

AUSTRALIAN CAPITAL TERRITORY
INSANE PERSONS AND INEBRIATES (COMMITTAL AND DETENTION)
(AMENDMENT) ORDINANCE

EXPLANATORY STATEMENT

No. 68 of 1985

The Insane Persons and Inebriates (Committal and Detention) Ordinance 1936 validates on behalf of the Commonwealth an agreement between the State of New South Wales and the Commonwealth. The agreement provides amongst other things for the transfer of the mentally ill and inebriates from the Australian Capital Territory to institutions in New South Wales. These arrangements were altered by an amending agreement validated on behalf of the Commonwealth by the Mental Health Ordinance 1962.

The Mental Health Ordinance 1983 provides, amongst other things, for compulsory treatment for certain mental health cases and therefore provides for the repeal of the equivalent parts of the Lunacy Act of 1898 of the State of New South Wales in its application to the Australian Capital Territory. As it was considered that separate treatment provisions for "inebriates" were not necessary the Mental Health Ordinance 1983 also provides for the repeal of the Inebriates Act, 1900 of the State of New South Wales in its application to the Australian Capital Territory and the repeal of amendments to that Act. This part of the Ordinance has not yet been brought into operation.

In addition New South Wales has passed a Mental Health Act, 1983 which together with associated legislation provides amongst other things, for the repeal of the Inebriates Act 1912 of that State. That legislation has not yet been brought into operation.

While the agreement between the Commonwealth and the State of New South Wales has separate legislation validating it on behalf of both the Commonwealth and the State the agreement to be effective in respect of inebriates requires specific legislation on inebriates in both the Australian Capital Territory and the State. Negotiations are being conducted to amend the agreement so that it will no longer refer to "inebriates" but in the meantime it is desirable to empower the Minister to prohibit the further transfer of inebriates from the Australian Capital Territory to New South Wales. It is intended, if possible, to avoid there being any inebriates held in New South Wales under the agreement when the agreement is amended or the inebriates legislation in either the Australian Capital Territory or New South Wales is repealed.

This amendment to the Insane Persons and Inebriates (Committal and Detention) (Amendment) Ordinance 1936 therefore inserts a new section empowering the Minister to prohibit by notice in the Gazette the transfer under the agreement of "inebriates" from the Australian Capital Territory to New South Wales institutions.