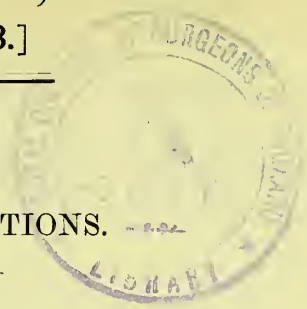


Mental Deficiency Act, 1913.

[3 & 4 GEO. 5. CH. 28.]

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ARRANGEMENT OF SECTIONS.

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[Price 4½d.]

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CHAPTER 28.

An Act to make further and better provision for the care of Feeble-minded and other Mentally Defective Persons and to amend the Lunacy Acts. [15th August 1913.] A.D. 1913.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

POWER AND MANNER OF DEALING WITH DEFECTIVES.

Powers of dealing with Defectives.

1. The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act:— Definition of defectives.

- (a) Idiots; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers;
- (b) Imbeciles; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so;
- (c) Feeble-minded persons; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they by

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reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools;

- (d) Moral imbeciles; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.

2.—(1) A person who is a defective may be dealt with under this Act by being sent to or placed in an institution for defectives or placed under guardianship—

- (a) at the instance of his parent or guardian, if he is an idiot or imbecile, or at the instance of his parent if, though not an idiot or imbecile, he is under the age of twenty-one; or

- (b) if in addition to being a defective he is a person—

(i) who is found neglected, abandoned, or without visible means of support, or cruelly treated; or

(ii) who is found guilty of any criminal offence, or who is ordered or found liable to be ordered to be sent to a certified industrial school;

(iii) who is undergoing imprisonment (except imprisonment under civil process), or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school, or in an inebriate reformatory or who is detained in an institution for lunatics or a criminal lunatic asylum; or

(iv) who is an habitual drunkard within the meaning of the Inebriates Acts, 1879 to 1900; or

(v) in whose case such notice has been given by the local education authority as is herein-after in this section mentioned; or

(vi) who is in receipt of poor relief at the time of giving birth to an illegitimate child or when pregnant of such child.

(2) Notice shall, subject to regulations made by the Board of Education, to be laid before Parliament as hereinafter provided, be given by the local education authority to the

local authority under this Act in the case of all defective children over the age of seven— A.D. 1913.

- (a) who have been ascertained to be incapable by reason of mental defect of receiving benefit or further benefit in special schools or classes, or who cannot be instructed in a special school or class without detriment to the interests of the other children, or as respects whom the Board of Education certify that there are special circumstances which render it desirable that they should be dealt with under this Act by way of supervision or guardianship ;
- (b) who on or before attaining the age of sixteen are about to be withdrawn or discharged from a special school or class, and in whose case the local education authority are of opinion that it would be to their benefit that they should be sent to an institution or placed under guardianship.

3.—(1) The parent or guardian of a defective who is an idiot or imbecile, and the parent of a defective who though not an idiot or imbecile is under the age of twenty-one, may place him in an institution or under guardianship: Provided that he shall not be so placed in an institution or under guardianship, except upon certificates in the prescribed form signed by two duly qualified medical practitioners, one of whom shall be a medical practitioner approved for the purpose by the local authority or the Board, and, where the defective is not an idiot or imbecile, also signed, after such inquiry as he shall think fit, by a judicial authority for the purposes of this Act, stating that the signatories of the certificate are severally satisfied that the person to whom the certificate relates is a defective and the class of defectives to which he belongs, accompanied by a statement, signed by the parent or guardian, giving the prescribed particulars with respect to him.

Power to deal with defectives at instance of parent or guardian.

(2) Where a defective has been so placed in an institution for defectives or under guardianship, the managers of the institution, or the person under whose guardianship he has been placed, shall, within seven days after his reception send to the Board of Control hereinafter constituted (in this Act referred to as the Board) notice of his reception and such other particulars as may be prescribed.

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4. A defective subject to be dealt with under this Act otherwise than under paragraph (a) of subsection (1) of section two of this Act may so be dealt with—

Power to deal with defectives otherwise than at instance of parent or guardian.

- (a) under an order made by a judicial authority on a petition presented under this Act; or
- (b) under an order of a court, in the case of a defective found guilty of a criminal offence, punishable in the case of an adult with imprisonment or penal servitude, or liable to be ordered to be sent to an industrial school; or
- (c) under an order of the Secretary of State, in the case of a defective detained in a prison, criminal lunatic asylum, reformatory or industrial school, place of detention, or inebriate reformatory;

but no such order shall be made except in the circumstances and in the manner herein-after specified.

Requirements as to the making of Orders.

Presentation of petitions.

5.—(1) An order of a judicial authority under this Act shall be obtainable upon a private application by petition made by any relative or friend of the alleged defective, or by any officer of the local authority under this Act authorised in that behalf.

(2) Every petition shall be accompanied by two medical certificates, one of which shall be signed by a medical practitioner approved for the purpose by the local authority or the Board, or a certificate that a medical examination was impracticable, and by a statutory declaration made by the petitioner and by at least one other person (who may be one of the persons who gave a medical certificate) stating—

- (a) that the person to whom the petition relates is a defective within the meaning of this Act, and the class of defectives to which he is alleged to belong; and
- (b) that that person is subject to be dealt with under this Act, and the circumstances which render him so subject; and
- (c) whether or not a petition under this Act, or a petition for a reception order under the Lunacy Acts, 1890 to 1911, has previously been presented concerning that

person, and, if such a petition has been presented, the date thereof and the result of the proceedings thereon ; and

(d) if the petition is accompanied by a certificate that a medical examination was impracticable, the circumstances which rendered it impracticable.

(3) If a petition is not presented by a relative or by an officer of the local authority, it shall contain a statement of the reasons why the petition is not presented by a relative, and of the connection of the petitioner with the person to whom the petition relates and the circumstances under which he presents the petition.

(4) Where the Board are satisfied that a petition under this section ought to be presented concerning any person, and that the local authority have refused or neglected to cause a petition to be presented, they may direct an inspector or other officer to present a petition, and this section shall apply accordingly.

6.—(1) Upon the presentation of the petition and such documents as aforesaid, the judicial authority shall either visit the person to whom the petition relates or summon him to appear before him. Procedure on hearing petitions.

(2) Proceedings before the judicial authority may, in any case if the judicial authority thinks fit, and shall, if so desired by the person to whom the petition relates, be conducted in private, and in that case no one except the petitioner, the person to whom the petition relates, his parents or guardian and any two persons appointed for the purpose by the person to whom the petition relates, or by his parents or guardian, and the persons signing the medical certificates and the statutory declaration accompanying the petition shall, without leave of the judicial authority, be allowed to be present.

(3) If the judicial authority is satisfied that the person to whom the petition relates is a defective and is also satisfied that he is subject to be dealt with under this Act, the judicial authority may, if he thinks it desirable to do so in the interests of such person, make an order either ordering him to be sent to an institution the managers of which are willing to receive him, or appointing a suitable person to be his guardian, and the order shall state the class of defectives to which he belongs, and the circumstances which render him subject to be dealt with under this Act :

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Provided that—

- (a) where the petition is not presented by the parent or guardian, the order shall not be made without the consent in writing of the parent or guardian, unless it is proved to the satisfaction of the judicial authority that such consent is unreasonably withheld, or that the parent or guardian cannot be found, but consent shall not be deemed to be unreasonably withheld if withheld with the bonâ fide intention of benefiting the defective; and
- (b) nothing in this section shall prevent an order being made, notwithstanding that the person to whom the petition relates does not appear to the judicial authority to belong to the class of defectives to which he is in the petition alleged to belong, if the judicial authority is satisfied that he is a defective.

(4) If the judicial authority is not satisfied that the person to whom the petition relates is a defective, and subject to be dealt with under this Act, or that it is desirable in the interests of such person that an order should be made, the judicial authority may, if he thinks fit, adjourn the case for a period not exceeding fourteen days for further evidence or information, and may order that the person to whom the petition relates shall submit himself to medical examination, or may dismiss the petition :

Provided that, unless the petition is dismissed, the judicial authority shall order a medical examination in any case where the petition was accompanied by a certificate that a medical examination was impracticable.

7.—(1) Where an order has been made that a defective be placed under guardianship the judicial authority which made the order, or any other judicial authority, or, where the original order was not made by a judicial authority, any judicial authority may, on application being made for the purpose by the guardian or by the Board or by the local authority, and on being satisfied that the case is or has become one unsuitable for guardianship, order that the defective be sent to an institution.

(2) A person appointed to be guardian of a defective may, on the application of the local authority or of the Board or of any other person who appears to be interested, be removed from his office by any such judicial authority as aforesaid, and, where

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a person appointed to be guardian of a defective dies, or resigns his office, or is removed from his office, such judicial authority as aforesaid may, on the like application, appoint a suitable person to act in his stead.

(3) An order under this section shall not be made without giving to the local authority and, where practicable, to the relative or other person who presented the original petition and to the parent or guardian of the defective, an opportunity of being heard.

8.—(1) On the conviction by a court of competent jurisdiction of any person of any criminal offence punishable in the case of an adult with penal servitude or imprisonment, or on a child brought before a court under section fifty-eight of the Children Act, 1908, being found liable to be sent to an industrial school, the court, if satisfied on medical evidence that he is a defective within the meaning of this Act, may either—

Procedure in cases of persons guilty of offences, &c.

8 Edw. 7. c. 57.

- (a) postpone passing sentence or making an order for committal to an industrial school, and direct that a petition be presented to a judicial authority under this Act with a view to obtaining an order that he be sent to an institution or placed under guardianship; or
- (b) in lieu of passing sentence or making an order for committal to an industrial school, itself make any order which if a petition had been duly presented under this Act the judicial authority might have made, which order shall have the like effect as if it had been made by a judicial authority on a petition under this Act:

Provided that, if the court is a court of summary jurisdiction and the case is one which the court has power to deal with summarily, the court, if it finds that the charge is proved, may give such directions or make such order as aforesaid without proceeding to a conviction, and such a person shall for the purposes of this Act be deemed to be a person found guilty of an offence.

(2) The court may act either on the evidence given during the trial or other proceedings, or may call for further medical or other evidence.

(3) Where the court so directs a petition to be presented against a person, it may order him to be detained in an institution for defectives or in a place of safety for such time as is

A.D. 1913. required for the presentation of the petition and the adjudication thereof.

(4) Where it appears to any court of summary jurisdiction by which a person charged with an offence is remanded or committed for trial that such person is a defective, the court may order that pending the further hearing or trial he shall be detained in an institution for defectives, or be placed under the guardianship of any person on that person entering into a recognisance for his appearance.

(5) Where it appears to the police authority that any person charged with an offence is a defective, they shall communicate with the local authority, and it shall be the duty of the police authority to bring before the court such evidence as to his mental condition as may be available:

Provided that, where it is intended to bring such evidence before the court, the police authority shall give notice of the intention to the person charged, and to his parent or guardian, if known.

9. Where the Secretary of State is satisfied from the certificate of two duly qualified medical practitioners that any person who is undergoing imprisonment (except imprisonment under civil process) or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school or in an inebriate reformatory, or who is detained in a criminal lunatic asylum, is a defective, the Secretary of State may order that he be transferred therefrom and sent to an institution for defectives, the managers of which are willing to receive him, or that he be placed under guardianship, and any order so made shall have the like effect as if it had been made by a judicial authority on petition under this Act.

Effect and Duration of Orders, &c.

10.—(1) An order that a defective be sent to an institution shall authorise the conveyance of that person to and his reception in the institution mentioned in the order, at any time within fourteen days (or, if the person is in a place of safety, within twenty-one days) after the date of the order, and his detention in that institution for such period as is hereinafter mentioned, and he shall be liable to be detained in the institution accordingly.

(2) An order that a defective be placed under guardianship shall, subject to regulations made by the Secretary of State,

Procedure
in case of
defectives
undergoing
imprison-
ment, &c.

Effect of
orders.

confer on the person named in the order as guardian such powers as would have been exerciseable if he had been the father of the defective and the defective had been under the age of fourteen, and the guardian shall also have power to warn persons against supplying intoxicants to him or for his use.

A.D. 1913.

11.—(1) An order made under this Act that a defective be sent to an institution or placed under guardianship shall expire at the end of one year from its date, unless continued in manner hereinafter provided :

Duration of
detention
under orders.

Provided that in the case of any institution the Board may by order direct that orders that persons be sent thereto shall, unless continued as hereinafter provided, expire on the quarter day next after the day on which the orders would have expired under the above provision.

(2) An order shall remain in force for a year after the date when under the preceding provisions of this section it would have expired, and thereafter for successive periods of five years, if at that date and at the end of each period of one and five years respectively the Board, after considering such special reports and certificate as is hereinafter mentioned and the report of any duly qualified medical practitioner who, at the request of the defective or his parent or guardian or any relative or friend, has made a medical examination of the defective and the means of care and supervision which would be available if the defective were discharged consider that the continuance of the order is required in his interests and make an order for the purpose :

Provided that, where a defective was, at the time of being sent to the institution or placed under guardianship, under twenty-one years of age, the case shall be reconsidered by the visitors appointed under this Act within three months after he attains the age of twenty-one years.

(3) On such reconsideration the visitors shall visit the defective or summon him to attend before them and inquire into his mental condition and the means of care and supervision which would be available if he were discharged and into all the circumstances of the case, and, if it appears to them that further detention in an institution or under guardianship is no longer required in the interests of the defective himself, shall order him to be discharged :

Provided that, if the visitors do not order his discharge, the defective or his parent or guardian may, within fourteen days

A.D. 1913. after the decision of the visitors has been communicated to the defective and his parent or guardian, appeal to the Board.

(4) The special reports above mentioned shall be—

(a) A special report by the visitors made within one month after having seen the defective as to his mental condition and the means of care and supervision which would be available if he were discharged, and stating whether, in the opinion of the visitors, the defective is still a proper person to be detained in his own interest in an institution or under guardianship; and

(b) A special report as to the mental and bodily condition of the defective made, in the case of a person detained in an institution, by the medical officer of that institution, and in any other case by a duly qualified medical practitioner, and shall be accompanied by a certificate that the defective is still a proper person to be detained in his own interest in an institution or under guardianship, and the person sending the special report shall give to the Board such further information concerning the defective to whom the special report relates as they may require.

(5) A certificate under the hand of the secretary to the Board that an order has been continued to the date therein mentioned shall be sufficient evidence of the fact.

12.—(1) Where a defective has been placed by his parent or guardian in an institution or under guardianship, it shall be lawful for such parent or guardian to withdraw him from the institution or guardianship at any time on giving notice in writing for the purpose to the Board, unless the Board, after considering what means of care and supervision would be available if he were discharged, determine within fourteen days after receiving the notice that the further detention of the defective in the institution or under guardianship is required in the interests of the defective, and, where the Board have so determined, no further notice by the parent or guardian shall be allowed till after the expiration of six months from the last previous notice.

(2) Subject to the foregoing provisions of this section, a defective who has been placed by his parent or guardian in

an institution or under guardianship may be detained in the institution or under guardianship, and the case shall be reconsidered by the Board at like intervals and by the visitors, as if he had been ordered to be sent to the institution or placed under guardianship, and the provisions of the last foregoing section shall apply accordingly. A.D. 1913.

(3) The managers of any certified institution, or house, or any approved home may discharge any defective placed there by his parent or guardian on giving one month's notice to the board and to the parent or guardian of the defective if known.

Supplemental.

13.—(1) Where an order that a defective be sent to an institution or be placed under guardianship has been made under this Act, the judicial authority which made the order or any other judicial authority, or, where the order is not made by a judicial authority, any judicial authority, may, on the application of the petitioner, or of the managers of the institution or the guardian, as the case may be, or of an officer authorised by the local authority, make an order requiring the defective, or any person liable to maintain him, to contribute such sum towards the expenses of his maintenance in the institution or of his guardianship, and any charges incidental thereto, including the cost of his conveyance to the institution, and in the event of his death in the institution his funeral expenses, as, having regard to the ability of the defective or person liable to maintain him, seems reasonable. Power to recover expenses.

(2) Any such order may, on the application of the managers of the institution in which the defective is for the time being detained, or of the guardian, or of an officer authorised by the local authority, be enforced against any property of the defective or person liable to maintain him, if made by a judge of county courts, in the same way as if it were a judgment of the county court, and, if made by any other judicial authority, as if it were an order for the payment of a civil debt made by a court of summary jurisdiction.

(3) An order made under this section may be varied or revoked by the judicial authority which made it, or any other judicial authority.

(4) Where a defective has been placed by his parent or guardian in an institution or under guardianship, any sum which

A.D. 1913. — the parent or guardian has agreed in writing to contribute towards the expenses of the maintenance or guardianship of the defective shall be recoverable summarily as a civil debt.

Provision as to contribution orders.

14. The persons liable to maintain a defective under the age of twenty-one against whom an order to contribute towards his maintenance may be made under this Act shall include in the case of illegitimacy his putative father and, if the judicial authority having cognisance of the case thinks fit, a person other than his putative father cohabiting with his mother: Provided that, where a defective is an illegitimate, and an affiliation order for his maintenance has previously been made on the application of his mother under the enactments relating to bastardy, the judicial authority shall not (unless in view of the special circumstances of the case he thinks it desirable) make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the affiliation order to be made to the local authority or such other person as may be named in the order, to be applied towards the maintenance of the defective.

Power to remove to place of safety pending presentation of petition.

15.—(1) If any officer of the local authority authorised in that behalf or any constable finds neglected, abandoned, or without visible means of support or cruelly treated any person whom he has reasonable cause to believe to be a defective, he may take such person to a place of safety, and such person may be there detained until a petition under this Act can be presented.

(2) If it appears to a justice on information on oath laid by an officer or other person authorised by the local authority that there is reasonable cause to believe that a defective is neglected or cruelly treated in any place within the jurisdiction of the justice, the justice may issue a warrant authorising any constable named therein, accompanied by the medical officer of the local authority or any other duly qualified medical practitioner named in the warrant, to search for such person, and, if it is found that he is neglected or cruelly treated, and is apparently defective, to take him to and place him in a place of safety until a petition can be presented under this Act, and any constable authorised by such warrant may enter, and if need be by force, any house, building, or other place specified in the warrant, and may remove such person therefrom.

(3) Where the place to which such a person is taken is a workhouse, the master shall receive him into the workhouse if there is suitable accommodation therein, and any expenses incurred in respect of him shall be defrayed by the local authority, but shall, if an order is eventually made, be recoverable from the defective or any person liable to maintain him as if they were part of the expenses of his maintenance. A.D. 1913.

16.—(1) Where the mental condition of a person detained in an institution for defectives becomes or is found to be such that he ought to be transferred to an institution for lunatics, the Board, or the managers of the institution for defectives with the consent of the Board, shall cause such steps to be taken as may be necessary for having a reception order under the Lunacy Acts, 1890 to 1911, made in respect of him and for his removal to an institution for lunatics: Provided that, where such person has been placed in the institution by his parent or guardian, the Board or managers, as the case may be, shall not cause such steps to be taken until they have given the parent or guardian, wherever practicable, an opportunity of taking them himself. Transfers from institutions for defectives to institutions for lunatics and vice versa.

(2) Where the mental condition of a person detained in an institution for lunatics is found to be such that he ought to be transferred to an institution for defectives, the Board, or the managers of the institution for lunatics with the consent of the Board, may cause such steps to be taken as may be necessary for having an order that he be sent to an institution for defectives made under this Act in respect of him and for his removal to such institution.

(3) The Board may, subject to the approval of the Secretary of State, make regulations for carrying this section into effect.

17.—(1) The judicial authority, court, or Secretary of State, in determining the institution to which a defective is to be sent under an order, shall endeavour to ascertain the religious persuasion to which the defective belongs, and the order shall, where practicable, specify the religious persuasion to which he appears to belong, and an institution conducted in accordance with that persuasion shall, where practicable, be selected. Provisions as to religious persuasion.

(2) A minister of the religious persuasion specified in the order as that to which the defective appears to belong may visit the defective at the institution on such days, at such

A.D. 1913. — times, and on such conditions as may be fixed by the Board, for the purpose of affording religious assistance and also for the purpose of instructing him in the principles of his religion.

(3) Where a defective is sent to an institution which is not conducted in accordance with the religious persuasion to which the defective belongs, the defective shall not be compelled to receive religious instruction or religious ministrations which are not in accordance with his religious persuasion, but shall, as far as practicable, have facilities for receiving religious instruction and attending religious services conducted in accordance with his religious persuasion.

(4) Where an order is made for sending a defective to an institution which is not conducted in accordance with the religious persuasion to which he belongs, the nearest adult relative, or in the case of a child his guardian or person entitled to his custody, may apply to the Board to remove or send the defective to an institution conducted in accordance with the defective's religious persuasion, and the Board shall, on proof of the defective's religious persuasion, comply with the request of the applicant; Provided that the applicant must show to the satisfaction of the Board that the managers of the institution named by him are willing to receive the defective and that the institution is one suitable to the case.

Provisions
as to visiting
of defectives.

18. The nearest adult relative or the guardian of a defective in an institution or under guardianship under this Act shall be entitled to visit the defective at such times and at such intervals (not exceeding six months) and on such conditions as may be prescribed, except where, owing to the character and antecedents of the person proposing to visit the defective, the Board consider that such a visit would be contrary to the interests of the defective.

Judicial
authorities.

19.—(1) Any judge of county courts, police or stipendiary magistrate, or specially appointed justice who is a judicial authority for the purposes of the Lunacy Acts, 1890 to 1911, shall be a judicial authority for the purposes of this Act, and the number of justices specially appointed to be judicial authorities under those Acts shall be such as may be considered necessary to exercise the powers conferred by this Act as well as by those Acts on a judicial authority.

(2) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, costs, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration. A.D. 1913.

20. The Secretary of State may make regulations with respect to— Regulations as to procedure, forms, &c.

- (a) the procedure on petitions under this Act ;
- (b) the procedure on applications for orders to vary or revoke orders previously made under this Act ;
- (c) the procedure on applications for orders for contributions towards the maintenance of a person in an institution or under guardianship ;
- (d) the procedure on the reconsideration by visitors of the cases of defectives on their attaining the age of twenty-one, and on appeals from the visitors to the Board ;
- (e) the forms of petitions, statutory declarations, certificates, orders, and other documents required for the purposes of this Part of this Act.

PART II.

CENTRAL AND LOCAL AUTHORITIES.

Central Authority.

21. The Board of Control hereinafter constituted shall, subject to the provisions of this Act, be charged with the general superintendence of matters relating to the supervision, protection, and control of defectives : Central authority.

Provided that, save as otherwise expressly provided by this Act, nothing in this Act shall affect any power exercisable with respect to lunatics by the Lord Chancellor or the Commissioners in Lunacy, or the Judge or Masters in Lunacy, or by any visitors, court, local authority or other persons, whether under the Lunacy Acts, 1890 to 1911, or otherwise.

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Establish-
ment of
Commis-
sioners.

22.—(1) There shall be constituted a Board of Control consisting of not more than fifteen Commissioners, of whom not more than twelve shall be paid Commissioners, and of the paid Commissioners four shall be legal Commissioners (that is to say, practising barristers or solicitors of at least five years' standing) and four at least shall be medical Commissioners (that is to say, duly qualified medical practitioners of at least five years' standing) and at least one of the paid and one of the unpaid Commissioners shall be a woman.

(2) The Commissioners shall be appointed by His Majesty on the recommendation, as respects the legal Commissioners, of the Lord Chancellor, and, as respects the other Commissioners, of the Secretary of State; and in making such recommendation regard shall be had to the desirability of the inclusion amongst the Commissioners of persons specially qualified to hold inquiries amongst Welsh-speaking persons.

(3) The Secretary of State shall appoint one of the Commissioners to be chairman.

(4) The Board of Control so constituted shall be a body corporate by the name of "the Board of Control," with a common seal and with power to hold land without licence in mortmain for the purposes of their powers and duties.

(5) If the Secretary of State so directs and subject to any regulations made by him, the Board shall appoint an administrative committee, and to such committee shall be entrusted such of the administrative powers and duties of the Board as are mentioned in the Schedule to this Act.

(6) Subject as aforesaid, any act or thing required or authorised by this Act to be done by the Board or the Commissioners may be done by any one or more of the Commissioners as the Secretary of State may by general or special order direct.

(7) There shall be paid to the Chairman and to such number, not exceeding eleven, of the Commissioners as the Secretary of State, with the consent of the Treasury, may determine, such salaries or other remuneration as the Secretary of State, with the like consent, may fix: Provided that, in the case of the Chairman, such salary shall not exceed eighteen hundred pounds a year, and, in the case of the Commissioners other than the Chairman, such salary shall not exceed the sum of fifteen hundred pounds a year, but may begin at such lower sum as the Secretary of State with the consent of the Treasury may fix.

(8) The Chairman and paid Commissioners shall hold office during His Majesty's pleasure. The unpaid Commissioners shall hold office for such term as the Secretary of State may determine.

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(9) The persons who immediately before the commencement of this Act hold office as paid Commissioners in Lunacy, shall, by virtue of their office, become as from the commencement of this Act paid Commissioners of the Board of Control, and shall, notwithstanding anything in this section, continue to hold their offices by the like tenure and be entitled to the like salary as if they continued to hold the same offices as they held before the commencement of this Act.

23.—(1) The Board shall be assisted in the performance of their duties by a secretary and by such inspectors and other officers and servants as the Secretary of State, with the consent of the Treasury as to number, may determine. Such inspectors and other officers and servants shall include women as well as men.

Secretary,
inspectors,
and officers.

(2) The secretary, inspectors, and other officers and servants shall be appointed by the Board, subject to the approval of the Secretary of State.

(3) There shall be paid to the secretary, inspectors, officers, and servants of the Board such salaries or remuneration as the Secretary of State, with the consent of the Treasury, may determine.

24.—(1) A person shall not be qualified to be a Commissioner, or an inspector, secretary, officer, or servant of the Board, if he is directly or indirectly interested in any certified institution or house, or approved home under this Act, or in any house licensed under the Lunacy Acts, 1890 to 1911, and any Commissioner, inspector, secretary, or officer who becomes so interested shall be disqualified to hold office.

Disqualifica-
tions.

(2) If any person holding any such office as aforesaid acts when he is disqualified under the provisions of this section, he shall be guilty of a misdemeanour.

25.—(1) Subject to regulations made by the Secretary of State, the Board shall—

General
powers and
duties of
Commis-
sioners.

(a) exercise general supervision, protection, and control over defectives;

(b) supervise the administration by local authorities of their powers and duties under this Act;

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- (c) certify, approve, supervise, and inspect institutions, houses, and homes for defectives, and all arrangements made for the care, training, and control of defectives therein ;
- (d) visit, either through one or more Commissioners or through their inspectors, defectives in institutions and certified houses and approved homes, or under guardianship, or (with a view to their certification) elsewhere, and persons who have been placed under the care of any person as being defectives ;
- (e) provide and maintain institutions for defectives of dangerous or violent propensities ;
- (f) to take such steps as may be necessary for ensuring suitable treatment of cases of mental deficiency ;
- (g) make annual reports (to be presented to Parliament) and such special reports as the Secretary of State may from time to time require ;
- (h) administer, in accordance with this Act, grants made out of money provided by Parliament under this Act.

(2) Without prejudice to their powers and duties under any regulations which the Secretary of State may make for further or more frequent inspection and visitation, it shall be the duty of the Board, through one or more Commissioners to inspect every certified institution, certified house, and approved home at least once in each year, and either through themselves or their inspectors to inspect every certified institution, certified house, and approved home one additional time in each year and every defective under guardianship, at least twice in every year, and any Commissioner shall have power to discharge at any time any person detained in a certified institution or certified house or under guardianship under this Act :

Provided that a Commissioner shall not exercise such power of discharge without the consent of the Secretary of State in the case of a person sent to such an institution by order of the Secretary of State from a prison, criminal lunatic asylum, place of detention, reformatory or industrial school, or inebriate reformatory, so long as the term for which he was committed to the prison or other place from which he was transferred remains unexpired.

26. The salaries or other remuneration of the Commissioners and the officers of the Board, and any other expenses incurred

Expenses
of central
authorities.

by the Secretary of State or the Board in carrying this Act into effect, to such amount as may be sanctioned by the Treasury shall be defrayed out of moneys provided by Parliament. A.D. 1913.

Local Authorities.

27. The local authority for the purposes of this Act shall, as respects a county, be the council of the county, and, as respects a county borough, be the council of the borough. Local authorities.

28.—(1) Every local authority shall constitute a committee for the purposes of this Act, hereinafter called the committee for the care of the mentally defective, consisting of such members of the council appointed by the council as the council may determine, and of such persons, not being members of the council, but being poor law guardians or other persons having special knowledge and experience with respect to the care, control, and treatment of defectives, appointed by the council as the council may determine, and of the persons so appointed some shall be women, and of the whole committee the majority shall be members of the council: Committees for the care of defectives

Provided that, where a local authority has appointed one or more visiting committees or asylums committees under the Lunacy Acts, 1890 to 1911, then, if the council so determine—

- (a) the members of such committee or committees shall, with the addition of at least two women, act also as the committee for the care of the mentally defective; or
- (b) the members of such committee or committees shall be the members of the council appointed by the council to be members of the committee for the care of the mentally defective.

(2) All matters relating to the exercise by the local authority of their powers under this Act (except the power of raising a rate or borrowing money) shall stand referred to the committee for the care of the mentally defective, and the local authority before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the committee with respect to the matter in question. The local authority may also delegate to the committee, with or without any restrictions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

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(3) A person shall be disqualified for being a member of the committee for the care of the mentally defective who by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

Joint action.

29.—(1) Where on such application as is hereinafter mentioned it appears to the Secretary of State that two or more local authorities should join for the purpose of the exercise and performance of any of their powers and duties under this Act, the Secretary of State, with the concurrence of the Local Government Board, shall have power by order to make such provisions as appear to him necessary or expedient, by the constitution of a joint committee or joint board or otherwise, for the joint exercise and performance of all or any of the powers under this Act of such local authorities; and any such order may provide how, and in what proportions, and out of what funds or rates, the expenses incurred in the joint exercise and performance of such powers are to be defrayed, and may contain such incidental, consequential, and supplemental provisions (including provisions adapting any of the provisions of this Act to the case of any committee or board so constituted) as may be necessary for the purposes of the order.

(2) An order under this section for the joint exercise and performance of all or any of the powers under this Act of two or more local authorities may be made on the application of one or more of such authorities, but, unless all such authorities agree to the making of such order, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(3) Any such order shall remain in operation for the period (if any) named therein, or, if no period is so named, until it is determined by mutual agreement between the local authorities concerned with the consent of the Secretary of State: Provided that any such order may be revoked or varied by an order made on a like application and subject to the like provisions as the original order.

(4) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate

to the making of Provisional Orders by the Local Government Board), shall, with the necessary modifications, apply for the purposes of this Act as if they were herein re-enacted and in terms made applicable thereto. A.D. 1913.

30. The local authority are hereby empowered, and it shall be their duty, subject to the provisions of this Act and to regulations made by the Secretary of State—

General powers and duties of local authorities.

- (a) to ascertain what persons within their area are defectives subject to be dealt with under this Act otherwise than under paragraph (a) of subsection one of section two of this Act ;
- (b) to provide suitable supervision for such persons, or if such supervision affords insufficient protection, to take steps for securing that they shall be dealt with by being sent to institutions or placed under guardianship in accordance with this Act ;
- (c) to provide suitable and sufficient accommodation for such persons when sent to certified institutions by orders under this Act, and for their maintenance therein, and for the conveyance of such persons to and from such institutions ;
- (d) to make provision for the guardianship of such persons when placed under guardianship by orders under this Act ;
- (e) if they think fit, to maintain in an institution or approved home or contribute towards the expenses of maintenance in an institution or approved home or the expenses of guardianship of any defectives other than aforesaid ;
- (f) if they think fit, to provide for the burial of persons dying in an institution or when placed under guardianship in accordance with this Act ;
- (g) to appoint or employ sufficient officers and other persons to assist them in the performance of their duties under this Act ;
- (h) to make to the Board annual reports and such other reports as the Board may require :

Provided that—

- (i) nothing in this Act shall be construed as imposing any obligation on a local authority to perform the

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duties mentioned in paragraphs (b), (c), (d), and (g) aforesaid where the contribution out of moneys provided by Parliament under this Act towards the cost on income account of performing such duties is less than one half of the net amount (as approved by the Board) of such cost;

- (ii) nothing in this Act shall affect the powers and duties of poor law authorities under the Acts relating to the relief of the poor, with respect to any defectives who may be dealt with under those Acts; nor the right of poor law authorities to receive the same grant for a defective who has been, or may be, sent to an institution, that they would have received if the Idiots Act, 1886, had not been repealed; nor shall local authorities under this Act have any duties with respect to defectives who for the time being are being provided for by such authorities as aforesaid, except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Local Government Board;
- (iii) nothing in this Act shall affect the powers and duties of local authorities under the Lunacy Acts, 1890 to 1911, with respect to any defectives who may be dealt with under those Acts, nor shall local authorities under this Act have any duties or powers with respect to defectives who for the time being are, or who might be, provided for by such authorities as aforesaid except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Lord Chancellor;
- (iv) nothing in this Act shall affect the duties or powers of local education authorities under the Education Acts; and the duty of ascertaining what children over the age of seven and under the age of sixteen (herein-after referred to as defective children) are defectives shall rest with the local education authority as herein-after provided and not with the local authority under this Act; and such last mentioned authorities shall have no duties as respects defective children, except those whose names and

addresses have been notified to them by the local education authority under the provisions of this Act. A.D. 1913.

31.—(1) The duties of a local education authority shall include a duty to make arrangements, subject to the approval of the Board of Education,— Duties of local education authorities.

- (a) for ascertaining what children within their area are defective children within the meaning of this Act;
- (b) for ascertaining which of such children are incapable by reason of mental defect of receiving benefit or further benefit from instruction in special schools or classes;
- (c) for notifying to the local authority under this Act, the names and addresses of defective children with respect to whom it is the duty of the local education authority to give notice under the provisions hereinbefore contained.

In case of doubt as to whether a child is or is not capable of receiving such benefit as aforesaid, or whether the retention of a child in a special school or class would be detrimental to the interests of the other children, the matter shall be determined by the Board of Education.

(2) The provisions of section one of the Elementary Education (Defective and Epileptic Children) Act, 1899, shall apply with the necessary modifications for the purposes of this section. 62 & 63 Vict. c. 32.

32.—(1) If the Board report to the Secretary of State that a local authority have made default in the performance of any of their duties under this Act, the Secretary of State may, after holding a local inquiry in any case where he deems it desirable to do so, and on being satisfied that such default has taken place, by order require the local authority to do such acts and things for remedying the default as he may direct, and any such order may be enforced by mandamus. Power of Secretary of State to act in default.

(2) Any expenses incurred by or on behalf of the Secretary of State under any such order or in respect of any such default, or in respect of any such inquiry, shall, if the Secretary of State so directs, be expenses of the local authority, and the treasurer or other proper officer of the local authority shall pay the amount of such expenses to the Secretary of State within two months after demand, and in default of payment the amount thereof shall be recoverable as a debt due to the Crown.

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(3) An order of the Secretary of State shall be conclusive in respect of any default, amount of expenses, and any other matter therein stated or appearing; but nothing in this provision shall prejudice or affect the right or power of the Secretary of State or any other authority or person to take any other proceedings for requiring a local authority to perform their duties under this Act.

Expenses
and borrow-
ing by local
authorities.

33.—(1) The expenses of a local authority under this Act shall be defrayed, in the case of a county council out of the county fund, and in the case of a county borough council out of the borough fund or borough rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate:

Provided that the expenses incurred by a local authority in the exercise of their powers under this Act for purposes other than the fulfilment of their obligations under this Act shall not in any one year exceed an amount equal to that which would be produced by a rate of one halfpenny in the pound on the property liable to be assessed for the purpose as assessed for the time being for the purposes of that rate.

51 & 52 Vict.
c. 41.

(2) A local authority may borrow for the purposes of this Act in the case of a county council, as for the purposes of the Local Government Act, 1888, and in the case of a county borough council, as for the purposes of the Public Health Acts; but in the application of section sixty-nine of the Local Government Act, 1888, to money borrowed by a county council under this Act a period not exceeding sixty years shall be substituted for a period not exceeding thirty years as the maximum period within which money borrowed is to be repaid, and the money borrowed by a county borough council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.

38 & 39 Vict.
c. 55.

(3) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine of the Local Government Act, 1888, or as part of the debt of a county borough for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875.

(4) Separate accounts shall be kept by the council of a county borough of their receipts and expenditure under this Act.

34. The Lancashire Asylums Board shall, as respects the county of Lancaster and the county boroughs represented on the said Board, be the local authority for the purposes of this Act for that county and those county boroughs, and the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, as to expenses, borrowing, accounts, and audit shall apply accordingly in substitution for the provisions as to the like matters contained in this Act.

A.D. 1913.
Special provisions as to Lancashire.
54 & 55 Vict.
c. xx.

PART III.

CERTIFICATION AND PROVISION OF INSTITUTIONS, &C.

35.—(1) The Board, subject to the approval of the Secretary of State, may establish and maintain institutions for defectives of dangerous or violent propensities (in this Act referred to as State institutions), and for that purpose the Secretary of State may cause to be transferred to the Board the whole or any part of any building vested in the Prison Commissioners or otherwise under the control of the Secretary of State, or may, with the approval of the Treasury, authorise the Board under this Act either to acquire any land or erect or acquire any building.

State institutions.

(2) For the purposes of this Act, the Board shall be deemed to be the managers of State institutions.

36. The Board may, upon the application of the managers of premises intended for the reception, control, care, and treatment of defectives, if satisfied of the fitness of the premises and of the persons proposing to maintain them for such purposes, grant a certificate to the managers to receive defectives therein, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and an institution so certified is in this Act referred to as a certified institution.

Certification of institutions.

37.—(1) On the application of the local authority for any area comprising the whole or any part of a poor law union, the Board may, subject to the consent of the Local Government Board, if satisfied of the special fitness for the detention, care, and training of defectives of any buildings or other premises provided by the board of guardians of that union, either alone or in conjunction with any other board of guardians, approve the premises for the reception of defectives, and thereupon this Act shall apply as if the premises so approved were a certified institution and

Approval of premises provided by boards of guardians.

A.D. 1913.

the guardians were the managers thereof, and, so long as any such premises continue to be so approved, it shall be lawful for the board of guardians in their capacity of managers, subject to the approval of the Local Government Board, to enter into agreements with any local authority as to the reception and maintenance therein of defectives ordered to be sent thereto under this Act, and to receive such defectives accordingly.

(2) Any defective ordered to be sent to any such premises under this Act shall not be deemed to be in receipt of poor law relief by reason that the premises are provided by a board of guardians.

38.—(1) A local authority may, subject to the approval of the Secretary of State,—

(a) undertake or combine with any other local authority in undertaking, or contribute such sums of money upon such conditions as they may think fit towards, the establishment, building, alteration, enlargement, rebuilding, or management of institutions certified or intended to be certified under this Act or the purchase of any land required for the use of a certified institution or for the site of an institution intended to be certified under this Act; and

(b) contract with the managers of any certified institution for the reception and maintenance in the institution of persons for whose reception and maintenance the local authority are by this Act required or authorised to make provision.

(2) Where plans of any proposed alteration, enlargement, rebuilding or building have been approved by the Secretary of State for the purposes of this section, they shall be carried out without any modifications (except such as the Secretary of State may approve), and no building or site which has been provided by a council or to which they have contributed under this section shall, without the consent of the Secretary of State, be used for any purpose other than that for which it has been approved.

(3) Land may be acquired by a local authority for the purposes of this Act in the case of the council of a county under and in accordance with the Local Government Act, 1888, and in the case of the council of a county borough as for the purposes of the Public Health Acts.

39. Where any premises vested in the Prison Commissioners, any board of guardians, or other public authority are no longer required for the purposes for which they were provided, and the Board of Control are satisfied as to the fitness of the premises for the reception of defectives, the Prison Commissioners, the board of guardians, or other authority may, with the consent of the Secretary of State, the Local Government Board, or other Department of the Government concerned, lease or grant the use of the premises to any local authority under this Act, or other person, for the purpose of their being used as a certified institution.

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Transfer of premises for use as institutions.

40.—(1) The persons appointed under the Lunacy Acts, 1890 to 1911, to act as visitors of licensed houses, with the addition of one or more women appointed in like manner as such visitors, shall be the visitors of institutions for defectives under this Act, and the number of persons appointed to be visitors of licensed houses under those Acts shall be such as may be considered necessary to perform the duties of visitors of institutions for defectives under this Act as well as the duties of visitors of licensed houses under those Acts, and their duties under this Act shall be taken into consideration in determining the remuneration, if any, of the visitors and clerks to visitors.

Visitors of institutions.

(2) In all places where no persons are so appointed to act as visitors of licensed houses a sufficient number of persons, possessing the like qualifications as such visitors, with the addition of one or more women, shall be appointed in like manner as such visitors to act as visitors of institutions for defectives, and a clerk to such visitors shall be appointed in like manner as in the case of the clerk to the visitors appointed under the Lunacy Acts, 1890 to 1911, and the expenses of visitors so appointed, including the remuneration, if any, of any visitors and clerks to visitors, shall be defrayed in like manner as the expenses of visitors under the Lunacy Acts, 1890 to 1911.

(3) The visitors of institutions for defectives shall perform such functions as are assigned to them by this Act and such further functions in connection with the visitation of institutions and of the patients therein, and of defectives under guardianship, and with respect to the discharge of such defectives and their after care and otherwise, as may be assigned to them by regulations of the Secretary of State under this Act.

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Regulations
as to man-
agement of
institutions
for defec-
tives, &c.

41.—(1) The Secretary of State may make regulations as to—

- (a) the granting, transfer, renewal, revocation, and resignation of certificates for institutions;
- (b) the management of institutions;
- (c) the classification and treatment of patients in institutions, their instruction, and their employment in suitable occupations, and the reports to be made as to their mental condition and otherwise in respect of them;
- (d) the inspection of institutions and the visitation of patients therein by the Board and inspectors and other persons;
- (e) the notification to the Board of the admission of a patient to an institution;
- (f) the transfer of patients from one certified institution to another, and from a State institution to a certified institution, and, in cases appropriate to State institutions, from a certified institution to a State institution;
- (g) the discharge of patients from institutions;
- (h) the absence of patients from institutions under licence or temporarily without licence;
- (i) the notifications to be made by the managers in the event of the outbreak of an infectious disease in an institution and in the event of the death of a patient in an institution or absent therefrom under licence;
- (j) the conveyance of persons to and from institutions;
- (k) the burial of persons dying in institutions;
- (l) the powers and duties of persons appointed guardians of defectives under this Act; the reports to be made by such guardians as to defectives under their guardianship; the visitation of such defectives; and their discharge from guardianship;
- (m) the granting, renewal, and revocation of approval of homes for defectives;
- (n) the holding of inquiries and any other matter necessary or proper for the carrying into effect of the provisions of this Act with respect to institutions, and the inmates thereof, and to guardianship;

- (o) the application, as respects any matters to be dealt with by regulations, of any of the provisions of the Lunacy Acts, 1890 to 1911, dealing with the like matters, subject to the necessary modifications and adaptations ;
- (p) the study of improved methods of treating mental deficiency.

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(2) The regulations made under this section shall make applicable as respects institutions and the patients therein the provisions of sections forty, forty-one, forty-two, forty-seven, and fifty-three of the Lunacy Act, 1890 :

Provided that nothing in this subsection shall be construed as restricting any power of the Secretary of State under subsection (1) of this section.

42. If a patient in an institution or absent from an institution under licence or without a licence escapes, he may be apprehended without warrant by any constable or by the managers of the institution or any person authorised by them in writing, and brought back to the institution.

Apprehension of defectives escaping.

43.—(1) Where a person is ordered to be sent to a certified institution or to be placed under guardianship, the local authority responsible for providing accommodation for that person or making provision for his guardianship, as the case may be, shall be the council of the county or county borough in which he resided (to be specified in the order), and the duties of that council shall include, in the case of a person ordered to be sent to a certified institution, the duty to provide for his conveyance to, and reception and maintenance in, such an institution.

Ascertainment of local authority responsible for providing accommodation, &c.

(2) An order that a person be sent to an institution or placed under guardianship shall not, where a council will by virtue of this Act become responsible for providing for the conveyance, reception and maintenance of that person in an institution, or making provision for his guardianship, as the case may be, be made unless that council have been given an opportunity of being heard, or, if the order is made by the Secretary of State, of making representations to him, and, if room is available in an institution, suitable for the defective, provided by the responsible authority, an order shall not, without the consent of that authority, be made for sending the defective to any other institution.

(3) The council responsible under this section for the maintenance of a person in a certified institution shall continue responsible for his maintenance in the event of his transfer

A.D. 1913. — to another such institution, and shall be responsible for his conveyance on his transfer from the one institution to the other; and the council responsible under this section for making provision for the guardianship of a person placed under guardianship shall, in the event of his being sent to a certified institution under an order varying the original order, be responsible for his conveyance to, and his reception and maintenance in, such an institution.

Deter-
mination of
residence.

44.—(1) Where the order is made in respect of a person found guilty of an offence, that person shall for the purposes of the provisions of the last preceding section be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place:

Provided that, where the order is made by a court of assize or quarter sessions, the court shall remit to a court of summary jurisdiction for the place where the person is committed for trial the determination of his place of residence.

(2) Where the order is made by the Secretary of State, then—

(a) if the order is in respect of a person in a prison, inebriate reformatory, criminal lunatic asylum, or place of detention, that person shall, for the purposes of the provisions of the last foregoing section, be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place;

(b) if the order is in respect of a person in a reformatory or industrial school, that person shall, for the purposes of the provisions of the last foregoing section, be deemed to have resided in the place (if any) determined to have been his place of residence for the purposes of his committal to the reformatory or industrial school.

(3) Where a council are aggrieved by a decision as to the place of residence of any person, they may, within three months after the making of the order, apply to a petty sessional court acting in and for such place as may be prescribed, and that court, on proof to its satisfaction that the person in respect of whom the order was made was resident in the area of some other council, and after giving such other council an opportunity of being heard, may transfer the liability to that other

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council, and may order that other council to repay the first-mentioned council any expenses incurred by them in respect of the person in question, and an appeal shall lie from the decision of the court to a court of quarter sessions; but nothing in this provision shall affect the liability of the first-mentioned council under the original order until an order made transferring the liability to another council comes into force.

(4) In the case of doubt as to where a person resides the expression "place of residence" in this section shall be construed as the county or county borough (as the case may be) in which the person would, if he were a pauper, be deemed to have acquired a settlement within the meaning of the law relating to the relief of the poor.

(5) The power of the Lord Chancellor to make rules under section twenty-nine of the Summary Jurisdiction Act, 1879, shall extend to making rules for prescribing anything which under this section is to be prescribed, and generally to the procedure of courts of summary jurisdiction under this section.

42 & 43 Vict.
c. 49.

45.—(1) The Asylums Officers' Superannuation Act, 1909, shall apply to the officers of certified institutions provided by local authorities, with the substitution of references to the managers of such institutions for references to visiting committees of asylums, and with such other adaptations and modifications as the Secretary of State may by order prescribe, and in particular such modifications may include the alteration of—

Superannua-
tion of
officers.
9 Edw. 7.
c. 48.

(a) the periods of service entitling to superannuation allowances;

(b) the scale of superannuation allowances and gratuities;

(c) the scale of contributions:

Provided that nothing in this section shall authorise the Secretary of State to prescribe by order any modifications of the Asylums Officers' Superannuation Act, 1909, which would have the effect of increasing the amount of any superannuation allowance which could be granted to, or of reducing the amount of any contribution made by, any officer or servant under that Act.

(2) Before an order is made by the Secretary of State under this section, the draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and, if either of those Houses, before the expiration of those thirty days, presents an address to His

A.D. 1913. Majesty against the draft or any part thereof, no further proceedings shall be taken thereunder, without prejudice to the making of any new draft order.

Scheme for the payment of super-annuation allowances or gratuities to officers.

46.—(1) The managers or owner of any certified institution not provided by a local authority, or of a certified house or an approved home, may establish, or join with the managers or owners of one or more such institutions, houses, or homes in establishing, a scheme for the payment of superannuation allowances and gratuities to officers thereof who become incapable of discharging the duties of their office by reason of permanent infirmity of mind or body, or old age, upon their resigning or otherwise ceasing to hold their offices.

(2) The expenses incurred under any such scheme shall be treated as part of the expenses of management.

Contributions by the Treasury.

47. There shall be paid out of money provided by Parliament such sums on such conditions as the Secretary of State may, with the approval of the Treasury, recommend towards the expenses of any persons detained in certified institutions or placed under guardianship, including the expenses of removal in the case of any such person ordered to be transferred from one such institution to another and towards other expenses incurred by local authorities under this Act:

Provided that, unless Parliament otherwise determines, the aggregate amount so paid in any financial year shall not exceed one hundred and fifty thousand pounds, but for the purpose of this limitation there shall be excluded all sums paid towards the expenses of persons sent to such institutions or placed under guardianship—

(a) by order of the Secretary of State;

(b) by order of a court or judicial authority after having been found guilty of an offence, or having been ordered or found liable to be ordered to be sent to an industrial school.

Treasury contributions towards expenses of societies assisting defectives.

48. Where a society has undertaken the duty of assisting or supervising defectives whilst not in institutions under this Act, there may be paid to the society out of money provided by Parliament towards the expenses of the society in connexion with such persons such sums and on such conditions as the Secretary of State, with the approval of the Treasury, may recommend.

49.—(1) A person desirous of receiving defectives at his house for private profit may apply to the Board for a certificate, and the Board, if satisfied of the fitness of the premises and of the applicant, may, if they think fit, on payment by the applicant of the prescribed fee, grant a certificate to the applicant subject to such conditions as they may impose, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and a house in respect of which such a certificate is in force is in this Act referred to as a certified house, and the person to whom such a certificate is granted is referred to as the owner of such house.

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—
Provisions
as to certified
houses.

(2) Any defective who may be ordered to be sent to, or may be placed in, an institution under this Act may be ordered to be sent to, or may be placed in, a certified house, and all the provisions of this Act relating to institutions and the patients therein shall apply to certified houses and the patients therein :

Provided that—

- (a) no part of the money provided by Parliament under this Act shall be applied towards the expenses of defectives in certified houses ; and
- (b) a local authority shall have no power or duty to contribute towards the expenses of defectives ordered to be sent to, or placed in, a certified house or to provide for their conveyance to, and reception and maintenance in, a certified house ; and
- (c) the provisions of this Act with respect to the recovery from defectives or the persons liable to maintain them of contributions towards the expenses of their maintenance shall not apply in the case of defectives in, or ordered to be sent to, certified houses ; and
- (d) a special report under section eleven of this Act as to the mental and bodily condition of a defective detained in a certified house shall not be made by the medical officer of the house or by any medical practitioner directly or indirectly interested in the house.

50.—(1) The managers of any premises wherein defectives are received and supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients, and any person

Provisions as
to approved
homes.

A.D. 1913. desirous of receiving defectives in his house for private profit, may apply to the Board to approve the premises or house, and the Board, if satisfied of the fitness of the same and of the applicant, may, if they think fit, on payment by the applicant of such fee (if any) as may be prescribed, grant their approval subject to such conditions as to inspection, the making of reports, and otherwise as they may think fit, and any such approval shall continue valid for the period for which it is granted or until withdrawn under this Act, and any premises or house so approved are in this Act referred to as an approved home.

(2) It shall not be lawful to receive or detain in an approved home any person ordered to be sent to an institution for defectives under an order of the judicial authority, or a court, or a Secretary of State under this Act.

PART IV.

GENERAL.

Offences, Legal Proceedings, &c.

Offences
with respect
to the recep-
tion and
detention of
defectives.

51.—(1) It shall not be lawful for a person without the consent of the Board to undertake the care and control of more than one person who is a defective, or who is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, and, if any person contravenes this provision, he shall be guilty of a misdemeanour.

(2) Where a person undertakes the care and control of any person who is a defective or is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, he shall, within forty-eight hours after the reception of such person, give notice thereof in the prescribed form to the local authority and to the Board, and, if he fails to do so, he shall be guilty of an offence under this Act.

(3) If any manager of any institution for defectives, or the owner of a certified house, or the guardian of a defective, detains a patient or exercises any of the powers conferred upon him by this Act after he has knowledge that those powers have expired, he shall be guilty of a misdemeanour.

(4) Nothing in this section shall apply to or affect any person who under the Lunacy Acts, 1890 to 1911, or the

Elementary Education (Defective and Epileptic Children) Act, A.D. 1913.
 1899, as amended by any subsequent enactment, receives or
 detains any person in accordance with those Acts, notwithstanding
 that the person so received and detained is a defective within
 the meaning of this Act.

52. If any person, having been warned by a person appointed to be guardian of a defective under this Act, or by a person under whose charge a patient absent from an institution or from a certified house has been placed, not to supply intoxicants to or for the use of the person under his guardianship or charge, knowingly supplies any intoxicants to or for the use of that person, he shall be guilty of an offence under this Act: Offence of supplying intoxicants contrary to warning.

Provided that a person shall not be guilty of the offence of supplying intoxicants in contravention of the warning if the person giving the warning refuses, when required so to do, to produce the authority under which he acts.

53. If any person secretes a patient in any institution or certified house or approved home or induces or knowingly assists a patient in an institution or a certified house, or a person allowed out from such an institution or house either on licence or without a licence, or a person in a place of safety or under guardianship under this Act, to escape or to break any conditions of his guardianship or licence, he shall be guilty of an offence under this Act. Offences in relation to institutions, &c.

54.—(1) Any person who obstructs any Commissioner or inspector or visitor or any officer or other person appointed or employed by a local authority in the exercise of the powers conferred by or under this Act, shall be guilty of a misdemeanour. Obstruction.

(2) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of the Secretary of State to visit and examine any person alleged to be a defective, or to inspect or inquire into the state of any institution, certified house, approved home, prison, or place wherein any person represented to be a defective is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Board to make any visit and examination or inquiry in the execution of such order, shall be guilty of an offence under this Act.

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Ill-treat-
ment.

55. If any manager, officer, nurse, attendant, servant, or other person employed in an institution or certified house, or approved home, or any person having charge of a defective, whether by reason of any contract, or of any tie of relationship, or marriage, or otherwise, ill-treats or wilfully neglects the defective, he shall be guilty of a misdemeanour.

Protection
of defectives
from acts of
sexual im-
morality,
procurator,
&c.

56.—(1) Any person—

- (a) who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any woman or girl under care or treatment in an institution or certified house or approved home, or whilst placed out on licence therefrom or under guardianship under this Act; or
- (b) who procures, or attempts to procure, any woman or girl who is a defective to have unlawful carnal connection, whether within or without the King's dominions, with any person or persons; or
- (c) who causes or encourages the prostitution, whether within or without the King's dominions, of any woman or girl who is a defective; or
- (d) who, being the owner or occupier of any premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any woman or girl who is a defective to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally; or
- (e) who, with intent that any woman or girl who is a defective should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes or causes to be taken such woman or girl out of the possession and against the will of her parent or any other person having the lawful care or charge of her;

shall be guilty of a misdemeanour and shall be liable upon conviction on indictment to be imprisoned, with or without hard labour, for any term not exceeding two years unless he proves that he did not know, and had no reason to suspect, that the woman or girl was a defective.

(2) Section ten of the Criminal Law Amendment Act, 1885, shall apply in the case of a woman or girl who is a defective in the same manner as it applies in the case of a girl who is under the age of sixteen years. A.D. 1913.
48 & 49 Vict.
c. 69.

(3) Without prejudice and in addition to the provisions of the Criminal Law Amendment Act, 1880, no consent shall be any defence in any proceedings for an indecent assault upon any defective, if the accused knew or had reason to suspect that the person in respect of whom the offence was committed was a defective. 43 & 44 Vict.
c. 45.

(4) No indictment under this section shall be tried at quarter sessions.

(5) If on the trial of an indictment for rape the jury are satisfied that the accused is guilty of an offence under paragraph (a) of subsection (1) of this section, but are not satisfied that he is guilty of rape, the jury may acquit him of rape and find him guilty of such offence as aforesaid, and in that event he shall be liable to be punished as if he had been convicted on an indictment for such offence as aforesaid.

(6) Section four of the Criminal Evidence Act, 1898, shall have effect as if this section of this Act were included in the Schedule to that Act. 61 & 62 Vict.
c. 36.

57. Any person who in any book, statement, or return knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make an entry shall be guilty of a misdemeanour. False
entries.

58. If any person, for the purpose of obtaining any certificate or approval under this Act or the renewal of any such certificate or approval, wilfully supplies to the Board any untrue or incorrect information, plan, description, or notice he shall be guilty of a misdemeanour. Punishment of
person making
untrue statement
for purpose of
obtaining
certificate or
approval.

59. If any person is guilty of a breach of any regulation made under this Act, he shall be liable on summary conviction to a penalty not exceeding such as may be prescribed as respects such a breach by the regulations, but the maximum penalty imposed by the regulations in respect of any breach shall not exceed imprisonment, with or without hard labour, for a term of three months or a fine of fifty pounds, or both. Penalty for
breach of
regulations.

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Punishment
for offences.

60.—(1) An offence under this Act declared to be a misdemeanour shall be punishable by fine or by imprisonment for a term not exceeding two years, with or without hard labour, but may, except where otherwise expressly provided, instead of being prosecuted on indictment, be prosecuted summarily, and, if so prosecuted, shall be punishable only with imprisonment for a term not exceeding three months, with or without hard labour, or with a fine not exceeding fifty pounds, or both.

(2) Any other offence under this Act shall be punishable summarily with imprisonment for a term not exceeding three months with or without hard labour, or with a fine not exceeding fifty pounds, or both.

Appeals.

61. Any person aggrieved by the conviction or sentence of a court of summary jurisdiction under this Act may appeal to quarter sessions.

Protection
of officers
for the pur-
poses of
arrest.

62. The managers of an institution and the owner of a certified house and every officer of such institution or house authorised in writing by the managers or owner, for the purpose of conveying a person to or from the institution, or house, or of apprehending and bringing him back to the institution or house in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protections, and privileges of a constable.

Application
of sections
330 and 332
of Lunacy
Act, 1890.

63. Section three hundred and thirty of the Lunacy Act, 1890, which relates to the protection of persons putting that Act in force, and section three hundred and thirty-two of the same Act, which relates to the powers of Commissioners and visitors to summons witnesses, shall have effect as if they were herein enacted and in terms made applicable to this Act.

*Supplemental.*Administra-
tion of pro-
perty.
53 & 54 Viet.
c. 5.

64. The provisions of section fifty and Part IV. of the Lunacy Act, 1890, as amended by any subsequent enactment, shall apply with respect to the management and administration of the estate of a person sent to or placed in an institution or to or in a certified house or placed under guardianship in accordance with the provisions of this Act, in like manner as they apply to the management and administration of the estate of a person lawfully detained as a lunatic but not so found by inquisition, and shall apply to the management and administration of the estate of a person with regard to whom it is proved to the satis-

faction of the judge in lunacy that he is a defective within the meaning of this Act in like manner as they apply to the management and administration of the estate of a person who is through mental infirmity arising from disease or age incapable of managing his affairs.

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65.—(1) All the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890 to 1911, shall, as from the commencement of this Act, be transferred to the Board, and His Majesty may, by Order in Council, direct that anything which under those Acts is required or authorised to be done by, to, or in respect of, any one or more Commissioners in Lunacy or any officer of those Commissioners shall, be done by, to, or in respect of, one or more Commissioners under this Act, or the corresponding officer of the Board :

Transfer to Board of powers and duties of Lunacy Commissioners.

Provided that nothing in such Order in Council shall authorise anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two commissioners, one a medical and the other a legal commissioner, but the order may provide that, in the case of the temporary illness or disability of a legal or medical commissioner, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical commissioner to act as substitute so long as the illness or disability continues.

(2) As from the commencement of this Act, the existing staff of the Commissioners in Lunacy shall be transferred to and become members of the staff of the Board, but without prejudice to the rights of any existing members of such staff.

(3) As from the commencement of this Act, sections one hundred and fifty to one hundred and sixty-one of the Lunacy Act, 1890, shall be repealed.

66. The Secretary of State may by order authorise the council of a county or county borough acting as a local authority under the Lunacy Acts, 1890 to 1911, to appoint the committee for the care of the mentally defective constituted under this Act to be the visiting committee or asylums committee for the purposes of those Acts, anything in those Acts to the contrary notwithstanding.

Power to authorise committee for care of mentally defective to act as asylums committee.

67.—(1) The Idiots Act, 1886, is hereby repealed.

Repeal of Idiots Act, 1886.

(2) Any hospital, institution, or licensed house which at the commencement of this Act is registered under the Idiots Act,

A.D. 1913. 1886, shall, without further certification, become a certified institution under this Act:

Provided that—

- (a) if any such hospital, institution, or licensed house is carried on for private profit, the hospital, institution, or house shall become a certified house instead of a certified institution; and
- (b) if the committee of management of any such hospital institution, or licensed house make an application, to the Board for the purpose, and the Board makes an order, the whole or any part of the hospital, institution, or house to which the order relates shall become and be treated as an approved home.

(3) Any person who before the commencement of this Act has been placed in a hospital, institution, or licensed house registered under the Idiots Act, 1886, may, after the commencement of this Act, continue to be detained therein in like manner in all respects as if he had been placed therein in pursuance of the provisions of this Act and immediately after the commencement thereof.

(4) Nothing in this Act shall affect the right of any person who is or has been an officer or servant of a hospital, institution, or licensed house registered under the Idiots Act, 1886, to receive or to continue to receive any superannuation allowance to which he would have been entitled had this Act not been passed.

Provisions as to regulations.

68. Regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and, if within thirty sitting days after they have been so laid either House of Parliament presents an address to His Majesty praying that any such regulations may be annulled, His Majesty may, by Order in Council, annul the regulations, without prejudice, however, to anything done thereunder, and the regulations made under this Act shall have effect as if enacted in this Act.

Liability to removal.
9 & 10 Viet.
c. 66.

69. The time during which a defective is detained in an institution or resides in an approved home under this Act shall for all purposes be excluded in the computation of time mentioned in section one of the Poor Removal Act, 1846, as amended by any subsequent enactment.

70. The maintenance in an institution or under guardianship under this Act of any person for whose maintenance any other person is responsible shall not deprive that other person of any franchise, right, or privilege, or subject him to any disability.

A.D. 1913.
Provisions
against dis-
franchise-
ment.

71.—(1) In this Act, unless the context otherwise requires,—

Interpre-
tation.

The expression “prescribed” means prescribed by regulations made under this Act:

The expression “parent or guardian” in relation to a defective shall include any person who undertakes or performs towards the defective the duty of a parent or guardian:

The expression “relative” means the husband or wife or a lineal ancestor or lineal descendant, or lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother:

The expression “intoxicants” includes any intoxicating liquor, and any sedative, narcotic, or stimulant drug or preparation:

The expression “place of safety” means any workhouse or police station, any institution, any place of detention, and any hospital, surgery, or other suitable place, the occupier of which is willing to receive temporarily persons who may be taken to places of safety under this Act:

The expression “special school or class” means a special school or class within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899:

The expressions “institution” and “institution for defectives” mean a state institution or certified institution:

The expression “State institution” means an institution for defectives of dangerous or violent propensities established by the Board under this Act:

The expression “certified institution” means an institution in respect of which a certificate has been granted under this Act to the managers to receive defectives therein, and includes, subject to the provisions of this Act, any premises provided by a board of guardians and approved under this Act:

The expression “certified house” means a house in which defectives are received by the owner thereof for his

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private profit, and in respect of which a certificate has been granted under this Act :

The expression "approved home" means any premises in which defectives are received and supported wholly or partly by voluntary contributions, or by applying the excess of payment of some patients for or towards the support of other patients, or a house in which defectives are received by the owner thereof for his private profit, and which has been approved by the Board under this Act :

The expression "institution for lunatics" has the same meaning as in the Lunacy Acts, 1890 to 1911 :

The expression "board of guardians of a poor law union" shall include the Metropolitan Asylums Board and any joint committee of a combination of unions constituted by order of the Local Government Board.

(2) Cost on income account shall, as respects an institution provided by a local authority, include expenditure out of income by the authority by way of interest on or repayment of capital raised, or by way of rent or other similar payment, for the purposes of the provision of the institution.

(3) For the purposes of this Act, the Scilly Islands shall be deemed to be a county, and the council of those islands the council of a county, and any expenses incurred by that council under the provisions of this Act shall be treated as general expenses of the council.

72.—(1) This Act may be cited as the Mental Deficiency Act, 1913.

(2) This Act shall not extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of April nineteen hundred and fourteen, except that as respects the constitution of the Board of Control, and the appointment of the secretary, officers, and servants of the Board, it shall come into operation on the first day of November nineteen hundred and thirteen.

Short title,
extent, and
commence-
ment.

SCHEDULE.

A.D. 1913.

Section 22.

POWERS AND DUTIES OF THE ADMINISTRATIVE COMMITTEE.

1. The supervision of the administration by local authorities of their power and duties under this Act.
2. The certification and approval of premises.
3. The provision and maintenance of State institutions.
4. The administration of grants made out of moneys provided by Parliament under this Act.
5. Such other powers and duties of the Board under this Act of an administrative nature as the Secretary of State or the Board may assign to the administrative committee.

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