

BILL No. 73 OF 1925.

A BILL TO AMEND THE LUNATICS' ESTATES ACT.

NOTE.

The majority of the amendments in the Bill are made for the purpose of employing the same terminology as was adopted by *The Insanity Act Amendment Act, 1924*.

Other changes in the existing law are necessitated by the extension of the services of the hospital by the Act of 1924 to mentally incompetent persons other than those who are dangerous to be at large.

The Bill defines the effect of filing with the Registrar of Land Titles the Attorney General's certificate as to the mental incompetency of any person (Sec. 6(c).)

WALTER S. SCOTT,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 73 of 1925.

An Act to amend The Lunatics' Estates Act.

(Assented to _____, 1925.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Lunatics' Estates Act Amendment Act, 1925.*"

2. *The Lunatics' Estates Act*, being chapter 225 of the Revised Statutes of Alberta, 1922, is amended as to section 1 by striking out the words "*The Lunatics' Estates Act*," and substituting therefor the words "The Estates of the Mentally Incompetent Act."

3. Section 2 of the said Act is amended—

- (a) As to paragraph (a) thereof: By striking out the words "Lunatics' Estates," and substituting therefor the words "Estates of the Mentally Incompetent."
- (b) As to paragraph (b) thereof: By striking out the same and substituting therefor the following:
"(b) 'Mentally incompetent' includes every person who is mentally diseased, an idiot, of unsound mind, or feeble-minded."
- (c) By adding as paragraph (c) the following:
"(c) 'Hospital' shall mean the Provincial Hospital for Mental Diseases, or the Oliver Hospital for Mental Diseases, or any other hospital which may be designated as a mental disease hospital by the Lieutenant Governor in Council."

4. Section 3 of the said Act is amended—

- (a) by striking out the words "Provincial Treasurer" where they occur in the third line, and substituting therefor the words "Attorney General or such other member of the Executive Council as may be entrusted with the administration of this Act"; and
- (b) by striking out the words "Lunatics' Estates" in the fourth line, and substituting therefor the words "Estates of the Mentally Incompetent"; and
- (c) by striking out the word "lunatics" in the sixth line, and substituting therefor the words "mentally incompetent persons"; and

(d) by striking out the words "by order of the Lieutenant Governor in Council" in the seventh and eighth lines.

5. Section 4 of the said Act is hereby struck out, and the following substituted therefor:

"4. The administrator shall by his name of office be the guardian of any mentally incompetent person who is detained or under treatment in a hospital or any other provincial institution in the Province of Alberta under the provisions of *The Mental Diseases Act* or any Act or law which may from time to time be in force in the Province, and may act as guardian of the estate of any person determined under the Consolidated Rules of the Supreme Court of Alberta to be a lunatic without being required to furnish security as provided for by the said Rules."

6. Section 5 of the said Act is amended—

(a) by striking out the words "the making of an order for the detention of a lunatic in an asylum for the insane," and substituting therefor the words "the admission of any mentally incompetent person to a hospital";

(b) by striking out the word "lunatic" in the fifth line, and substituting therefor the words "mentally incompetent person";

(c) by adding as subsection (2) thereof the following:

"(2) Upon receipt of such certificate the Registrar of Land Titles shall register the same and until he receives notice from the administrator of the withdrawal of the said certificate he shall not accept for registration any instrument affecting the mentally incompetent person's lands except an order of court, a certified copy of a writ of execution, a caveat, or any document subsequent to the said notice properly registerable in the course of proceedings for foreclosure or sale, unless such instrument is duly executed by the administrator or the registration is authorized by him."

7. Section 6 of the said Act is hereby struck out, and the following substituted therefor:

"6. Upon the removal of a mentally incompetent person on trial from a hospital by his friends, or his release or discharge pursuant to the provisions of *The Mental Diseases Act* or his escape therefrom, the administrator may retain the control and administration of the estate so long as is in his discretion necessary or desirable in the interests of such person or his estate, or he may delegate the guardianship pursuant to the provisions of section 15 of this Act."

8. Section 7 of the said Act is amended by striking out the word "lunatic" wherever it occurs therein, and substituting therefor the words "mentally incompetent person."

9. Section 8 of the said Act is amended by striking out the word "lunatic" wherever it occurs therein, and substituting therefor the words "mentally incompetent person."

10. Section 9 of the said Act is amended by striking out the word "lunatic" wherever it occurs therein, and substituting therefor the words "mentally incompetent person."

11. Section 10 of the said Act is hereby struck out, and the following substituted therefor:

"**10.** Upon the discontinuance of his administration of a mentally incompetent person's estate the administrator may retain out of the estate of such person such amounts as may be necessary to pay any amounts due to the Government in respect of such person."

12. Section 11 of the said Act is amended—

(a) by striking out the word "lunatic" where it occurs therein, and substituting therefor the words "mentally incompetent person"; and

(b) by striking out the words "Provincial Treasurer" and substituting therefor the words "Attorney General."

13. Section 13 of the said Act is amended by striking out the word "lunatic" wherever it occurs therein, and substituting therefor the words "mentally incompetent person."

14. Section 14 of the said Act is amended by striking out the word "lunatic" wherever it occurs therein, and substituting therefor the words "mentally incompetent person."

15. Section 15 of the said Act is amended by striking out the word "lunatic" wherever it occurs therein, and substituting therefor the words "mentally incompetent person."

16.—(1) Section 16 of the said Act is amended as to subsection (1)—

(a) by striking out the words "Administrator of Lunatics' Estates of the Province of Manitoba," and substituting therefor the words "Administrator of Estates of Insane Persons for the Province of Manitoba"; and

(b) by striking out the word "lunatic" where it occurs in the fourth line, and substituting therefor the word "person"; and

(c) by striking out the words "Administrator of Lunatics' Estates of the Province of Saskatchewan," and substituting therefor the words "Administrator of Estates of the Mentally Incompetent of the Province of Saskatchewan";

- (d) by striking out the word "lunatic" where it occurs in the ninth line, and substituting therefor the words "mentally incompetent person";
- (e) by striking out the words "an asylum" where they occur in the ninth line, and substituting therefor the words "a hospital."

(2) Section 16 of the said Act is amended as to subsection (2) thereof by striking out the words "Lunatics' Estates" where they occur therein, and substituting the words "Estates of the Mentally Incompetent."

17. Section 18 of the said Act is amended as to subsection (1) by striking out the words "lunatics' estates," and substituting therefor the words "estates of the mentally incompetent."

18. Section 19 of the said Act is amended as to subsection (1) by striking out the word "insane," and substituting therefor the words "mentally incompetent."

19. Section 21 is added to the said Act as follows:

"21.—(1) The officer known as the Administrator of Lunatics' Estates is continued under the name of the Administrator of Estates of the Mentally Incompetent, and it is hereby declared that the change in the title of the said officer made by this Act shall not affect any rights, powers, duties or obligations of the said officer or render defective any action or other proceedings by or against him, or any act done by him or any instrument filed in the Land Titles Office but that actions or proceedings that might have been commenced or continued by or against him in his former name of office may be commenced or continued by or against him in his new name.

"(2) Property real and personal held by the Administrator of Lunatics' Estates at the date when this Act comes into force shall continue to be vested in that officer by the name of Administrator of Estates of the Mentally Incompetent, and all certificates of title, transfers, agreements, mortgages, leases, discharges, bills of sale, chattel mortgages and other instruments of any nature or kind whatsoever in any way affecting the title thereto in which the Administrator of Lunatics' Estates is mentioned shall be read and construed as if the name Administrator of Estates of the Mentally Incompetent were substituted therefor.

"(3) Orders in council and regulations heretofore made affecting the Administrator of Lunatics' Estates shall continue to apply to the Administrator of Estates of the Mentally Incompetent."

20. The schedule to the said Act is amended by striking out form A, and substituting therefor the following form:

“FORM A.

“(Section 5.)

“I hereby certify that....., of the
....., of.....
in the Province of Alberta, is a mentally incompetent person and is now detained in (*name of institution*) (or was so detained but has been temporarily discharged and removed therefrom) pursuant to the provisions of *The Mental Diseases Act*.

“And I further certify that.....
under the provisions of *The Estates of The Mentally Incompetent Act* is the administrator of the estate of the said
.....

“Dated at the City of Edmonton,
Province of Alberta, this.....
day of.....192....

.....
“Attorney General.”

No. 73.

FIFTH SESSION
FIFTH LEGISLATURE
15 GEORGE V
1925

BILL

An Act to amend The Lunatics'
Estates Act.

Received and read the

First time.....

Second time.....

Third time.....

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A.D. 1925