

TASMANIA

MENTAL HEALTH AMENDMENT BILL 2022

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Consultation draft

MENTAL HEALTH AMENDMENT BILL 2022

*(Brought in by the Minister for Mental Health and Wellbeing,
the Honourable Jeremy Page Rockliff)*

A BILL FOR

An Act to amend the *Mental Health Act 2013* and to consequentially amend the *Corrections Act 1997*, the *Criminal Code Act 1924*, the *Criminal Justice (Mental Impairment) Act 1999*, the *Dangerous Criminals and High Risk Offenders Act 2021*, the *Disability Services Act 2011*, the *End-of-life Choices (Voluntary Assisted Dying) Act 2021*, the *Justices Act 1959*, the *Magistrates Court (Criminal and General Division) Act 2019*, the *Sentencing Act 1997* and the *Youth Justice Act 1997*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Mental Health Amendment Act 2022*.

2. Commencement

This Act commences on a day or days to be proclaimed.

Mental Health Amendment Act 2022
Act No. of 2022

s. 3

Part 2 – Corrections Act 1997 Amended

PART 2 – CORRECTIONS ACT 1997 AMENDED

3. Principal Act

In this Part, the *Corrections Act 1997** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting the definition of *Chief Forensic Psychiatrist* and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

5. Section 36A amended (Removal of prisoners and detainees to secure mental health units)

Section 36A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(b) “Forensic”;
- (b) by omitting from subsection (3)(c) “Forensic”;
- (c) by omitting from subsection (4) “Forensic” three times occurring;

*No. 51 of 1997

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Part 2 – Corrections Act 1997 Amended

s. 6

- (d) by omitting from subsection (7)
“Forensic” twice occurring.

6. Section 36B amended (Appeal against direction under section 36A)

Section 36B(1)(b) of the Principal Act is amended by omitting “Forensic”.

7. Section 72 amended (Release on parole)

Section 72(4)(j) of the Principal Act is amended by omitting “Forensic”.

8. Section 87C amended (Disclosure of critical health information by health officials)

Section 87C(1) of the Principal Act is amended by omitting “Forensic” from paragraph (a) of the definition of *health official*.

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s. 9

Part 3 – Criminal Code Act 1924 Amended

PART 3 – CRIMINAL CODE ACT 1924 AMENDED

9. Principal Act

In this Part, the *Criminal Code Act 1924** is referred to as the Principal Act.

10. Section 348 amended (On adjournment of trial accused may be remanded, &c.)

Section 348 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Chief Forensic Psychiatrist* from subsection (1) and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

- (b) by omitting from subsection (3)(d) “Forensic”;
- (c) by omitting from subsection (4)(c) “Forensic”;
- (d) by omitting from subsection (5) “Forensic” twice occurring;
- (e) by omitting from subsection (10) “Forensic”;
- (f) by omitting from subsection (12) “Forensic”;

*No. 69 of 1924

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Part 3 – Criminal Code Act 1924 Amended

s. 10

-
- (g) by omitting from subsection (13)
“Forensic”;
 - (h) by omitting from subsection (14)
“Forensic”;
 - (i) by omitting from subsection (15)
“Forensic” first occurring;
 - (j) by omitting from subsection (15)(b)
“Forensic” twice occurring.

Consultation draft

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Act No. of 2022

s. 11

Part 4 – Criminal Justice (Mental Impairment) Act 1999 Amended

**PART 4 – CRIMINAL JUSTICE (MENTAL
IMPAIRMENT) ACT 1999 AMENDED**

11. Principal Act

In this Part, the *Criminal Justice (Mental Impairment) Act 1999** is referred to as the Principal Act.

12. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “Forensic” from the definition of *authorised person*;
- (b) by omitting the definitions of *Chief Forensic Psychiatrist* and *Chief Civil Psychiatrist* and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

13. Section 21A amended (Breach of conditions on release)

Section 21A(2)(e) of the Principal Act is amended by omitting “Forensic”.

*No. 21 of 1999

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Part 4 – Criminal Justice (Mental Impairment) Act 1999 Amended

s. 14

14. Section 26 amended (Discharge of restriction orders)

Section 26 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Forensic”;
- (b) by omitting from subsection (3)(g) “Forensic”.

15. Section 29 amended (Subsequent fitness for trial of person subject to treatment order or forensic order)

Section 29 of the Principal Act is amended as follows:

- (a) by omitting subsections (1) and (2) and substituting the following subsection:

(1) If –

- (a) a defendant has been found unfit to stand trial and a court has made an order under section 18(2) in respect of the defendant; and
- (b) the Chief Psychiatrist is satisfied that the defendant has become fit to stand trial –

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Part 4 – Criminal Justice (Mental Impairment) Act 1999 Amended

the Chief Psychiatrist must
inform the Attorney-General, in
writing, of that fact.

- (b) by omitting from subsection (3)
“subsection (1) or (2)” and substituting
“subsection (1)”;
- (c) by omitting subparagraphs (iii) and (iv)
from subsection (3A)(b) and substituting
the following subparagraph:
 - (iii) the Chief Psychiatrist.

16. Section 29A amended (Supervision orders)

Section 29A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)
“Forensic”;
- (b) by omitting from subsection (2)(a)
“Forensic”;
- (c) by omitting from subsection (2)(b)
“Forensic”;
- (d) by omitting from subsection (3)
“Forensic”.

17. Section 30 amended (Variation or revocation of supervision order)

Section 30 of the Principal Act is amended as follows:

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Act No. of 2022

Part 4 – Criminal Justice (Mental Impairment) Act 1999 Amended

s. 18

- (a) by omitting from subsection (1) “Forensic”;
- (b) by omitting from subsection (4) “Forensic”;
- (c) by omitting from subsection (5) “Forensic”;
- (d) by omitting from subsection (6) “Forensic”;
- (e) by omitting from subsection (7)(g) “Forensic”.

18. Section 31 amended (Apprehension of defendant under supervision order)

Section 31 of the Principal Act is amended as follows:

- (a) by omitting “Forensic” from paragraph (a) of the definition of *prescribed person* in subsection (1);
- (b) by omitting “Forensic” from paragraph (c) of the definition of *prescribed person* in subsection (1);
- (c) by omitting from subsection (3)(a) “Forensic”;
- (d) by omitting from subsection (6)(b) “Forensic”.

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s. 19

Part 4 – Criminal Justice (Mental Impairment) Act 1999 Amended

19. Section 35 amended (Matters to which courts are to have regard)

Section 35 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “Forensic” twice occurring;
- (b) by omitting “Forensic” from paragraph (b) of the definition of *medical practitioner* in subsection (4).

20. Section 39 amended (Power of court to deal with defendant before proceedings completed)

Section 39(1A)(c) of the Principal Act is amended by omitting “Forensic”.

21. Section 39A amended (Limitation on making certain orders in respect of youth)

Section 39A of the Principal Act is amended by omitting “Forensic”.

22. Section 39B amended (Report of Chief Psychiatrist)

Section 39B of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “Forensic” twice occurring;
- (b) by omitting from subsection (3) “Forensic”;

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Part 4 – Criminal Justice (Mental Impairment) Act 1999 Amended

s. 23

- (c) by omitting from subsection (4) “Forensic”;
- (d) by omitting from subsection (5) “Forensic” first occurring;
- (e) by omitting from subsection (5)(b) “Forensic” twice occurring.

23. Section 39C amended (Custody on making of order committing defendant to secure mental health unit)

Section 39C(3) of the Principal Act is amended by omitting “Forensic”.

24. Section 41A amended (Authorisation of persons)

Section 41A of the Principal Act is amended by omitting “Forensic”.

25. Section 42A amended (Provision of reports to certain persons)

Section 42A(2) of the Principal Act is amended by omitting paragraphs (b) and (ba) and substituting the following paragraph:

- (b) the Chief Psychiatrist;

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Act No. of 2022

s. 26 Part 5 – Dangerous Criminals and High Risk Offenders Act 2021 Amended

**PART 5 – DANGEROUS CRIMINALS AND HIGH RISK
OFFENDERS ACT 2021 AMENDED**

26. Principal Act

In this Part, the *Dangerous Criminals and High Risk Offenders Act 2021** is referred to as the Principal Act.

27. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting the definition of *Chief Forensic Psychiatrist* and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

28. Section 5 amended (Reports and examination of offender to whom application under section 4(1) relates)

Section 5(1)(b) of the Principal Act is amended by omitting “Forensic”.

29. Section 11 amended (Reports and examination of offender to whom review application relates)

Section 11(1)(b) of the Principal Act is amended by omitting “Forensic”.

*No. 2 of 2021

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Part 5 – Dangerous Criminals and High Risk Offenders Act 2021 Amended

s. 30

30. Section 26 amended (High risk offenders assessment committee)

Section 26(2)(g) of the Principal Act is amended by omitting “Forensic” twice occurring.

31. Section 34 amended (Hearing of application)

Section 34(2) of the Principal Act is amended by omitting “Forensic”.

Consultation draft

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s. 32

Part 6 – Disability Services Act 2011 Amended

**PART 6 – DISABILITY SERVICES ACT 2011
AMENDED**

32. Principal Act

In this Part, the *Disability Services Act 2011** is referred to as the Principal Act.

33. Section 36 amended (Use of unauthorised restrictive intervention prohibited)

Section 36(3) of the Principal Act is amended as follows:

- (a) by omitting “Chief Forensic Psychiatrist, or the Chief Civil Psychiatrist” and substituting “Chief Psychiatrist”;
- (b) by omitting from paragraph (a) “Chief Forensic Psychiatrist or the Chief Civil Psychiatrist” twice occurring and substituting “Chief Psychiatrist”;
- (c) by omitting from paragraph (b) “Chief Forensic Psychiatrist, the Chief Civil Psychiatrist” and substituting “Chief Psychiatrist”.

34. Section 50 amended (Sharing of information)

Section 50(1) of the Principal Act is amended by omitting paragraph (h) from the definition of *information-sharing entity* and substituting:

*No. 27 of 2011

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Part 6 – Disability Services Act 2011 Amended

s. 34

(h) the Chief Psychiatrist; or

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s. 35 Part 7 – End-of-Life Choices (Voluntary Assisted Dying) Act 2021
Amended

**PART 7 – END-OF-LIFE CHOICES (VOLUNTARY
ASSISTED DYING) ACT 2021 AMENDED**

35. Principal Act

In this Part, the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021** is referred to as the Principal Act.

36. Section 117 amended (Commission to approve voluntary assisted dying training courses)

Section 117(3)(d) of the Principal Act is amended by omitting “Civil”.

*No. 1 of 2021

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Part 8 – Justices Act 1959 Amended

s. 37

PART 8 – JUSTICES ACT 1959 AMENDED

37. Principal Act

In this Part, the *Justices Act 1959** is referred to as the Principal Act.

38. Section 47 amended (Place of committal when defendant on remand)

Section 47 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Chief Forensic Psychiatrist* from subsection (1) and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

- (b) by omitting from subsection (2)(d) “Forensic”;
- (c) by omitting from subsection (4) “Forensic”;
- (d) by omitting from subsection (6)(c) “Forensic”;
- (e) by omitting from subsection (7) “Forensic” twice occurring;
- (f) by omitting from subsection (11) “Forensic”;

*No. 77 of 1959

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s. 38

Part 8 – Justices Act 1959 Amended

- (g) by omitting from subsection (12) “Forensic”;
- (h) by omitting from subsection (13) “Forensic”;
- (i) by omitting from subsection (14) “Forensic” first occurring;
- (j) by omitting from subsection (14)(b) “Forensic” twice occurring.

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Part 9 – Magistrates Court (Criminal and General Division) Act 2019
Amended

s. 39

**PART 9 – MAGISTRATES COURT (CRIMINAL AND
GENERAL DIVISION) ACT 2019 AMENDED**

39. Principal Act

In this Part, the *Magistrates Court (Criminal and General Division) Act 2019** is referred to as the Principal Act.

40. Section 34 amended (Committing defendant on remand to secure mental health unit)

Section 34 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Chief Forensic Psychiatrist* from subsection (1) and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

- (b) by omitting from subsection (2)(d) “Forensic”;
- (c) by omitting from subsection (4) “Forensic”;
- (d) by omitting from subsection (6) “Forensic”;
- (e) by omitting from subsection (7) “Forensic”;

*No. 43 of 2019

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Part 9 – Magistrates Court (Criminal and General Division) Act 2019
Amended

- (f) by omitting from subsection (8) “Forensic”;
- (g) by omitting from subsection (9) “Forensic” first occurring;
- (h) by omitting from subsection (9)(b)(i) “Forensic”;
- (i) by omitting from subsection (9)(b)(ii) “Forensic”.

41. Section 35 amended (Variation or revocation of order committing defendant to secure mental health unit)

Section 35 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Chief Forensic Psychiatrist* from subsection (1) and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

- (b) by omitting from subsection (2)(c) “Forensic”;
- (c) by omitting from subsection (3) “Forensic” twice occurring.

PART 10 – MENTAL HEALTH ACT 2013 AMENDED

42. Principal Act

In this Part, the *Mental Health Act 2013** is referred to as the Principal Act.

43. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Aborigine* from subsection (1) and substituting the following definition:

Aboriginal person has the same meaning as in the *Aboriginal Lands Act 1995*;

- (b) by omitting the definition of *approved form* from subsection (1) and substituting the following definition:

approved form means a form approved by the Chief Psychiatrist;

- (c) by omitting the definitions of *CCP* and *CFP* from subsection (1);

- (d) by omitting the definitions of *Chief Civil Psychiatrist*, *Chief Forensic Psychiatrist* and *Chief Psychiatrist* from subsection

*No. 2 of 2013

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Act No. of 2022

s. 43

Part 10 – Mental Health Act 2013 Amended

(1) and substituting the following definition:

Chief Psychiatrist means the person for the time being holding or acting in the office referred to in section 143;

(e) by omitting the definition of *parent* from subsection (1) and substituting the following definition:

parent, of a child, includes –

(a) a person who –

(i) in respect of the child, has all of the duties, powers, responsibilities and authority which, by law, parents have in relation to their children; or

(ii) is the legal guardian of the child; or

(iii) has the legal custody of the child; and

(b) if there is no person who falls within paragraph (a)

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Part 10 – Mental Health Act 2013 Amended

s. 43

in respect of the child, a
person who –

- (i) generally acts as a
parent of the child;
and
 - (ii) has acted as a
parent of the child
for a significant
length of time; and
 - (iii) is recognised by
the child as a
parental figure for
the child;
- (f) by omitting “Aborigine” from paragraph
(e) of the definition of *personal reasons*
in subsection (1) and substituting
“Aboriginal person”;
- (g) by omitting “Aborigines” from paragraph
(e) of the definition of *personal reasons*
in subsection (1) and substituting
“Aboriginal persons”;
- (h) by omitting the definition of *protective
custody* from subsection (1);
- (i) by omitting the definition of *relevant
Chief Psychiatrist* from subsection (1);
- (j) by omitting the definition of *State
Servant* from subsection (1);

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- (k) by inserting the following definition after the definition of *support person* in subsection (1):

temporary detention, for the purposes of assessment – see Part 2 of chapter 2;

- (l) by omitting subsection (2).

44. Section 4 amended (Meaning of *mental illness*)

Section 4(2) of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

- (d) current or past expression of, or failure or refusal to express, a particular –
 - (i) sexual preference or orientation; or
 - (ii) gender identity or expression; or

45. Section 6 amended (Meaning of *treatment*)

Section 6(1)(d) of the Principal Act is amended by omitting “monitor or evaluate” and substituting “assess”.

46. Section 8 amended (Meaning of *informed consent to assessment or treatment*)

Section 8 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “assessment or a treatment” and substituting “assessment, treatment or special psychiatric treatment”;
- (b) by omitting from subsection (2) “treatment” first occurring and substituting “treatment or special psychiatric treatment”;
- (c) by omitting from subsection (2)(a) “treatment” and substituting “treatment or special psychiatric treatment”;
- (d) by omitting from subsection (2)(b) “treatment” and substituting “treatment or special psychiatric treatment”;
- (e) by omitting from subsection (2)(c)(i) “treatment” and substituting “treatment or special psychiatric treatment”;
- (f) by omitting from subsection (2)(c)(iv) “treatment” and substituting “treatment or special psychiatric treatment”;
- (g) by omitting from subsection (5) “assessment or a treatment” and substituting “assessment, treatment or special psychiatric treatment”;
- (h) by omitting from subsection (5) “assessment or treatment” twice occurring and substituting “assessment, treatment or special psychiatric treatment”.

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47. Section 9 amended (Informed consent for child who lacks capacity to decide on own assessment or treatment)

Section 9 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “assessment or treatment” and substituting “assessment, treatment or special psychiatric treatment”;
- (b) by omitting subsections (3) and (4) and substituting the following subsections:
 - (3) Informed consent for the assessment or treatment of a child who lacks decision-making capacity –
 - (a) may be withdrawn, at any time, by –
 - (i) the parent who gave the informed consent; or
 - (ii) if the parent who gave the informed consent is unable to withdraw the consent or has ceased to be a parent of the child, another parent of the child; and

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- (b) if practicable to do so, is to be withdrawn, in accordance with paragraph (a), before the assessment, treatment or special psychiatric treatment is made or provided.
- (4) Nothing in this Act is to be taken to prevent the withdrawal, under subsection (3), of consent to an assessment or a treatment before the assessment or treatment is made or provided.
- (5) For the avoidance of doubt, if a parent of a child withdraws consent, under subsection (3), to an assessment, treatment or special psychiatric treatment of the child –
- (a) informed consent is not to be taken to have been given to the assessment or treatment of the child if the consent is withdrawn before the assessment or treatment is made, or provided, to the child; and
- (b) if the informed consent is withdrawn during an assessment, treatment or special psychiatric

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treatment, the assessment or treatment is to be stopped as soon as it is medically safe to do so; and

- (c) nothing in this Act prevents another parent of the child from providing informed consent, in accordance with this Act, for the same assessment, treatment or special psychiatric treatment of the child.

48. Chapter 2, Part 1: Heading amended

Part 1 of Chapter 2 of the Principal Act is amended by omitting “**PRINCIPLES AND POLICIES**” from the heading to that Part and substituting “**RIGHTS AND POLICIES**”.

49. Section 15 substituted

Section 15 of the Principal Act is repealed and the following sections are substituted:

15. Mental health service delivery principles

- (1) All persons exercising responsibilities under this Act, including but not limited to the performance of functions and the exercise of powers, must have regard to the mental health service delivery

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principles set out in Schedule 1 when exercising those responsibilities.

(2) Despite subsection (1), a person exercising responsibilities under this Act –

- (a) is not required to make a distinct note, or a formal or informal record, of the mental health service delivery principles taken into account when exercising the responsibilities; and
- (b) may place one mental health service delivery principle above another when exercising the responsibilities, if the person considers it reasonable to do so in the circumstances.

15A. Rights of patients

(1) Each person receiving an assessment or treatment under this Act have the following rights:

- (a) the right to receive the assessment, or treatment, under this Act in accordance with the mental health service delivery principles;
- (b) the right to have any restriction on, or interference with, the person's dignity, rights and freedoms to be limited as much as

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possible when taking into account the person's health and safety and the safety of others;

(c) the right to promote, and make prominent, the person's decision-making capacity, and to respect the person's wishes, to the maximum extent possible when taking into account the person's health and safety and the safety of others;

(d) the right to be given clear, accurate and timely information about –

(i) the person's rights as a patient; and

(ii) the person's diagnosis and treatment.

(2) In addition to the rights under subsection (1), a person who is a forensic patient, or involuntary patient, also has the following rights while admitted to an approved facility:

(a) the right to be detained in a manner that is appropriate in respect of the patient's assessment, treatment or care requirements;

(b) the right to be given clear and timely information about the

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rules, and conditions, governing the patient's conduct in the relevant approved facility, including any relevant context in respect of a change in those rules or conditions while the patient is at the relevant approved facility;

- (c) the right to have access to current information about local, national and world events;
- (d) the right to ask for a leave of absence from the relevant approved facility;
- (e) the right to seek legal advice and have contact with, including the right to correspond privately with, Official Visitors and the patient's representatives and support persons;
- (f) the right to be provided with general health care;
- (g) the right not to be unreasonably deprived of any necessary physical or communication aids;
- (h) the right –
 - (i) to wear suitable clothing of the patient's own, if appropriate in the relevant approved facility; or

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- (ii) to be provided with basic clean clothing that is appropriate to the climate and the patient's size;
- (i) the right to be provided with –
 - (i) food that is adequate to maintain the health and wellbeing of the patient; and
 - (ii) a diet that has reasonable variation; and
 - (iii) special dietary food, if the Chief Psychiatrist is satisfied that it is necessary for medical reasons, the patient's religious beliefs or the patient's dietary practices;
- (j) the right to adequate toilet and sanitary arrangements;
- (k) the right to adequate light and ventilation;
- (l) the right –
 - (i) to practise a religion, or custom, in accordance with the patient's religious or cultural beliefs; and

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(ii) if consistent with the management and security requirements of the relevant approved facility –

(A) to join with other patients in practising the religion or custom; and

(B) to possess such articles as are reasonably necessary for the practice of the religion or custom;

(m) the right to ask for, and receive, such reasonable help from the staff of the relevant approved facility so as to enable the patient to enjoy the rights specified in this section.

50. Chapter 2, Part 2: Heading amended

Part 2 of Chapter 2 of the Principal Act is amended by omitting “**PROTECTIVE CUSTODY**” from the heading to that Part and substituting “**DETENTION FOR THE PURPOSES OF ASSESSMENT**”.

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51. Section 17 amended (Power to temporarily detain person for assessment)

Section 17 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “take a person into protective custody” and substituting “temporarily detain a person for the purpose of assessing the person”;
- (b) by omitting paragraph (b) from subsection (1) and substituting the following paragraph:
 - (b) the person should be assessed against the assessment criteria; and
- (c) by omitting from subsection (1)(c) “taken into protective custody” and substituting “so detained”;
- (d) by inserting the following paragraph after paragraph (b) in subsection (2):
 - (ba) a police officer is not required to exercise clinical judgment when forming a reasonable belief as to whether a person –
 - (i) has a mental illness; or
 - (ii) should be assessed against the assessment criteria; and

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- (e) by omitting from subsection (2)(c) “in protective custody” and substituting “detained in accordance with that subsection”.

52. Section 18 amended (Handover of person temporarily detained for assessment)

Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “takes a person into protective custody” and substituting “temporarily detains a person for the purposes of assessment”;
- (b) by inserting in subsection (1)(a) “if the person is not already at an approved assessment centre” after “so”;
- (c) by omitting from subsection (1)(b) “take over the protective custody of the person” and substituting “continue to so detain the person”;
- (d) by omitting from subsection (2) “take over the protective custody of” and substituting “continue to detain”;
- (e) by omitting from subsection (3) “A person’s protective custody” and substituting “The temporary detention of a person for assessment”.

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53. Section 19 amended (Dealing with person while temporarily detained)

Section 19 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “person taken into protective custody has been escorted to” and substituting “person who is temporarily detained for assessment has been escorted to, or detained at,”;
- (b) by omitting from subsection (2)(a) “a CCP” and substituting “an”;
- (c) by omitting paragraph (b) from subsection (2) and substituting the following paragraphs:
 - (b) have the person examined by a medical practitioner to see if the person needs to be assessed against the assessment criteria or the treatment criteria; and
 - (c) ensure that the examination of the person referred to in paragraph (b) occurs –
 - (i) as soon as practicable; and
 - (ii) within 4 hours after a member of staff, responsible for the triaging of patients, at the

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centre has been made aware of the person's arrival at the centre.

54. Section 20 substituted

Section 20 of the Principal Act is repealed and the following section is substituted:

20. Obligation to release person from temporary detention

(1) An MHO or police officer who is responsible for a person who is temporarily detained for assessment must release the person from being so detained if –

(a) before, or during, the authorised detention period –

- (i) informed consent is given to assess or treat the person; or
- (ii) an assessment order or treatment order is made in respect of the person; or
- (iii) the MHO or police officer reasonably forms the belief that the person no longer meets the criteria for being temporarily detained, as specified in section 17(1); or

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- (b) the authorised detention period expires and none of the things referred to in paragraph (a) has occurred.

Note The assessment criteria and the treatment criteria are set out in section 25 and section 40 respectively.

- (2) In this section –

authorised detention period, in relation to a person being temporarily detained for assessment, means the 4-hour period that commences on –

- (a) the person being transported to, or temporarily detained at, an approved assessment centre pursuant to section 18; and
- (b) a member of staff, who is responsible for the triaging of patients at the centre, has been made aware of the person's arrival, or temporary detention, at the centre.

55. Section 21 amended (Records, &c.)

Section 21 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “takes a person into protective custody” and

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- substituting “temporarily detains a person for the purpose of assessment”;
- (b) by omitting from subsection (1) “a CCP” and substituting “an”;
 - (c) by omitting from subsection (2) “protective custody” and substituting “temporary detention”;
 - (d) by omitting from subsection (3) “protective custody” and substituting “temporary detention”;
 - (e) by omitting from subsection (3)(a) “a CCP” and substituting “an”;
 - (f) by omitting from subsection (3)(c) “CCP” and substituting “Chief Psychiatrist”;
 - (g) by omitting from subsection (4) “person in protective custody” and substituting “person who has been temporarily detained for assessment”;
 - (h) by omitting from subsection (4)(a) “a CCP” and substituting “an”;
 - (i) by omitting from subsection (4)(c) “CCP” and substituting “Chief Psychiatrist”.

56. Section 23 repealed

Section 23 of the Principal Act is repealed.

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57. Section 24 amended (Making an assessment order)

Section 24 of the Principal Act is amended as follows:

- (a) by omitting paragraphs (c) and (d) from subsection (1);
- (b) by omitting from subsection (1)(e) “from the examination”;
- (c) by inserting in subsection (3)(b) “available” after “place”;
- (d) by omitting subsection (4).

58. Section 26 amended (Form and content of assessment order)

Section 26 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “a CCP” and substituting “an”;
- (b) by omitting paragraph (c) from subsection (2).

59. Section 27 amended (Effect of assessment order)

Section 27(4)(b) of the Principal Act is amended by inserting “available” after “place”.

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60. Section 29 amended (Action to be taken by medical practitioner on making assessment order)

Section 29(a) of the Principal Act is amended by omitting “a CCP” and substituting “an”.

61. Section 32 amended (Affirmation or discharge of assessment order)

Section 32(5) of the Principal Act is amended by omitting “a CCP” and substituting “an”.

62. Section 33 amended (Action to be taken by medical practitioner on affirming assessment order)

Section 33(1)(a)(iii) of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

63. Section 35 amended (Discharge of assessment order by medical practitioner or Tribunal)

Section 35 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “examining” and substituting “assessing”;
- (b) by omitting from subsection (3) “a CCP” and substituting “an”;
- (c) by omitting from subsection (4)(a)(ii) “CCP” and substituting “Chief Psychiatrist”.

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64. Section 42 amended (Effect of treatment order)

Section 42 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “CCP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (5) “CCP” and substituting “Chief Psychiatrist”.

65. Section 45 amended (Action to be taken by Tribunal on making treatment order)

Section 45(b)(iv) of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

66. Section 47 amended (Failure to comply with treatment order)

Section 47(3)(b) of the Principal Act is amended by inserting “available” after “place”.

67. Section 47A amended (Admission to prevent possible harm)

Section 47A(3)(b) of the Principal Act is amended by inserting “available” after “place”.

68. Section 48 amended (Renewal of treatment order)

Section 48 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (4)(ii) “CCP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (9)(iv) “CCP” and substituting “Chief Psychiatrist”.

69. Section 49 amended (Discharge of treatment order by medical practitioner or Tribunal)

Section 49(5)(a)(iii) of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

70. Section 51 amended (Requirement for treatment plan)

Section 51 of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

71. Section 52 amended (Form of treatment plan)

Section 52(1) of the Principal Act is amended by omitting “a CCP” and substituting “an”.

72. Section 53 amended (Preparation of treatment plan)

Section 53(3)(a)(ii) of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

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73. Section 54 amended (Variation of treatment plan)

Section 54(4)(b) of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

74. Section 55 amended (Urgent circumstances treatment)

Section 55 of the Principal Act is amended as follows:

- (a) by omitting subsections (1), (2) and (3) and substituting the following subsections:

- (1) An involuntary patient may only be given treatment (***urgent circumstances treatment***) without informed consent or Tribunal authorisation if an approved medical practitioner authorises the treatment as being urgently needed in respect of the patient.

- (2) An approved medical practitioner may only authorise urgent circumstances treatment in respect of a patient if the approved medical practitioner is satisfied, as a result of an assessment of the patient, that –

- (a) the treatment is necessary for –

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- (i) the patient's health or safety; or
 - (ii) the safety of other persons; and
 - (b) waiting for the treatment to be authorised by the Tribunal (or by a member thereof on an interim basis) would compromise –
 - (i) the outcomes of the treatment, as specified in section 6(1), for this patient; or
 - (ii) the effectiveness of the treatment, for this patient, in meeting the outcomes of treatment as specified in section 6(1).
 - (b) by omitting subsection (7);
 - (c) by omitting from subsection (8)(ab) “CCP” and substituting “Chief Psychiatrist”;
 - (d) by omitting from subsection (8)(ac) “a CCP” and substituting “an”.

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75. Section 56 amended (Seclusion)

Section 56 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b)(i) “CCP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (1)(b)(ii) “CCP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (1)(e) “CCP”;
- (d) by omitting subsection (2) and substituting the following subsection:
 - (2) If an involuntary patient who is not a forensic patient is placed in seclusion under this section –
 - (a) the patient must be clinically observed by a member of the approved hospital’s nursing staff at intervals not exceeding –
 - (i) 15 minutes; or
 - (ii) such other intervals as the standing orders may mandate; and

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- (b) the seclusion must not extend beyond 3 hours unless –
- (i) the patient has been assessed by a medical practitioner within those 3 hours; and
 - (ii) after conducting a physical examination of the patient, a medical practitioner or approved nurse authorises the continuation of the seclusion for one specified period not exceeding 3 hours; and
- (c) the patient must be assessed by a medical practitioner at intervals not exceeding 3 hours to see if the seclusion should continue or be terminated; and
- (d) the Chief Psychiatrist may impose conditions on the seclusion of the patient at any point during the

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period of seclusion for the patient; and

(e) while secluded, the patient must be provided with –

(i) suitable clean clothing and bedding; and

(ii) adequate sustenance; and

(iii) adequate toilet and sanitary arrangements; and

(iv) adequate ventilation and light; and

(v) a means of summoning aid; and

(f) the administration of any prescribed medications to the patient must not be unreasonably denied or delayed; and

(g) the patient must not be deprived of –

(i) physical aids, except as may be

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strictly necessary
for the patient's
safety or the
preservation of
those physical aids
for the patient's
future use; and

- (ii) communication
aids that the
patient uses in
communicating on
a daily basis,
except as may be
strictly necessary
for the patient's
safety or the
preservation of the
communication
aids for the
patient's future
use; and

- (h) regardless of
authorisation, the
seclusion –

- (i) must not exceed 6
hours; and

- (ii) must not be
maintained to the
obvious detriment
of the patient's
mental or physical
health.

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- (e) by omitting from subsection (3)(a) “scheduled observation or examination” and substituting “scheduled observation, examination or assessment”;
- (f) by omitting from subsection (4A) “CCP” and substituting “Chief Psychiatrist”;
- (g) by inserting the following subsection after subsection (4A):
 - (4B) Consecutive periods of seclusion under this section, in respect of an involuntary patient, are only to occur in accordance with the standing orders issued for this section.

76. Section 57 amended (Restraint)

Section 57 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b)(i) “CCP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (1)(b)(ii) “CCP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (1)(b)(iii) “CCP” and substituting “Chief Psychiatrist”;

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- (d) by omitting from subsection (1)(e) “CCP” and substituting “Chief Psychiatrist”;
 - (e) by omitting from subsection (1)(f) “CCP”;
 - (f) by omitting subsection (2) and substituting the following subsection:
 - (2) If an involuntary patient who is not a forensic patient is placed under restraint under this section –
 - (a) the patient must be clinically observed by a member of the approved hospital’s nursing staff at intervals not exceeding –
 - (i) 15 minutes; or
 - (ii) such other intervals as the standing orders may mandate; and
 - (b) the restraint must not be applied for a period exceeding 3 hours unless –
 - (i) the patient has been assessed by a medical

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practitioner within those 3 hours; and

(ii) after conducting a physical examination of the patient, a medical practitioner or approved nurse authorises the continuation of the restraint for one specified period not exceeding 3 hours; and

(c) the patient must be assessed by a medical practitioner at intervals not exceeding 3 hours to see if the restraint should continue or be terminated; and

(d) the Chief Psychiatrist may impose conditions on the restraint of the patient at any point during the period of restraint for the patient; and

(e) while restrained, the patient must be provided with –

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- (i) suitable clean clothing and bedding; and
 - (ii) adequate sustenance; and
 - (iii) adequate toilet and sanitary arrangements; and
 - (iv) adequate ventilation and light; and
 - (v) a means of summoning aid; and
 - (f) the administration of any prescribed medications to the patient must not be unreasonably denied or delayed; and
 - (g) the patient must not be deprived of –
 - (i) physical aids, except as may be strictly necessary for the patient's safety or the preservation of those physical aids for the patient's future use; and

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(ii) communication aids that the patient uses in communicating on a daily basis, except as may be strictly necessary for the patient's safety or the preservation of the communication aids for the patient's future use; and

(h) regardless of authorisation, the restraint –

(i) if the restraint is a chemical restraint, must not be administered with the intention that the patient be restrained by the chemical restraint for more than 6 hours; and

(ii) if the restraint is not a chemical restraint, must not exceed 6 hours; and

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(iii) must not be maintained to the obvious detriment of the patient's mental or physical health.

- (g) by omitting from subsection (4) “CCP”;
- (h) by omitting from subsection (5) “CCP” and substituting “Chief Psychiatrist”;
- (i) by inserting the following subsection after subsection (5):

(5A) Consecutive periods of restraint under this section, in respect of an involuntary patient, are only to occur in accordance with the standing orders issued for this section.

77. Section 58 amended (Records, &c.)

Section 58 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(ab) “a CCP” and substituting “an”;
- (b) by omitting from subsection (2)(b) “CCP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (3) “CCP” and substituting “Chief Psychiatrist”.

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78. Section 59 amended (Transfer of involuntary patients between approved hospitals)

Section 59 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “CCP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (1)(b) “persons.” and substituting “persons; or”;
- (c) by inserting the following paragraph after paragraph (b) in subsection (1):
 - (c) another prescribed reason.
- (d) by omitting from subsection (2) “a CCP” and substituting “an”;
- (e) by omitting from subsection (2B) “a CCP” and substituting “an”;
- (f) by omitting from subsection (2D)(a) “CCP” twice occurring and substituting “Chief Psychiatrist”;
- (g) by omitting from subsection (3) “CCP” first occurring and substituting “Chief Psychiatrist”;
- (h) by omitting from subsection (3)(a) “a CCP” and substituting “an”;
- (i) by omitting from subsection (4) “CCP” and substituting “Chief Psychiatrist”.

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79. Section 60 amended (Leave of absence from approved hospital)

Section 60 of the Principal Act is amended as follows:

- (a) by omitting subsection (3) and substituting the following subsection:

(3) Leave for personal reasons may be granted to a patient –

(a) at the request of the patient; or

(b) at the request of a person who, in the opinion of the approved medical practitioner, has a genuine interest in the patient's welfare.

- (b) by omitting from subsection (9)(a) “a CCP” and substituting “an”;

- (c) by omitting from subsection (9)(b)(iv) “CCP” and substituting “Chief Psychiatrist”;

- (d) by omitting from subsection (12)(a)(iv) “CCP” and substituting “Chief Psychiatrist”;

- (e) by omitting from subsection (13) “an application” and substituting “a request”;

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(f) by omitting paragraphs (a) and (b) from subsection (13) and substituting the following paragraph:

(a) give notice of the refusal, with reasons, together with a statement of rights in an approved form, to –

(i) the patient; and

(ii) if the request was made by a person other than the patient, that person; and

80. Section 61 amended (Absence from approved hospital without leave or in breach of condition, &c.)

Section 61(3) of the Principal Act is amended by omitting “take the patient into protective custody and return” and substituting “detain the patient as may be required for the purpose of returning”.

81. Chapter 2, Part 3, Division 7 repealed

Division 7 of Part 3 of Chapter 2 of the Principal Act is repealed.

82. Section 63 amended (Admission)

Section 63 of the Principal Act is amended as follows:

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-
- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
 - (b) by omitting paragraphs (a), (b) and (c) from subsection (2) and substituting the following paragraphs:
 - (a) the patient is being detained in an approved facility; or
 - (b) the patient –
 - (i) is not a prisoner or youth detainee; or
 - (ii) is to cease to be a prisoner, or youth detainee, within 60 minutes of the authorisation being given; and
 - (c) by omitting from subsection (2)(d) “CFP” and substituting “Chief Psychiatrist”;
 - (d) by omitting subparagraph (ii) from subsection (2)(d) and substituting the following subparagraph:
 - (ii) that danger is or has become so serious as to make –
 - (A) if the patient is detained at an approved facility other than an SMHU, the patient’s continued

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detention in the approved facility untenable; or

(B) if the patient is detained at an SMHU, the detention of the patient at an approved hospital untenable; and

(e) by omitting from subsection (2)(e) “CFP” and substituting “Chief Psychiatrist”.

83. Section 64 amended (Admissions procedure, extensions and transfer)

Section 64 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (1)(b) “a CCP” and substituting “an”;
- (c) by omitting subparagraph (iii) from subsection (1)(c);
- (d) by omitting from subsection (2) “CFP” and substituting “Chief Psychiatrist”;
- (e) by omitting subsection (3);
- (f) by omitting from subsection (4) “CFP” and substituting “Chief Psychiatrist”;

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- (g) by omitting from subsection (4)(a) “a CCP” and substituting “an”;
- (h) by omitting subparagraph (iii) from subsection (4)(b);
- (i) by omitting subsections (5), (6) and (7) and substituting the following subsection:
 - (5) If, at any time, the Chief Psychiatrist is satisfied that the patient no longer meets the requirements of admission, the Chief Psychiatrist is to –
 - (a) arrange for the patient to be transferred to an approved hospital; and
 - (b) keep such written records of the transfer as the Chief Psychiatrist considers reasonable.

84. Section 65 amended (Period of detention)

Section 65 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) if the Chief Psychiatrist arranges for the transfer of the patient under section 64(5), the end of the 24-hour period immediately after the arrangements have been made; or

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85. Section 65A amended (Renewal of treatment order for patient in SMHU)

Section 65A(c) of the Principal Act is amended by omitting “CPF” and substituting “Chief Psychiatrist”.

86. Section 67 amended (Leave of absence for involuntary SMHU patient)

Section 67 of the Principal Act is amended by omitting paragraph (a).

87. Section 69 amended (Period of detention)

Section 69 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d)(ii) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from paragraph (d)(iii) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from paragraph (e)(ii) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from paragraph (e)(iii) “CFP” and substituting “Chief Psychiatrist”.

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88. Section 70 amended (Certain forensic patients may request return to prison, &c.)

Section 70 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (5) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (5) “examined” and substituting “assessed”;
- (d) by omitting from subsection (6) “examination” and substituting “assessment”;
- (e) by omitting from subsection (6) “CFP” and substituting “Chief Psychiatrist”;
- (f) by omitting from subsection (7) “CFP” first occurring and substituting “Chief Psychiatrist”;
- (g) by omitting from subsection (7)(a) “examination” and substituting “assessment”;
- (h) by omitting from subsection (7)(c) “CFP” and substituting “Chief Psychiatrist”;
- (i) by omitting from subsection (8) “CFP” first occurring and substituting “Chief Psychiatrist”;

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- (j) by omitting from subsection (8)(a) “CFP” and substituting “Chief Psychiatrist”;
- (k) by omitting from subsection (9) “CFP” first occurring and substituting “Chief Psychiatrist”;
- (l) by omitting from subsection (9)(a) “CFP” and substituting “Chief Psychiatrist”;
- (m) by omitting from subsection (9)(a) “a CCP” and substituting “an”;
- (n) by omitting from subsection (9)(b) “CFP” and substituting “Chief Psychiatrist”;
- (o) by omitting from subsection (10) “CFP” and substituting “Chief Psychiatrist”;
- (p) by omitting from subsection (10) “CFP’s” and substituting “Chief Psychiatrist’s”.

89. Section 72 amended (Transfer of forensic patients between SMHUs)

Section 72 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (2) “a CCP” and substituting “an”;

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- (c) by omitting from subsection (3) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (3)(a) “a CCP” and substituting “an”;
- (e) by omitting from subsection (4) “CFP” and substituting “Chief Psychiatrist”;
- (f) by omitting from subsection (5) “an authorised person or” and substituting “a”;
- (g) by omitting from subsection (6)(a) “CFP” twice occurring and substituting “Chief Psychiatrist”;
- (h) by omitting from subsection (6)(c) “and to discharge any of the responsibilities of authorised persons under this Part”.

90. Section 73 amended (Transfer of forensic patients to hospitals, &c.)

Section 73 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (2) “a CCP” and substituting “an”;
- (c) by omitting from subsection (3) “CFP” and substituting “Chief Psychiatrist”;

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- (d) by omitting from subsection (5)(a) “CFP” twice occurring and substituting “Chief Psychiatrist”;
- (e) by omitting from subsection (6) “CFP” and substituting “Chief Psychiatrist”;
- (f) by omitting from subsection (6)(a) “a CCP” and substituting “an”.

91. Section 75 amended (Return of forensic patient in Tasmania to SMHU)

Section 75 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “an authorised person or police officer to take the patient into protective custody” and substituting “a police officer to lawfully detain the patient”;
- (b) by omitting from subsection (3) “apply.” and substituting “apply to the lawful detention of a patient under this section as if the patient were temporarily detained for assessment.”.

92. Section 77 amended (Definitions for this Division)

Section 77 of the Principal Act is amended as follows:

- (a) by omitting “CFP” from paragraph (a) of the definition of *interested person* and substituting “Chief Psychiatrist”;

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- (b) by omitting “CFP” from paragraph (b) of the definition of *responsible authority* and substituting “Chief Psychiatrist”.

93. Section 78 amended (When leave of absence for forensic patients subject to restriction orders may be granted)

Section 78 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (4)(b) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (4)(c) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (11) “CFP” and substituting “Chief Psychiatrist”;
- (e) by omitting from subsection (12) “CFP” and substituting “Chief Psychiatrist”.

94. Section 79 amended (Extension, variation and cancellation of leave of absence)

Section 79 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (2)(a) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (2)(b)(ii) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (2)(b)(iii) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (10) “a CCP” and substituting “an”.

95. Section 80 amended (Victims to be notified of leave of absence of patient)

Section 80(2)(b) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

96. Section 81 amended (Definitions for this Division)

Section 81 of the Principal Act is amended by omitting “CFP” from paragraph (a) of the definition of *responsible authority* and substituting “Chief Psychiatrist”.

97. Section 82 amended (When leave of absence for forensic patients not subject to restriction orders may be granted)

Section 82 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (4)(b) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (7)(a) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (7)(d) “CFP” and substituting “Chief Psychiatrist”;
- (e) by omitting from subsection (7)(e) “CFP” and substituting “Chief Psychiatrist”;
- (f) by omitting from subsection (7)(f) “CFP” and substituting “Chief Psychiatrist”;
- (g) by omitting from subsection (7)(f) “CFP’s” and substituting “Chief Psychiatrist’s”;
- (h) by omitting from subsection (8) “CFP” and substituting “Chief Psychiatrist”;
- (i) by omitting from subsection (10)(c) “CFP” and substituting “Chief Psychiatrist”;
- (j) by omitting from subsection (14) “CFP” and substituting “Chief Psychiatrist”.

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98. Section 83 amended (Extension, variation and cancellation of leave of absence)

Section 83 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (2A)(a) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (2A)(d) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (2A)(d) “CFP’s” and substituting “Chief Psychiatrist’s”;
- (e) by omitting from subsection (2B) “CFP” and substituting “Chief Psychiatrist”;
- (f) by omitting from subsection (2C) “CFP” and substituting “Chief Psychiatrist”;
- (g) by omitting from subsection (4) “CFP” and substituting “Chief Psychiatrist”;
- (h) by omitting from subsection (6)(c) “CFP” twice occurring and substituting “Chief Psychiatrist”;
- (i) by omitting from subsection (8) “a CCP” and substituting “an”.

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99. Section 84 amended (Victims to be notified of leave of absence of patient)

Section 84(2)(b) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

100. Section 85 amended (Interpretation of Part)

Section 85 of the Principal Act is amended by omitting “CFP” from the definition of *responsible official* and substituting “Chief Psychiatrist”.

101. Section 87 amended (Urgent circumstances treatment)

Section 87 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the patient’s best interests” and substituting “respect of the patient”;
- (b) by omitting from subsection (2) “in the patient’s best interests”;
- (c) by omitting from subsection (3) “he or she has concluded from an examination” and substituting “as a result of an assessment of the patient, the practitioner is satisfied”;
- (d) by omitting from subsection (3)(c) “likely to be both effective and

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appropriate” and substituting
“necessary”;

(e) by omitting subsection (7);

(f) by omitting from subsection (8)(ab)
“CFP” and substituting “Chief
Psychiatrist”;

(g) by omitting from subsection (8)(ac) “a
CCP” and substituting “an”.

**102. Section 88 amended (Authorisation of treatment by
Tribunal)**

Section 88(5)(b)(ii) of the Principal Act is
amended by omitting “CFP” and substituting
“Chief Psychiatrist”.

**103. Section 91 amended (Interim authorisation of
treatment by Tribunal member)**

Section 91 of the Principal Act is amended as
follows:

(a) by omitting from subsection (4) “CFP”
and substituting “Chief Psychiatrist”;

(b) by omitting from subsection (7) “CFP”
and substituting “Chief Psychiatrist”;

(c) by omitting from subsection (11)(b)(ii)
“CFP” and substituting “Chief
Psychiatrist”.

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104. Section 92 amended (Interpretation of Division)

Section 92 of the Principal Act is amended by omitting “CFP” from paragraph (i) of the definition of *prescribed reason*.

105. Section 94 amended (Seclusion)

Section 94 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a)(i) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (1)(a)(ii) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (1)(d) “CFP”;
- (d) by omitting subsection (2) and substituting the following subsection:
 - (2) If a forensic patient is placed in seclusion under this section –
 - (a) the patient must be clinically observed by a member of the SMHU nursing staff at intervals not exceeding –
 - (i) 15 minutes; or

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- (ii) such other intervals as the standing orders may mandate; and
- (b) the seclusion must not extend beyond 3 hours unless –
 - (i) the patient has been assessed by a medical practitioner within those 3 hours; and
 - (ii) after conducting a physical examination of the patient, a medical practitioner or approved nurse authorises the continuation of the seclusion for one specified period not exceeding 3 hours; and
- (c) the patient must be assessed by a medical practitioner at intervals not exceeding 3 hours to see if the seclusion should continue or be terminated; and

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-
- (d) the Chief Psychiatrist may impose conditions on the seclusion of the patient at any point during the period of seclusion for the patient; and
 - (e) while secluded, the patient must be provided with –
 - (i) suitable clean clothing and bedding; and
 - (ii) adequate sustenance; and
 - (iii) adequate toilet and sanitary arrangements; and
 - (iv) adequate ventilation and light; and
 - (v) a means of summoning aid; and
 - (f) the administration of any prescribed medications to the patient must not be unreasonably denied or delayed; and

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(g) the patient must not be deprived of –

(i) physical aids, except as may be strictly necessary for the patient's safety or the preservation of those physical aids for the patient's future use; and

(ii) communication aids that the patient uses in communicating on a daily basis, except as may be strictly necessary for the patient's safety or the preservation of the communication aids for the patient's future use; and

(h) regardless of authorisation, the seclusion –

(i) must not exceed 6 hours; and

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- (ii) must not be maintained to the obvious detriment of the patient's mental or physical health.
- (e) by omitting from subsection (3)(a) "scheduled observation or examination" and substituting "scheduled observation, examination or assessment";
- (f) by omitting from subsection (5) "CFP" first occurring and substituting "Chief Psychiatrist";
- (g) by omitting from subsection (5) "CFP" second occurring;
- (h) by inserting the following subsection after subsection (5):
 - (5A) Consecutive periods of seclusion under this section, in respect of a forensic patient, are only to occur in accordance with the standing orders issued for this section.

106. Section 95 amended (Restraint)

Section 95 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a)(i) "CFP" and substituting "Chief Psychiatrist";

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- (b) by omitting from subsection (1)(a)(ii) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (1)(a)(iii) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (1)(d) “CFP” and substituting “Chief Psychiatrist”;
- (e) by omitting from subsection (1)(e) “CFP”;
- (f) by omitting subsection (2) and substituting the following subsection:
 - (2) If a forensic patient is placed under restraint under this section –
 - (a) the patient must be clinically observed by a member of the SMHU nursing staff at intervals not exceeding –
 - (i) 15 minutes; or
 - (ii) such other intervals as the standing orders may mandate; and
 - (b) the restraint must not be applied for a period

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exceeding 3 hours
unless –

- (i) the patient has been assessed by a medical practitioner within those 3 hours; and
- (ii) after conducting a physical examination of the patient, a medical practitioner or approved nurse authorises the continuation of the restraint for one specified period not exceeding 3 hours; and
- (c) the patient must be assessed by a medical practitioner at intervals not exceeding 3 hours to see if the restraint should continue or be terminated; and
- (d) the Chief Psychiatrist may impose conditions on the restraint of the patient at any point during the period of restraint for the patient; and

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(e) while restrained, the patient must be provided with –

(i) suitable clean clothing and bedding; and

(ii) adequate sustenance; and

(iii) adequate toilet and sanitary arrangements; and

(iv) adequate ventilation and light; and

(v) a means of summoning aid; and

(f) the administration of any prescribed medications to the patient must not be unreasonably denied or delayed; and

(g) the patient must not be deprived of –

(i) physical aids, except as may be strictly necessary for the patient's safety or the

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preservation of
those physical aids
for the patient's
future use; and

- (ii) communication
aids that the
patient uses in
communicating on
a daily basis,
except as may be
strictly necessary
for the patient's
safety or the
preservation of the
communication
aids for the
patient's future
use; and

- (h) regardless of
authorisation, the
restraint –

- (i) if the restraint is a
chemical restraint,
must not be
administered with
the intention that
the patient be
restrained by the
chemical restraint
for more than 6
hours; and

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- (ii) if the restraint is not a chemical restraint, must not exceed 6 hours; and
 - (iii) must not be maintained to the obvious detriment of the patient's mental or physical health.
- (g) by omitting from subsection (4) "CFP";
- (h) by omitting from subsection (5) "CFP" first occurring and substituting "Chief Psychiatrist";
- (i) by omitting from subsection (5) "CFP" second occurring;
- (j) by inserting the following subsection after subsection (5):
 - (5A) Consecutive periods of restraint under this section, in respect of a forensic patient, are only to occur in accordance with the standing orders issued for this section.

107. Section 96 amended (Records, &c.)

Section 96 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (2)(ab) “a CCP” and substituting “an”;
- (b) by omitting from subsection (2)(b) “CFP” and substituting “Chief Psychiatrist”;
- (c) by omitting from subsection (3) “CFP” and substituting “Chief Psychiatrist”.

108. Section 98 amended (Privileged visitors, callers and correspondents)

Section 98 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(d) “a Chief” and substituting “the Chief”;
- (b) by omitting from subsection (2)(d) “a Chief” and substituting “the Chief”;
- (c) by omitting from subsection (3)(d) “a Chief” and substituting “the Chief”;
- (d) by omitting subsections (4) and (5).

109. Section 100 amended (Visitor identity)

Section 100(2) of the Principal Act is amended by omitting “CFP”.

110. Section 105 amended (Police visits)

Section 105(7) of the Principal Act is amended by omitting “CFP” from paragraph (b) of the

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definition of *responsible authority* and substituting “Chief Psychiatrist”.

111. Chapter 2, Part 5, Division 6 repealed

Division 6 of Part 5 of Chapter 2 of the Principal Act is repealed.

112. Section 109 amended (Authorisation of persons)

Section 109(1) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

113. Section 110 amended (Screening of persons seeking entry to SMHU)

Section 110 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (2) “CFP’s” and substituting “Chief Psychiatrist’s”;
- (c) by omitting from subsection (4) “CFP” twice occurring and substituting “Chief Psychiatrist”.

114. Section 111 amended (Searches)

Section 111 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (3) “a CCP” and substituting “an”;
- (c) by omitting from subsection (11) “CFP” and substituting “Chief Psychiatrist”;
- (d) by omitting from subsection (13) “CFP” twice occurring and substituting “Chief Psychiatrist”.

115. Section 112 amended (Seizure)

Section 112 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “CFP”;
- (b) by omitting from subsection (1)(c) “CFP”;
- (c) by omitting “CFP” from paragraph (a) of the definition of *search authority* in subsection (6) and substituting “Chief Psychiatrist”.

116. Section 113 amended (Certain things not to be brought into SMHU)

Section 113(1) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

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117. Section 114 amended (Records, &c.)

Section 114(2) of the Principal Act is amended by omitting “Tribunal and the CFP” and substituting “Tribunal, Chief Psychiatrist and the Principal Official Visitor”.

118. Section 116 amended (Bringing patients before courts)

Section 116(3) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

119. Section 117 amended (Presence at taking of certain depositions)

Section 117(2) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

120. Section 118 amended (Court may proceed in absence of forensic patient, &c.)

Section 118 of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

121. Section 119 amended (Notifying victims of final release, &c.)

Section 119 of the Principal Act is amended by omitting “Before” and substituting “Before, or as soon as practicable after,”.

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122. Section 125 amended (Clinical restriction on authorisation of special psychiatric treatment)

Section 125(1)(c) of the Principal Act is amended by omitting “a Chief” and substituting “the Chief”.

123. Section 127 amended (Tribunal obligations regarding authorisations)

Section 127(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “a CCP or CFP” and substituting “an”;
- (b) by omitting from paragraph (b) “is, depending on the patient’s status, given to the CCP or CFP” and substituting “is given to the Chief Psychiatrist”.

124. Section 128 amended (Records, &c.)

Section 128 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(c)(i) “relevant”;
- (b) by omitting from subsection (2) “relevant”.

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125. Section 129 amended (Statements of rights on admission and discharge)

Section 129 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the relevant” and substituting “an”;
- (b) by omitting from subsection (2) “the relevant” and substituting “an”;
- (c) by omitting subsection (4).

126. Section 132 amended (Withholding, &c., of information by mental health authorities)

Section 132 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3)(c) “a Chief” and substituting “the Chief”;
- (b) by omitting from subsection (3)(c) “relevant”;
- (c) by omitting “a Chief” from the definition of *mental health authority* in subsection (6) and substituting “the Chief”.

127. Section 133 amended (Publication of sensitive information about patients)

Section 133 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1)(a) “the fact” and substituting “any fact that could reasonably be expected to identify”;
- (b) by omitting from subsection (1)(d) “involuntary patient” and substituting “involuntary patient, if the information could reasonably be expected to identify the person”;
- (c) by omitting from subsection (2)(b) “CFP” and substituting “Chief Psychiatrist”.

128. Section 134 amended (Disclosure of confidential, &c., information about patients)

Section 134 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “under subsection (2).” and substituting “under –”;
- (b) by inserting the following paragraphs before the penalty in subsection (1):
 - (a) this section; or
 - (b) the *Personal Information Protection Act 2004*.
- (c) by omitting from subsection (2) “The information may be disclosed” and substituting “Information in respect of an involuntary patient may only be disclosed”.

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129. Section 136 amended (Monthly reports on voluntary inpatients)

Section 136 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “CCP” and substituting “an”;
- (b) by omitting from subsection (3)(b) “CCP” and substituting “Chief Psychiatrist”.

130. Section 138 amended (Medical practitioners and nurses)

Section 138 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A Chief” and substituting “The Chief”;
- (b) by omitting from subsection (1)(a) “within that Chief Psychiatrist’s jurisdiction”;
- (c) by omitting from subsection (1)(b) “that Chief” and substituting “the Chief”;
- (d) by omitting from subsection (3) “A Chief” and substituting “The Chief”;
- (e) by omitting from subsection (3)(a) “within that Chief Psychiatrist’s jurisdiction”;

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- (f) by omitting from subsection (3)(b) “that Chief” and substituting “the Chief”;
- (g) by omitting from subsection (5) “State Servant” and substituting “person”;
- (h) by omitting from subsection (6)(a) “relevant”;
- (i) by omitting from subsection (14) “relevant”;
- (j) by omitting from subsection (15) “relevant”;
- (k) by omitting from subsection (16) “relevant”;
- (l) by omitting from subsection (17) “relevant”;
- (m) by omitting from subsection (18) “A Chief” and substituting “The Chief”.

131. Section 139 amended (Mental health officers)

Section 139 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A Chief” and substituting “The Chief”;
- (b) by omitting from subsection (1)(a) “within that Chief Psychiatrist’s jurisdiction”;

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- (c) by omitting from subsection (1)(b) “that Chief” and substituting “the Chief”;
- (d) by omitting from subsection (3)(a) “State Servant” and substituting “State Service employee”;
- (e) by omitting from subsection (3)(b) “State Servant” and substituting “State Service employee”;
- (f) by omitting from subsection (4)(a) “State Servant or police officer” and substituting “person”;
- (g) by omitting from subsection (4)(b) “State Servant or police officer” first occurring and substituting “person”;
- (h) by omitting from subsection (4)(b) “State Servant” second occurring and substituting “State Service officer, State Service employee”;
- (i) by omitting from subsection (5)(a) “relevant”;
- (j) by omitting from subsection (6) “relevant”;
- (k) by omitting from subsection (7) “relevant”;
- (l) by omitting from subsection (9) “relevant”;
- (m) by omitting from subsection (10) “relevant”;

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- (n) by omitting from subsection (11) “relevant”;
- (o) by omitting from subsection (12) “relevant”;
- (p) by omitting from subsection (13) “A Chief” and substituting “The Chief”;
- (q) by omitting from subsection (13) “within that Chief Psychiatrist’s jurisdiction”.

132. Chapter 3, Part 1: Heading amended

Part 1 of Chapter 3 of the Principal Act is amended by omitting “**CHIEF PSYCHIATRISTS**” from the heading to that Part and substituting “**CHIEF PSYCHIATRIST**”.

133. Section 143 amended (Chief Psychiatrist)

Section 143 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Chief Civil Psychiatrist” and substituting “the Chief Psychiatrist”;
- (b) by omitting from subsection (3) “Civil”;
- (c) by omitting from subsection (4) “Civil”;
- (d) by omitting from subsection (4) “met in respect of –” and substituting “met.”;

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- (e) by omitting paragraphs (a) and (b) from subsection (4).

134. Section 144 repealed

Section 144 of the Principal Act is repealed.

135. Section 145 amended (Term of office)

Section 145 of the Principal Act is amended by omitting “A Chief” and substituting “The Chief”.

136. Section 146 amended (Functions and powers)

Section 146 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A Chief” and substituting “The Chief”;
- (b) by omitting from subsection (1) “that Chief” and substituting “the Chief”;
- (c) by omitting from subsection (2) “A Chief” and substituting “The Chief”;
- (d) by omitting from subsection (2)(b) “that Chief” and substituting “the Chief”;
- (e) by omitting from subsection (3)(a) “either Chief” and substituting “the Chief”;
- (f) by omitting from subsection (3)(a) “within his or her jurisdiction”;

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- (g) by omitting paragraph (b) from subsection (3).

137. Section 147 amended (Power of direct intervention)

Section 147 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A Chief” and substituting “The Chief”;
- (b) by omitting from subsection (6) “a Chief” and substituting “the Chief”;
- (c) by omitting from subsection (7) “a Chief” and substituting “the Chief”;
- (d) by inserting the following paragraph after paragraph (g) in the definition of *prescribed matters* in subsection (8):
 - (ga) whether the mental health service delivery principles, set out in Schedule 1, have been considered when exercising a responsibility under this Act;

138. Section 148 amended (Independence)

Section 148 of the Principal Act is amended as follows:

- (a) by omitting “a Chief” and substituting “the Chief”;

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- (b) by omitting “Minister, the other Chief Psychiatrist” and substituting “Minister”.

139. Section 149 amended (Delegation)

Section 149(1) of the Principal Act is amended by omitting “A Chief” and substituting “The Chief”.

140. Section 150 amended (Reporting)

Section 150(1) of the Principal Act is amended by omitting “A Chief” and substituting “The Chief”.

141. Section 151 amended (Clinical guidelines)

Section 151 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A Chief” and substituting “The Chief”;
- (b) by omitting from subsection (1)(a) “within that Chief Psychiatrist’s jurisdiction”;
- (c) by omitting from subsection (1)(b) “that Chief” and substituting “the Chief”;
- (d) by omitting from subsection (3) “relevant”.

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142. Section 152 amended (Standing orders)

Section 152 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A Chief” and substituting “The Chief”;
- (b) by omitting from subsection (1)(a) “within that Chief Psychiatrist’s jurisdiction”;
- (c) by omitting from subsection (1)(b) “that Chief” and substituting “the Chief”;
- (d) by omitting from subsection (3) “relevant”.

143. Section 153 amended (Matters common to clinical guidelines and standing orders)

Section 153 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(f) “issuing them”;
- (b) by omitting from subsection (3) “CCP and CFP are” and substituting “Chief Psychiatrist is”;
- (c) by omitting from subsection (3) “and each other”;
- (d) by omitting from subsection (4) “issuing them”;

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- (e) by omitting from subsection (6) “A Chief” and substituting “The Chief”.

144. Section 155 amended (Appointment)

Section 155(3)(g) of the Principal Act is amended by omitting “State Servant,” and substituting “State Service officer, State Service employee”.

145. Section 156 amended (Functions of Principal Official Visitor)

Section 156(1)(h) of the Principal Act is amended by omitting “responsible Minister or relevant Chief Psychiatrist” and substituting “responsible Minister, the Chief Psychiatrist or the controlling authority of an approved facility”.

146. Section 157 amended (Functions of Official Visitors)

Section 157 of the Principal Act is amended by inserting after paragraph (e) the following paragraph:

- (ea) to check that the additional requirements in this Act in relation to the services provided to a child, including but not limited to the admission, or detention of a child, are complied with;

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147. Section 158 amended (Delegation)

Section 158(2) of the Principal Act is amended by omitting “State Servant” and substituting “State Service officer or State Service employee”.

148. Section 161 amended (Complaints)

Section 161 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) Subsection (1) applies to a patient who is a child or young person, regardless of whether the patient has the consent of a parent, or guardian, to make the complaint.

149. Section 163 amended (Obligation of officials to assist Official Visitors, &c.)

Section 163 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (3A) In addition to subsection (3)(c), a person discharging responsibilities under this Act must, to the maximum extent of the person’s lawful and physical capacity to do so, grant an Official Visitor access to records relating to a patient’s assessment, treatment and care (including clinical records) if –

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- (a) the Official Visitor has requested access to the records, regardless of whether the patient has expressed a wish to see or complain to an Official Visitor; and
- (b) the patient or, if the patient is a child, a parent of the patient has not asked that Official Visitors not be granted access to the patient's records.

150. Section 165 amended (Operational and monthly reporting, &c.)

Section 165 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “responsible Minister or a Chief Psychiatrist” and substituting “responsible Minister, the Chief Psychiatrist or the controlling authority of an approved facility”;
- (b) by omitting from subsection (4)(a) “relevant”.

151. Section 179 amended (The Tribunal's review function)

Section 179(3) of the Principal Act is amended as follows:

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- (a) by omitting from paragraph (a) “CFP” and substituting “Chief Psychiatrist”;
- (b) by omitting from paragraph (c) “a Chief” and substituting “the Chief”;
- (c) by omitting from paragraph (d) “a Chief” and substituting “the Chief”.

152. Section 180 amended (Review of assessment order)

Section 180(e)(ii) of the Principal Act is amended by omitting “CCP” and substituting “Chief Psychiatrist”.

153. Section 181 amended (Review of treatment order)

Section 181(3)(b) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (ii) “CFP and the”;
- (b) by omitting subparagraph (iii) and substituting the following subparagraph:
 - (iii) the Chief Psychiatrist.

154. Section 182 amended (Review of involuntary admission to SMHU)

Section 182(a) of the Principal Act is amended by omitting “3 days” and substituting “7 days”.

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155. Section 183 amended (Review of refusal to return forensic patient to external custodian)

Section 183 of the Principal Act is amended as follows:

- (a) by omitting “CFP” first occurring and substituting “Chief Psychiatrist”;
- (b) by omitting from paragraph (d) “CFP” twice occurring and substituting “Chief Psychiatrist”.

156. Section 186 amended (Review of urgent circumstances treatment)

Section 186(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c)(i) “examined” and substituting “assessed”;
- (b) by omitting from paragraph (c)(ii) “examined” and substituting “assessed”;
- (c) by omitting from paragraph (d)(i) “relevant”;
- (d) by omitting from paragraph (d)(ii) “relevant”.

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157. Section 192A amended (Tribunal to review forensic patient’s treatment authorisation)

Section 192A(2)(b)(ii) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

158. Section 194 amended (General powers, &c., on review)

Section 194 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “relevant”;
- (b) by omitting from paragraph (c)(i) “examined” and substituting “examined, assessed”.

159. Section 203 amended (Operation of interstate transfer agreements)

Section 203(e) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

160. Section 208 amended (Apprehension, &c., of involuntary patients, &c., from interstate)

Section 208(5)(a) of the Principal Act is amended by omitting “taken into protective custody” and substituting “temporarily detained for assessment”.

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161. Section 210 amended (Apprehension of persons under supervision orders found interstate)

Section 210(2) of the Principal Act is amended by omitting “CFP” and substituting “Chief Psychiatrist”.

162. Section 211 amended (Remote medical procedures)

Section 211(2) of the Principal Act is amended by omitting the definition of *medical procedure* and substituting the following definition:

medical procedure includes assessment, diagnosis and treatment;

163. Section 212 amended (Special powers of ambulance officers and medical practitioners acting as MHO)

Section 212 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “CCP” and substituting “Chief Psychiatrist”;
- (b) by omitting from subsection (4)(a) “a CCP” and substituting “an”.

164. Section 215 amended (Obstruction of persons discharging responsibilities under Act, &c.)

Section 215(2) of the Principal Act is amended by omitting “a Chief” from paragraph (d) of the definition of *MHA official* and substituting “the Chief”.

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165. Section 218 amended (Immunities)

Section 218(4) of the Principal Act is amended by omitting “a Chief” from paragraph (d) of the definition of *MHA official* and substituting “the Chief”.

166. Section 222 amended (Conflicts of interest)

Section 222(3)(b) of the Principal Act is amended by omitting “a Chief” and substituting “the Chief”.

167. Section 224 amended (Correction of orders, &c., where validity not affected)

Section 224 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “a CCP” and substituting “an”;
- (b) by omitting from subsection (3) “CCP” second occurring and substituting “Chief Psychiatrist”;
- (c) by omitting subsection (4).

168. Section 224A amended (Correction of orders, &c., where validity affected)

Section 224A(3)(b) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (ii) “CFP and the”;

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(b) by omitting subparagraph (iii) and substituting the following subparagraph:

(iii) in each case, the Chief Psychiatrist.

169. Section 227 amended (Regulations)

Section 227(4) of the Principal Act is amended by omitting “a Chief” and substituting “the Chief”.

170. Section 229 repealed

Section 229 of the Principal Act is repealed.

171. Schedule 1 amended (Mental health service delivery principles)

Clause 1 of Schedule 1 to the Principal Act is amended as follows:

(a) by omitting paragraph (d) and substituting the following paragraph:

(d) to be sensitive and responsive to individual needs including, but not limited to –

(i) needs relating to culture, language, age, religion, gender, gender identity, sexual preference, sexuality or other personal factors; and

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- (ii) in relation to patients who are Aboriginal persons or Torres Strait Islanders, that there is a recognition and response to their distinct cultural and identity needs; and
 - (iii) needs that require recognition and response to relevant cultural and identity needs generally; and
 - (iv) needs related to trauma informed care; and
- (b) by omitting from paragraph (f) “outcomes” and substituting “outcomes, including the use of evidence-based care,”;
- (c) by omitting from paragraph (h) “families, and support persons,” and substituting “families, carers, children and support persons”;
- (d) by omitting paragraph (j) and substituting the following paragraph:
 - (j) to promote the ability of persons with mental illness to make their own decisions including decisions about the person’s assessment, treatment and recovery that involve a degree of risk;

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- (e) by omitting from paragraph (k) “families” and substituting “families, carers, children”;
- (f) by inserting in paragraph (p) “and to have robust clinical governance and quality and safety processes” after “accountable”;
- (g) by omitting from paragraph (q) “advances.” and substituting “advances and meet the requirements for national accreditation;”;
- (h) by inserting the following paragraphs after paragraph (q):
 - (r) to ensure that persons receiving mental health services have their medical and other health needs, including any alcohol and other addiction problems, recognised and responded to;
 - (s) to ensure that the best interests of children and young persons are recognised and promoted as a primary consideration, including receiving services separately from adults, whenever possible;
 - (t) to ensure that the needs, wellbeing and safety of children, and other dependants, of persons receiving mental health services are recognised and protected;

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- (u) to ensure that staff working in mental health services have access to the support, supervision and appropriate training, including cultural diversity training, required to maintain quality, safety and a highly skilled workforce;
- (v) to provide a mental health service that –
 - (i) is easily accessible, and safe; and
 - (ii) provides persons with mental illness with timely treatment, care and support that is high quality and based on contemporary best-practice principles; and
 - (iii) promotes recovery in the least restrictive manner that is consistent with the needs of persons with mental illness;
- (w) to ensure that people who require mental health care and treatment have timely referrals, and access to specialist mental health services, when appropriate.

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172. Schedule 2 amended (Custody and escort provisions)

Schedule 2 to the Principal Act is amended as follows:

- (a) by omitting “take the patient into protective custody or under escort” from the definition of *custodian* in clause 1 of Part 1 and substituting “temporarily detain the patient for assessment or take the patient under escort”;
- (b) by omitting “a Chief” from paragraph (b) of the definition of *relevant* in clause 1 of Part 1 and substituting “the Chief”;
- (c) by omitting the definition of *take* from clause 1 of Part 1 and substituting the following definitions:
 - take*, a patient under escort, includes holding the patient under escort;
 - temporarily detain*, a patient for assessment, includes continuing to detain the person for assessment.
- (d) by omitting from clause 1 of Part 2 “take a patient into protective custody or” and substituting “temporarily detain a patient for assessment or to take a patient”;
- (e) by omitting from clause 1(b) of Part 2 “taken into protective custody or under

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escort” and substituting “temporarily detained or taken under escort”;

- (f) by omitting from clause 1(c) of Part 2 “taken into protective custody or under escort” and substituting “temporarily detained or taken under escort”;
- (g) by omitting from clause 1(f) of Part 2 “examination,”;
- (h) by omitting from clause 1(h) of Part 2 “examination or”;
- (i) by omitting from clause 2(1) of Part 2 “take a patient into protective custody or under escort –” and substituting “temporarily detain a patient or take a patient under escort –”;
- (j) by omitting from clause 3(6) of Part 2 “CFP” and substituting “Chief Psychiatrist”;
- (k) by omitting “a Chief” from paragraph (e) of the definition of *affected party* in clause 3(7) of Part 2 and substituting “the Chief”;
- (l) by omitting paragraph (a) from clause 1 of Part 3 and substituting the following paragraph:
 - (a) patients should not be temporarily detained for assessment if they can be properly assessed against the assessment criteria or

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treatment criteria without being
so detained; and

- (m) by omitting from clause 1(b) of Part 3 “taken into or held in protective custody” and substituting “temporarily detained for assessment”;
- (n) by omitting from clause 1(d) of Part 3 “taken into protective custody or under escort” and substituting “temporarily detained for assessment or taken under escort”.

173. Schedule 4 amended (Proceedings of Tribunal)

Schedule 4 to the Principal Act is amended as follows:

- (a) by omitting “relevant” from paragraph (f) of the definition of *party* in clause 1 of Part 1;
- (b) by omitting paragraphs (d) and (e) from clause 2 of Part 2 and substituting the following paragraph:
 - (d) the Chief Psychiatrist;
- (c) by omitting from clause 3 of Part 4 “a Chief” and substituting “the Chief”.

174. Schedule 5 amended (Official Visitors)

Clause 4(3) of Schedule 5 to the Principal Act is amended by omitting “State Servant” and

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substituting “State Service officer or State
Service employee”.

Consultation draft

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Part 11 – Sentencing Act 1997 Amended

PART 11 – SENTENCING ACT 1997 AMENDED

175. Principal Act

In this Part, the *Sentencing Act 1997** is referred to as the Principal Act.

176. Section 4 amended (Interpretation)

Section 4 of the Principal Act is amended by omitting the definition of *Chief Forensic Psychiatrist* and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

177. Section 72 amended (Court may make assessment order)

Section 72(b) of the Principal Act is amended by omitting “Forensic”.

178. Section 75 amended (Treatment order, supervision order and restriction order)

Section 75 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “Chief Civil Psychiatrist, Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist”;

*No. 59 of 1997

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- (b) by omitting from subsection (1)(c) “Civil”;
- (c) by omitting from subsection (1)(c) “from the Chief Forensic Psychiatrist if it is proposed to admit the person”;
- (d) by omitting from subsection (2A)(b) “Forensic” first occurring;
- (e) by omitting from subsection (2A)(b)(ii) “Forensic”;
- (f) by omitting from subsection (2A)(c) “Forensic”;
- (g) by omitting from subsection (5) “Chief Civil Psychiatrist or the Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist”;
- (h) by omitting from subsection (6) “Chief Civil Psychiatrist or the Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist”;
- (i) by omitting from subsection (7) “Chief Civil Psychiatrist or the Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist”;
- (j) by omitting from subsection (8) “Chief Civil Psychiatrist or the Chief Forensic Psychiatrist” first occurring and substituting “Chief Psychiatrist”;

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- (k) by omitting from subsection (8)(b) “Chief Civil Psychiatrist or the Chief Forensic Psychiatrist” twice occurring and substituting “Chief Psychiatrist”.

179. Section 77A amended (What is a supervision order?)

Section 77A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Forensic”;
- (b) by omitting from subsection (2)(a) “Forensic”;
- (c) by omitting from subsection (2)(b) “Forensic”.

180. Section 78 amended (Custody of admitted person)

Section 78(4) of the Principal Act is amended by omitting “psychiatrist, Chief Civil Psychiatrist or Chief Forensic Psychiatrist” and substituting “psychiatrist or Chief Psychiatrist”.

PART 12 – YOUTH JUSTICE ACT 1997 AMENDED

181. Principal Act

In this Part, the *Youth Justice Act 1997** is referred to as the Principal Act.

182. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting the definition of *Chief Forensic Psychiatrist* and substituting the following definition:

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

183. Section 105 amended (Adjournment to determine mental health or disability of youth)

Section 105 of the Principal Act is amended as follows:

- (a) by omitting from subsection (6) “Forensic”;
- (b) by omitting from subsection (8) “Forensic”.

*No. 81 of 1997

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Part 12 – Youth Justice Act 1997 Amended

184. Section 134A amended (Removal of detainee to secure mental health unit)

Section 134A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(b) “Forensic”;
- (b) by omitting from subsection (3)(b) “Forensic”;
- (c) by omitting from subsection (5) “Forensic” twice occurring.

185. Section 134B amended (Appeal against direction under section 134A)

Section 134B(1)(b) of the Principal Act is amended by omitting “Forensic”.