

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, February 2017*



Queensland

No.

A BILL for

An Act to amend the Mental Health Act 2016 for particular purposes



Queensland

Mental Health Amendment Bill 2017

Contents

		Page
Part 1	Preliminary	
1	Short title	6
1A	Commencement	6
2	Act amended	6
Part 2	Principal provisions	
3	Amendment of s 32 (Powers of doctor or authorised mental health practitioner)	6
4	Amendment of s 45 (Detention for assessment)	7
5	Amendment of s 46 (Start of assessment period to be noted)	7
6	Amendment of s 50 (Form of treatment authority)	7
7	Replacement of s 53 (Nature and extent of treatment and care)	8
	53 Nature and extent of treatment and care	8
8	Amendment of s 56 (Review of treatment authority if not made by psychiatrist)	8
9	Amendment of s 96 (Information from prosecuting authority)	8
10	Amendment of s 101 (Reference by chief psychiatrist to Mental Health Court)	9
11	Amendment of s 102 (Copies of reports)	9
12	Insertion of new s 167A	10
	167A Person subject to existing treatment support order	10
13	Amendment of s 177 (Power to make examination order for person charged with simple offence)	10
14	Amendment of s 178 (Examination of person)	10
15	Replacement of s 180 (Admissibility of examination report)	11
	180 Admissibility of examination report at trial	11
	180A Particular statements not admissible	11
	180B Other use of examination report and particular statements	12

Contents

16	Amendment of s 199 (Relationship between this Act and custodial status of particular patients)	12
17	Amendment of s 219 (Authorisation of limited community treatment)	13
18	Amendment of s 220 (Patient's obligations to be recorded and explained)	13
19	Amendment of s 227 (Requirement to give notice—matters relating to advance health directive)	13
20	Amendment of s 231 (Obligation to notify public guardian)	14
21	Amendment of s 250 (Authorisation of use of mechanical restraint by authorised doctor)	15
22	Amendment of s 258 (Authorisation of seclusion by authorised doctor)	15
23	Amendment of s 259 (Extension of period of seclusion)	15
24	Amendment of s 278 (Giving statement of rights to patients and others)	16
25	Amendment of s 322 (Mandatory revocation)	16
26	Amendment of s 337 (Delegation)	16
27	Amendment of s 355 (Transfer of person subject to interstate order from another State)	17
28	Amendment of s 358 (Notice to tribunal)	17
29	Amendment of s 359 (Who is an authorised person)	17
30	Amendment of s 360 (Transport within authorised mental health service)	18
31	Amendment of s 364 (Administrator or person in charge may require return of absent person)	18
32	Amendment of s 366 (Authorised person may transport absent person)	19
33	Amendment of s 367 (Effect on assessment period)	20
34	Amendment of s 369 (Transport of person in Queensland to interstate mental health service)	20
35	Amendment of s 384 (Definitions for pt 7)	21
36	Amendment of s 420 (Administrator to provide report)	21
37	Amendment of s 451 (Making of treatment authority or no further order)	21
38	Amendment of s 483 (Making of treatment authority or no further order)	22
39	Amendment of s 502 (Application for examination authority)	22
40	Amendment of s 504 (Decision on application)	22

41	Amendment of s 522 (Who may apply)	23
42	Insertion of new s 534A	23
	534A Frivolous or vexatious appeal	23
43	Amendment of s 618 (Ending of suspension)	23
44	Amendment of s 630 (Detention of person in public sector health service facility with use of reasonable force)	24
45	Amendment of s 730 (Adjournment of hearing)	24
46	Amendment of s 731 (Hearing of scheduled review to be conducted on relevant person's return)	24
47	Amendment of s 736 (Right to appear)	24
48	Amendment of s 756 (Written reasons for decision)	25
49	Amendment of s 796 (Disclosure by QCAT of information about personal guardian)	25
50	Amendment of s 798 (Approved forms)	26
50A	Insertion of new ch 18A	27
	Chapter 18A Validation of appointment to tribunal and related provisions	
	Part 1 Preliminary	
	800A Definitions for chapter	27
	Part 2 Validation	
	800B Validation provision for purported appointment of ineligible person	27
	Part 3 Referral of particular decisions to special tribunal	
	800C Special tribunal	28
	800D Request to refer relevant decision to the special tribunal	29
	800E When chief executive may refer relevant decision	29
	800F Decision by special tribunal on referral	30
	Part 4 Decisions by tribunal	
	800G Decision by tribunal on referral	30
51	Amendment of sch 3 (Dictionary)	31
Part 3	Provisions amending Public Health Act 2005	
52	Amendment of s 921 (Insertion of new ch 4A)	32
53	Amendment of s 922 (Amendment of sch 2 (Dictionary))	38
Part 4	Provisions amending Coroners Act 2003	
54	Amendment of sch 4 (Minor or consequential amendments of particular legislation)	38

2017

A Bill

for

An Act to amend the *Mental Health Act 2016* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mental Health Amendment Act 2017*.

1A Commencement

Section 50A, to the extent it inserts new chapter 18A, parts 3 and 4, commences on a day to be fixed by proclamation.

2 Act amended

This Act amends the *Mental Health Act 2016*.

Part 2 Principal provisions

3 Amendment of s 32 (Powers of doctor or authorised mental health practitioner)

(1) Section 32(2)(c)—

omit, insert—

(c) detain the person at the place at which the person is examined—

(i) if the place is an authorised mental health service or public sector health service facility—for a period, of not more than 6 hours, starting when the person first attends at the service or facility for the examination; or

- (ii) otherwise—for a period, of not more than 1 hour, starting when the person is found at the place.

(2) Section 32—

insert—

- (4) The doctor or authorised mental health practitioner examining the person may extend, or further extend, the period under subsection (2)(c)(i) before it ends if the doctor or authorised mental health practitioner considers the extension is necessary to carry out or finish the examination.
- (5) An extension under subsection (4) may be for a period, of not more than 12 hours, starting when the person first attends at the service or facility for the examination.

4 Amendment of s 45 (Detention for assessment)

Section 45(1)(b), from ‘is first transported’—

omit, insert—

first attends at the service or facility for the assessment.

5 Amendment of s 46 (Start of assessment period to be noted)

Section 46(2)(a), ‘a health service employee’—

omit, insert—

an employee of the service or facility

6 Amendment of s 50 (Form of treatment authority)

(1) Section 50(1)(b)(v)—

omit.

(2) Section 50(1)(b)(vi)—

[s 7]

renumber as section 50(1)(b)(v).

7 Replacement of s 53 (Nature and extent of treatment and care)

Section 53—

omit, insert—

53 Nature and extent of treatment and care

- (1) The authorised doctor must decide the nature and extent of the treatment and care to be provided to the person under the treatment authority.
- (2) In deciding the nature and extent of the treatment and care, the authorised doctor must—
 - (a) discuss the treatment and care to be provided with the person; and
 - (b) have regard to the views, wishes and preferences of the person, to the extent they can be expressed, including, for example, in an advance health directive.

8 Amendment of s 56 (Review of treatment authority if not made by psychiatrist)

Section 56(5), from ‘is admitted to’—

omit, insert—

attends for the review at the service or facility.

9 Amendment of s 96 (Information from prosecuting authority)

- (1) Section 96(1), ‘applies to’—

omit, insert—

applies if

- (2) Section 96(1)(a) and (b), ‘who’—

omit.

- (3) Section 96(2) and (7) and example, ‘administrator or authorised psychiatrist’—

omit, insert—

administrator, authorised psychiatrist or chief psychiatrist

10 Amendment of s 101 (Reference by chief psychiatrist to Mental Health Court)

Section 101(3)(a), ‘the person making the request’

omit, insert—

a person under section 102(1) or (2)

11 Amendment of s 102 (Copies of reports)

- (1) Section 102(2), after ‘subsection (1)(a)’—

insert—

or (c)

- (2) Section 102—

insert—

(4A) The administrator of the person’s treating health service must include the copy of the psychiatrist report, or second psychiatrist report, in the person’s health records.

- (3) Section 102(6), ‘Subject to subsection (2) and (5)’—

omit, insert—

Subject to subsections (2) and (6)

- (4) Section 102(4A) to (6)—

renumber as section 102(5) to (7).

[s 12]

12 Insertion of new s 167A

After section 167—

insert—

167A Person subject to existing treatment support order

- (1) This section applies if the Mental Health Court is required under this chapter to make a treatment support order (a *new treatment support order*) for a person who is already subject to a treatment support order (the *existing treatment support order*).
- (2) The court may—
 - (a) amend the existing treatment support order for the person; or
 - (b) revoke the existing treatment support order for the person and make a new treatment support order for the person.

Note—

If there is an information notice relating to the person, the revocation of the existing treatment support order under this section does not affect the information notice. See section 322.

13 Amendment of s 177 (Power to make examination order for person charged with simple offence)

Section 177(5)(a), ‘an inpatient unit of’—

omit.

14 Amendment of s 178 (Examination of person)

Section 178(1)(b), from ‘is first transported’—

omit, insert—

first arrives at the relevant service for the examination; or

15 Replacement of s 180 (Admissibility of examination report)

Section 180—

omit, insert—

180 Admissibility of examination report at trial

An examination report is admissible at the trial of the person for an offence only for the following purposes—

- (a) deciding under this Act whether to make another examination order for the person;
- (b) deciding under this Act whether to refer to the Mental Health Court the matter of the person's mental state relating to the offence.

180A Particular statements not admissible

- (1) Neither of the following is admissible in evidence against the person in any civil or criminal proceeding—
 - (a) a statement made by the person during an examination of the person under an examination order;
 - (b) a statement made by the person to a health practitioner for the purpose of a Magistrates Court making a decision about the person under section 172 or 173.
- (2) Subsection (1) applies to statements made orally or in writing and whether on oath or otherwise.
- (3) However, subsection (1) does not apply to a proceeding for—
 - (a) contempt of the court; or
 - (b) an offence against the Criminal Code, chapter 16.

180B Other use of examination report and particular statements

- (1) This section applies to each of the following relating to a person—
 - (a) an examination report made for the person;
 - (b) a statement made by the person to a health practitioner for the purpose of a Magistrates Court making a decision about the person under section 172 or 173.
- (2) The report or statement may be given to—
 - (a) if an authorised mental health service is responsible for the person—the administrator of the service; or
 - (b) if the forensic disability service is responsible for the person—the administrator of the service.
- (3) If the report or statement is received in evidence by a Magistrates Court, the report or statement may be given to, and used by, another person only with the leave of the court.
- (4) The court may grant the leave subject to the conditions it considers appropriate.
- (5) An administrator who receives a report or statement under subsection (2) must include the report or statement in the person’s health records.

16 Amendment of s 199 (Relationship between this Act and custodial status of particular patients)

Section 199(2) to (4)—

omit, insert—

- (2) A person making a decision about the patient’s treatment in the community must make the decision without regard to whether the patient is in custody under another Act.

- (3) However, a decision made under this Act about the patient's treatment in the community is subject to any custodial requirement under the other Act.
- (4) Subsection (3) does not apply to a patient who is detained in the authorised mental health service—
 - (a) as a classified patient under chapter 3; or
 - (b) under an order mentioned in schedule 3, definition *judicial order*, paragraph (c).

17 Amendment of s 219 (Authorisation of limited community treatment)

Section 219(4), 'a health service employee'—

omit, insert—

an employee of the authorised mental health service

18 Amendment of s 220 (Patient's obligations to be recorded and explained)

Section 220(7), definition *escorted day leave*, paragraph (b), 'a health service employee'—

omit, insert—

an employee of the service

19 Amendment of s 227 (Requirement to give notice—matters relating to advance health directive)

(1) Section 227, heading, after 'advance health directive'—

insert—

or enduring power of attorney

(2) Section 227(1)(b)(ii)—

omit, insert—

[s 20]

(ii) to the extent the directive or power of attorney appoints an attorney to exercise power for a personal matter—the attorney resigns.

(3) Section 227(2), after ‘The person’—

insert—

who made the directive or power of attorney

20 **Amendment of s 231 (Obligation to notify public guardian)**

(1) Section 231(1)(b)—

omit, insert—

(b) an inpatient mental health unit of an authorised mental health service, other than a child and adolescent unit.

(2) Section 231(4)—

omit, insert—

(4) In this section—

child and adolescent unit means an inpatient mental health unit of an authorised mental health service that provides treatment and care only to minors or young adults.

Example—

an inpatient mental health unit of an authorised mental health service that admits only minors, or patients between 16 and 21 years

inpatient mental health unit, of an authorised mental health service, means a part of the service to which patients are admitted for treatment and care and discharged on a day other than the day of admission.

21 Amendment of s 250 (Authorisation of use of mechanical restraint by authorised doctor)

Section 250(4)—

omit, insert—

- (4) However, an authorisation (the *proposed authorisation*) may not be given if the total period for which mechanical restraint has been used on the relevant patient under any previous authorisation, and may be used on the relevant patient under the proposed authorisation, is more than 9 hours in a 24-hour period.

22 Amendment of s 258 (Authorisation of seclusion by authorised doctor)

Section 258(4)—

omit, insert—

- (4) However, an authorisation (the *proposed authorisation*) may not be given if the total period for which the relevant patient has been kept in seclusion under any previous authorisation or under section 263, and may be kept in seclusion under the proposed authorisation, is more than 9 hours in a 24-hour period.

23 Amendment of s 259 (Extension of period of seclusion)

- (1) Section 259(2)(a)(i), ‘section 258(1)(a) to (d)’—

omit, insert—

section 258(1)(a) to (c)

- (2) Section 259(2)(b), ‘senior medical administrator’—

omit, insert—

clinical director

- (3) Section 259(4), ‘senior medical administrator’—

[s 24]

omit, insert—

authorised doctor

(4) Section 259(5)—

omit.

24 Amendment of s 278 (Giving statement of rights to patients and others)

Section 278, from ‘must’—

omit, insert—

must ensure—

- (a) the statement of rights is explained to the patient; and
- (b) a copy of the statement of rights is given to the patient, if requested; and
- (c) a copy of the statement of rights is given to the patient’s nominated support person, family, carers and other support persons, if requested.

25 Amendment of s 322 (Mandatory revocation)

Section 322(1)(c)(i), after ‘section 166(2)(b)’—

insert—

or 167A(2)(b)

26 Amendment of s 337 (Delegation)

Section 337(1), ‘health service employee’—

omit, insert—

employee

27 Amendment of s 355 (Transfer of person subject to interstate order from another State)

(1) Section 355(3), ‘admission to’—

omit, insert—

arrival at

(2) Section 355(4)—

omit, insert—

(4) The person may be detained for assessment in the AMHS for a period of not more than 6 hours starting when the person arrives at the AMHS.

28 Amendment of s 358 (Notice to tribunal)

Section 358—

insert—

(3) Subsection (2) does not apply if the person is subject only to a recommendation for assessment.

29 Amendment of s 359 (Who is an *authorised person*)

(1) Section 359(1)(c) and (d)—

omit, insert—

(c) a health practitioner;

(2) Section 359(1)(e)—

renumber as section 359(1)(d).

(3) Section 359(2), ‘or youth detention centre’—

omit, insert—

, a youth detention centre or a court

(4) Section 359(2)(a), after ‘facility’—

insert—

or court

[s 30]

- (5) Section 359(2)(b), after ‘centre’—
insert—
or court
- (6) Section 359(3), ‘a health service employee’—
omit, insert—
an employee

30 Amendment of s 360 (Transport within authorised mental health service)

- (1) Section 360, ‘an authorised doctor’—
omit, insert—
a health practitioner
- (2) Section 360, ‘or authorised doctor’—
omit, insert—
or health practitioner

31 Amendment of s 364 (Administrator or person in charge may require return of absent person)

- (1) Section 364, heading, ‘Administrator or person in charge’—
omit, insert—
Particular persons
- (2) Section 364(1), from ‘The’ to ‘may’—
omit, insert—
A responsible person may
- (3) Section 364(2)(e), (3) and (4), ‘administrator or person in charge’—
omit, insert—
responsible person
- (4) Section 364—

insert—

- (5) The person in charge of a public sector health service facility may delegate a function under this section to an appropriately qualified health service employee.
- (6) In this section—

function includes a power.

responsible person means—

 - (a) the administrator of an authorised mental health service; or
 - (b) the person in charge of a public sector health service facility; or
 - (c) an authorised doctor; or
 - (d) an authorised mental health practitioner.

32 Amendment of s 366 (Authorised person may transport absent person)

- (1) Section 366(1), ‘section 364(1)’—

omit, insert—

section 364(1)(a)

- (2) Section 366(3) and (4)—

omit, insert—

- (3) Subsection (4) applies if an authorised person mentioned in section 364(1)(a) asks a police officer, under the *Police Powers and Responsibilities Act 2000*, section 16, to help transport the named person.

Note—

Under section 359(4), an authorised person, other than a police officer, is a public official for the *Police Powers and Responsibilities Act 2000*. Under section 16 of that Act, a public official may ask a police officer to help the public official perform the public official’s functions.

[s 33]

- (4) The request must—
- (a) be in the approved form; and
 - (b) state the name of the person to be transported; and
 - (c) state the name of the authorised mental health service or public sector health service facility to which the person is to be transported; and
 - (d) identify the risk the person presents to himself or herself, the authorised person or police officer, and others; and
 - (e) state the reasons why the authorised person considers it necessary to ask the police officer to help transport the person.

33 Amendment of s 367 (Effect on assessment period)

Section 367(b) and (c)—

omit, insert—

- (b) despite section 45, the assessment period for the person starts when the person arrives at the service or facility to which the person has been transported; and
- (c) an employee of the service or facility to which the person has been transported must note on the recommendation for assessment when the assessment period starts under paragraph (b).

34 Amendment of s 369 (Transport of person in Queensland to interstate mental health service)

Section 369(1)(a), ‘an authorised mental health service or’—

omit, insert—

a

35 Amendment of s 384 (Definitions for pt 7)

Section 384, definition *authorised security officer*, ‘health service employee’—

omit, insert—

employee

36 Amendment of s 420 (Administrator to provide report)

Section 420—

insert—

(2) In this section—

health matter see the *Guardianship and Administration Act 2000*, schedule 2, section 4.

personal guardian, of a person, means a guardian for a health matter appointed by QCAT for the person under the *Guardianship and Administration Act 2000*.

37 Amendment of s 451 (Making of treatment authority or no further order)

(1) Section 451—

insert—

(8A) Despite subsection (8) and section 413(1), the tribunal must review the treatment authority—

(a) within 6 months after the authority is made; and

(b) within 6 months after the review under paragraph (a) is completed; and

(c) at intervals of not more than 12 months after the review under paragraph (b) is completed.

(2) Section 451(8A) to (10)—

[s 38]

renumber as section 451(9) to (11).

38 Amendment of s 483 (Making of treatment authority or no further order)

(1) Section 483—

insert—

(7A) Despite subsection (7) and section 413(1), the tribunal must review the treatment authority—

- (a) within 6 months after the authority is made; and
- (b) within 6 months after the review under paragraph (a) is completed; and
- (c) at intervals of not more than 12 months after the review under paragraph (b) is completed.

(2) Section 483(7A) to (9)—

renumber as section 483(8) to (10).

39 Amendment of s 502 (Application for examination authority)

Section 502(3), definition *clinical matters*, paragraph (d), from ‘seek’—

omit, insert—

have a voluntary examination relating to the person’s mental illness.

40 Amendment of s 504 (Decision on application)

Section 504(2)(c)(i) and (ii), ‘be treated voluntarily for the person’s mental illness’—

omit, insert—

have a voluntary examination relating to the

person's mental illness

41 Amendment of s 522 (Who may apply)

Section 522(2)(b)—

omit, insert—

(b) a person charged with an offence if—

- (i) a finding of unfitness has been made in relation to the person; and
- (ii) the person has not been found fit for trial; and
- (iii) the proceeding against the person for the offence has not been discontinued under this Act or otherwise.

42 Insertion of new s 534A

After section 534—

insert—

534A Frivolous or vexatious appeal

- (1) The tribunal may dismiss the appeal if the tribunal is satisfied the appeal is frivolous or vexatious.
- (2) The tribunal may dismiss an appeal under this section without a hearing.

43 Amendment of s 618 (Ending of suspension)

(1) Section 618(2)—

insert—

- (ab) if the chief psychiatrist has given a direction under section 91 or 93 for a psychiatrist report to be prepared about the person in relation to a charge of a serious offence or

[s 44]

associated offence—the direction has been revoked;

- (2) Section 618(2)(ab) to (c)—
renumber as section 618(2)(b) to (d).

44 Amendment of s 630 (Detention of person in public sector health service facility with use of reasonable force)

Section 630(1), ‘, other than an authorised mental health service’—

omit.

45 Amendment of s 730 (Adjournment of hearing)

Section 730(2)(a)—

omit, insert—

- (a) the tribunal may adjourn the hearing of the scheduled review; and

46 Amendment of s 731 (Hearing of scheduled review to be conducted on relevant person’s return)

Section 731(2), ‘The’—

omit, insert—

If the tribunal has adjourned the hearing of the scheduled review under section 730, the

47 Amendment of s 736 (Right to appear)

Section 736—

insert—

- (4) Subsection (3)(a) does not apply in relation to an application for an examination authority made under section 502 by an administrator of an

authorised mental health service or a person authorised in writing by an administrator of an authorised mental health service.

48 Amendment of s 756 (Written reasons for decision)

Section 756—

insert—

- (4) Also, if the request is for written reasons for a decision in relation to an application for an examination authority by a person mentioned in section 502(1)(c), the written reasons must not disclose—
- (a) the contact details of the person the subject of the application; or
 - (b) information about the health or health care of the person the subject of the application.

49 Amendment of s 796 (Disclosure by QCAT of information about personal guardian)

- (1) Section 796, heading, after ‘personal guardian’—

insert—

or administrator

- (2) Section 796(2), ‘registrar’—

omit, insert—

executive officer

- (3) Section 796(2)(a), after ‘personal guardian’—

insert—

, or an administrator for a financial matter,

- (4) Section 796(2)(b)—

omit, insert—

[s 50]

(b) if a personal guardian, or an administrator for a financial matter, has been appointed—the name and contact details of the personal guardian or administrator.

(5) Section 796—

insert—

(4) In this section—

administrator for a financial matter, of a person, means an administrator for a financial matter appointed by QCAT for the person under the *Guardianship and Administration Act 2000*.

50 Amendment of s 798 (Approved forms)

(1) Section 798—

insert—

(2A) The rules committee may approve, for this Act, forms for use by or in the Supreme Court, the District Court or the Magistrates Courts.

(2) Section 798(3), ‘subsection (1) or (2)’—

omit, insert—

subsection (1), (2) or (3)

(3) Section 798—

insert—

(4) In this section—

rules committee see the *Supreme Court of Queensland Act 1991*, section 89.

(4) Section 798(2A) to (4)—

renumber as section 798(3) to (5).

50A Insertion of new ch 18A

After chapter 18—

insert—

**Chapter 18A Validation of
appointment to
tribunal and related
provisions**

Part 1 Preliminary

800A Definitions for chapter

In this chapter—

relevant decision see section 800D(1).

repealed Act means the repealed *Mental Health Act 2000*.

special tribunal see section 800C(1).

Part 2 Validation

**800B Validation provision for purported
appointment of ineligible person**

- (1) This section applies in relation to the person—
- (a) who was purportedly appointed as a member of the tribunal under the repealed Act on 28 February 2002 on the basis that the person was eligible for appointment because the person was a lawyer of at least 5 years standing under the repealed Act, section 440(4)(a); and

[s 50A]

- (b) whose purported appointment was continued on that basis even though the person was not eligible for appointment under the repealed Act, section 440(4)(a) during the relevant period.
- (2) For the repealed Act, the person is taken—
 - (a) to have been eligible for appointment under the repealed Act, section 440(4)(a) during the relevant period; and
 - (b) to have been validly appointed on that basis as a member of the tribunal for the relevant period.
- (3) Anything done or omitted to be done during the relevant period that would have been valid and lawful under the repealed Act had the person been validly appointed as a member is taken to be, and always to have been, valid and lawful.
- (4) In this section—

relevant period means the period starting on 28 February 2002 and ending on 31 August 2016.

Part 3 Referral of particular decisions to special tribunal

800C Special tribunal

- (1) The *special tribunal* is the tribunal constituted under subsection (2) for hearing a referral by the chief executive under section 800E.
- (2) The special tribunal must be constituted by at least 3, but not more than 5, members of whom—
 - (a) at least 1 must be a lawyer; and

- (b) at least 1 must be a psychiatrist or, if a psychiatrist is not readily available but another doctor is available, another doctor; and
- (c) at least 1 person must be a person who is not a lawyer or doctor.

800D Request to refer relevant decision to the special tribunal

- (1) This section applies in relation to a decision (a *relevant decision*) made by the tribunal under the repealed Act as constituted by—
 - (a) the person mentioned in section 800B(1); or
 - (b) members who included the person mentioned in section 800B(1).
- (2) The following persons may ask the chief executive to refer a relevant decision to the special tribunal for a decision under section 800F—
 - (a) the person who is or was the subject of the decision, or an interested person for the person;
 - (b) if the relevant decision was made under the repealed Act, section 318R in a proceeding for a forensic information order—the applicant in the proceeding.
- (3) The request must be made to the chief executive within 6 months after the commencement.

800E When chief executive may refer relevant decision

The chief executive may refer a relevant decision to the special tribunal only if the chief executive considers the decision is likely to have been

[s 50A]

affected in a material way because, when the decision was made, the tribunal was constituted in a way mentioned in section 800D(1).

800F Decision by special tribunal on referral

- (1) This section applies if, on considering a referral of a relevant decision, the special tribunal is satisfied the relevant decision is likely to have been affected in a material way because, when the decision was made, the tribunal was constituted in a way mentioned in section 800D(1).
- (2) The special tribunal may—
 - (a) if the relevant decision is still in force—refer the matter to the tribunal for a new decision under section 800G; and
 - (b) make any other recommendation to the chief executive about the relevant decision the tribunal considers appropriate.
- (3) However, if an appeal is or has been made against the relevant decision, the special tribunal must not make a decision under subsection (2) until the appeal is decided or withdrawn.

Part 4 Decisions by tribunal

800G Decision by tribunal on referral

- (1) If the special tribunal refers the matter to the tribunal for a new decision, the tribunal must—
 - (a) hear and decide the matters the subject of the proceeding in which the relevant decision was made, by way of a fresh hearing on the merits; and

- (b) set aside the relevant decision and substitute a new decision.
- (2) The repealed Act applies in relation to a proceeding under this section as if it had not been repealed.
- (3) For this Act and the repealed Act, the new decision substituted under subsection (1)(b)—
 - (a) is the tribunal's final decision in the proceeding; and
 - (b) for chapter 20, part 7—is taken to have been made on the same day as the relevant decision.
- (4) To remove any doubt, it is declared that—
 - (a) the new decision by the tribunal may be consistent with the relevant decision; and
 - (b) the repealed Act, chapter 8 applies in relation to the new decision.

51 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *public sector health service facility*—
omit.
- (2) Schedule 3—
insert—

employee, of an authorised mental health service that is a public sector mental health service, means a health service employee in the service.

public sector health service facility—

- (a) means a public sector health service facility under the *Hospital and Health Boards Act 2011*, schedule 2; and
- (b) does not include an authorised mental health service.

[s 52]

relevant decision, for chapter 18A, see section 800D(1).

repealed Act, for chapter 18A, see section 800A.

special tribunal, for chapter 18A, see section 800C(1).

- (3) Schedule 3, definition *patient required to return*, paragraph (a)—

omit, insert—

- (a) in relation to whom a responsible person has given an authorisation or made a request under section 364; and

Part 3 Provisions amending Public Health Act 2005

Editor's note—

Legislation ultimately amended in this part—

- *Public Health Act 2005*

52 Amendment of s 921 (Insertion of new ch 4A)

- (1) Section 921, inserted section 157A, definitions *administrator*, *authorised mental health practitioner* and *authorised mental health service—*

omit.

- (2) Section 921, inserted section 157A, definition *authorised person*, paragraph (b), 'or the administrator of an authorised mental health service'—

omit.

- (3) Section 921, inserted section 157A, definition *authorised person—*

insert—

-
- (ba) an ambulance officer; or
- (4) Section 921, inserted section 157A, definition *authorised person*, paragraphs (ba) and (c)—
renumber as paragraphs (c) and (d).
- (5) Section 921, inserted section 157A, definition *security officer*, ‘or an authorised mental health service’—
omit.
- (6) Section 921, inserted section 157A, definition *treatment or care place*, ‘, authorised mental health service’—
omit.
- (7) Section 921, inserted section 157B(5), ‘or authorised mental health service’—
omit.
- (8) Section 921, inserted section 157B(5), note, ‘or authorised mental health service’—
omit.
- (9) Section 921, inserted section 157D(1), ‘or an authorised mental health service’—
omit.
- (10) Section 921, inserted section 157E(1), ‘or an authorised mental health service’—
omit.
- (11) Section 921, inserted section 157E(1), ‘is made’—
omit, insert—
is given to the health service employee under section 157D(4)
- (12) Section 921, inserted section 157F(4)—
insert—
authorised mental health practitioner see the *Mental Health Act 2016*, schedule 3.

[s 52]

- (13) Section 921, inserted section 157G, ‘or authorised mental health service’—

omit.

- (14) Section 921, inserted section 157H, heading, ‘Administrator or person in charge’—

omit, insert—

Person in charge of facility

- (15) Section 921, inserted section 157H(1), ‘or the administrator of an authorised mental health service’—

omit.

- (16) Section 921, inserted section 157H(1)(a) and (b), ‘or an authorised mental health service’—

omit.

- (17) Section 921, inserted section 157H(2)(c), ‘or authorised mental health service’—

omit.

- (18) Section 921, inserted section 157H(2)(e), ‘or administrator’—

omit.

- (19) Section 921, inserted section 157H(3), ‘or administrator’—

omit.

- (20) Section 921, inserted section 157H(3), ‘or authorised mental health service’—

omit.

- (21) Section 921, inserted section 157H(4), ‘or administrator’—

omit.

- (22) Section 921, after inserted section 157H(4)—

insert—

- (5) The person in charge of a public sector health service facility may delegate a function or power of the person in charge under this section to an

appropriately qualified health service employee.

- (6) For performing a function or exercising a power under this section in relation to a person, an authorised person, other than a police officer, is a public official for the *Police Powers and Responsibilities Act 2000*.
- (23) Section 921, inserted section 157J(2), ‘or authorised mental health service’—
omit.
- (24) Section 921, inserted section 157J(3) and (4)—
omit, insert—
- (3) Subsection (4) applies if an authorised person mentioned in section 157H(1)(a) asks a police officer, under the *Police Powers and Responsibilities Act 2000*, section 16, to help transport the named person.

Note—

Under section 157H(6), an authorised person, other than a police officer, is a public official for the *Police Powers and Responsibilities Act 2000*. Under section 16 of that Act, a public official may ask a police officer to help the public official perform the public official’s functions.

- (4) The request must—
- (a) be in the approved form; and
 - (b) state the name of the person to be transported; and
 - (c) state the name of the public sector health service facility to which the person is to be transported; and
 - (d) identify the risk the person presents to himself or herself, the authorised person or police officer, and others; and

[s 52]

- (e) state the reasons why the authorised person considers it necessary to ask the police officer to help transport the person.
- (25) Section 921, inserted section 157J(5)(a), ‘or authorised mental health service’—
omit.
- (26) Section 921, inserted section 157M(1)(a) and (b), ‘or an authorised mental health service’—
omit.
- (27) Section 921, inserted section 157M(1)(b), ‘authorised mental health practitioner’—
omit, insert—
health practitioner
- (28) Section 921, inserted section 157N(1), ‘or an authorised mental health service’—
omit.
- (29) Section 921, inserted section 157N(2)—
omit, insert—
(2) The person in charge of the public sector health service facility, and anyone lawfully helping the person in charge, may exercise the power to detain the person in the facility with the help, and using the force, that is necessary and reasonable in the circumstances.
- (30) Section 921, inserted section 157P(1)(a), ‘or an authorised mental health service’—
omit.
- (31) Section 921, inserted section 157P(2) and (3)—
omit, insert—
(2) The person in charge of the public sector health service facility must take reasonable steps to ensure the person is returned to a place reasonably

requested by the person.

- (32) Section 921, inserted section 157Q(1), ‘or authorised mental health service’—

omit.

- (33) Section 921, inserted section 157R(1), ‘or authorised mental health service’—

omit.

- (34) Section 921, inserted section 157R(2)(d), ‘or stated authorised mental health service’—

omit.

- (35) Section 921, inserted section 157W, ‘or authorised mental health service’—

omit.

- (36) Section 921, inserted section 157X, definition *harmful thing*, ‘or authorised mental health service’—

omit.

- (37) Section 921, inserted section 157Y(2)(b), ‘, or the administrator of the authorised mental health service,’—

omit.

- (38) Section 921, inserted section 157Y(3)—

omit, insert—

- (3) The person in charge of the public sector health service facility may give approval under subsection (2)(b) if the person in charge believes that a search requiring the removal of clothing is necessary in the circumstances.

- (39) Section 921, inserted section 157ZD(5)(a), ‘or authorised mental health service’—

omit.

- (40) Section 921, inserted section 157ZD(5)(d), ‘or the administrator of the authorised mental health service,’—

[s 53]

omit.

53 Amendment of s 922 (Amendment of sch 2 (Dictionary))

Section 922(2), to the extent it inserts the definitions *administrator*, *authorised mental health practitioner* and *authorised mental health service*—

omit.

Part 4 Provisions amending Coroners Act 2003

Editor's note—

Legislation ultimately amended in this part—

- *Coroners Act 2003*

54 Amendment of sch 4 (Minor or consequential amendments of particular legislation)

Schedule 4, entry for *Coroners Act 2003*, amendment 3, inserted section 9(1)(b)(ii), 'or authorised mental health service'—

omit.

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