duties as may be assigned to him under any regulations in force respecting institutions and in accordance with the directions of the minister.

1936, c.91, s.8; R.S.S. 1940, c.238, s.8.

Expenditures

9 The salaries of the commissioner, superintendent and all other officers and employees and any other expenses incurred in the administration of this Act may be paid out of moneys from time to time appropriated by the Legislature for the purpose.

1936, c.91, s.9; R.S.S. 1940, c.238, s.9.
ADMISSION OF PATIENTS TO INSTITUTIONS

Authority for admission

10 A person who is mentally ill may be admitted to an institution as a voluntary patient; and a person who is mentally ill or mentally defective may be admitted to an institution:

(a) on the certificates of two physicians;
(b) on the warrant of the deputy minister after investigation by a magistrate;
(c) on the warrant of the Lieutenant Governor in Council;
(d) as a patient remanded by a judge or magistrate in accordance with the provisions of this Act;
(e) when, in the opinion of the deputy minister, such person should be admitted and the proper proceedings under this Act have been instituted but not completed. In such case the deputy minister may instruct the superintendent to admit and detain such patient but such detention shall be limited to a period of fourteen days, unless the deputy minister’s warrant for admission is issued during that period.

1936, c.91, s.10; R.S.S. 1940, c.238, s.10.

Admission and discharge of voluntary patients

11(1) The superintendent of an institution may receive and detain therein as a patient any person suitable for care and treatment who voluntarily makes written application attested by a duly qualified practitioner in the prescribed form and whose mental condition is such as to render him competent to make application.

(2) A person so received shall not be detained more than five days after having given notice in writing of his desire to leave the hospital.

(3) No person shall be admitted as a voluntary patient who is:

(a) suffering from mental illness or infirmity due to old age or from disease for which general hospital or other institutional care is required;
(b) a mental defective.

1936, c.91, s.11; R.S.S. 1940, c.238, s.11.

ADMISSION BY TWO MEDICAL CERTIFICATES

Admission on medical certificates

12(1) The certificates of two physicians upon the prescribed forms, accompanied by the prescribed history record and financial statement, shall be sufficient authority to any person to convey the patient to an institution; and to the authorities thereof to detain him therein, pending the issue of a warrant for detention by the deputy minister. Upon the admission of the patient, the superintendent shall forthwith notify the deputy minister and at the same time transmit to him the above mentioned documents and upon receipt thereof the deputy minister may issue his warrant in the prescribed form for the detention of such person.
(2) Every medical certificate shall state that the physician has personally examined the patient separately from any other physician and, after due inquiry into all the necessary facts relating to the case of the patient, found him to be mentally ill or mentally defective, as the case may be.

(3) Every medical certificate shall also state the facts upon which the physician has formed his opinion of the mental illness or mental deficiency, distinguishing the facts observed by him from the facts communicated to him by others, and shall show the date upon which the examination was made; and every certificate shall be signed in the presence of two subscribing witnesses. No physician who issues a certificate shall be a witness to the signature of the other physician who is issuing a certificate.

(4) No person shall be admitted to an institution under this section after the expiry of one month from the date on which the examinations are made, or, if the examinations are not made on the same date, from the date of the later examination.

1936, c.91, s.12; R.S.S. 1940, c.238, s.12.

Restrictions as to persons giving medical certificates

13(1) Except as permitted by the regulations or by the minister, no certificate or form required by this Act or the regulations with respect to any person shall be made, issued, given, completed or signed by any physician who is by blood or marriage closely related to or connected with any other physician who makes, issues, gives, completes or signs a certificate or form with respect to the same person.

(2) Except as permitted by the regulations or by the minister, no certificate or form required by this Act or the regulations to be made, issued, given, completed or signed by a physician respecting any person shall be made, issued, given, completed or signed by a physician who is by blood or marriage closely related to or connected with such person.

(3) No medical certificate required for the purposes of this Act shall be issued by any person who is an officer of the department on the staff of any institution.

1936, c.91, s.13; R.S.S. 1940, c.238, s.13.

Continued detention on medical certificates

14 Notwithstanding anything in section 11, a mentally ill person who has been admitted as a voluntary patient, or a person admitted under the provisions of section 27, or a person detained under clause (e) of section 10, may be continued, as a patient, upon the certificates of two physicians accompanied by the prescribed history record and financial statement, and notification to and the issue of warrant for detention by the deputy minister, as set forth in section 12.

1936, c.91, s.14; R.S.S. 1940, c.238, s.14.

COMMITTAL BY MAGISTRATE

Magistrate's warrant for apprehension

15(1) Any person who suspects or believes that another is mentally ill or mentally defective and in need of institutional care may lay an information on oath before a magistrate, in the prescribed form, and the magistrate may thereupon issue his warrant in the prescribed form to apprehend the person named therein and cause him to be brought before him or some other magistrate.
(2) If any relative or friend of the alleged mentally ill or mentally defective person so requests, the warrant may be directed to and executed by such relative or friend; otherwise it may be directed to and executed by any constable or peace officer.

1936, c.91, s.15; R.S.S. 1940, c.238, s.15.

Hearing by magistrate

16(1) When a person who has been apprehended under section 15 or section 23 is brought before him, the magistrate shall proceed to hear such evidence under oath, including, if possible, the evidence of two non-professional persons acquainted with the facts, as is adduced with reference to:

(a) his alleged mental illness or mental deficiency including the evidence of a physician in the prescribed form;
(b) his residence for at least six months previous to inquiry;
(c) his calling or profession;
(d) his means of support;
(e) his friends, relatives and guardian, if any;
(f) the fact of his being married or single;
(g) such other facts as are necessary to be embodied in the report of the magistrate to be made to the minister as hereinafter required; and
(h) what real and personal property he is possessed of.

(2) The magistrate may from time to time adjourn the inquiry, and upon adjournment the person charged may by warrant in the prescribed form be remanded to safe custody until proper inquiry is made as herein directed; but in no case shall such person be committed to any goal, prison or reformatory, nor shall any adjournment be for more than eight days.

1936, c.91, s.16; R.S.S. 1940, c.238, s.16.

Certificate of magistrate and warrant for detention

17 If, after inquiry as herein directed, the magistrate is satisfied that such person is mentally ill or mentally defective, he shall certify accordingly in the prescribed form and issue a warrant in the prescribed form for the detention of such person in the manner mentioned in subsection (2) of section 16, to await the warrant of the deputy minister.

1936, c.91, s.17; R.S.S. 1940, c.238, s.17.

Order for discharge or further examination

18 If the magistrate is not satisfied that such person is mentally ill or mentally defective, the magistrate shall forthwith with discharge him, or order such further examination as he may deem expedient.

1936, c.91, s.18; R.S.S. 1940, c.238, s.18.
Transmission of documents to department

19 Where a person is found to be mentally ill or mentally defective the magistrate shall immediately transmit to the deputy minister his certificate and the certificate of the physician and the information, warrant and depositions taken before him, accompanied by a written statement of the result of his inquiries as to the financial condition of the mentally ill or mentally defective person and the person or persons legally liable for his maintenance, and as to the other matters mentioned in the prescribed form, so far as ascertained, and giving the present address of the mentally ill or mentally defective person and the name and address of the person in whose custody he is, and such further information as he may deem advisable.

1936, c.91, s.19; R.S.S. 1940, c.238, s.19.

Deputy minister's warrant

20 Upon receipt of such documents the deputy minister shall, in the case of a mentally ill person, arrange for his admission to an institution and issue a warrant in the prescribed form for his transfer thereto. In the case of a mentally defective person, if the deputy minister is satisfied that it is inexpedient to issue a warrant without further investigation, he shall cause such investigation to be made and, if thereupon satisfied that a warrant should be issued, shall forthwith issue the same.

1938, c.69, s.2; R.S.S. 1940, c.238, s.20.

Power to summon witnesses

21 A magistrate acting under the provisions of this Act shall have the like authority for compelling the attendance of witnesses as he would have under any law in force respecting summary convictions, and he shall be entitled to such fees as may be prescribed by the Lieutenant Governor in Council.

1936, c.91, s.21; R.S.S. 1940, c.238, s.21.

APPEAL FROM COMMITTAL

Application to and powers of judge

22(1) If upon the committal of a person under section 17 any of his relatives or friends or any other interested party believes the committal to have been unwarranted and not justified by the evidence given before the magistrate, such party may, on notice to the deputy minister before the warrant for the removal of such person to an institution has been issued, apply to a judge within fifteen days after such committal for the discharge of such person from custody on the ground that he is not mentally ill or mentally defective.

(2) Where notice of an application under subsection (1) is given to the deputy minister he shall, pending the result of the application, withhold issue of the warrant mentioned in section 20.

(3) Upon such application the judge shall forthwith cause the person committed to be examined by two psychiatrists and review the evidence and other papers relating to the committal, and may hear further evidence, and, if the judge determines that such person is not mentally ill or mentally defective, the judge shall grant a certificate in the prescribed form, or he may dismiss the application. Such certificate shall be sufficient authority for the discharge of such person from custody and a copy thereof shall be furnished to the deputy minister.
(4) The judge may make such order as to the costs of the application as he deems fit.

1936, c.91, s.22; 1940, c.89, s.1; R.S.S. 1940, c.238, s.22.

APPREHENSION WITHOUT WARRANT

Procedure

23 Any person, apparently mentally ill or mentally deficient and conducting himself in a manner which in a normal person would be disorderly, may be apprehended without warrant by any constable or peace officer and detained in some safe and comfortable place, not being a gaol, prison or reformatory, until the question of his mental condition is determined under section 12 or sections 16, 17 and 18.

1936, c.91, s.23; R.S.S. 1940, c.238, s.23.

REMOVAL TO AN INSTITUTION

Deputy minister's warrant

24(1) The deputy minister may at any time by his warrant in the prescribed form order the removal to an institution of any person committed to safe custody under section 17, and such order shall be sufficient authority for the removal and admission to the institution of such person and for his detention therein until he is, in the opinion of the superintendent, sufficiently recovered to be discharged.

(2) The warrant for such removal may be directed to and executed by such person as the deputy minister may direct.

1936, c.91, s.24; R.S.S. 1940, c.238, s.24.

Female patients

25 When a female patient is being conveyed to an institution, she shall, unless accompanied by her father, mother, brother, sister or husband, be placed in charge of or accompanied by a female.

1936, c.91, s.25; R.S.S. 1940, c.238, s.25.

Warrant of Lieutenant Governor in Council

26(1) The Lieutenant Governor in Council, upon evidence satisfactory to him that any person imprisoned in any prison, reformatory, reformatory school, industrial school or any industrial refuge for an offence, under the authority of any statute of Saskatchewan, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, is mentally ill or mentally deficient, may order the removal of such person to an institution for safe custody and treatment; and such person shall remain there, or in such other institution as the Lieutenant Governor in Council may from time to time designate, until his complete or partial recovery to the satisfaction of the Lieutenant Governor in Council, who may then order such person back to imprisonment if then liable thereto, or, if otherwise, that he be discharged; provided that where such person is confined in an institution he shall, if and when he is not liable to imprisonment, be subject to the direction of the minister, or such other person as the Lieutenant Governor in Council may designate, who may make such orders or directions in respect of such person as he deems proper.
(2) Where the Lieutenant Governor in Council has ordered the removal of any person under subsection (1), a record of the depositions respecting such person shall be sent to the deputy minister by the Attorney General.

1936, c.91, s.26; R.S.S. 1940, c.238, s.26.

ADMISSION FOR OBSERVATION

On order of judge or magistrate

27(1) Any person may be admitted to an institution upon the order of a judge or police magistrate where such person has been apprehended either with or without warrant and charged with an offence, provided that such order is accompanied by the prescribed history form, and provided also that such order shall be for a period not exceeding sixty days; and any order made under this section shall direct that such person shall be conveyed to the institution most conveniently situated to the place where the order is made.

(2) Before the expiration of the period mentioned in the order of the judge or police magistrate, the superintendent shall report in writing the mental condition of such person to the judge or magistrate.

(3) Where in the opinion of the superintendent such person is mentally ill or mentally defective, he shall direct the examination of such person by two physicians, and if they certify such person to be mentally ill or mentally defective he shall be detained as a patient and shall be subject to all the provisions of this Act respecting patients admitted under authority of the certificates of two physicians.

(4) Where in the opinion of the superintendent the patient is neither mentally ill nor mentally defective or where the superintendent has failed to obtain medical certificates he shall discharge such person to the custody of the court by which he was ordered to the institution.

1936, c.91, s.27; R.S.S. 1940, c.238, s.27.

DISCHARGE

Voluntary patients

28 A voluntary patient shall be discharged from the institution in which he is a patient:

(a) when, in the opinion of the superintendent, it is in the interest of such patient or he needs no further treatment; or

(b) in accordance with the conditions upon which he was admitted.

1936, c.91, s.28; R.S.S. 1940, c.238, s.28.

Other patients

29(1) Any patient detained in an institution on the warrant of the Lieutenant Governor in Council or deputy minister shall be discharged from the institution in which he is a patient, when, in the opinion of the superintendent, he is sufficiently recovered.
(2) The superintendent shall not discharge any patient admitted under section 26 or 27 unless the deputy minister has certified to the superintendent that such person is no longer liable to imprisonment.

1936, c.91, s.29; R.S.S. 1940, c.238, s.29.

No discharge if home of patient unsuitable

30 No person shall be discharged unless, upon investigation, the superintendent is satisfied that the conditions in, and environment of, the home of such person are suitable for his return thereto.

1936, c.91, s.30; R.S.S. 1940, c.238, s.30.

RELEASE ON TRIAL AND RECREATIONAL LEAVE

Committal to custody of friends

31(1) If the superintendent considers it conducive to the recovery of a patient detained in an institution that he should be committed for a time to the custody of his family or his friends, the superintendent may allow him to return on trial to such family or friends upon receiving a written undertaking by any one or more of them that he or they will keep the patient under supervision. The superintendent may furnish the patient, if he is in indigent circumstances, with transportation to his home, or sufficient money to pay for the same, and with such sum of money for sustenance and other necessary expenses during the journey as may be approved by the deputy minister.

(2) If within six months from his release the patient again becomes in need of institutional care, the superintendent by whom he was released, or the deputy minister, may by warrant in the prescribed form directed to any constable or peace officer or other person, direct that the patient be apprehended and brought back to the institution from which he was released, and such warrant shall be authority to any one acting under it to apprehend the person named therein and take him back to the institution.

1936, c.91, s.31; R.S.S. 1940, c.238, s.31.

Exemptions

32 No person admitted to an institution under section 26 or 27 shall be released under section 31 unless the deputy minister has certified to the superintendent that such person is no longer liable to be returned to imprisonment.

1936, c.91, s.32; R.S.S. 1940, c.238, s.32.

Control over patients released on probation

33 Any patient who, under the provisions of this Act or the regulations, is released from an institution on probation or trial, shall for the purposes of this Act and the regulations, for a period of six months from the date of such release, be and be deemed to continue as a patient in such institution in the same manner and to the same extent and be subject to the same control as if he were not released but had remained in the institution.

1936, c.91, s.33; R.S.S. 1940, c.238, s.33.
Recreational leave

34  The superintendent may of his own authority permit a patient to leave the institution in care of his family or friends, for recreational purposes and for a period not exceeding ten days. During such period the patient shall continue to be under the full jurisdiction of the superintendent and may be brought back to the institution without a warrant for readmission as provided in subsection (2) of section 31.

1936, c.91, s.34; R.S.S. 1940, c.238, s.34.

REMOVAL TO ANOTHER INSTITUTION

Procedure

35(1)  The deputy minister may, by warrant, transfer a patient from any institution to any other institution.

(2)  Where a patient is transferred under subsection (1) such warrant shall be accompanied by the warrant and certificates authorizing his detention in the institution from which he is transferred, and such warrants and certificates shall continue to be sufficient authority for detention.

1936, c.91, s.35; R.S.S. 1940, c.238, s.35.

Senile cases

36  The deputy minister may, upon the report of the commissioner, direct that any patient in an institution, whose mental condition is due to senility and whose conduct is recorded as quiet and harmless and who is a proper subject for care in a home for the aged, be discharged from the institution and placed in a home for the aged, and the board of management and superintendent of such home shall admit him and maintain him therein.

1936, c.91, s.36; R.S.S. 1940, c.238, s.36.

Removal for medical, surgical or hospital treatment

37  The deputy minister may, upon the report of the superintendent of an institution that any patient therein requires medical, surgical or hospital treatment which cannot be given in the institution, authorize the removal of the patient to a designated place for treatment. From the time of removal until his return to the institution the patient shall be deemed to continue as a patient of the institution in the same manner and to the same extent and be subject to the same control as if he were in the institution. The expenses incurred for removal, treatment and return shall be added to and be recoverable in the same manner as the expenses mentioned in section 54.

1938, c.69, s.3; R.S.S. 1940, c.238, s.37.

ESCAPE AND APPREHENSION

Procedure for apprehension and recommittal

38(1)  A patient admitted to an institution who escapes therefrom or who, contrary to the provisions of this Act or the regulations, leaves or is taken away or removed therefrom may be apprehended without a warrant, at any time within sixty days from the day of his escape, by any constable or peace officer or any person appointed by the superintendent or the deputy minister.
(2) Upon apprehension the patient shall be taken to and confined in any place of detention and from thence be returned to an institution without delay.

1936, c.91, s.37; R.S.S. 1940, c.238, s.38.

APPROVED HOMES

Homes approved by deputy minister

39  The deputy minister may issue certificates approving of any building, premises or place as an approved home for the reception for safe custody of patients who are released from a mental hospital or school for mental defectives, and entitling any person to receive into the approved home one or more patients as if the home were an institution under this Act.

1936, c.91, s.38; R.S.S. 1940, c.238, s.39.

Release of patients to approved homes

40(1) If the superintendent considers it conducive to the recovery of a patient, the superintendent may place the patient in an approved home, subject to the provisions of this Act.

(2) No person admitted to an institution under sections 26 or 27 shall be placed in an approved home unless the deputy minister has certified to the superintendent that such person is no longer liable to be returned to imprisonment.

1936, c.91, s.39; R.S.S. 1940, c.238, s.40.

Control over patients continues

41  A patient who is placed in an approved home under the authority of section 40 shall for the purposes of this Act be, and be deemed to continue as, a patient in the institution from which he was released, in the same manner and to the same extent and subject to the same control as if he had not been so released but had remained in the institution.

1936, c.91, s.40; R.S.S. 1940, c.238, s.41.

PSYCHOPATHIC WARDS

Admission

42(1) A person who is or is believed to be in need of observation, care, and treatment in a psychopathic ward may be admitted thereto and kept therein, with the permission of the director, on the certificate of a physician, other than the director, in the prescribed form accompanied by the prescribed history record, provided that no person shall be kept in a psychopathic ward for a period longer than three months without the authority or the deputy minister on the recommendation of the director.

(2) Every person so admitted to a psychopathic ward shall be subject to the custody of the officers and other persons in charge of the ward so long as he remains therein.

1936, c.91, s.41; R.S.S. 1940, c.238, s.42.
Discharge

43 Every person under observation, care and treatment in a psychopathic ward shall be discharged as soon as he is, in the opinion of the director, mentally recovered and fit to be discharged.

1936, c.91, s.42; R.S.S. 1940, c.238, s.43.

Transfer to institution

44 If the director is satisfied that the mental condition of a person under observation, care and treatment in a psychopathic ward is such that further treatment is not likely to prove beneficial or is not for any reason advisable, and that such person is in need of care and treatment in an institution, then two physicians, of whom the director may be one, may act in the manner set forth in section 12.

1936, c.91, s.43; R.S.S. 1940, c.238, s.44.

EX-SOLDIERS

Committal to institution

45(1) The District Administrator of the Department of Pensions of the Dominion Government, or such other official as is approved for the purpose by the Lieutenant Governor in Council, may, on the report of a medical officer of the department finding any former member of His Majesty’s forces to be mentally ill or mentally defective and recommending his confinement, issue his warrant for the apprehension and detention of such mentally ill or mentally defective person by any constable or peace officer or by an agent or employee of that department, and for his removal to an institution, and he may at the same time issue his warrant to the superintendent of any institution, requiring him to admit such person to the institution, there to be detained until he is sufficiently recovered to be discharged, and such warrant shall be a sufficient authority to the superintendent to admit and detain such person accordingly.

(2) Such district administrator or other official shall, on the admission of a patient to an institution under this section, forthwith notify the deputy minister of the admission and at the same time transmit to him true copies of all documents furnished to the superintendent.

1936, c.91, s.44; R.S.S. 1940, c.238, s.45.

Application of sections 61 and 62

46 The District Administrator of the Department of Pensions and agents and employees of that department acting under his orders or directions shall be entitled to all the protection granted by sections 61 and 62 to the persons therein specified.

1936, c.91, s.45; R.S.S. 1940, c.238, s.46.

Powers of medical officers

47 For the purposes of sections 45 and 46 every medical officer of the said department shall have and may exercise all the powers conferred upon a magistrate by this Act.

1936, c.91, s.46; R.S.S. 1940, c.238, s.47.
Use of buildings as institutions

48 The Lieutenant Governor in Council may from time to time authorize the use of any building or buildings and property as an institution for mentally ill or mentally defective persons and the removal of patients thereto; and upon the issue of a proclamation to that effect such buildings and property shall, until otherwise provided by proclamation, be an institution under this Act and be used as such.

1936, c.91, s.47; R.S.S. 1940, c.238, s.48.

Power to provide for psychopaths, etc.

49 The Lieutenant Governor in Council may make regulations governing the care, detention and treatment of psychopaths, homosexuals, perverts, delinquents and persons suffering from such other psychopathic conditions as are not provided for in this Act.

1936, c.91, s.48; R.S.S. 1940, c.238, s.49.

Authority to return foreign patients

50 If it appears to the minister that any mentally ill or mentally defective patient in an institution has come or been brought into Saskatchewan from elsewhere within thirty days prior to his committal to such institution, the minister may authorize the removal of such person to the province or country from which he has come or been brought.

1936, c.91, s.49; R.S.S. 1940, c.238, s.50.

Post mortem examinations

51 If any person dies while detained in an institution the superintendent may, if he deems it advisable that a post mortem examination should take place, appoint the institutional pathologist or any other competent person to make such examination and certify the cause of death.

1936, c.91, s.50; R.S.S. 1940, c.238, s.51.

Validity of warrant notwithstanding irregularities

52 A warrant for the removal of any mentally ill or mentally defective person to an institution, or for the continued detention of such person in an institution, may be issued notwithstanding any irregularity or insufficiency in any warrant or order under which such person is imprisoned or confined or in any of the proceedings before a magistrate.

1936, c.91, s.51; R.S.S. 1940, c.238, s.52.

Regulations

53 The Lieutenant Governor in Council may from time to time make regulations:

(a) defining the district to be served by, and the classes of patient to be treated in, any institution;

(b) governing the inspection, superintendence, government, management, conduct, operation, maintenance, care and use of institutions and equipment;

(c) governing the apprehension and admission of patients to institutions;
(d) governing the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, apprehension and discharge of patients;

(e) prescribing the forms required for carrying out the provisions of this Act and the regulations;

(f) governing the granting of certificates of approval in respect of approved homes, the fees payable for certificates and the cancellation thereof;

(g) governing the situation, construction and equipment of approved homes;

(h) prescribing the charges to be made for the maintenance of patients in institutions;

(i) governing payment by the department for the care and maintenance of patients in approved homes;

(j) prescribing the fees payable by the department to physicians or other persons acting in pursuance of this Act.

1936, c.91, s.52; R.S.S. 1940, c.238, s.53.

Liability for expenses of committal, care and maintenance

54 When a person is committed to safe custody or to an institution under the provisions of this Act, all expenses incurred in connection with his apprehension, examination, committal, medical examination, custody, transportation, care and maintenance shall, unless otherwise provided, be borne by the person committed if on inquiry it is found that he is possessed of means for the purpose. In case he is without the necessary means of providing for his care and maintenance, and in case he has relatives or other persons legally liable and capable of so providing, such relatives or persons shall be liable for the expenses to the extent to which they are not paid by the patient.

1936, c.91, s.53; R.S.S. 1940, c.238, s.54.

Payment and recovery of expenses prior to committal

55 All expenses incurred prior to and inclusive of the removal to an institution shall be paid in the first instance by the department, but His Majesty shall be entitled to recover the same together with the expense of care and maintenance, if any, from and out of the estate of the patient or from the person or persons found to be legally liable to provide for his care and maintenance.

1936, c.91, s.54; R.S.S. 1940, c.238, s.55.

Method of recovery

56(1) The expenses shall be recoverable at the suit of the minister in any court of competent jurisdiction.

(2) The minister shall not be bound to demand or sue for such expenses if for any reason it is deemed inadvisable to do so, but he may make such other arrangement as he thinks proper for payment of the whole or a portion thereof out of the patient’s estate, if any, or by the person or persons appearing to be so legally liable, or he may abandon all claim against the estate or against such persons.

1936, c.91, s.55; R.S.S. 1940, c.238, s.56.
Lien for expenses on registration of statement

57(1) When moneys have been expended in connection with the maintenance of a mentally ill or mentally defective person, a statement over the signature of the minister, certifying what moneys have been so expended, may be registered in any or all of the land titles offices, and from the time of registration the statement shall bind and form a lien and charge for the amount certified on all the lands of such person in the several land registration districts where the statement is registered, to the same extent as if the lands were charged in writing by an owner of land under his hand and seal; and after registration of the statement the minister may, if he deems it expedient so to do, proceed in court to realize upon the lien and charge thereby created.

(2) In case the mentally ill or mentally defective person is a married woman, the minister may register a similar statement in which he shall give the first Christian name in full and the surname, occupation and address of the woman’s husband, if living, and upon registration such statement shall bind the lands of the husband in the same manner and to the same extent as it would if they were the property of his wife.

(3) In case the mentally ill or mentally defective person is under the age of twenty-one the minister may register a similar statement, giving the first Christian name in full and the surname and address of his father, or the first Christian name in full and the surname and address of his mother, if a widow, and certifying that the amount mentioned has been expended upon his apprehension, examination, committal, medical examination, custody, transportation, care and maintenance during minority, and upon registration such statement shall bind the lands of the father or of the mother, as the case may be, in the same manner and to the same extent as if they were the property of the mentally ill or mentally defective person.

1936, c.91, s.56; R.S.S. 1940, c.238, s.57.

Effect of registration

58(1) Every such statement when registered shall have the same force and effect whether the mentally ill or mentally defective person is alive or dead, and whether he is confined in or has been discharged or has escaped from an institution.

(2) Every such statement shall be entered by the registrar in the execution register in the same manner as a writ of execution or certified copy thereof forwarded by the sheriff or other duly qualified officer.

(3) The charge created by such statement shall be subject to all equities, charges or incumbrances existing against the owner in or upon the land at the date of registration.

(4) The lien or charge created by a statement may be discharged by the registration in the same office of a discharge executed by the minister.

1936, c.91, s.57; R.S.S. 1940, c.238, s.58.

Maintenance of indigents

59 When a person who is committed to an institution is not possessed of sufficient means to pay the cost of his maintenance and other expenses and there is no person legally liable and capable of providing the same, the costs and expenses shall be defrayed by the province.

1936, c.91, s.58; R.S.S. 1940, c.238, s.59.
Indians

60 Indians shall not be removed to an institution unless the cost of their maintenance and other charges are guaranteed by the Superintendent General of Indian Affairs.

1936, c.91, s.59; R.S.S. 1940, c.238, s.60.

Non-liability to civil proceedings

61 No person who lays an information under this Act, or who acts under the authority of section 12 or section 23, or who commits any person to safe custody upon the ground that such person is mentally ill or mentally defective or who signs or carries out or does any act with a view to signing or carrying out an order purporting to be an order for the removal of any person to an institution, shall be liable to civil proceedings whether on the ground of want of jurisdiction or on any other ground if the person so acting has acted in good faith and with reasonable care.

1936, c.91, s.60; R.S.S. 1940, c.238, s.61.

Stay of vexatious proceedings

62 If proceedings are taken against any person for laying an information or doing such act or making a commitment or signing or carrying out or doing any act with a view to signing or carrying out such order or for doing anything in pursuance of this Act, the proceedings may upon ex parte application to a judge be stayed, upon such terms as to costs and otherwise as the judge thinks fit, if he is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

1936, c.91, s.61; R.S.S. 1940, c.238, s.62.

Restrictions on actions against employees of department

63 No action, prosecution or other proceeding shall be brought or instituted against any officer, clerk, servant or employee of the department for an act done in pursuance or execution or intended execution of any duty or authority under this Act or the regulations, or in respect of any alleged neglect or default in the execution of any such duty or authority, without the consent of the Attorney General.

1936, c.91, s.62; R.S.S. 1940, c.238, s.63.

Limitation of actions

64 All actions, prosecutions and other proceedings against any person for anything done or omitted to be done in pursuance of this Act shall be commenced within six months after the act or omission complained of has been committed, and not afterwards.

1936, c.91, s.63; R.S.S. 1940, c.238, s.64.

Torts of patient

65 No action shall lie against any institution or any officer, employee or servant thereof for the tort of any patient.

1936, c.91, s.64; R.S.S. 1940, c.238, s.65.
Assisting escape of patient

66(1) No person shall:

(a) assist a patient in escaping or attempting to escape from an institution; or

(b) do or omit an act for the purpose of aiding a patient in escaping or attempting to escape from an institution; or

(c) abet or counsel a patient to escape; or

(d) visit, assist, counsel or communicate with a patient after having been prohibited in writing from doing so by the deputy minister or any superintendent.

(2) Every person who violates any of the provisions of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of not less than $25 nor more than $100 and in default of payment to imprisonment for not more than thirty days.

1936, c.91, s.65; R.S.S. 1940, c.238, s.66.

General penalty

67 Every person who violates any provision of this Act or the regulations, for which violation no other penalty is imposed, shall be guilty of an offence and liable on summary conviction to a fine of not less than $10 nor more than $100 and in default of payment to imprisonment for not more than thirty days.

1936, c.91, s.66; R.S.S. 1940, c.238, s.67.