



Australian Capital Territory

Mental Health Act 2015

A2015-38

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Australian Capital Territory

Mental Health Act 2015

A2015-38

An Act to provide for the treatment, care or support, rehabilitation and protection of people with a mental disorder or mental illness and the promotion of mental health and wellbeing, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Chapter 1 Preliminary

1 Name of Act

This Act is the *Mental Health Act 2015*.

2 Commencement

- (1) This Act (other than schedule 2, part 2.2) commences immediately after the commencement of the *Mental Health (Treatment and Care) Amendment Act 2014*, section 3.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Schedule 2, part 2.2 commences on the day after this Act's notification day.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*care and protection order*—see the *Children and Young People Act 2008*, section 422.' means that the term 'care and protection order' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Chapter 2 Objects and important concepts

Explanatory note

The text for this chapter (sections 5 to 13) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.38.

Chapter 3 Rights of people with mental disorder or mental illness

Explanatory note

The text for this chapter (parts 3.1 to 3.3) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.39.

Chapter 4 Assessments

Explanatory note

The text for this chapter (parts 4.1 and 4.2) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.40.

Chapter 5 Mental health orders

Explanatory note

The text for this chapter (parts 5.1 to 5.7) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.41.

Chapter 6 Emergency detention

Explanatory note

The following sections are relocated to this chapter from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.42:

- section 37 (Apprehension)
- section 38 (Detention at approved mental health facility)
- section 38A (Copy of court order).

39 Statement of action taken

- (1) A police officer, authorised ambulance paramedic, doctor or mental health officer who takes a person to an approved mental health facility under section 37 must give the person in charge of the facility a written statement containing a description of the action taken under that section, including the following:
 - (a) the name and address (if known) of the person taken to the facility;
 - (b) the date and time when the person was taken to the facility;
 - (c) detailed reasons for taking the action;
 - (d) the nature and extent of the force or assistance used to enter any premises, or to apprehend the person and take the person to the facility;
 - (e) the nature and extent of any restraint, involuntary seclusion or forcible giving of medication used when apprehending the person or taking the person to the facility;

- (f) anything else that happened when the person was being apprehended and taken to the facility that may have an effect on the person's physical or mental health.

Examples—par (f)

- 1 the person was subject to threats of violence from another person
- 2 a package of white powder fell out of the person's pocket
- 3 the person was in an agitated state and hit their head against the side of the transport vehicle

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) The person in charge of the approved mental health facility must—
- (a) enter the statement in the person's record; and
 - (b) keep a register of any restraint, involuntary seclusion or forcible giving of medication included in the statement.

Explanatory note

The following sections are relocated to this chapter from the [Mental Health \(Treatment and Care\) Act 1994](#) by schedule 2, amendment 2.43:

- section 40 (Initial examination at approved mental health facility)
- section 41 (Authorisation of involuntary detention)
- section 41AA (Medical examination of detained person).

41A Notification of Magistrates Court about emergency detention or release from emergency detention

- (1) The person in charge of an approved mental health facility must—
- (a) notify the Magistrates Court of the results of an examination conducted by a doctor under an order under the [Crimes Act](#), section 309 (1); and

- (b) if, after examination by the doctor—
 - (i) the person is to be detained for treatment, care or support—ensure that the person is detained for the purposes of receiving that treatment, care or support; or
 - (ii) the person is not to be detained for treatment, care or support, or is to be released after being detained—release the person into the custody of a police officer.
- (2) If the person is detained at the facility under section 38 or section 41, the person in charge of the facility must notify the court of the reasons for the detention.

Note If a form is approved under s 146A for this provision, the form must be used.

41AB Treatment during detention

- (1) While a person is detained at a mental health facility under section 41, the person in charge of the facility—
 - (a) may keep the person in the custody that the person in charge considers appropriate; and
 - (b) may subject the person to the minimum confinement or restraint that is necessary and reasonable to—
 - (i) prevent the person from causing harm to the person or someone else; or
 - (ii) ensure that the person remains in custody; and
 - (c) must ensure that any treatment, care or support administered to the person is the minimum necessary to prevent any immediate and substantial risk of the person detained causing harm to the person or someone else.

Note Special provisions apply for the emergency administration of electroconvulsive therapy (see s 55J).

- (2) Subsection (1) (c) does not apply if a person has a mental illness for which, in the opinion of a psychiatrist, the most appropriate treatment is long acting medication.
- (3) In deciding whether to administer long acting medication, the psychiatrist must take into account the likely deterioration in the person's condition within 3 days after the psychiatrist's examination of the person.

Explanatory note

Section 42 (Notification of certain people about detention) is relocated to this chapter from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.44.

There is no section 43. It was omitted by the *Mental Health (Treatment and Care) Amendment Act 2014*, section 17. Previous section 44 has been remade as section 41AB above.

Section 45 (Offence—communication during detention) is relocated to this chapter from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.45.

46 Order for release

- (1) If a relevant entity is satisfied that the detention of a person under section 41 is no longer justified, the entity must, as soon as practicable, order the release of the person before the period of detention authorised under that subsection expires.
- (2) However, if the person detained under section 41 is an accused person to whom an order under the *Crimes Act*, section 309 (1) (Assessment whether emergency detention required) applies, the relevant entity must, as soon as practicable, notify the person in charge of an approved mental health facility if satisfied that the detention of the person is no longer justified.
- (3) In this section:
relevant entity means—
 - (a) a doctor who examined the person under section 41AA; or
 - (b) the chief psychiatrist; or
 - (c) the ACAT.

47 Duty to release

- (1) A person in charge of an approved mental health facility must ensure that a person detained at the facility under section 41—
 - (a) is released in accordance with an order under section 46; or
 - (b) if no order under section 46 is made and subject to any other order of the ACAT—is released at the end of the period of detention authorised under section 41.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) If the person in charge of an approved mental health facility is notified under section 46 (2), the person must, as soon as practicable, discharge the person to whom the notification relates into the custody of a police officer.

Chapter 7 Forensic mental health

Explanatory note

The text for this chapter (parts 7.1 and 7.2) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.46.

Chapter 8 Correctional patients

Explanatory note

The text for this chapter (parts 8.1 to 8.4) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.47.

Chapter 9 Electroconvulsive therapy and psychiatric surgery

Part 9.1 Preliminary—ch 9

49 Definitions

(1) In this Act:

electroconvulsive therapy means a procedure for the induction of an epileptiform convulsion in a person.

electroconvulsive therapy order means an order under section 55G for the administration of electroconvulsive therapy to a person.

emergency electroconvulsive therapy order means an order under section 55K for the emergency administration of electroconvulsive therapy to a person.

psychiatric surgery means specialised neurosurgery for psychiatric conditions.

(2) In this section:

neurosurgery means surgery on the brain of a person for the purpose of treating a pathological condition of the physical structure of the brain.

50 Form of consent

- (1) For this chapter, consent to a procedure (other than consent given in an advance consent direction) must be given in writing signed by the person giving the consent and witnessed by a person other than—
- (a) the person seeking to obtain the consent; or
 - (b) the doctor who is proposing to conduct the procedure.

Note For requirements for the form of advance consent for electroconvulsive therapy, see s 27 (4) (Making advance consent direction).

- (2) In this section:

procedure means—

- (a) the administration of electroconvulsive therapy; or
- (b) the performance of psychiatric surgery.

Part 9.2 Electroconvulsive therapy

Division 9.2.1 Administration of electroconvulsive therapy

51 When electroconvulsive therapy may be administered

- (1) Electroconvulsive therapy may be administered to an adult only as provided under section 52 and section 53.
- (2) Electroconvulsive therapy may be administered to a person who is at least 12 years old but under 18 years old only as provided under section 54 and section 55.
- (3) Electroconvulsive therapy must not be administered to a person who is under 12 years old.

52 Adult with decision-making capacity

- (1) This section applies to a person who—
 - (a) is an adult; and
 - (b) has decision-making capacity to consent to the administration of electroconvulsive therapy.

Note For principles of decision-making capacity, see s 8.

- (2) Electroconvulsive therapy may be administered to the person if the person—
 - (a) has given consent to the administration of electroconvulsive therapy; and
 - (b) has not withdrawn the consent, either orally or in writing; and

- (c) has not had electroconvulsive therapy administered—
 - (i) 9 or more times since the consent was given; or
 - (ii) if the consent was to the administration of electroconvulsive therapy a stated number of times less than 9—that number of times.

53 Adult without decision-making capacity

- (1) This section applies to a person who—
 - (a) is an adult; and
 - (b) does not have decision-making capacity to consent to the administration of electroconvulsive therapy.
- (2) Electroconvulsive therapy may be administered to the person if—
 - (a) the person has an advance consent direction consenting to electroconvulsive therapy; and
 - (b) it is administered in accordance with the direction; and
 - (c) the person does not refuse or resist.
- (3) Also, electroconvulsive therapy may be administered to the person if—
 - (a) it is administered in accordance with an electroconvulsive therapy order or an emergency electroconvulsive therapy order in force in relation to the person; and
 - (b) either—
 - (i) the person does not refuse or resist; or
 - (ii) a psychiatric treatment order or a forensic psychiatric treatment order is also in force in relation to the person.

54 Young person with decision-making capacity

- (1) This section applies to a person who—
- (a) is at least 12 years old but under 18 years old; and
 - (b) has decision-making capacity to consent to the administration of electroconvulsive therapy.

Note For principles of decision-making capacity, see s 8.

- (2) Electroconvulsive therapy may be administered to the person if—
- (a) it is administered in accordance with—
 - (i) for a 12 to 15 year old—an electroconvulsive therapy order in force in relation to the person; or
 - (ii) for a 16 or 17 year old—an electroconvulsive therapy order or an emergency electroconvulsive therapy order in force in relation to the person; and
 - (b) the person has given consent to the administration of electroconvulsive therapy; and
 - (c) the person has not withdrawn the consent, either orally or in writing.

55 Young person without decision-making capacity

- (1) This section applies to a person who—
- (a) is at least 12 years old but under 18 years old; and
 - (b) does not have decision-making capacity to consent to the administration of electroconvulsive therapy.

- (2) Electroconvulsive therapy may be administered to the person if—
- (a) it is administered in accordance with—
 - (i) for a 12 to 15 year old—an electroconvulsive therapy order in force in relation to the person; or
 - (ii) for a 16 or 17 year old—an electroconvulsive therapy order or an emergency electroconvulsive therapy order in force in relation to the person; and
 - (b) either—
 - (i) the person does not refuse or resist; or
 - (ii) a psychiatric treatment order or a forensic psychiatric treatment order is also in force in relation to the person.

55B Offence—unauthorised administration of electroconvulsive therapy

- (1) A person commits an offence if—
- (a) the person administers electroconvulsive therapy to a person; and
 - (b) the person is not a doctor.
- Maximum penalty: 100 penalty units, imprisonment for 1 year or both.
- (2) A doctor commits an offence if—
- (a) the doctor administers electroconvulsive therapy to a person; and
 - (b) the electroconvulsive therapy may not be administered to the person under this division.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Division 9.2.2 Electroconvulsive therapy orders

55C Application for electroconvulsive therapy order

- (1) This section applies if the chief psychiatrist or a doctor believes on reasonable grounds that the ACAT could reasonably make an electroconvulsive therapy order in relation to a person.
- (2) The chief psychiatrist or doctor may apply to the ACAT for an electroconvulsive therapy order in relation to the person.
- (3) If the person is under 18 years old—
 - (a) the application must be supported by the evidence of another doctor; and
 - (b) the applicant or the other doctor (or both) must be a child and adolescent psychiatrist.

Note A psychiatric treatment order or forensic psychiatric treatment order is also needed if electroconvulsive therapy is to be administered to the person and the person refuses or resists (see s 53 (3) (b) (i) and s 55 (2) (b) (i)).

- (4) In this section:

child and adolescent psychiatrist means a psychiatrist who is a member of the Faculty of Child and Adolescent Psychiatry of the Royal Australian and New Zealand College of Psychiatrists.

55D Consultation by ACAT—electroconvulsive therapy order

Before making an electroconvulsive therapy order in relation to a person who is not subject to a mental health order, the ACAT must, as far as practicable, consult—

- (a) if the person is under 18 years old—each person with parental responsibility for the person under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility); and

- (b) if the person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian; and
- (c) if the person has an attorney under the *Powers of Attorney Act 2006*—the attorney; and
- (d) if the person has a nominated person—the nominated person; and
- (e) if a health attorney is involved in the treatment, care or support of the person—the health attorney.

55E ACAT must hold hearing—electroconvulsive therapy order

Before making an electroconvulsive therapy order in relation to a person, the ACAT must hold a hearing into the matter.

55F What ACAT must take into account—electroconvulsive therapy order

In making an electroconvulsive therapy order in relation to a person, the ACAT must take into account the following:

- (a) whether the person consents, refuses to consent or has the decision-making capacity to consent to the electroconvulsive therapy;
- (b) the views and wishes of the person, so far as they can be found out, including in—
 - (i) an advance agreement; and
 - (ii) an advance consent direction;
- (c) the views of the people responsible for the day-to-day care of the person, so far as those views are made known to the ACAT;
- (d) the views of the people appearing at the proceeding;

- (e) the views of the people consulted under section 55D (Consultation by ACAT—electroconvulsive therapy order);
- (f) any alternative treatment, care or support reasonably available, including—
 - (i) the purpose of the treatment, care or support; and
 - (ii) the benefits likely to be derived by the person from the treatment, care or support; and
 - (iii) the distress, discomfort, risks, side effects or other disadvantages associated with the treatment, care or support;
- (g) any relevant medical history of the person.

55G Making of electroconvulsive therapy order

- (1) On application under section 55C, the ACAT may make an electroconvulsive therapy order in relation to a person who is at least 12 years old if satisfied that—
 - (a) the person has a mental illness; and
 - (b) the person does not have decision-making capacity to consent to the administration of electroconvulsive therapy; and
 - (c) the person does not have an advance consent direction refusing consent to electroconvulsive therapy; and
 - (d) the administration of electroconvulsive therapy is likely to result in substantial benefit to the person; and
 - (e) either—
 - (i) all other reasonable forms of treatment available have been tried but have not been successful; or
 - (ii) the treatment is the most appropriate treatment reasonably available.

- (2) Also on application under section 55C, the ACAT may make an electroconvulsive therapy order in relation to a person who is at least 12 years old but under 18 years old if satisfied that—
 - (a) the person has a mental illness; and
 - (b) the person has decision-making capacity to consent to the administration of electroconvulsive therapy; and
 - (c) the person consents to the administration of electroconvulsive therapy; and
 - (d) the administration of electroconvulsive therapy is likely to result in substantial benefit to the person.
- (3) The ACAT must, as soon as practicable after making an electroconvulsive therapy order under this section, give a copy of the order to the following:
 - (a) the person in relation to whom the order is made;
 - (b) the person who applied for the order;
 - (c) the people consulted under section 55D (Consultation by ACAT—electroconvulsive therapy order).

55H Content of electroconvulsive therapy order

- (1) An electroconvulsive therapy order made in relation to a person must state—
 - (a) the matters under section 55G (1) or (2) of which the ACAT is satisfied in relation to the person; and
 - (b) the maximum number of times electroconvulsive therapy may be administered to the person under the order.

Note The ACAT must give a copy of the order to certain people (see s 87).

- (2) For subsection (1) (b), the maximum number must be—
 - (a) if the person has an advance consent direction that includes advance consent for electroconvulsive therapy—not more than the maximum number of times stated in the direction; and
 - (b) in any other case—not more than 9.

55I Person to be told about electroconvulsive therapy order

- (1) This section applies if electroconvulsive therapy is to be administered to a person at a mental health facility under an electroconvulsive therapy order.
- (2) The person in charge of the facility must ensure that the person is told about the order, and the procedures authorised under the order, before the therapy is administered and in a language and way of communicating that the person is most likely to understand.
- (3) This section applies even if the person was present when the order was made.

Division 9.2.3 Emergency electroconvulsive therapy orders

55J Application for emergency electroconvulsive therapy order

- (1) This section applies if the chief psychiatrist and a doctor believe on reasonable grounds that the ACAT could reasonably make an emergency electroconvulsive therapy order in relation to a person.
- (2) The chief psychiatrist and doctor may jointly apply to the ACAT for an emergency electroconvulsive therapy order in relation to the person.

- (3) The application must be accompanied by an application for an electroconvulsive therapy order in relation to the person.

Note 1 The ACAT must give a copy of the application to the following people as soon as practicable (and not longer than 24 hours) after the application is lodged:

- the public advocate
- if the person is a child—the CYP director-general (see s 79).

Note 2 Certain people are entitled to appear and give evidence, and be represented, at the proceeding, including the following:

- the person who is the subject of the proceeding
- the public advocate
- the discrimination commissioner.

Other people are also entitled to appear (see s 80).

Note 3 A psychiatric treatment order or forensic psychiatric treatment order is also needed if electroconvulsive therapy is to be administered to the person and the person refuses or resists (see s 53 (3) (b) and s 55 (2) (b)).

55JA What ACAT must take into account—emergency electroconvulsive therapy order

In making an emergency electroconvulsive therapy order in relation to a person, the ACAT must take into account the following:

- (a) the views and wishes of the person, so far as they can be found out, including in—
- (i) an advance agreement; and
 - (ii) an advance consent direction;
- (b) the views of the people appearing at the proceeding;

- (c) the views of the following, so far as those views are made known to the ACAT:
- (i) the people responsible for the day-to-day care of the person;
 - (ii) if the person is under 18 years old—each person with parental responsibility for the person under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility);
 - (iii) if the person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (iv) if the person has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (v) if the person has a nominated person—the nominated person;
 - (vi) if a health attorney is involved in the treatment, care or support of the person—the health attorney.

Note Section 79A (Notice of hearing) does not apply in relation to the making of an emergency electroconvulsive therapy order (see s 79A (3)).

55K Making of emergency electroconvulsive therapy order

- (1) On application under section 55J, the ACAT may make an emergency electroconvulsive therapy order in relation to a person who is at least 16 years old if satisfied that—
- (a) the person has a mental illness; and
 - (b) the person does not have decision-making capacity to consent to the administration of electroconvulsive therapy; and
 - (c) the person does not have an advance consent direction refusing consent to electroconvulsive therapy; and

- (d) the administration of the electroconvulsive therapy is necessary to—
 - (i) save the person’s life; or
 - (ii) prevent the likely onset of a risk to the person’s life within 3 days; and
 - (e) either—
 - (i) all other reasonable forms of treatment available have been tried but have not been successful; or
 - (ii) the treatment is the most appropriate treatment reasonably available.
- (2) Also on application under section 55J, the ACAT may make an emergency electroconvulsive therapy order in relation to a person who is at least 16 years old if the ACAT is satisfied that—
- (a) the person has a mental illness; and
 - (b) the person has decision-making capacity to consent to the administration of electroconvulsive therapy and consents to the administration of electroconvulsive therapy; and
 - (c) the administration of the electroconvulsive therapy is necessary to—
 - (i) save the person’s life; or
 - (ii) prevent the likely onset of a risk to the person’s life within 3 days; and
 - (d) either—
 - (i) all other reasonable forms of treatment available have been tried but have not been successful; or
 - (ii) the treatment is the most appropriate treatment reasonably available.

55L Content of an emergency electroconvulsive therapy order

An emergency electroconvulsive therapy order made in relation to a person must state that—

- (a) electroconvulsive therapy may be administered to the person a stated number of times (not more than 3); and
- (b) the order expires a stated number of days (not more than 7) after it is made.

Note The ACAT must give a copy of the order to certain people within 24 hours (see s 87).

56 Effect of later order

If an emergency electroconvulsive therapy order is in force in relation to a person and the ACAT makes an electroconvulsive therapy order in relation to the person, the emergency electroconvulsive therapy order ceases to be in force.

Division 9.2.4 Records of electroconvulsive therapy

57 Doctor must record electroconvulsive therapy

- (1) If a doctor administers electroconvulsive therapy to a person, the doctor must make a record of the administration, including whether the administration—
 - (a) was in accordance with an order of the ACAT; and
 - (b) was with the person's consent.
- (2) The doctor must give the record to the person in charge of the psychiatric facility where the therapy was administered.
- (3) A doctor commits an offence if the doctor fails to comply with subsection (1) or (2).

Maximum penalty: 20 penalty units.

58 Electroconvulsive therapy records to be kept for 5 years

The person in charge of a psychiatric facility must keep a record of electroconvulsive therapy given under section 57 (2) for at least 5 years after the day the record is given.

Maximum penalty: 20 penalty units.

Part 9.3 Psychiatric surgery

59 Performance on people subject to orders of ACAT

Psychiatric surgery may be performed on a person under this part despite any order of the ACAT in force in relation to the person.

60 Psychiatric surgery not to be performed without approval or if person refuses

A doctor commits an offence if—

- (a) the doctor performs psychiatric surgery on a person; and
- (b) the doctor—
 - (i) does not have the chief psychiatrist's approval for performance of the surgery; or
 - (ii) has been told under section 66 that the person refuses to have the surgery performed.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

61 Application for approval

- (1) A doctor who proposes to perform psychiatric surgery on a person may apply to the chief psychiatrist for approval to perform the surgery.
- (2) The doctor must be a psychiatrist.
- (3) The application must be in writing and be accompanied by—
 - (a) a copy of the consent of the person; or
 - (b) if the consent is in an advance consent direction—a copy of the advance consent direction; or
 - (c) a copy of an order of the Supreme Court under section 65.

- (4) The doctor must, as soon as practicable after giving the application to the chief psychiatrist, give a copy of the application to the person on whom the surgery is proposed to be performed.

62 Application to be considered by committee

- (1) The chief psychiatrist must, as soon as practicable after receiving an application under section 61, give a copy of the application to the chairperson of the committee appointed under section 67.
- (2) The chairperson must as soon as practicable after receiving the application—
- (a) tell the following people, in writing, of the application:
- (i) the person on whom the surgery is proposed to be performed (the *subject person*);
 - (ii) if the subject person is a child—each person with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility);
 - (iii) if the subject person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (iv) if the subject person has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (v) if the subject person has a nominated person—the nominated person;
 - (vi) if a health attorney is involved in the treatment, care or support of the subject person—the health attorney; and
- (b) convene a meeting of the committee to consider the application; and

- (c) give a written report to the chief psychiatrist that includes the following:
 - (i) the committee's recommendation about whether or not the chief psychiatrist should approve the performance of the psychiatric surgery;
 - (ii) if the committee recommends approval of the surgery—the conditions (if any) to which the approval should be subject;
 - (iii) the committee's reasons for making the recommendations in the report.
- (3) The committee must—
 - (a) ensure that the people told of the application under subsection (2) (a) are given an opportunity to make an oral or written submission to the committee; and
 - (b) consider any submissions received.
- (4) The committee must not recommend that the chief psychiatrist approve the performance of psychiatric surgery unless—
 - (a) the committee believes on reasonable grounds that—
 - (i) the surgery will result in substantial benefit to the subject person; and
 - (ii) all alternative forms of treatment reasonably available have failed, or are likely to fail, to benefit the subject person; and
 - (b) the recommendation is supported by the psychiatrist and the neurosurgeon on the committee.
- (5) The chief psychiatrist must ensure that a copy of the committee's report is placed on the subject person's record.

63 Requirement for further information

- (1) On request by the committee considering an application, the chief psychiatrist must, by written notice given to the doctor who made the application, require the doctor to give the chief psychiatrist further stated information or documents relevant to the application.
- (2) The committee need not consider the application further until the required information or documents are given to the chief psychiatrist.
- (3) The chief psychiatrist must give the chairperson of the committee any information or documents given to the chief psychiatrist in compliance with a requirement under subsection (1).

64 Application to be decided in accordance with committee's recommendation

The chief psychiatrist must decide an application under section 61 in accordance with the committee's recommendation.

65 Consent of Supreme Court

- (1) This section applies if a psychiatrist proposes to perform psychiatric surgery on a person but the person does not have decision-making capacity to consent or an advance consent direction consenting to the surgery.
- (2) The psychiatrist may apply to the Supreme Court for an order consenting to the performance of psychiatric surgery on the person.
Note The order is needed for an application for the chief psychiatrist's approval for performance of the surgery (see s 61 (3) (c)).
- (3) The Supreme Court may make the order only if satisfied on reasonable grounds that—
 - (a) the person has a mental illness; and

- (b) the person—
 - (i) does not have decision-making capacity to consent to the surgery; and
 - (ii) does not have an advance consent direction consenting to the surgery; and
 - (iii) has not refused to consent to the surgery (in an advance consent direction or otherwise); and
- (c) there are grounds for believing that the performance of the surgery is likely to result in substantial benefit to the person; and
- (d) all alternative forms of treatment reasonably available have failed, or are likely to fail, to benefit the person.

66 Refusal of psychiatric surgery

- (1) This section applies in relation to a person—
 - (a) who has given consent to the performance of psychiatric surgery; or
 - (b) in relation to whom the Supreme Court has made an order consenting to the performance of psychiatric surgery under section 65.
- (2) The person may, before the psychiatric surgery is performed, tell the chief psychiatrist or anyone else, orally or in writing or by indicating in any other way, that the person refuses to have the surgery performed.
- (3) A person (other than the chief psychiatrist) who is told under subsection (2) that the person refuses to have psychiatric surgery performed must tell the chief psychiatrist of the refusal.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (4) If the chief psychiatrist has approved the performance of psychiatric surgery on a person under section 64 and is told under this section that the person refuses to have the surgery, the chief psychiatrist must—
 - (a) immediately tell the doctor who is to perform the surgery of the refusal; and
 - (b) ensure that written documentation of the refusal is placed on the person's record.
- (5) If the chief psychiatrist is told under this section that a person refuses to have psychiatric surgery performed—
 - (a) any consent to the performance of the surgery given by the person, or any order made by the Supreme Court under section 65 in relation to the person, ceases to have effect; and
 - (b) if, immediately before the date of the refusal, an application for the approval of the performance of the surgery has been made but has not been decided, the application is taken to have been withdrawn on that date; and
 - (c) any approval given by the chief psychiatrist for the performance of the surgery ceases to have effect.

67 Appointment of committee

- (1) For section 62, the Minister must appoint a committee consisting of—
 - (a) a psychiatrist; and
 - (b) a neurosurgeon; and
 - (c) a lawyer; and

- (d) a clinical psychologist; and
- (e) a social worker.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (2) The Minister must appoint a member of a committee to be the chairperson of the committee.
- (3) The chairperson of the committee must convene meetings of the committee.
- (4) Subject to section 62 (4) (b), a question arising at a meeting of a committee must be decided in accordance with the opinion of a majority of members of the committee.
- (5) A member of a committee must be paid the remuneration and allowances (if any) prescribed by regulation.

Chapter 10 **Referrals by courts under Crimes Act and Children and Young People Act**

Explanatory note

The text for this chapter (sections 68 to 75) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.48.

Chapter 11 ACAT procedural matters

Explanatory note

The text for this chapter (sections 76 to 87) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.49.

Chapter 12 Administration

Explanatory note

The text for this chapter (parts 12.1 to 12.5) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.50.

Chapter 13 Private psychiatric facilities

Part 13.1 Preliminary

123 Definitions—ch 13

In this chapter:

inspector means an inspector appointed under section 135.

licence means a licence issued under section 127.

licensed premises means the premises in relation to which a licence is issued.

licensee means a person who holds a licence issued under section 127.

private psychiatric facility means a hospital or other facility for the treatment, care, support, rehabilitation or accommodation of people with a mental illness other than—

- (a) a recognised hospital within the meaning of the [Health Insurance Act 1973](#) (Cwlth); or
- (b) a facility conducted by the Territory.

Part 13.2 Licences

124 Meaning of *eligible person*—pt 13.2

- (1) For this part, a person is an *eligible person* if—
 - (a) the Minister is satisfied on reasonable grounds that the person is a suitable person to hold a licence; and
 - (b) if the person is an individual—the individual has not been involved in a disqualifying act; and
 - (c) if the person is in a partnership that is to operate a private psychiatric facility—each person in the partnership has not been involved in a disqualifying act; and
 - (d) if the person is a corporation—the corporation and each person involved in the management of the corporation has not been involved in a disqualifying act.

- (2) In this section:

disqualifying act—a person has been involved in a ***disqualifying act*** if the person has in the last 5 years, whether in the ACT or elsewhere—

- (a) contravened a provision of this Act; or

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (b) contravened a condition of a licence issued under this Act; or
- (c) been convicted, or found guilty, of an offence involving fraud or dishonesty, or punishable by imprisonment for at least 1 year; or
- (d) been bankrupt or personally insolvent; or

Note ***Bankrupt or personally insolvent***—see the [Legislation Act](#), dictionary, pt 1.

- (e) been involved in the management of a corporation when the corporation became the subject of a winding-up order or a controller or administrator was appointed.

125 Licence—requirement to hold

- (1) A person commits an offence if the person—
 - (a) operates a private psychiatric facility; and
 - (b) does not hold a licence to operate the facility.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
 - (a) the person is a partner in a partnership; and
 - (b) the partnership operates a private psychiatric facility; and
 - (c) no partner in the partnership holds a licence to operate the facility.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

126 Licence—application

- (1) A person (the *applicant*) may apply to the Minister for a licence to operate a private psychiatric facility.
- (2) The application must—
 - (a) be in writing; and
 - (b) state the applicant's name and address; and
 - (c) if the applicant is a partner in a partnership that is to operate the facility—state the name and address of each partner in the partnership; and

- (d) if the applicant is a corporation—state the name and address of each director of the corporation; and
- (e) state the address of the premises where the facility is to be operated.

Note 1 If a form is approved under s 146A for an application, the form must be used.

Note 2 A fee may be determined under s 146 for an application.

- (3) The Minister may, in writing, ask the applicant to give the Minister additional information or documents that the Minister reasonably needs to decide the application.
- (4) If the applicant does not comply with a request under subsection (3), the Minister may refuse to consider the application further.

127 Licence—decision on application

- (1) On application under section 126, the Minister may issue a licence if satisfied on reasonable grounds that—
 - (a) the applicant is an eligible person; and
 - (b) the applicant complies with, and is likely to continue to comply with, the requirements of this Act; and

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

 - (c) the premises where the facility is to be operated are suitable premises for the operation of a private psychiatric facility.
- (2) A licence must include conditions about the maximum number of people for whom treatment, care or support may be provided at the licensed premises.

- (3) A licence may also include conditions about the following:
- (a) the minimum number of staff to be employed at the licensed premises;
 - (b) the qualifications of the staff;
 - (c) the treatment, care or support that may be provided at the licensed premises;
 - (d) the health and safety of people at the licensed premises;
 - (e) the insurance to be carried by the licensee against any liability arising from the operation of a private psychiatric facility at the licensed premises;
 - (f) the recreational and educational facilities to be provided at the licensed premises;
 - (g) the management of the licensed premises;
 - (h) the keeping of records about the licensed premises and any person who is treated in or from the premises;
 - (i) anything else that the Minister is satisfied on reasonable grounds is appropriate.

128 Licence—term and renewal of licence

- (1) A licence is issued for the period of up to 3 years stated in the licence.
- (2) A licensee may apply, in writing, to the Minister to renew the licence.

Note 1 If a form is approved under s 146A for an application, the form must be used.

Note 2 A fee may be determined under s 146 for an application.

- (3) The Minister may renew the licence for a period of up to 3 years if satisfied on reasonable grounds of the matters mentioned in section 126 (2) in relation to the applicant and the premises.

129 Licence—transfer of licence

- (1) A licensee may apply to the Minister to transfer a licence to someone else (the *proposed new licensee*).
- (2) The application must—
 - (a) be in writing; and
 - (b) state the proposed new licensee’s name and address; and
 - (c) if the proposed new licensee is in a partnership—state the name and address of each partner in the partnership; and
 - (d) if the proposed new licensee is a corporation—state the name and address of each director of the corporation.

Note 1 If a form is approved under s 146A for an application, the form must be used.

Note 2 A fee may be determined under s 146 for an application.

- (3) The Minister may, in writing, ask the proposed new licensee to give the Minister additional information or documents that the Minister reasonably needs to decide the application.
- (4) If the proposed new licensee does not comply with a request under subsection (3), the Minister may refuse to consider the application further.
- (5) The Minister may transfer the licence if satisfied on reasonable grounds that—
 - (a) the proposed new licensee is an eligible person; and
 - (b) the proposed new licensee complies with, and is likely to continue to comply with, the requirements of this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (6) The Minister may amend the licence if satisfied on reasonable grounds that the amendment is in the best interests of people for whom treatment, care or support is provided under the licence.

130 Licence—amendment initiated by Minister

- (1) The Minister may, by written notice (an *amendment notice*), amend a licence on the Minister's own initiative if satisfied on reasonable grounds that the amendment is in the best interests of people for whom treatment, care or support is provided under the licence.
- (2) However, the Minister may amend a licence on the Minister's own initiative only if—
- (a) the Minister gives the licensee written notice of the proposed amendment (a *proposed amendment notice*); and
 - (b) the proposed amendment notice states that written comments on the proposal may be made to the Minister before the end of a stated period of at least 28 days after the day the notice is given to the licensee; and
 - (c) the Minister considers any comments made in response to the proposed amendment notice.
- (3) Subsection (2) does not apply if the licensee agrees, in writing, to the amendment.
- (4) The amendment takes effect on—
- (a) the day the amendment notice is given to the licensee; or
 - (b) a later day stated in the notice.

131 Licence—amendment on application by licensee

- (1) A licensee may apply to the Minister to amend a licence.

Note 1 If a form is approved under s 146A for an application, the form must be used.

Note 2 A fee may be determined under s 146 for an application.

- (2) The Minister must, not later than 28 days after receiving the application—
 - (a) decide the application for amendment; and
 - (b) give the licensee written notice of the decision.
- (3) The Minister may amend the licence if satisfied on reasonable grounds that the amendment is in the best interests of people for whom treatment, care or support is provided under the licence.
- (4) The amendment takes effect on—
 - (a) the day the written notice of amendment is given to the licensee; or
 - (b) a later day stated in the notice.

132 Licence—surrender

- (1) A licensee may surrender a licence by giving the Minister—
 - (a) written notice of the surrender; and
 - (b) the licence.

Note If a form is approved under s 146A for this provision, the form must be used.

- (2) A surrender takes effect on—
 - (a) the day the notice is given to the Minister; or
 - (b) a later day stated in the notice.

133 Licence—cancellation by notice

- (1) The Minister may, by written notice (a *cancellation notice*), cancel a licence if satisfied on reasonable grounds that the licensee has failed to comply with a condition of the licence.

- (2) However, the Minister may cancel a licence only if—
 - (a) the Minister gives the licensee written notice of the proposed cancellation (a *proposed cancellation notice*); and
 - (b) the proposed cancellation notice states that written comments on the proposal may be made to the Minister before the end of a stated period of at least 28 days after the day the notice is given to the licensee; and
 - (c) the Minister considers any comments made in response to the proposed cancellation notice.
- (3) Subsection (2) does not apply if the licensee agrees, in writing, to the cancellation.
- (4) The cancellation takes effect on—
 - (a) the day the cancellation notice is given to the licensee; or
 - (b) a later day stated in the cancellation notice.

134 Licence—emergency cancellation

- (1) Despite section 133, the Minister may, by written notice (an *emergency cancellation notice*), cancel a licence if satisfied on reasonable grounds that circumstances exist in relation to the licence that give rise to an immediate risk of harm to the health or safety of people for whom treatment, care or support is provided under the licence.
- (2) An emergency cancellation notice must state—
 - (a) the reasons for the cancellation; and
 - (b) the facts that form the basis for the reasons; and

- (c) the details of the emergency cancellation.

Example—details

how and where the people who receive treatment, care or support under the licence are to receive the treatment, care or support after the cancellation

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) The cancellation takes effect on the day after the day the emergency cancellation notice is given to the licensee.

Part 13.3 Private psychiatric facilities— enforcement

135 Appointment of inspectors

- (1) The director-general may appoint a person as an inspector for this chapter.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) An inspector must exercise functions under this chapter in accordance with the conditions of the appointment and any directions given to the inspector by the chief psychiatrist.

135A Identity cards

- (1) The director-general must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
 - (a) a recent photograph of the inspector; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.
- (3) A person commits an offence if the person—
 - (a) stops being an inspector; and
 - (b) does not return the person's identity card to the director-general as soon as practicable (but not later than 7 days) after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

135B Powers of inspection

- (1) An inspector may, at any reasonable time, enter licensed premises and do 1 or more of the following in relation to the premises or anything at the premises:
 - (a) inspect the premises and equipment used at the premises in connection with the treatment, care or support of a person;
 - (b) inspect any book, document or other record that is in the possession of the occupier of the premises, or to which the occupier has access, relating to the conduct of the private psychiatric facility at the premises;
 - (c) require the occupier of the premises to give the inspector, within a reasonable time, a copy of any information, book, document or other record that is in the possession of the occupier, or to which the occupier has access, relating to the conduct of the private psychiatric facility at the premises.

Note The [Legislation Act](#), s 170 deals with the application of the privilege against self-incrimination.

- (2) An inspector who enters licensed premises under subsection (1) is not authorised to remain on the premises if, when asked to do so by the occupier of the premises, the inspector does not show the inspector's identity card to the occupier.
- (3) A person is not required to give records to an inspector under subsection (1) (c) if, when asked to do so by the person, the inspector does not show the inspector's identity card to the person.
- (4) In this section:
occupier, of licensed premises, includes—
 - (a) a person reasonably believed to be an occupier of the licensed premises; and
 - (b) a person apparently in charge of the licensed premises.

135C Failing to comply with requirement of inspector

A person commits an offence if—

- (a) an inspector requires the person to give the inspector a copy of any information, book, document or other record under section 135B (1) (c); and
- (b) the person fails to comply with the requirement, within the time required.

Maximum penalty: 50 penalty units.

Chapter 14 Mental health advisory council

Explanatory note

The text for this chapter (sections 139 to 139C) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.51.

Chapter 15 **Interstate application of mental health laws**

Part 15.1 **Preliminary**

139CA **Purpose—ch 15**

The purpose of this chapter is to provide for—

- (a) the apprehension of people who are subject to certain interstate warrants or orders, or may otherwise be apprehended, under mental health legislation; and
- (b) the interstate transfer of people under mental health legislation; and
- (c) the treatment, care or support in the ACT of people subject to mental health orders or similar orders made in other States; and
- (d) the interstate operation of certain mental health orders.

139CB **Definitions—ch 15**

In this chapter:

authorised officer means—

- (a) an authorised ambulance paramedic; or
- (b) a doctor; or
- (c) a mental health officer; or
- (d) a police officer.

community care service means a service in the ACT that provides treatment, care or support for a person with a mental disorder who is living in the community.

corresponding law—

- (a) means a law of another State that provides for the treatment, care or support of a person with a mental disorder or mental illness; and
- (b) includes a law of another State prescribed by regulation.

interstate authorised person means a person prescribed by regulation.

interstate community care facility means a facility in another State that, under a corresponding law, provides treatment, care or support for a person with a mental disorder.

Note See s 9 (Meaning of *mental disorder*).

interstate community care service means a service in another State that, under a corresponding law, provides treatment, care or support for a person with a mental disorder who is living in the community.

interstate involuntary treatment order means an order made under a corresponding law for the involuntary treatment of a person with a mental disorder or mental illness at an interstate mental health facility or in the community.

interstate mental health facility means a hospital or other mental health facility in another State to which a person may be admitted under a corresponding law for treatment, care or support for mental illness.

interstate mental health service means a service in another State that, under a corresponding law, provides treatment, care or support for a person with mental illness who is living in the community.

interstate patient means a person who is subject to an interstate involuntary treatment order.

mental health service means a service in the ACT that provides treatment, care or support for a person with mental illness who is living in the community.

139CC Authority to enter into agreements

- (1) The Minister may enter into an agreement with a Minister of another State about any matter relating to the operation of this chapter or a corresponding law.
- (2) An agreement is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

139CD Authorised officer and interstate authorised person may exercise certain functions

- (1) An authorised officer or an interstate authorised person may, in relation to an interstate patient in the ACT, exercise any function conferred on the officer or person under a corresponding law or under an interstate involuntary treatment order.
- (2) A regulation may impose limits on—
 - (a) the people who may act under this section; and
 - (b) the treatment that may be given or functions that may be exercised under this section.

139CE Medication for person being transferred

- (1) A person being transferred under this chapter may be given medication by an appropriately trained person if the appropriately trained person believes on reasonable grounds that—
 - (a) giving the medication is in the best interests of the safe and effective treatment, care or support of the person; and
 - (b) the medication has been prescribed by a doctor.
- (2) Details about medication given under this section must be included in the person's record.

Part 15.2 Apprehension of people in breach of certain orders

139CF Apprehension of interstate patient in breach of interstate involuntary treatment order

- (1) An interstate patient who is in breach of an interstate involuntary treatment order may be apprehended in the ACT if—
 - (a) the interstate patient would be subject to apprehension under a corresponding law of the State that issued the interstate involuntary treatment order for the patient; or
 - (b) a warrant or other document issued under a corresponding law authorises the apprehension of the patient.
- (2) A person may be apprehended under this section by—
 - (a) an authorised officer; or
 - (b) an interstate authorised person.

Note See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).
- (3) A person who apprehends an interstate patient under this section must as soon as reasonably practicable—
 - (a) tell the patient the reason for the apprehension; and
 - (b) ensure that the patient has adequate opportunity and assistance to notify a relative or friend of the apprehension; and
 - (c) tell an interstate mental health facility in the State that issued the interstate involuntary treatment order about the apprehension; and

- (d) transfer the patient to—
 - (i) an interstate mental health facility in the State that issued the interstate involuntary treatment order for the patient; or
 - (ii) an approved mental health facility to determine whether the patient requires treatment before being transferred.

139CG Apprehension of person in breach of mental health order or forensic mental health order

- (1) A person (an *ACT patient*) who is in breach of a mental health order or forensic mental health order may be apprehended in another State if—
 - (a) the ACT patient would be subject to apprehension under this Act if the patient were in the ACT; and
 - (b) the apprehension is allowed under a corresponding law of the other State.
- (2) The ACT patient may be apprehended in the other State by—
 - (a) an authorised officer; or
 - (b) an interstate authorised person.

Note See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).
- (3) A person who apprehends an ACT patient under this section must as soon as reasonably practicable—
 - (a) tell the patient the reason for the apprehension; and
 - (b) transfer the patient to—
 - (i) an approved mental health facility or approved community care facility in the ACT; or
 - (ii) an interstate mental health facility to determine whether the patient requires treatment before being transferred.

- (4) As soon as reasonably practicable after an ACT patient is transferred under subsection (3) (b) (i), the person in charge of the facility must—
- (a) ensure that the patient has adequate opportunity and assistance to notify a relative or friend of the apprehension and transfer; and
 - (b) take all reasonable steps to tell at least 1 of the following of the apprehension and transfer:
 - (i) if the patient has a nominated person—the nominated person;
 - (ii) if the patient has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (iii) if the patient has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (iv) if a health attorney is involved in the treatment, care or support of the patient—the health attorney;
 - (v) if the patient is a child—a person with parental responsibility for the child under the *Children and Young People Act 2008*.

Part 15.3 Transfer of certain people from ACT

139CH Interstate transfer—person under psychiatric treatment order or community care order

- (1) This section applies if—
 - (a) a psychiatric treatment order or a community care order is in force in relation to a person; and
 - (b) the person is receiving treatment, care or support under the order—
 - (i) in an approved mental health facility or from a mental health service; or
 - (ii) in an approved community care facility or from a community care service.
- (2) The relevant person may apply to the ACAT for an interstate transfer order if the relevant person believes on reasonable grounds that the ACAT could reasonably make the order under subsection (5).
- (3) The ACAT must hear and decide the application as soon as practicable.
- (4) Before making an interstate transfer order in relation to a person, the ACAT must take into account—
 - (a) the views and wishes of the person in relation to the proposed order, so far as they can be found out; and
 - (b) as far as practicable, the views in relation to the proposed order of the following:
 - (i) if the person has a nominated person—the nominated person;

- (ii) if the person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (iii) if the person has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (iv) if a health attorney is involved in the treatment, care or support of the person—the health attorney;
 - (v) if the person is a child—each person with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility);
 - (vi) if the person has a carer—the carer.
- (5) The ACAT may make an interstate transfer order if—
- (a) the ACAT believes on reasonable grounds that the order is in the best interests of the safe and effective treatment, care or support of the person; and
 - (b) either—
 - (i) transferring the person to an interstate mental health facility or interstate community care facility is allowed under a corresponding law; or
 - (ii) transferring the responsibility to provide treatment, care or support for the person to an interstate mental health service or interstate community care service is allowed under a corresponding law; and
 - (c) the person in charge of the interstate facility or service agrees to the transfer.

- (6) As soon as practicable after making an order under subsection (5), the ACAT must—
- (a) give a copy of the order to—
 - (i) the person; and
 - (ii) the chief psychiatrist; and
 - (iii) the person in charge of the interstate mental health facility or service; and
 - (b) as far as practicable, notify the people mentioned in subsection (4) (b) that an order has been made.
- (7) When the chief psychiatrist is given a copy of the order under subsection (6), the chief psychiatrist must ensure that a copy of the person's record is given to the person in charge of the interstate mental health facility or service.
- (8) A person may be taken to an interstate mental health facility or service under an order under subsection (5) by—
- (a) an authorised officer; or
 - (b) an interstate authorised person.

Note See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).

- (9) In this section:

interstate transfer order means an order to—

- (a) transfer a person to an interstate mental health facility or an interstate community care facility; or
- (b) transfer the responsibility to provide treatment, care or support for a person to an interstate mental health service or interstate community care service.

relevant person, means—

- (a) if a psychiatric treatment order is in force in relation to a person—the chief psychiatrist; or
- (b) if a community care order is in force in relation to a person—the care coordinator.

139CI Interstate transfer—person under forensic psychiatric treatment order or forensic community care order

- (1) This section applies if—
 - (a) a forensic psychiatric treatment order or a forensic community care order is in force in relation to a person; and
 - (b) the person is receiving treatment, care or support under the order—
 - (i) in an approved mental health facility or from a mental health service; or
 - (ii) in an approved community care facility or from a community care service.
- (2) The relevant person may apply to the ACAT for an interstate transfer order if the relevant person believes on reasonable grounds that the ACAT could reasonably make the order under subsection (5).
- (3) The ACAT must hear and decide the application as soon as practicable.
- (4) Before making an interstate transfer order in relation to a person, the ACAT must take into account—
 - (a) the views and wishes of the person in relation to the proposed order, so far as they can be found out; and

- (b) as far as practicable, the views in relation to the proposed order of the following:
- (i) if the person has a nominated person—the nominated person;
 - (ii) if the person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (iii) if the person has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (iv) if a health attorney is involved in the treatment, care or support of the person—the health attorney;
 - (v) if the person is a child—each person with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility);
 - (vi) if the person is a detainee, a person released on licence, or a person serving a community-based sentence—the corrections director-general;
 - (vii) if the person is covered by a bail order that includes a condition that the person accept supervision under the *Bail Act 1992*, section 25 (4) (e) or section 25A—the director-general responsible for the supervision of the person under the *Bail Act 1992*;
 - (viii) if the person is a child covered by a bail order that includes a condition that the child accept supervision under the *Bail Act 1992*, section 26 (2)—the CYP director-general;
 - (ix) if the person is a young detainee or a young offender serving a community-based sentence—the CYP director-general;
 - (x) if the person has a carer—the carer.

- (5) The ACAT may make an interstate transfer order if—
- (a) the ACAT believes on reasonable grounds that the proposed order is in the best interests of the safe and effective treatment, care or support of the person; and
 - (b) either—
 - (i) transferring the person to an interstate mental health facility or interstate community care facility is allowed under a corresponding law; or
 - (ii) transferring the responsibility to provide treatment, care or support for the person to an interstate mental health service or interstate community care service is allowed under a corresponding law; and
 - (c) the person in charge of the interstate facility or service agrees to the transfer.
- (6) As soon as practicable after making an order under subsection (5), the ACAT must—
- (a) give a copy of the order to—
 - (i) the person; and
 - (ii) the relevant person; and
 - (iii) the person in charge of the interstate facility or service; and
 - (b) as far as practicable, notify the people mentioned in subsection (4) (b) that an order has been made.
- (7) When the relevant person is given a copy of the order under subsection (6), the relevant person must ensure that a copy of the person's record is given to the person in charge of the interstate facility or service.

- (8) A person may be taken to an interstate facility or service under an order under subsection (5) by—
- (a) an authorised officer; or
 - (b) an interstate authorised person.

Note See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).

- (9) In this section:

interstate transfer order means an order to—

- (a) transfer a person to an interstate mental health facility or an interstate community care facility; or
- (b) transfer the responsibility to provide treatment, care or support for a person to an interstate mental health service or interstate community care service.

relevant person, means—

- (a) if a forensic psychiatric treatment order is in force in relation to a person—the chief psychiatrist; or
- (b) if a forensic community care order is in force in relation to a person—the care coordinator.

139CJ Transfer to interstate mental health facility—emergency detention

- (1) This section applies if—
- (a) a person is detained under chapter 6 (Emergency detention); and
 - (b) the person is being assessed or receiving treatment, care or support under that chapter.

- (2) The chief psychiatrist may direct that the person be transferred to an interstate mental health facility if—
- (a) the chief psychiatrist believes on reasonable grounds that the transfer is in the best interests of the safe and effective treatment, care or support of the person; and
 - (b) transferring the person to an interstate mental health facility is allowed under a corresponding law; and
 - (c) the person in charge of the interstate mental health facility agrees to the transfer.
- (3) Before giving a direction under subsection (2), the chief psychiatrist must—
- (a) as far as practicable, notify the following that a direction under this section is being considered:
 - (i) if the person has a nominated person—the nominated person;
 - (ii) if the person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (iii) if the person has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (iv) if a health attorney is involved in the treatment, care or support of the person—the health attorney;
 - (v) if the person is a child—each person with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility);
 - (vi) if the person has a legal representative—the person’s legal representative;
 - (vii) if the person has a carer—the carer; and

- (b) take into account—
 - (i) the views and wishes of the person in relation to the proposed direction, so far as they can be found out; and
 - (ii) as far as practicable, the views in relation to the proposed direction of the people notified under paragraph (a).
- (4) As soon as practicable after giving a direction under subsection (2), the chief psychiatrist must—
 - (a) give a copy of the direction to—
 - (i) the person; and
 - (ii) the person in charge of the interstate mental health facility; and
 - (b) as far as practicable, notify the people mentioned in subsection (3) (a) that a direction has been given; and
 - (c) ensure that a copy of the person's record is given to the person in charge of the interstate mental health facility.
- (5) A person may be taken to an interstate mental health facility under a direction under subsection (2) by—
 - (a) an authorised officer; or
 - (b) an interstate authorised person.

Note See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).

139CK Interstate transfer—when ACT order stops applying

If a person or responsibility for a person is transferred under this part, the person stops being subject to a psychiatric treatment order or community care order made under this Act if—

- (a) the person is admitted to an interstate mental health facility or an interstate community care facility; or
- (b) the person is accepted into the care of an interstate mental health service or an interstate community care service; or
- (c) an interstate involuntary treatment order is made in relation to the person.

Part 15.4 Transfer of certain people to ACT

139CL Transfer of interstate patient to approved mental health facility

- (1) An application may be made to the chief psychiatrist for an interstate patient, who is subject to an interstate involuntary treatment order that allows for detention at an interstate mental health facility, to transfer the interstate patient to an approved mental health facility in the ACT.
- (2) The chief psychiatrist may agree to the transfer if the chief psychiatrist believes on reasonable grounds that the transfer to the ACT is—
 - (a) in the best interests of the safe and effective treatment, care or support of the interstate patient; and
 - (b) allowed under a corresponding law.

139CM Transfer of responsibility to provide treatment, care or support in the community for interstate patient

- (1) An application may be made to the chief psychiatrist to transfer the responsibility to provide treatment, care or support for an interstate patient, who is subject to an interstate involuntary treatment order that allows treatment in the community, to the chief psychiatrist.
- (2) The chief psychiatrist may agree to the transfer if the chief psychiatrist believes on reasonable grounds that the transfer of responsibility is—
 - (a) in the best interests of the safe and effective treatment, care or support of the interstate patient; and
 - (b) allowed under a corresponding law.

139CN Transfer of person apprehended in another State to approved mental health facility

- (1) A person apprehended in another State under a corresponding law may be taken to an approved mental health facility in the ACT by an authorised officer or interstate authorised person if the authorised officer or person believes on reasonable grounds that being taken to an approved mental health facility in the ACT is—
- (a) in the best interests of the safe and effective treatment, care or support of the person; and
 - (b) allowed under a corresponding law.
- Note* See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).
- (2) Chapter 6 (Emergency detention) applies in relation to a person who is apprehended under this section, as if the person had been apprehended under section 37 (Apprehension).

Part 15.5 Interstate operation of certain orders

139CO Mental health order relating to interstate person

- (1) A mental health order under this Act may be made in relation to a person even though the person does not usually live in the ACT, if—
 - (a) the facility or service providing treatment, care or support to the person is located in the ACT; and
 - (b) the order is allowed under a corresponding law of the State in which the person usually lives.
- (2) However, a restriction order mentioned in section 36X (Criteria for making restriction order with psychiatric treatment order) may only be made for a person who does not usually live in the ACT in relation to the person's actions within the ACT.

139CP Implementing interstate involuntary treatment order for temporary ACT resident

- (1) This section applies in relation to a person who—
 - (a) temporarily lives in the ACT; and
 - (b) is subject to an interstate involuntary treatment order that makes provision for treatment, care or support in the community.
- (2) The person may be given treatment, care or support in the ACT under the interstate involuntary treatment order if the chief psychiatrist is satisfied on reasonable grounds that—
 - (a) the person has a mental illness; and
 - (b) the person accepts the treatment, care or support; and

- (c) treatment, care or support in the ACT—
 - (i) is expected to be needed for a period of not more than 4 weeks at a time; and
 - (ii) is in the best interests of the person.
- (3) Treatment, care or support under subsection (2) may be given by—
 - (a) an authorised officer if allowed to do so under a corresponding law of the State that issued the interstate involuntary treatment order; or
 - (b) an interstate authorised person.

Chapter 16 Notification and review of decisions

Explanatory note

The text for this chapter (sections 139CR to 139CT) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.52.

Chapter 17 Miscellaneous

Explanatory note

The text for this chapter (sections 139D to 147) is relocated from the *Mental Health (Treatment and Care) Act 1994* by schedule 2, amendment 2.53.

Chapter 18 Repeals and consequential amendments

148 Legislation repealed

- (1) The *Mental Health (Treatment and Care) Act 1994* (A1994-44) is repealed.
- (2) All legislative instruments under the *Mental Health (Treatment and Care) Act 1994* (other than the notifiable instruments mentioned in section 419) are repealed.

149 Legislation amended—sch 2

This Act amends the legislation mentioned in schedule 2.

Chapter 40 Transitional

Part 40.1 General

400 Definitions—ch 40

In this chapter:

commencement day means the day this chapter commences.

repealed Act means the *Mental Health (Treatment and Care) Act 1994* as in force immediately before the commencement day.

401 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act or the *Mental Health (Treatment and Care) Amendment Act 2014*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act.

402 Expiry—ch 40

This chapter expires 2 years after the commencement day.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Part 40.2 Transitional—rights of people with mental disorder or mental illness

403 Rights in relation to information and communication

- (1) To remove any doubt, the responsible person for a facility must comply with section 15 (Information to be given to people) in relation to a person who is to be given treatment, care or support at the facility even if the person received treatment, care or support at the facility before the commencement day.
- (2) In this section:
responsible person—see section 14.

Part 40.3 **Transitional—mental health orders**

Division 40.3.1 **Applications**

404 **Application by person with mental illness or mental dysfunction—unfinished applications**

- (1) This section applies if—
 - (a) before the commencement day, an application for a mental health order is made under the [repealed Act](#), section 10 (Application by mentally dysfunctional or mentally ill people); and
 - (b) immediately before the commencement day, the ACAT has not decided the application.
- (2) The application is taken to be an application for an assessment order under this Act, section 33 (Applications by people with mental disorder or mental illness—assessment order).

405 **Application by chief psychiatrist or care coordinator—unfinished applications**

- (1) This section applies if—
 - (a) before the commencement day, the chief psychiatrist or the care coordinator makes an application for a mental health order under the [repealed Act](#), section 11 (Applications by other people); and
 - (b) immediately before the commencement day, the ACAT has not decided the application.
- (2) The application is taken to be an application for a mental health order under this Act, section 36O (Applications for mental health orders).

406 Application by certain other people—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person other than the chief psychiatrist or the care coordinator makes an application for a mental health order under the [repealed Act](#), section 11 (Applications by other people); and
 - (b) immediately before the commencement day, the ACAT has not decided the application.
- (2) The application is taken to be an application for an assessment order under this Act, section 34 (Applications by other people—assessment order).

407 Application by referring officers—unfinished referrals

- (1) This section applies if—
 - (a) before the commencement day, a referral to the ACAT for a mental health order is made under the [repealed Act](#), section 13 (Referrals to ACAT); and
 - (b) immediately before the commencement day, the ACAT has not decided the referral.
- (2) The referral is taken to be an application for an assessment order under this Act, section 35 (Applications by referring officers—assessment order).

Division 40.3.2 Psychiatric treatment orders

408 Psychiatric treatment order—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a psychiatric treatment order under the [repealed Act](#), section 28 (Criteria for making psychiatric treatment order) is in force for a person.
- (2) On and after the commencement day, the psychiatric treatment order is taken to be, in accordance with its terms, a psychiatric treatment order under this Act, section 36V (Psychiatric treatment order).

409 Restriction order with psychiatric treatment order—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a restriction order under the [repealed Act](#), section 30 (Criteria for making restriction order with psychiatric treatment order) is in force for a person.
- (2) On and after the commencement day, the restriction order is taken to be, in accordance with its terms, a restriction order under this Act, section 36X (Criteria for making restriction order with psychiatric treatment order).

410 Chief psychiatrist role—determination in force before commencement day

- (1) This section applies if, immediately before the commencement day—
 - (a) a psychiatric treatment order under the [repealed Act](#), section 28 (Criteria for making psychiatric treatment order) is in force for a person; and
 - (b) a determination under the [repealed Act](#), section 32 (Role of chief psychiatrist) is also in force for the person.

- (2) On and after the commencement day, the determination is taken to be, in accordance with its terms, a determination under this Act, section 36Z (Role of chief psychiatrist—psychiatric treatment order).

411 Action if psychiatric treatment order no longer appropriate—notice given but not considered by ACAT

- (1) This section applies if—
- (a) before the commencement day, the chief psychiatrist has given notice under the [repealed Act](#), section 34 (Action if psychiatric treatment order no longer appropriate) in relation to a person’s psychiatric treatment order; and
 - (b) immediately before the commencement day, the ACAT has not finalised the review of the psychiatric treatment order under the [repealed Act](#), section 36L (Review, variation and revocation of orders).
- (2) On the commencement day, the notice given under the [repealed Act](#), section 34 ceases to have effect.
- (3) As soon as practicable after the commencement day, the chief psychiatrist must give notice under this Act, section 36ZB (Action if psychiatric treatment order no longer appropriate—no longer person in relation to whom ACAT could make order) in relation to the person’s psychiatric treatment order.

Division 40.3.3 Community care orders

412 Community care order—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a community care order under the [repealed Act](#), section 36 (Criteria for making community care order) is in force for a person.

- (2) On and after the commencement day, the community care order is taken to be, in accordance with its terms, a community care order under this Act, section 36ZD (Community care order).

413 Restriction order with community care order—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a restriction order under the [repealed Act](#), section 36B (Criteria for making restriction order with community care order) is in force for a person.
- (2) On and after the commencement day, the restriction order is taken to be, in accordance with its terms, a restriction order under this Act, section 36ZF (Criteria for making restriction order with community care order).

414 Care coordinator role—determination in force before commencement day

- (1) This section applies if, immediately before the commencement day—
- (a) a community care order is in force for a person; and
 - (b) a determination under the [repealed Act](#), section 36D (Role of care coordinator) is also in force for the person.
- (2) On and after the commencement day, the determination is taken to be, in accordance with its terms, a determination under this Act, section 36ZH (Role of care coordinator—community care order).

**415 Action if community care order no longer appropriate—
notice given but not considered by ACAT**

- (1) This section applies if—
 - (a) before the commencement day, the care coordinator has given notice under the [repealed Act](#), section 36F (Action if community care order no longer appropriate) in relation to a person’s community care order; and
 - (b) immediately before the commencement day, the ACAT has not finalised the review of the community care order under the [repealed Act](#), section 36L (Review, variation and revocation of orders).
- (2) On the commencement day, the notice given under the [repealed Act](#), section 36F ceases to have effect.
- (3) As soon as practicable after the commencement day, the care coordinator must give notice under this Act, section 36ZJ (Action if community care order no longer appropriate—no longer person in relation to whom ACAT could make order) in relation to the person’s community care order.

Division 40.3.4 Other matters

**416 Forensic mental health orders—people required to
submit to ACAT jurisdiction before commencement day**

- (1) This section applies to a person required by a court, before the commencement day, to submit to the jurisdiction of the ACAT under the [Crimes Act](#), part 13 (Unfitness to plead and mental impairment) or the [Crimes Act 1914](#) (Cwlth), part 1B (Sentencing, imprisonment and release of federal offenders).
- (2) To remove any doubt, section 48ZA (Forensic psychiatric treatment order) and section 48ZH (Forensic community care order) apply in relation to the person.

Part 40.4 Transitional—emergency detention

417 **Apprehension before commencement day**

- (1) This section applies if, before the commencement day, a person is apprehended under the [repealed Act](#), section 37 (Apprehension).
- (2) On and after the commencement day, the apprehension is taken to be an apprehension under this Act, section 37 (Apprehension).

418 **Authorisation of involuntary detention before commencement day**

- (1) Subsection (2) applies if, before the commencement day, a person is involuntarily detained at an approved mental health facility under an authorisation under the [repealed Act](#), section 41 (1) (Authorisation of involuntary detention).
- (2) On and after the commencement day, the authorisation is taken to be, in accordance with its terms, an authorisation under this Act, section 41 (1) (Authorisation of involuntary detention).
- (3) Subsection (4) applies if—
 - (a) before the commencement day, an application for further detention has been made under the [repealed Act](#), section 41 (2) (b) (Authorisation of involuntary detention); and
 - (b) immediately before the commencement day, the ACAT has not decided the application.
- (4) On and after the commencement day, the application is taken to be an application under this Act, section 41 (2) (Authorisation of involuntary detention).

- (5) Subsection (6) applies if, before the commencement day, the ACAT has ordered a further period of involuntary detention under the [repealed Act](#), section 41 (2) (Authorisation of involuntary detention).
- (6) On and after the commencement day, the order is taken to be, in accordance with its terms, an order made under this Act, section 41 (3) (Authorisation of involuntary detention).

Schedule 1 Reviewable decisions

(see ch 16)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	48ZU	refuse to grant leave	applicant for leave
2	48ZV	refuse to grant leave	applicant for leave
3	48ZW	revoke leave	applicant for leave
4	48ZZQ	refuse to grant leave	applicant for leave
5	48ZZR	revoke leave	applicant for leave
6	127	refuse to issue licence	applicant for licence
7	128	refuse to renew licence	applicant for renewal of licence
8	129	refuse to transfer licence	licensee proposed new licensee
9	130	amend licence	licensee
10	131	refuse to amend licence	licensee
11	133	cancel licence	licensee
12	134	cancel licence	licensee

Schedule 2 Legislation amended
Part 2.1 Mental Health (Treatment and Care) Act 1994
Division 2.1.1 Amendments

Amendment [2.1]

Schedule 2 Legislation amended

(see s 149)

Part 2.1 Mental Health (Treatment and Care) Act 1994

Division 2.1.1 Amendments

[2.1] Section 15 (1) (b) (vi)

omit

[2.2] New section 15 (4) (g)

insert

(g) if the person has a carer—the carer.

[2.3] Section 27 (3)

after

therapy

insert

or psychiatric surgery

[2.4] Section 27 (4) and note

substitute

(4) An advance consent direction that includes advance consent for electroconvulsive therapy must—

(a) be in writing; and

- (b) state the maximum number of times (not more than 9) that electroconvulsive therapy may be administered to the person under the consent; and
- (c) be signed by the person in the presence of 2 witnesses who are not treating health professionals for the person, and by each witness in the presence of the other witness and the person; and
- (d) be signed by the representative of the person's treating team in the presence of 2 witnesses who are not treating health professionals for the person, and by each witness in the presence of the other witness and the representative.

Note If a form is approved under s 146A for this provision, the form must be used.

[2.5] New section 27 (4A)

insert

- (4A) An advance consent direction that includes advance consent for psychiatric surgery must be—
 - (a) in writing; and
 - (b) signed by the person in the presence of 2 witnesses who are not treating health professionals for the person, and by each witness in the presence of the other witness and the person; and
 - (c) signed by the representative of the person's treating team in the presence of 2 witnesses who are not treating health professionals for the person, and by each witness in the presence of the other witness and the representative.

Note If a form is approved under s 146A for this provision, the form must be used.

[2.6] Section 36H

substitute

36H Executing removal order

- (1) A removal order made under section 36G (2) in relation to a person may be executed by a police officer, authorised ambulance paramedic, doctor or mental health officer.
- (2) The person executing the order must, before removing the person, explain to the person the purpose of the order.

Note See s 139F (Powers of entry and apprehension) and s 140 (Powers of search and seizure).

[2.7] Section 36M (2)

omit

ACAT, must

substitute

ACAT must,

[2.8] Section 36R (1) (g)

before

licence

insert

parole or

[2.9] Section 36R (1) (h)

omit

a covered

substitute

covered

[2.10] Section 36R (2)

omit

, if the ACAT has contact details for the carer,

substitute

, as far as practicable,

[2.11] Section 36Z (5) (a) (viii)

before

licence

insert

parole or

[2.12] Section 36ZC (5)

omit

confinement or

[2.13] Section 36ZH (3) (a) (viii)

before

licence

insert

parole or

[2.14] Section 36ZK (5)

omit

confinement or

[2.15] Section 42 (2)

omit

at least 1 of

[2.16] Section 42 (3) and (4)

substitute

- (3) The ACAT must, as soon as practicable after ordering under section 41 (3) that a period of detention be extended, take all reasonable steps to give the required information about the detention to the people mentioned in subsection (2) (a) to (e).
- (4) Subsection (4A) applies if, despite the doctor, mental health officer or the ACAT taking all reasonable steps to give the required information about the detention under subsection (2) or (3), any of the following circumstances happens:
 - (a) the required information is not given to anyone;
 - (b) the detained person is a child and the required information is not given to a person with parental responsibility for the child;
 - (c) the detained person is an adult who has a guardian under the *Guardianship and Management of Property Act 1991* and the required information is not given to the guardian;
 - (d) the detained person has an enduring power of attorney under the *Powers of Attorney Act 2006*, and appears to have impaired decision-making capacity within the meaning of that Act, and the required information is not given to the attorney.

- (4A) The doctor, mental health officer or the ACAT must tell the public advocate—
- (a) of the circumstance mentioned in subsection (4); and
 - (b) for subsection (4) (b), (c) or (d)—who (if anyone) the required information about the detention was given to.

[2.17] Section 48S, definition of *community-based sentence*

omit

[2.18] Section 48T heading

substitute

48T Applications for forensic mental health orders—detainees etc

[2.19] Section 48T (1) and (2)

substitute

- (1) This section applies to any of the following (a *subject person*):
- (a) a detainee;
 - (b) a person serving a community-based sentence;
 - (c) a person released on parole;
 - (d) a person released on licence under the *Crimes (Sentence Administration) Act 2005*, section 299;
 - (e) a young detainee;
 - (f) a young offender.

- (2) A relevant person may apply to the ACAT for a forensic mental health order in relation to a subject person if the relevant person believes on reasonable grounds that the subject person is a person in relation to whom the ACAT could reasonably make an order under section 48ZA (Forensic psychiatric treatment order) or section 48ZH (Forensic community care order).

[2.20] Section 48Y (1) (b)

omit

[2.21] Section 48ZA (1) (b)

substitute

- (b) a person referred to the ACAT for a forensic mental health order under division 7.1.2; or

[2.22] Section 48ZC (6) (a) (vii)

before

licence

insert

parole or

[2.23] Section 48ZG (5)

omit

confinement or

[2.24] Section 48ZH (1) (b)

substitute

- (b) a person referred to the ACAT for a forensic mental health order under division 7.1.2; or

[2.25] Section 48ZJ (3)

omit

psychiatric

[2.26] Section 48ZJ (4) (a) (vii)

before

licence

insert

parole or

[2.27] Section 48ZM (4)

omit

chief psychiatrist

substitute

care coordinator

[2.28] Section 48ZN (5)

omit

confinement or

[2.29] Section 48ZN (5)

omit

chief psychiatrist

substitute

care coordinator

[2.30] New section 72 (6)

insert

- (6) If, on a review, the ACAT does not order the release of a person, the ACAT must tell the following that the detention continues:
- (a) the person;
 - (b) the chief psychiatrist;
 - (c) if the person is a child—
 - (i) each person with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility); and
 - (ii) the CYP director-general;
 - (d) the public advocate;
 - (e) the human rights commission;
 - (f) if the person has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
 - (g) if the person has an attorney under the *Powers of Attorney Act 2006*—the attorney;
 - (h) if the person has a nominated person—the nominated person;
 - (i) if a health attorney is involved in the treatment, care or support of the person—the health attorney;
 - (j) if the person is detained in a correctional centre—the corrections director-general;
 - (k) if the person is detained in a detention place—the CYP director-general.

[2.31] Section 78 (1) (g) and (h)

substitute

- (g) an electroconvulsive therapy order under section 55G (Making of electroconvulsive therapy order);
- (h) an emergency electroconvulsive therapy order under section 55K (Making of emergency electroconvulsive therapy order);

[2.32] Section 79A (3) (e)

substitute

- (e) the making of an emergency electroconvulsive therapy order under section 55K (Making of emergency electroconvulsive therapy order);

[2.33] Section 87 (1) (ga)

omit

detainees and people under community-based sentences

substitute

detainees etc

[2.34] Section 139F (1) (e) and (f)

omit

[2.35] New section 139F (1) (l) to (q)

insert

- (l) section 139CF (Apprehension of interstate patient in breach of interstate involuntary treatment order);
- (m) section 139CG (Apprehension of person in breach of mental health order or forensic mental health order);

- (n) section 139CH (Interstate transfer—person under psychiatric treatment order or community care order);
- (o) section 139CI (Interstate transfer—person under forensic psychiatric treatment order or forensic community care order);
- (p) section 139CJ (Transfer to interstate mental health facility—emergency detention);
- (q) section 139CN (Transfer of person apprehended in another State to approved mental health facility).

[2.36] New section 140 (1) (o) to (t)

insert

- (o) section 139CF (Apprehension of interstate patient in breach of interstate involuntary treatment order);
- (p) section 139CG (Apprehension of person in breach of mental health order or forensic mental health order);
- (q) section 139CH (Interstate transfer—person under psychiatric treatment order or community care order);
- (r) section 139CI (Interstate transfer—person under forensic psychiatric treatment order or forensic community care order);
- (s) section 139CJ (Transfer to interstate mental health facility—emergency detention);
- (t) section 139CN (Transfer of person apprehended in another State to approved mental health facility).

[2.37] New section 140AA

insert

140AA Report and record of use of restraint etc

- (1) This section applies if—
 - (a) an authorised person exercises a power under section 139F or section 140 in relation to a person (the *subject person*); and
 - (b) in the course of exercising the power the authorised person—
 - (i) restrains, involuntarily secludes or forcibly gives medication to the subject person; or
 - (ii) becomes aware of anything else that may have an adverse effect on the subject person’s physical or mental health; and
 - (c) the subject person is taken to a facility.
- (2) The authorised person must give a report about the matter mentioned in subsection (1) (b) to the person in charge of the facility.

Note If a form is approved under s 146A for this provision, the form must be used.
- (3) The person in charge of the facility must—
 - (a) enter the report in the subject person’s record; and
 - (b) if the facility is a community care facility or mental health facility—keep a register of any restraint, involuntary seclusion or forcible giving of medication included in the report.

Schedule 2	Legislation amended
Part 2.1	Mental Health (Treatment and Care) Act 1994
Division 2.1.1	Amendments
Amendment [2.37]	

(4) In this section:

facility means a community care facility, mental health facility and an interstate facility.

interstate facility means an interstate community care facility and an interstate mental health facility under chapter 15 (Interstate application of mental health laws).

Division 2.1.2 Relocations

[2.38] Sections 5 to 13

relocate to Mental Health Act 2015, chapter 2

[2.39] Parts 3.1 to 3.3

relocate to Mental Health Act 2015, chapter 3

[2.40] Parts 4.1 and 4.2

relocate to Mental Health Act 2015, chapter 4

[2.41] Parts 5.1 to 5.7

relocate to Mental Health Act 2015, chapter 5

[2.42] Sections 37, 38 and 38A

relocate to Mental Health Act 2015, chapter 6

[2.43] Sections 40, 41 and 41AA

relocate to Mental Health Act 2015, chapter 6

[2.44] Section 42

relocate to Mental Health Act 2015, chapter 6

[2.45] Section 45

relocate to Mental Health Act 2015, chapter 6

[2.46] Parts 7.1 and 7.2

relocate to Mental Health Act 2015, chapter 7

[2.47] Parts 8.1 to 8.4

relocate to Mental Health Act 2015, chapter 8

Schedule 2 Legislation amended
Part 2.1 Mental Health (Treatment and Care) Act 1994
Division 2.1.2 Relocations

Amendment [2.48]

[2.48] Sections 68 to 75

relocate to Mental Health Act 2015, chapter 10

[2.49] Sections 76 to 87

relocate to Mental Health Act 2015, chapter 11

[2.50] Parts 12.1 to 12.5

relocate to Mental Health Act 2015, chapter 12

[2.51] Sections 139 to 139C

relocate to Mental Health Act 2015, chapter 14

[2.52] Sections 139CR to 139CT

relocate to Mental Health Act 2015, chapter 16

[2.53] Sections 139D to 147

relocate to Mental Health Act 2015, chapter 17

Part 2.2 **Mental Health (Treatment and Care) Amendment Act 2014**

[2.54] Section 2

substitute

2 Commencement

This Act commences on 1 March 2016.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Part 2.3 Mental Health Act 2015

[2.55] Act—renumbering

*renumber provisions when Act next republished under the
Legislation Act*

Part 2.4 Other legislation

Division 2.4.1 Bail Act 1992

[2.56] Section 2, note 1

substitute

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*bail order*, for part 4 (Grant of bail)—see section 19 (1).’ means that the term ‘bail order’ is defined in that section for part 4.

Division 2.4.2 Children and Young People Act 2008

[2.57] Section 491, definition of *ACAT mental health provision*

omit

has a mental illness or mental dysfunction

substitute

has a mental disorder or mental illness

[2.58] Section 545

omit

is suffering from a mental illness or mental dysfunction

substitute

has a mental disorder or mental illness

[2.59] Section 545, note

omit

is not suffering from a mental illness or mental dysfunction

substitute

does not have a mental disorder or mental illness

[2.60] Section 549 (e) (i)

substitute

(i) does not have a mental disorder or mental illness; or

[2.61] Section 549 (e) (ii) and note

omit

is suffering from a mental illness or mental dysfunction

substitute

has a mental disorder or mental illness

[2.62] Section 562 (1) (d)

omit

is suffering from a mental illness or mental dysfunction

substitute

has a mental disorder or mental illness

[2.63] Dictionary, new definition of *mental disorder*

insert

mental disorder—see the *Mental Health Act 2015*, section 9.

[2.64] Dictionary, definition of *mental dysfunction*

omit

[2.65] Further amendments

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

in

- section 161 (2), note
- section 186 (8), definition of *relevant director-general*
- section 530 (1)
- section 863 (2)

Division 2.4.3 Coroners Act 1997

[2.66] Section 3C (1) (d)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

[2.67] Dictionary, definitions of *chief psychiatrist* and *mental health officer*

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Schedule 2	Legislation amended
Part 2.4	Other legislation
Division 2.4.4	Corrections Management Act 2007

Amendment [2.68]

Division 2.4.4 Corrections Management Act 2007

[2.68] Section 54A etc

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

in

- section 54A
- section 68 (3), note 2
- section 77 (8), definition of *relevant director-general*

Division 2.4.5 Court Procedures Act 2004

[2.69] Section 15 (2) (c)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Division 2.4.6 Crimes Act 1900

[2.70] Section 300 (1) etc

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

in

- section 300 (1)
- section 309 (4)
- section 318 (2)
- section 319 (2)
- section 319A (1), note
- section 323 (3)
- section 324 (2)
- section 328 (3)
- section 329 (2)

[2.71] Section 334 (3) (d)

substitute

- (d) whether the ACAT could make an order under the *Mental Health Act 2015*, section 48ZA (Forensic psychiatric treatment order) or section 48ZH (Forensic community care order); and

Schedule 2 Legislation amended
Part 2.4 Other legislation
Division 2.4.7 Crimes (Child Sex Offenders) Regulation 2005

Amendment [2.72]

[2.72] Section 335A (1), note

omit

Mental Health (Treatment and Care) Act 1994, s 68

substitute

Mental Health Act 2015, s 68

**Division 2.4.7 Crimes (Child Sex Offenders)
 Regulation 2005**

[2.73] Section 12 (1) (d) (ii)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

**Division 2.4.8 Crimes (Sentence Administration)
 Act 2005**

[2.74] Sections 57A (1) (b) and 92 (3) (b) (ii)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

[2.75] Section 321AA

omit

a detainee or

substitute

a detainee, a person released on parole, a person released on licence
or

[2.76] Section 321AA (2)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Division 2.4.9 Criminal Code 2002

[2.77] Section 712A (5), definition of *childrens proceeding*

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Schedule 2	Legislation amended
Part 2.4	Other legislation
Division 2.4.10	Guardianship and Management of Property Act 1991
Amendment [2.78]	

Division 2.4.10 Guardianship and Management of Property Act 1991

[2.78] Section 7 (3) etc

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

in

- section 7 (3)
- section 19 (2A)
- section 32A
- section 32D
- section 32J (1)
- section 32JA (1)
- section 70A

[2.79] Dictionary, definitions of *electroconvulsive therapy*, *mental illness* and *psychiatric surgery*

substitute

electroconvulsive therapy—see the *Mental Health Act 2015*, section 49.

mental illness—see the *Mental Health Act 2015*, section 10.

psychiatric surgery—see the *Mental Health Act 2015*, section 49.

Division 2.4.11 Medicines, Poisons and Therapeutic Goods Regulation 2008

[2.80] Schedule 3, part 3.2, item 3, column 2

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Division 2.4.12 Official Visitor Act 2012

[2.81] Section 7 (e) etc

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

in

- section 7 (e)
- section 10 (1) (e)
- section 50, definition of *operational Act*, paragraph (c)

[2.82] New part 11

insert

Part 11 Transitional—Mental Health Act 2015

60 Definitions—pt 11

In this part:

commencement day means the day the *Mental Health Act 2015*, section 3 commences.

repealed Act means the *Mental Health (Treatment and Care) Act 1994*.

61 Continued appointment

- (1) This section applies to a person appointed under section 10 (1) (e) as an official visitor for the [repealed Act](#) if the appointment is in force immediately before the commencement day.
- (2) On and after the commencement day, the person is taken to be appointed under section 10 (1) (e) as an official visitor for the *Mental Health Act 2015* on the same conditions that applied to the person's appointment immediately before the commencement day.

62 Expiry—pt 11

This part expires 6 months after the commencement day.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 2.4.13 Planning and Development Act 2007

[2.83] Section 85A, definition of *mental health facility*

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Division 2.4.14 Powers of Attorney Act 2006

[2.84] Section 37 (2), definitions of *electroconvulsive therapy* and *psychiatric surgery*

substitute

electroconvulsive therapy—see the *Mental Health Act 2015*,
section 49.

psychiatric surgery—see the *Mental Health Act 2015*, section 49.

[2.85] Section 46A

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

[2.86] Dictionary, definition of *mental health facility*

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Division 2.4.15 Public Advocate Act 2005

[2.87] Section 10 (j)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

[2.88] Dictionary, definition of *forensic patient*, paragraph (a)

omit

be suffering from a mental dysfunction or mental illness

substitute

have a mental disorder or mental illness

[2.89] Dictionary, definition of *forensic patient*, paragraph (d)

substitute

(d) found guilty of a criminal offence and is, or while serving a sentence of imprisonment has become, a person with a mental disorder or mental illness.

[2.90] Dictionary, definitions of *mental disorder* and *mental illness*

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Division 2.4.16 Victims of Crime Act 1994

[2.91] Section 11 (ba)

omit

Mental Health (Treatment and Care) Act 1994

substitute

Mental Health Act 2015

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- adult
- child
- correctional centre
- corrections officer
- detention place
- director-general (see s 163)
- director of public prosecutions
- discrimination commissioner
- doctor
- domestic partner (see s 169 (1))
- expire
- lawyer
- Magistrates Court
- nurse
- nurse practitioner
- parent
- police officer
- proceeding
- public advocate
- registrar
- reviewable decision notice
- State
- Supreme Court
- writing.

ACAT mental health provision, for a child or young person—see the [Children and Young People Act 2008](#), section 491.

advance agreement—see section 26.

advance consent direction—see section 27.

affected person, in relation to a forensic patient—see section 48ZZB.

affected person register—see section 48ZZD.

approved community care facility means a facility approved under section 139E.

approved mental health facility means a facility approved under section 139D.

assessment means a psychiatric or psychological assessment.

assessment order means an order made under section 36A.

authorised ambulance paramedic means a member of the ambulance service—

- (a) employed as a paramedic; and
- (b) authorised by the chief officer (ambulance service) to apprehend people with a mental disorder or mental illness.

authorised officer, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

care and protection order—see the [Children and Young People Act 2008](#), section 422.

care coordinator means the care coordinator appointed under section 120A.

carer—see section 12.

chief psychiatrist means the Chief Psychiatrist appointed under section 112.

close relative or close friend, of a person—see the [Guardianship and Management of Property Act 1991](#), section 32A.

community-based sentence—see the [Crimes \(Sentence Administration\) Act 2005](#), section 264.

community care facility—

(a) means—

- (i) a facility, or part of a facility, for the treatment, care or support, protection, rehabilitation or accommodation of people with a mental disorder; or
- (ii) a prescribed psychiatric facility or a prescribed part of a psychiatric facility; but

(b) does not include a correctional centre or detention place.

community care order means an order made under section 36ZD.

community care service, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

coordinating director-general means the director-general appointed under section 122D.

correctional patient—see section 48ZZI.

corrections director-general means the director-general responsible for the [Corrections Management Act 2007](#).

corrections order, for division 7.1.8 (Leave for detained people)—see section 48ZR.

corresponding law, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

Crimes Act means the [Crimes Act 1900](#).

CYP director-general means the director-general responsible for the [Children and Young People Act 2008](#).

decision-making capacity—see section 7.

detainee—see the [Corrections Management Act 2007](#), section 6.

director-general, for part 7.2 (Affected people)—see section 48ZZA.

electroconvulsive therapy—see section 49.

electroconvulsive therapy order—see section 49.

eligible person, for part 13.2 (Licences)—see section 124.

emergency assessment order means an order made under section 36C.

emergency electroconvulsive therapy order—see section 49.

entitled person—see section 121.

forensic community care order means an order made under section 48ZH.

forensic mental health order means a forensic psychiatric treatment order or a forensic community care order.

forensic patient, for part 7.2 (Affected people)—see section 48ZZA.

forensic psychiatric treatment order means an order made under section 48ZA.

general president, of the ACAT—see the [ACT Civil and Administrative Tribunal Act 2008](#), dictionary.

health attorney—see the [Guardianship and Management of Property Act 1991](#), section 32B (1).

information sharing entity, for part 12.5 (Sharing information—government agencies)—see section 122G.

information sharing protocol, for part 12.5 (Sharing information—government agencies)—see section 122H.

information statement means an information statement mentioned in section 15 (1) (b).

inspector, for chapter 13 (Private psychiatric facilities)—see section 123.

interim care and protection order—see the [Children and Young People Act 2008](#), section 433.

interim therapeutic protection order—see the *Children and Young People Act 2008*, section 543.

interstate authorised person, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

interstate community care facility, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

interstate community care service, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

interstate involuntary treatment order, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

interstate mental health facility, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

interstate mental health service, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

interstate patient, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

licence, for chapter 13 (Private psychiatric facilities)—see section 123.

licensed premises, for chapter 13 (Private psychiatric facilities)—see section 123.

licensee, for chapter 13 (Private psychiatric facilities)—see section 123.

mental disorder—see section 9.

mental health facility—

- (a) means a facility for the treatment, care or support, rehabilitation or accommodation of people with a mental illness; and
- (b) includes a psychiatric facility.

mental health officer means a person appointed as a mental health officer under section 119.

mental health order means a psychiatric treatment order, a community care order or a restriction order.

mental health professional means a doctor, nurse, psychiatrist, psychologist, social worker or therapist (including occupational therapist) or other person who provides services for people with a mental disorder or mental illness.

mental health service, for chapter 15 (Interstate application of mental health laws)—see section 139CB.

mental illness—see section 10.

mental impairment—see the [Criminal Code](#), section 27.

nominated person means a person nominated under section 19.

non-presidential member, of the ACAT—see the [ACT Civil and Administrative Tribunal Act 2008](#), dictionary.

official visitor—see section 121.

presidential member, of the ACAT—see the [ACT Civil and Administrative Tribunal Act 2008](#), dictionary.

principal official visitor means the principal official visitor appointed under section 122AA.

private psychiatric facility, for chapter 13 (Private psychiatric facilities)—see section 123.

psychiatric facility means—

- (a) a hospital or other facility conducted by the Territory for the treatment, care, support, rehabilitation or accommodation of people who have a mental illness; or
- (b) a private psychiatric facility licensed under chapter 13.

psychiatric surgery—see section 49.

psychiatric treatment order means an order made under section 36V.

psychiatrist means a doctor who—

- (a) is registered under the *Health Practitioner Regulation National Law (ACT)* to practise in the specialty of psychiatry; or
- (b) holds limited registration under that Law to practise in the specialty of psychiatry.

publish, for part 7.2 (Affected people)—see section 48ZZA.

registered affected person, in relation to a forensic patient—see section 48ZZC.

referring officer, in relation to a person, means—

- (a) the police officer—
 - (i) who arrests the person in connection with an offence; or
 - (ii) who is satisfied that there are sufficient grounds on which to charge the person in connection with an offence; or
 - (iii) who charges the person in connection with an offence; or
- (b) a member of the staff of the director of public prosecutions who is responsible for the prosecution of an offence against the person; or
- (c) if the person is required to accept supervision by someone else as a condition of bail under the *Bail Act 1992*—that other person.

Note Under the *Bail Act 1992*, s 25 (4) and s 26 (2), an adult may be supervised by the corrections director-general and a child may be supervised by the CYP director-general.

relative, in relation to a person, means a domestic partner, parent, guardian, grandparent, uncle, aunt, brother, sister, half-brother, half-sister, cousin or child (being a child over the age of 18 years) of the person.

Note **Domestic partner**—see the [Legislation Act](#), s 169.

relevant information, for part 12.5 (Sharing information—government agencies)—see section 122G.

relevant official—

- (a) for a mental health order, for chapter 5 (Mental health orders)—see section 36N; or
- (b) for a forensic mental health order, for part 7.1 (Forensic mental health orders)—see section 48S.

relevant person—

- (a) for a mental health order application, for chapter 5 (Mental health orders)—see section 36N; and
- (b) for a forensic mental health order application, for part 7.1 (Forensic mental health orders)—see section 48S.

representative, of a treating team, for part 3.3 (Advance agreements and advance consent directions)—see section 24.

responsible person, for part 3.1 (Rights in relation to information and communication)—see section 14.

restriction order means an order made under section 36X or section 36ZF.

reviewable decision, for chapter 16 (Notification and review of decisions)—see section 139CR.

subject person, for chapter 11 (ACAT procedural matters)—see section 80.

transfer direction—see section 48ZZJ (3).

treating team, for a person with a mental disorder or mental illness, for part 3.3 (Advance agreements and advance consent directions)—see section 24.

treatment, care or support, for a mental disorder or mental illness—

- (a) means things done in the course of the exercise of professional skills to remedy the disorder or illness or lessen its ill effects or the pain or suffering it causes; and
- (b) includes the giving of medication and counselling, training, therapeutic and rehabilitation programs, care or support.

Examples—rehabilitation support

- 1 support to improve social confidence and integration
- 2 assistance to improve work skills

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

victims of crime commissioner means the victims of crime commissioner appointed under the [Victims of Crime Act 1994](#), section 7.

visitable place—see section 121.

young detainee—see the [Children and Young People Act 2008](#), section 95.

young offender—see the [Children and Young People Act 2008](#), dictionary.

young person—see the [Children and Young People Act 2008](#), section 12.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 4 June 2015.

2 Notification

Notified under the [Legislation Act](#) on 7 October 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Mental Health Bill 2015, which was passed by the Legislative Assembly on 24 September 2015.

Acting Clerk of the Legislative Assembly

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