

Queensland Mental Health Commission Bill 2012

Explanatory Notes

FOR

Amendments to be Moved During Consideration in Detail by the Honourable L Springborg MP

Title of Bill

The Queensland Mental Health Commission Bill 2012.

Objectives of the Amendments

The Queensland Mental Health Commission Bill 2012 (the Bill) amends the *Mental Health Act 2000* (the Act) to enhance those measures under the Act that are designed to protect the community. These measures are enhanced primarily by creating new mechanisms for the management of patients who are subject to a forensic order, are a classified patient or subject to a section 273(1)(b) order made by the Mental Health Court (defined as 'relevant patients').

One of the new mechanisms within the Act will provide that under new section 131A, the Director of Mental Health may require that a relevant patient be subject to a monitoring condition while they are undertaking limited community treatment. For all forensic patients and classified or section 273(1)(b) patients who are also on an involuntary treatment order, a monitoring condition is to be reviewed by the Mental Health Review Tribunal every six months, or on application.

The proposed amendment to section 191 of the Act clarifies the intention that regular reviews by the Mental Health Review Tribunal will occur for classified and section 273(1)(b) order patients who are also on an involuntary treatment order.

The proposed amendment does not change the intention of the amendments to the Act.

Achievement of the Objectives

The policy objectives of the proposed amendments will be achieved by amending section 191 of the Act to ensure that decisions of the Mental Health Review Tribunal in relation to monitoring conditions apply to both classified patients and section 273(1)(b) order patients.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways of achieving the policy objectives.

Estimated Cost for Government Implementation

The amendment will not incur any additional costs.

Consistency with Fundamental Legislative Principles

The amendment is consistent with fundamental legislative principles.

Consultation

The Department of the Premier and Cabinet has been consulted.

NOTES ON PROVISIONS

Amendment 1 amends clauses 33 of the Bill.

Clause 63 makes a consequential amendment to section 191 which sets out decisions the Mental Health Review Tribunal may make when reviewing a patient for whom an involuntary treatment order is in force. A monitoring condition applied by the Director of Mental Health will be reviewed by the Tribunal for all classified and section 273(1)(b) order patients who are also on an involuntary treatment order.

Currently however, the decisions of the Tribunal in relation to a monitoring condition is negated for classified patients by subsection (3) which provides that a decision made by the Tribunal under subsection (2) does not apply to classified patients.

It is intended to retain the existing amendment to section 191 and further amend subsection (3) to omit the reference to 'subsection (2)' and instead insert 'subsection (2)(a) to (c)'.

This will ensure the policy intent of the amendment is achieved whereby a decision of the Mental Health Review Tribunal to amend or revoke a monitoring condition applied by the Director of Mental Health under section 131 will apply to both section 273(1)(b) order patients and classified patients.