

AUSTRALIAN CAPITAL TERRITORY.

No. 6 of 1950.

AN ORDINANCE

To provide for and regulate the Examination of Persons suffering or suspected to be suffering from Tuberculosis and for the Prevention and Eradication of Tuberculosis.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1947*, as follows:—

1. This Ordinance may be cited as the *Tuberculosis Ordinance* short title, 1950.*
2. This Ordinance shall be administered by the Minister of Administration; State for Health.
3. In this Ordinance, unless the contrary intention appears—
Definitions.
“medical practitioner” means a medical practitioner registered under the *Medical Practitioners Registration Ordinance 1930-1950*;
“the Court” means the Court of Petty Sessions, constituted by a magistrate (other than a special magistrate) sitting in chambers;
“the Director-General” means the Director-General of Health;
“the Minister” means the Minister of State for Health.

4.—(1.) A medical practitioner who—

- (a) has reason to believe that any person professionally attended by him is or may be suffering from tuberculosis; or
- (b) by *post mortem* examination or otherwise becomes aware that any deceased person attended professionally by him before death or examined by him after death was at the time of his death suffering from tuberculosis,

shall forthwith give notice to the Director-General accordingly.

Notices by medical practitioner in respect of sufferers from tuberculosis.

* Notified in the *Commonwealth Gazette* on 10th August, 1950.

(2.) A notice under this section shall state—

- (a) whether the disease is or was in an active form or is suspected of being or having been in that form; and
- (b) whether the person to whom the notice relates is or was in an infectious condition or is suspected of being or having been in that condition.

Action by
Director-
General upon
receipt of
notice.

5.—(1.) The Director-General shall, forthwith after the receipt by him of a notice under the last preceding section, do all such things as he thinks necessary to ascertain whether or not the person to whom the notice relates is or was suffering from tuberculosis.

(2.) The Director-General, upon being satisfied that a person to whom such a notice relates is or was suffering from tuberculosis, shall do all such things as he thinks necessary to ensure the medical examination of every person who has been in contact with that person under such conditions that, in the opinion of the Director-General, he may be suffering from tuberculosis.

Notice
requiring
persons to
submit to
examination.

6.—(1.) The Minister may, by notice in the *Gazette* addressed to all or any persons over fourteen years of age residing in the Territory, require those persons to submit themselves to radiological examination of their lungs at such times and places as are specified in the notice, and every person to whom the notice applies shall submit himself to examination accordingly.

(2.) A notice under sub-section (1.) of this section shall not apply to a person who is the holder of a certificate issued by a medical practitioner certifying that that person has, within the period of three months immediately preceding the date upon which the notice is published in the *Gazette*, undergone a radiological examination of his lungs and that the person was not found to be suffering from tuberculosis.

(3.) Where a person to whom a notice under this section relates has not attained the age of twenty-one years, any parent, guardian or other person having the charge of that first-mentioned person shall do all things within his power to ensure that that first-mentioned person complies with the notice.

Notice
requiring
individuals
to undergo
certain
examinations.

7.—(1.) Where the Director-General has reason to believe that a person (in this section referred to as "the patient") is or may be suffering from tuberculosis and has refused or failed to undergo medical or other examination to the satisfaction of the Director-General in respect of that disease, the Director-General may—

- (a) where the patient has attained the age of fourteen years—by notice in writing delivered to the patient, require the patient to undergo; or

- (b) in any other case—by notice in writing delivered to the parent, guardian or other person having the charge of the patient, require that person to do all things within his power to ensure that the patient undergoes,

within a period specified in the notice, such medical, radiological and bacteriological examinations as the Director-General specifies in the notice.

(2.) A notice under this section may specify the place where the examination is to take place.

(3.) Where a notice under this section is given to a patient who has attained the age of fourteen years but has not attained the age of twenty-one years, the Director-General may deliver a copy of the notice to any parent, guardian or other person having the charge of the patient, and that person shall thereupon do all things within his power to ensure that the patient complies with the notice.

8. Where the Director-General is satisfied that it is impracticable for a person whose examination is required in pursuance of a notice under this Ordinance to attend at the place specified in the notice, or that it is not in the interests of the health of that person for him so to attend, it shall be sufficient compliance with the notice if the person undergoes the examination, or (as the case requires) if the parent, guardian or other person does all things within his power to ensure that the patient undergoes the examination, within the period specified in the notice, at the hands of a medical practitioner nominated for the purpose by the Director-General.

Where patient cannot attend.

9.—(1.) Where, upon application by the Director-General for an order under this section, the Court is satisfied that a person (in this section referred to as “the patient”) is suffering from tuberculosis in an infectious condition, and that—

Magistrate may order persons suffering from tuberculosis to be removed to institution, &c.

- (a) in the patient's interest he should be properly attended and treated;
- (b) the patient's circumstances are such that proper precautions to prevent the spread of the infection cannot be taken, or that such precautions are not being taken; and
- (c) substantial risk of infection is or will be thereby caused to others,

the Court may order the patient to be removed to an institution (or some other place agreed upon by the patient and the Director-General) where he can be properly attended and treated and to be detained there for such period, not exceeding six months, as the Court thinks fit, or, if the patient is an in-patient in an

institution and proposes, contrary to the advice of the Director-General or of a medical officer of the institution or of a medical practitioner, to leave the institution, order him to be detained in the institution or in some other institution or suitable place for such period, not exceeding six months, as the Court thinks fit.

(2.) At any time while a patient is detained in pursuance of an order for the time being in force under the last preceding sub-section, the Court may, upon application by the Director-General for an order under this sub-section, and upon being satisfied that the conditions which led to the patient's detention being ordered will again exist if he is not detained for a further period after the expiration of the existing period of detention, order the detention of the patient in the same place (or in some other place agreed upon by the patient and the Director-General) for a further period, not exceeding six months in the case of any one order.

(3.) Where an application for an order is made under this section, the Director-General shall give to the patient, and, in the case of a patient who has not attained the age of twenty-one years, to any parent, guardian or other person having, or normally having, the charge of the patient, not less than three clear days' notice in writing of the time and place at which the application will be heard.

(4.) At any time during the currency of an order under the preceding provisions of this section, any person, on behalf of the patient, may apply to the Court for the revocation of the order, and the Court may, if it thinks fit, revoke the order.

(5.) Where an application is made under the last preceding sub-section, the person making the application shall give to the Director-General not less than three clear days' notice in writing of the time and place at which the application will be heard.

(6.) Where an application is made under this section the Court may, if it thinks fit, require the patient to be examined by a medical practitioner appointed by it for the purpose.

(7.) Subject to the provisions of this section, and to the decision of the Judge on any appeal under the next succeeding section, every order under this section shall be final and binding on all parties.

(8.) An order under this section may be addressed to the Director-General or such other person as the Court thinks expedient, and the person to whom the order is addressed may do all acts necessary for giving effect to the order.

(9.) The medical officer or other person in charge in an institution or other place to which a patient is ordered under this section to be removed shall, on the presentation of the order, receive the patient and arrange for his medical treatment, and shall do such other acts as are necessary for giving effect to the order.

(10.) At any time while a patient is detained in an institution or other place in pursuance of an order under this section, the Court may, if it thinks fit, on the application of the Director-General or of the medical officer or other person in charge of the institution or place, order the patient to be removed to another institution or suitable place and to be detained there while the first-mentioned order continues in force.

(11.) The provisions of sub-sections (3.) to (9.) of this section shall, so far as applicable and with the necessary modifications, apply with respect to every application and every order made under the last preceding sub-section.

(12.) A person who is removed to or detained in an institution or other place in pursuance of an order under this section shall not, while the order continues in force, except with the consent of the Director-General or of the medical superintendent of the institution or place, leave or attempt to leave the institution or place.

10.—(1.) The Director-General or any person aggrieved by an order or decision of the Court under the last preceding section may, within seven days after the making of the order or decision, or within such further time as the Judge in his discretion allows, appeal to the Judge of the Supreme Court, sitting in Chambers, against the order or decision. Appeal against orders of detention.

(2.) On the hearing of the appeal, the Judge may confirm, modify, or reverse the order or decision of the Court and the Judge's decision shall be final and binding on all parties.

(3.) The Judge shall make no order as to costs in respect of an appeal under this section except where the appeal is by or on behalf of a patient and is successful.

(4.) Subject to the provisions of this section, the procedure on the appeal shall be such as is prescribed by regulations under this Ordinance, and, in so far as those regulations do not extend, shall be in accordance with the rules relating to appeals to the Supreme Court against final determinations of the Court of Petty Sessions in its civil jurisdiction.

11. A person shall not—

- (a) wilfully disobey an order, direction or requirement under this Ordinance;
- (b) obstruct, delay or interfere with the prompt execution of, or compliance with, any such order, direction or requirement; or
- (c) contravene or fail to comply with any of the provisions of this Ordinance.

Offences.

Penalty: One hundred pounds or imprisonment for six months.

Delegation.

12.—(1.) The Director-General may, by writing under his hand, delegate to an officer of the Department of Health (being a medical practitioner) all or any of his powers and functions under this Ordinance, except this power of delegation, so that the delegate may exercise the powers and functions specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Director-General.

Regulations.

13. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are by this Ordinance required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular for prescribing penalties not exceeding a fine of One hundred pounds, or imprisonment for a period not exceeding six months, for any breach of the regulations.

Dated this second day of August, 1950.

W. J. McKELL
Governor-General.

By His Excellency's Command,

EARLE PAGE
for and on behalf of the Minister of State
for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.