

# **Mental Health Bill 2015**

## **Explanatory Notes**

### **FOR**

## **Amendments To Be Moved During Consideration In Detail By The Honourable Cameron Dick MP**

### **Title of the Bill**

Mental Health Bill 2015

### **Objectives of the Amendments**

The main objective of the amendments is to respond to a recommendation in the Report of the Health and Ambulance Services Committee on the Mental Health Bill 2015 and the Mental Health (Recovery Model) Bill 2015.

The amendments also make minor editorial improvements to the Bill.

### **Achievement of the Objectives**

It is proposed to amend the Bill to require administrators of authorised mental health services to notify the Public Guardian when a minor is admitted to a high security unit or to an inpatient unit of an authorised mental health service that is not a child and adolescent inpatient unit. The Bill is to provide that this obligation may be met through arrangements with the chief psychiatrist to provide this information to the public guardian.

It is also proposed to amend the Bill to require administrators of authorised mental health services to notify the Public Guardian on the use of seclusion, mechanical restraint and physical restraint on a minor. The notifications are to be consistent with the obligations of authorised mental health services to report to the chief psychiatrist on the use of seclusion, mechanical restraint and physical restraint.

### **Alternative Ways of Achieving Policy Objectives**

The policy objectives can only be achieved through legislative amendment.

### **Estimated Cost for Government Implementation**

The notification obligations will require an upgrade to the State-wide mental health information system at a cost of approximately \$60,000.

### **Consistency with Fundamental Legislative Principles**

The amendments are consistent with fundamental legislative principles.

## Consultation

The Committee's recommendation resulted from consultation undertaken by the Committee on the Bill.

## NOTES ON PROVISIONS

*Amendment 1* omits the definition of public guardian from clause 13 as this definition is to be inserted in the dictionary to the Bill.

*Amendment 2* amends clause 58 to require a copy of the treatment authority to be given to the patient's nominated support person, personal guardian and attorney, if requested, consistent with similar provisions in the Bill.

*Amendment 3* corrects a reference to 'forensic order' to 'forensic order (mental health)'.

*Amendment 4* amends the heading to clause 75 for consistency with the clause.

*Amendment 5* corrects a section reference.

*Amendment 6* amends clause 81 to state that the 'notice event' provisions do not apply if, on revoking an order, the Mental Health Review Tribunal makes another order or authority.

*Amendment 7* omits a note, which is relocated to sub-clause 145(3).

*Amendment 8* replaces the note and clarifies the relationship between a decision made by the Mental Health Court under this clause with decisions made by an authorised doctor under clause 216(1).

*Amendment 9* amends clause 206 to support the electronic recording of information.

*Amendment 10* amends clause 212 to require an authorised doctor to explain to a patient any proposed changes to the patient's forensic order, consistent with similar provisions in the Bill.

*Amendment 11* amends a cross-reference and clarifies the relationship between a decision made under this clause with a decision made by the Mental Health Court under clause 145 or the Mental Health Review Tribunal under clauses 474 or 475.

*Amendment 12* adds new provisions to require administrators of authorised mental health services to notify the public guardian when a minor is admitted to a high security unit, or to an inpatient unit that is not a child and adolescent inpatient unit. The information is to be provided within 72 hours. The amendments provide that this obligation may be met through arrangements with the chief psychiatrist.

*Amendment 13* amends a part heading to accommodate new clause 272A.

*Amendment 14* states that the chief psychiatrist's restraint, seclusion and other practices policy may include requirements in relation to giving information to the public guardian.

*Amendment 15* adds a new clause 272A to require administrators of authorised mental health services to notify the public guardian on the use of seclusion, mechanical restraint and physical restraint on a minor. The notifications are to be

consistent with the obligations of authorised mental health services to report to the chief psychiatrist on the use of seclusion, mechanical restraint and physical restraint.

*Amendment 16* amends clause 352 to provide that an administrator of an authorised mental health service cannot agree to the interstate transfer of a patient on a treatment authority if the patient is also a classified patient or on a forensic order (disability).

*Amendment 17* amends clause 360 to include a reference to a public sector health service facility.

*Amendment 18* amends clause 360 to include a reference to a public sector health service facility.

*Amendment 19* amends clause 360 to include a reference to the person in charge of a public sector health service facility.

*Amendment 20* clarifies the relationship between a decision made by the Tribunal under this clause with decisions made by an authorised doctor under clause 216(1).

*Amendment 21* clarifies the relationship between a decision made by the Tribunal under this clause with decisions made by an authorised doctor under clause 216(1).

*Amendment 22* corrects a reference to 'mental illness' to 'mental condition'.

*Amendment 23* amends clause 738 to clarify that a lawyer or other person appointed by the Tribunal to represent a person is to be at no cost to the person.

*Amendment 24* amends clause 780 to include reference to a private psychiatrist being engaged by a lawyer or other person on behalf of a patient.

*Amendment 25* amends the heading of clause 919 to include a reference to a 'request' as well as an 'authorisation'.

*Amendment 26* amends clause 919 to include a reference to a 'request' as well as an 'authorisation'.

*Amendment 27* inserts a definition of 'public guardian' into the dictionary for the Bill.

*Amendment 28* makes a further amendment to the *Public Guardian Act 2014*. The amendment requires the public guardian to report, in the public guardian's annual report, on:

- the number of notices received under the *Mental Health Act 2016* of admissions of minors to an inpatient unit that is not a child and adolescent inpatient unit, or to a high security unit
- the number of visits by community visitors as a result of the notices, and
- the type of issues raised as a result of the visits.