

Explanatory Statement

Mental Health (Treatment and Care) (Mental Health Facility) Approval 2007 (No 1)

Disallowable instrument DI2007-24

made under the

Mental Health (Treatment and Care) Act 1994, s 48 (Approved facilities)

The Mental Health (Treatment and Care) (Mental Health Facility) Approval 2007 (No 1) approves the Calvary Health Care Older Persons Mental Health Inpatient Unit, Intensive Care and Coronary Care Units, Theatre Complex, Ward 5E, and the Aged Care Rehabilitation Unit, as a mental health facility under the *Mental Health (Treatment and Care) Act 1994 (the Act)*.

There are two types of approved facilities under the Act:

An approved health facility (approved through a notifiable instrument) is a facility to which a person is firstly taken following emergency apprehension (s 37) or the facility where a person may be taken under a psychiatric treatment order to undergo psychiatric treatment, or undertake counselling, training or rehabilitation (s 29).

An approved mental health facility (approved through a disallowable instrument) is the facility where a doctor, having examined a person in accordance with section 40 of the Act, authorises the involuntary detention and care of that person for a period not exceeding 3 days (s 41). An approved mental health facility may also be the facility to which a person, having failed to comply with a mental health order, may be taken and detained (s 36K).

This approval will allow for the effective operation of the Older Persons Mental Health Inpatient Unit (OPMHIU), scheduled to open in early 2007. The OPMHIU, as part of the Calvary Health Care campus, will provide mental health treatment and care to older persons including, at times, involuntary treatment and care. In order to operate effectively, the facility will require all of the capacities of both a “health facility” and “mental health facility” under the Act. The approval also covers medical areas of Calvary Health Care to allow patients of the OPMHIU subject to involuntary detention to remain detained while receiving essential medical care in other areas of the campus.

The Canberra Hospital is currently approved as a mental health facility under DI2005-77. The previous approval instrument for the Canberra Hospital as a mental health facility, NI2000-95, remains on the Legislation Register. NI2000-95 is now obsolete and is therefore repealed.