

No. 2858.

An Act relating to Venereal Diseases
and to amend Part V. of the *Police
Offences Act 1915.*

[28th December, 1916.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Venereal Diseases Act 1916* and shall (save as to Part II. hereof) be read and construed as one with the *Health Act 1915* and any Act amending the same which Acts and this Act may be cited together as the Health Acts.

Short title
construction
and citation.
Nos. 2665, 2810.

PART I.—VENEREAL DISEASES.

2. (1) In this Part of this Act if not inconsistent with the context or subject-matter—

Interpretation.

(a) "Child" means a person under the age of sixteen years :

"Child."

"Managers" includes board committee or other body managing any hospital :

"Managers."

"Medical inspector" means the medical inspector of the Board of Public Health :

"Medical
inspector."

"Prescribed" means prescribed by this Part of this Act or by regulations under this Part of this Act :

"Prescribed."

"Venereal disease" means gonorrhœa, gonorrhœal ophthalmia, syphilis, soft chancre, venereal warts or venereal granuloma.

"Venereal
disease."

(b) Words importing the masculine gender shall be deemed and taken to include females.

Act to apply to
females as well
as males.

(c) Any references to a medical practitioner shall in any case where a person attends for treatment at a hospital or other prescribed place and with respect to notices required by this Part of this Act in such a case mean the medical officer of the hospital or other prescribed place for the time being in charge of cases of venereal disease thereat.

Medical officer
at hospital.

(2) This

Saving as to
No. 2670
ss. 15, 17.

(2) This Part of this Act shall be read and construed as in aid of and not in derogation of the provisions of the *Infant Life Protection Act 1915*.

Non-application
of certain
provisions as to
infectious
diseases &c. to
venereal
diseases.

No. 2665,
Part VI.
Division 1.

Comp. (W.A.)
1911, No. 34
s. 202.

Repeal of
Division 2 of
Part VI. of
No. 2665.

Syphilitic
disease.

Proclamation of
hospitals.

Who may
attend upon or
prescribe for
sufferers from
venereal
disease.

3. (1) The provisions of division one of Part VI. of the *Health Act 1915* as amended by any Act shall not apply to venereal disease.

(2) Division two of Part VI. of the *Health Act 1915* is hereby repealed.

4. The Governor in Council may by proclamation published in the *Government Gazette* appoint any hospital maintained by or receiving aid from the State or any ward of any such hospital as a place in which persons may under this Part of this Act be detained for treatment.

5. (1) No person other than a medical practitioner or a person acting under the direct instructions of a medical practitioner shall attend upon or prescribe for or supply any drug or medicine to any person suffering from any venereal disease for the purpose of curing alleviating or treating such disease.

(2) Any person guilty of a contravention of this section shall be liable to a penalty of not more than Fifty pounds or to imprisonment with or without hard labour for a term of not more than six months.

(3) This section shall not apply to a registered pharmaceutical chemist who dispenses to the patient of a medical practitioner the prescription of such practitioner if such prescription is dated and bears the address and usual signature (including the surname) of such practitioner or who sells or supplies any drug or medicine (except such drugs or medicines as are specified by regulations under this Part of this Act) in the ordinary course of his business, provided that such drug or medicine is not prescribed by such chemist for any person suffering from any venereal disease for the purpose of curing alleviating or treating such disease.

Provision as to
chemists
dispensing
prescriptions
&c.

Duty of person
suffering from
such disease to
place himself
under treatment
&c.

6. (1) Every person suffering from any venereal disease or suspecting that he is so suffering shall forthwith on becoming aware of his condition consult a medical practitioner thereon furnish his correct name and address to such medical practitioner and place himself under treatment by such medical practitioner or shall attend at some hospital or other place prescribed for the purpose and place himself under treatment thereat.

(2) Any

(2) Any person guilty of a contravention of this section shall be liable to a penalty of not more than Twenty pounds. Penalty.

7. (1) Every person suffering from any venereal disease who has consulted and placed himself under treatment by a medical practitioner or has attended and placed himself under treatment at a hospital or other prescribed place shall (until he has received a certificate of cure or of being free from venereal disease) personally attend or cause himself to be attended by a medical practitioner or personally attend at a hospital or other prescribed place for the purpose of treatment and advice at least once in every such period as is prescribed and shall follow the advice given by such medical practitioner or by a medical practitioner at such hospital or place. Duty of patient to attend for treatment &c.

Any person guilty of a contravention of this sub-section shall be liable to a penalty of not more than Twenty pounds. Penalty.

(2) If any such person by reason of change of residence or otherwise desires to change his medical adviser, or if the medical practitioner attending such person dies or for any reason is unable or unwilling to attend him further, such person shall forthwith consult and place himself under the treatment of another medical practitioner and inform his new adviser of the name and last known address of his last previous adviser. The medical practitioner so informed shall forthwith send a notice in the prescribed form of the change made by the patient to such previous adviser if such adviser is living and in Victoria. Change of medical adviser

Any such person or medical practitioner who is guilty of a contravention of this sub-section shall be liable to a penalty of not more than Five pounds. Penalty.

8. (1) If a medical practitioner becomes aware that any person consulting or attended or treated by him is suffering from any venereal disease the medical practitioner shall in the prescribed form and within the prescribed time give notice thereof to the medical inspector. Medical practitioner to notify each case of venereal disease to medical inspector.

(2) Such notice shall not disclose the name and address of the patient. Name and address of patient not to be disclosed.

(3) Any medical practitioner guilty of a contravention of this section shall be liable for a first offence to a penalty of Penalty.

of not more than Twenty pounds and for a second and every subsequent offence to a penalty of not less than Twenty pounds or more than One hundred pounds.

Where patient falls to attend during prescribed period medical adviser to notify fact and name &c. of patient to medical inspector.

9. (1) If any patient who has been attended or treated by a medical practitioner for any venereal disease fails to consult or attend such medical practitioner at least once during every such period as is prescribed and the medical practitioner has not before the expiration of ten days after the said period received from another medical practitioner a notice that the patient has changed his medical adviser such first-mentioned medical practitioner shall send to the medical inspector in a sealed envelope marked "Confidential" in the prescribed form a notice of the facts including the name and address of the patient.

Penalty.

(2) Any medical practitioner whose duty it is to do so who does not send the said notice to the medical inspector shall be liable for a first offence to a penalty of not more than Twenty pounds and for a second or any subsequent offence to a penalty of not less than Twenty pounds or more than One hundred pounds.

Warning &c. by medical practitioner to patient.

10. (1) Every medical practitioner who attends treats or advises any patient for or in respect of any venereal disease from which the patient is suffering shall (except in the case of a child)—

(a) by written notice in the prescribed form delivered to the patient—

(i) direct such patient's attention to the infectious character of the disease and to the legal consequences of infecting others; and

(ii) warn the patient against contracting any marriage until certified as cured; and

(b) give such patient such printed information relating to the disease and the duties of patients as is prescribed.

(2) In the case of a child suffering from any venereal disease every medical practitioner who attends treats or gives advice with respect to the child shall give to the parent or guardian or other person in charge of the child such directions and printed information as are prescribed.

Penalty.

(3) Any medical practitioner guilty of a contravention of this section shall be liable to a penalty of not more than Five pounds.

11. (1) Subject

11. (1) Subject to this Part of this Act when any patient as aforesaid becomes cured of or free from venereal disease or has ceased to be liable to convey infection any medical practitioner shall on being satisfied of the fact and subject to the regulations give such patient at his request a certificate in the prescribed form that such patient is cured or is free from venereal disease or is no longer liable to convey infection (as the case may be).

Certificate
of cure &c.

(2) Any medical practitioner who gives to any person a certificate that such person is cured or is free from venereal disease or is no longer liable to convey the infection of any such disease knowing the said certificate to be false in any material particular shall be liable to a penalty of not more than Fifty pounds.

Penalty for
giving false
certificate of
cure &c.

12. (1) Any parent guardian or other person in charge of any child suffering from any venereal disease shall cause such child to be treated by a medical practitioner.

Duty of parent
or guardian of
patient &c.
under sixteen
years of age.

(2) When any child is or becomes liable under this Part of this Act to do or submit to any act matter or thing any parent or guardian or other person in charge of such child who knows that such child is so liable shall exercise his authority to compel or induce such child to do or submit to such act matter or thing as aforesaid.

(3) Any parent or guardian or other person in charge of any such child who knows that such child has failed to comply with any provision of this Part of this Act applicable to such child shall report the fact together with such particulars as are prescribed to the medical inspector.

(4) Any parent or guardian or other such person guilty of a contravention of this section shall be liable to a penalty of not more than Ten pounds.

13. (1) Whenever the medical inspector is satisfied by the certificate of a medical practitioner or by statutory declaration that there is reasonable ground to believe that any person is suffering from venereal disease and is not under treatment by any medical practitioner he may issue an order in writing requiring such person to place himself forthwith under the care of a medical practitioner.

Power to
order person
suspected of
suffering from
disease and not
under treatment
to submit to
treatment.

(2) If such person does not place himself under the care of a medical practitioner a police magistrate on the complaint of the medical inspector or of a medical practitioner authorized in writing either generally or in any particular case for the purpose by the medical inspector

Power to
apprehend
and detain for
examination
&c. in hospital
&c. person
neglecting to
submit to such
treatment.

may

may by warrant under his hand in the prescribed form and directed to prescribed persons order the person to be apprehended and to be detained for any prescribed period not exceeding four weeks in any prescribed place for any clinical chemical bacteriological or other examination or investigation necessary to ascertain whether such person is suffering from venereal disease, and it shall be lawful to make any such examination or investigation; and such warrant shall be a sufficient authority to all persons for the arrest and detention of such person in pursuance of the warrant and subject to the provisions of this Part of this Act.

Power to detain
diseased person
till cured &c.

(3) If the result of any such examination or investigation discloses that such person is suffering from any venereal disease and the medical inspector after due inquiry into all the circumstances is of the opinion that further detention is necessary in the interests of such person and of the public welfare and so reports to the Minister then on the recommendation of the Minister the Governor in Council from time to time may order that such person shall be detained under such conditions and in a prescribed or proclaimed place and for such time and be subject to such examination and treatment as are necessary to insure that such person is cured or is free from venereal disease or has ceased to be liable to convey infection; and the Governor in Council may extend or vary any such Order or at any time terminate its operation and thereafter if found necessary renew such Order. And every such Order shall be sufficient authority to all persons for the arrest and the removal or detention of such person in pursuance of the Order until his release under the provisions of this section and subject to the provisions of this Part of this Act.

Power of
judge or police
magistrate to
release person
on cure &c.

(4) Any person undergoing detention under this section may from time to time apply in writing in the prescribed form to a Judge of the Supreme Court or Judge of County Courts or police magistrate to be examined by two medical practitioners, and thereupon such judge or magistrate shall by order direct any two or more medical practitioners named in the order (one of whom shall be nominated by the patient or some person on his behalf) to examine such person accordingly and report the result of the examination to the judge or magistrate; and every officer or person in whose custody the person is shall permit the examination.

If

If after consideration of such report the judge or police magistrate is of opinion that the person is cured or is free from venereal disease or has ceased to be liable to convey infection the judge or magistrate shall order the release of such person from detention and he shall be released accordingly.

No such application shall be made by any person so detained within three months after a like prior application has been made by such person.

(5) Any person undergoing detention under this section who proves to the satisfaction of the Minister that he can obtain and is prepared to undergo suitable treatment may be released on the order of the Minister subject to such conditions as the Minister imposes.

Private
treatment.

(6) Any person undergoing detention under this section shall once at least in every period of three months beginning with the date of his arrest be examined by two medical practitioners appointed by the Minister either generally or in any particular case for the purpose in order to ascertain whether such person is cured or is free from venereal disease or has ceased to be liable to convey infection and such medical practitioners shall report to the Minister accordingly.

Periodical
examination
of persons
detained.

If the Minister is satisfied that such person is cured or is free from venereal disease or has ceased to be liable to convey infection the Minister shall order the release of such person from detention and he shall be released accordingly.

Where the person undergoing detention has been examined by order of a judge or police magistrate under this section an examination under this sub-section shall not be necessary until a period of three months has elapsed after the first-mentioned examination.

(7) No person shall be detained under this section after he is cured or is free from venereal disease or has ceased to be liable to convey infection.

(8) No certificate of any medical practitioner given for the purposes of this or the next succeeding section *bonâ fide* and without negligence that any person (including any prisoner) is suffering from venereal disease shall be admissible in evidence in any proceedings civil or criminal

Protection of
medical
practitioner
giving
certificate.

criminal against such medical practitioner or be made the ground of any prosecution action or suit against him.

Penalty.

(9) Any person who—

(a) detains any person undergoing detention under this section except as provided under this Part of this Act; or

(b) obstructs the carrying into effect of any warrant or order under this section; or

(c) refuses to do or submit to anything which such person is by this section or any such warrant or order required to do or submit to; or

(d) while undergoing detention under this section leaves except as prescribed any prescribed or proclaimed place before being lawfully discharged,

shall be liable to a penalty not exceeding Twenty pounds.

Special provisions in case of prisoners.

14. (1) Where a medical practitioner duly appointed either generally or in any particular case for the purpose certifies in writing to the Minister that any prisoner in any gaol is suffering from any venereal disease such prisoner may be brought before a police magistrate and on proof that such prisoner is so suffering the police magistrate may order that such prisoner be detained under such conditions and in a prescribed or proclaimed place and for such time and be subject to such examination and treatment as are necessary to insure that he is cured or is free from venereal disease or is no longer liable to convey infection.

(2) Such an order shall be sufficient authority to the governor of the gaol to remove such prisoner to the prescribed or proclaimed place named in the order and for his detention therein in pursuance of the order and subject to the provisions of this section.

(3) During any period of detention under this section such prisoner shall be deemed to be in legal custody and the period of detention shall run concurrently with but may exceed the term of imprisonment to which such prisoner has been sentenced.

(4) The provisions of sub-section (4) of the last preceding section shall extend and apply to prisoners undergoing detention under this section.

(5) If

(5) If the medical inspector is satisfied that any prisoner undergoing detention under this section is cured or is free from venereal disease or is no longer liable to convey infection he shall so report to the Minister and thereupon the Minister shall order that such prisoner be discharged from such detention and such prisoner unless his sentence has sooner expired shall be remitted to his former custody to serve the remainder of his sentence.

(6) Notwithstanding anything in any Act or any law to the contrary it shall be lawful for any medical practitioner or practitioners duly appointed by the Minister either generally or in any particular case for the purpose to examine any prisoner in any gaol for the purpose of ascertaining whether such prisoner is suffering from venereal disease and to make such clinical chemical bacteriological and other examinations and investigations as are necessary or expedient for the purpose.

(7) The provisions of this section with respect to prisoners shall extend and apply to persons detained in reformatory prisons and to persons committed to reformatory schools, and shall with such alterations modifications and substitutions as are necessary be read and construed accordingly: Provided that for the purposes of this sub-section—

Extension of provisions of this section to persons detained in reformatory prisons &c.

(a) upon the discharge of any such person from detention under this section such person shall be returned to the reformatory prison or reformatory school from which he was removed; and

(b) any reference in this section to the governor of a gaol shall be read and construed as a reference to the person in charge of a reformatory prison or the superintendent matron or manager of a reformatory school (as the case may be).

15. (1) Any matter to be heard by a judge or police magistrate under either of the two last preceding sections shall be heard and decided in chambers and in private and no person other than the judge or magistrate the party concerned the medical inspector and such officers witnesses or persons as the judge or magistrate may require or at the request of the party concerned may permit to be present shall have access to or be permitted to be present in any room where the matter is being heard.

Hearing by judge or police magistrate to be in private.

(2) Every

Secrecy to be preserved.

(2) Every person who acts or assists in the administration of the said sections and every person present in any room where any matter under the said sections is being heard shall preserve and aid in preserving secrecy with regard to all matters and things which come to his knowledge while so acting or assisting or present and shall not communicate any such matter or thing to any other person except in the performance of his duties under this Part of this Act or in answer to some question which he is legally bound to answer.

Any person guilty of a contravention of this sub-section shall be liable to a penalty of not more than Fifty pounds.

Examination of females.

16. If any person to be examined under this Part of this Act is a female then, if so desired by the person to be examined, the examination if by one medical practitioner shall be made by a medical practitioner who is a woman and if by more than one medical practitioner all of such medical practitioners shall be women, provided that a woman practitioner or women practitioners (as the case may be) are available within a radius of twenty miles and are willing to act.

Person though ceasing to be infective to continue treatment until cured.

17. The fact that a person who has been suffering from any venereal disease has ceased to be liable to convey infection but has not been cured shall not exonerate such person from complying with the provisions of this Part of this Act with respect to treatment or any medical practitioner from complying with the requirements of this Part of this Act with respect to notices.

Infecting any person with venereal disease an offence.

18. (1) No person shall knowingly infect any other person with a venereal disease or knowingly do or permit or suffer any act likely to lead to the infection of any other person with such a disease.

(2) Any person guilty of a contravention of this section shall be liable to a penalty of not more than One hundred pounds or to imprisonment with or without hard labour for a term of not more than twelve months or to both such penalty and imprisonment.

Penalty for permitting female suffering from venereal disease to resort to any house for purpose of prostitution.
No. 2665 s. 206.

19. Any person being the owner or occupier of any house room or place in which a female suffering from venereal disease resides for the purpose of prostitution or to which she resorts for such purpose shall unless he can prove that he did not know that such female prostituted herself while in a state of disease be guilty of an offence under

under this Act and shall be liable to a penalty of not more than Twenty pounds or at the discretion of the court to imprisonment with or without hard labour for a term of not more than six months ; Provided that no conviction under this section shall exempt the offender from any penal or other consequences to which he or she may be liable for keeping or being concerned in keeping a bawdy-house or disorderly house or for the nuisance thereby occasioned.

20. (1) The managers of any hospital receiving aid from the State shall make effective provision as prescribed for the reception accommodation examination and treatment free of charge of such numbers of persons or such classes of persons suffering from venereal disease as are prescribed.

Duty of public hospital &c. to treat persons suffering from venereal disease free of charge.

(2) In case of default the Treasurer of Victoria may withhold the whole or any portion of any subsidy which would be payable from the Consolidated Revenue in respect of such hospital during the current or the next financial year.

21. The Minister may—

Powers of Minister.

- (a) establish hospitals or places for the reception and treatment of persons suffering from venereal disease;
- (b) arrange for the examination or treatment by medical practitioners of persons suffering from venereal disease and for the remuneration of such practitioners under any such arrangement ;
- (c) arrange for chemical bacteriological and other examinations and investigations free of charge to the patient for the purpose of ascertaining whether a person is suffering from or is cured of any venereal disease or whether he has ceased to be liable to convey infection and for the remuneration payable under any such arrangement ;
- (d) arrange for the supply of drugs medicines and appliances for the treatment alleviation and cure of venereal diseases in the cases of persons unable through poverty or otherwise to pay for such drugs medicines or appliances ; and
- (e) provide for the preparation and distribution of information relating to venereal diseases.

22. Any

Authority of
Minister,
required for
prosecutions.

22. Any person authorized either generally or in any particular case by the Minister may prosecute for any offence under this Part of this Act or any regulation thereunder.

Regulations.

23. (1) The Governor in Council may make regulations for or with respect to—

- (a) the forms and particulars to be contained in notices returns certificates orders and warrants under this Part of this Act;
- (b) the persons or classes of persons who may apprehend any person against whom a warrant or order of apprehension under this Part of this Act has been issued;
- (c) the conditions and circumstances under which a certificate of cure of or of freedom from venereal disease or of having ceased to be liable to convey infection may be issued and the maximum fee chargeable for any such certificate;
- (d) the numbers of persons or the classes of persons who shall be eligible to receive free treatment for venereal diseases at a hospital maintained by or receiving aid from the State;
- (e) the management of any hospital or place provided by the Minister for the reception accommodation examination or treatment of persons pursuant to this Part of this Act;
- (f) prescribing what medical officers of hospitals or other prescribed places shall have charge of cases of venereal disease treated thereat and to or by whom notices required by this Part of this Act shall be given;
- (g) prescribing the periods during which according to the stages or phases of the disease persons suffering from any venereal disease are to attend or cause themselves to be attended by medical practitioners for the purpose of treatment and advice;
- (h) the fees payable to medical practitioners for notices given to the medical inspector pursuant to this Part of this Act;
- (i) hospitals or places where persons suffering from any venereal disease may be detained for treatment;

(j) returns

- (j) returns to be made by medical practitioners with respect to the number of cases of venereal disease attended or treated by them and the number of such cases cured;
- (k) prescribing the preventive measures against the spread of infection to be adopted by persons suffering from any venereal disease and by persons attending or having the care or charge of such persons;
- (l) penalties not exceeding Twenty pounds for any breach of any regulation made under this Part of this Act; and
- (m) generally, all matters necessary or convenient to be prescribed for carrying out the provisions of this Part of this Act.

(2) All such regulations when made by the Governor in Council shall be published in the *Government Gazette* and when so published shall have the force of law and shall be judicially noticed and shall be laid before both Houses of Parliament within fourteen days after the same shall have been made if Parliament be then sitting and if not then within ten days after the next meeting of Parliament, and a copy of any proposed regulations shall be posted to each Member of Parliament at least fourteen days before such regulations are approved by the Governor in Council.

PART II.—OBSCENE AND INDECENT PUBLICATIONS.

24. This Part of this Act shall be read and construed as one with Part V. of the *Police Offences Act 1915*.

Construction.
No. 2708.

25. (1) Part V. of the *Police Offences Act 1915* is hereby amended as follows:—

Amendment
of No. 2708
Part V.

- (a) In section one hundred and seventy-three of the said Act there shall be inserted after the words "Any person" where they first occur the following words:—"who exhibits in any picture theatre or place of public resort any film or cinematograph display which is of an indecent or obscene nature and any person" and for the words "Forty shillings" there shall be substituted the words "Five pounds" and for the words "one month" there shall be substituted the words "three months."

Increase of
penalties &c.
in ss. 173, 178
of No. 2708.

(b) In

(b) In section one hundred and seventy-eight of the said Act for the words "Ten pounds" (wherever occurring) there shall be substituted the words "Twenty pounds" and for the words "one month" there shall be substituted the words "three months" and for the words "Fifty pounds" there shall be substituted the words "One hundred pounds" and for the words "six months" there shall be substituted the words "twelve months."

(c) For section one hundred and eighty-one of the said Act there shall be substituted the following section :—

"181. No prosecution for any offence against the provisions of any of the five last preceding sections shall be taken except by a member of the police force under the written authority of the Chief Secretary or of the Minister of Public Health or of the Chief Commissioner of Police given either generally or in any particular case."

(d) At the end of sub-section (2) of section one hundred and eighty-two of the said Act there shall be inserted the words "given either generally or in any particular case" ; and sub-section (3) of the said section one hundred and eighty-two is hereby repealed.

(2) Nothing in Part V. of the *Police Offences Act 1915* as amended by this Act shall relate to any work of recognised literary merit or to the printing or publishing or delivery or distribution or the posting or causing to be posted for transmission by post or to the having in possession for the purpose of distribution or for transmission by post for any lawful purpose of any *bonâ fide* medical or pharmaceutical book pamphlet magazine or periodical ; but in any prosecution for an offence under the said Part V. the burden of proof that a publication is a *bonâ fide* medical or pharmaceutical book pamphlet magazine or periodical or a work of recognised literary merit shall lie on the defendant.

Re-enactment
and amendment
of No. 2708
s. 181.

Authority for
prosecutions
under ss. 176-
180 of No. 2708.

Warning of
intended
prosecution to
distributors &c.
not necessary.

Amendment of
No. 2708 s. 182.

Authority to
prosecute.

Warning to
offenders
exposing
indecent post
cards to view
not necessary.

Part V. of
No. 2708 not to
apply to certain
bonâ fide
medical
publications &c.
Comp. (W.A.)
2 Edw. VII.
No. 14 s. 5.