



Australian Capital Territory

# Mental Health (Treatment and Care) Regulations 2003

**Subordinate Law SL2003-47**

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The Australian Capital Territory Executive makes the following regulations under the *Mental Health (Treatment and Care) Act 1994*.

Dated 4 December 2003.

SIMON CORBELL  
Minister

BILL WOOD  
Minister

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*Mental Health (Treatment and Care) Act 1994*

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## Part 1 Preliminary

### 1 Name of regulations

These regulations are the *Mental Health (Treatment and Care) Regulations 2003*.

### 2 Commencement

These regulations commence on the day after their notification day.

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

### 3 Dictionary

The dictionary at the end of these regulations is part of these regulations.

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

For example, the signpost definition ‘*Queensland patient*—see the Queensland agreement.’ means that the term ‘Queensland patient’ is defined in that agreement and the definition applies to these regulations.

*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 these regulations is explanatory and is not part of these regulations.

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

## Part 2 Interstate application of mental health laws

### 5 Notification of interstate agreements

An agreement entered into under the Act, section 48C (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### 6 Corresponding laws—Act, s 48D (1)

The following are corresponding laws for the Act, part 5A:

- (a) the *Mental Health Act 1990* (NSW);
- (b) the *Mental Health Act 1986* (Vic);
- (c) the *Mental Health Act 2000* (Qld).

### 7 Interstate custodial patients—Act, s 48D (2)

The following are interstate custodial patients for the Act, part 5A:

- (a) a person apprehended or detained under the NSW Act, chapter 4, part 2 (Involuntary admission to hospitals), division 1 (Admission to and detention in hospitals);
- (b) a person who is a continued treatment patient as defined in the NSW Act, schedule 1 (Dictionary of terms used in the Act);
- (c) a person who is a temporary patient as defined in the NSW Act, schedule 1;
- (d) a person subject to a hospital order or restricted hospital order under the Victorian Act, section 16 (Transfer of mentally ill prisoners);

- (e) a person who is the subject of a warrant issued under the Victorian Act, section 53AA (Warrant to arrest security patient absent without leave who leaves Victoria);
- (f) a person apprehended under the Victorian Act, section 53AD (Apprehension of forensic patient absent without leave);
- (g) a person who is a classified patient under the Queensland Act, section 69 (Classified patients);
- (h) a person subject to an order under the Queensland Act, section 101 (Court may order person's detention in authorised mental health service);
- (i) a person subject to the Queensland Act, section 185 (Apprehension of involuntary patients interstate);
- (j) a person subject to an order under the Queensland Act, section 273 (1) (b) (Orders about custody);
- (k) a person subject to an order under the Queensland Act, section 288 (Mental Health Court may make forensic order);
- (l) a person subject to an order under the Queensland Act, section 302 (Minister may make forensic order for persons subject to custody order);
- (m) a person subject to an order for detention in a stated authorised mental health service under the Queensland Act, section 337 (6) (Appeal powers).

## **8 Corresponding people for interstate custodial patients— Act, s 48D (3)**

For the Act, section 48D (3)—

- (a) an interstate custodial patient mentioned in regulation 7 (a) corresponds to a person being detained under the Act,

section 38, with the detention having commenced at the time the person arrives at the place mentioned in regulation 12; and

- (b) an interstate custodial patient mentioned in another paragraph of regulation 7 corresponds to a person subject to a custody order under the Act, section 26 (1), 27, 72 or 74, as the case requires, that was made at the time specified in the interstate apprehension or transfer order.

### **9 Interstate non-custodial orders—Act, s 48D (4)**

The following are interstate non-custodial orders for the Act, part 5A:

- (a) an order under the NSW Act, section 118 (Making of community counselling orders);
- (b) an order under the NSW Act, section 131 (Making of community treatment orders).

### **10 Recognition of interstate apprehension orders—Act, s 48P**

It is a condition of recognition of an interstate apprehension order that the order complies with the interstate agreement under which it is issued and any applicable requirements of the relevant corresponding law.

### **11 People authorised to apprehend under interstate apprehension orders—Act, s 48Q (1) (d)**

The following people are authorised to apprehend a person under an interstate apprehension order:

- (a) a mental health officer;
- (b) a doctor.

*Note* Police officers and people authorised under corresponding laws are also authorised (see the Act, s 48Q (1) (c) and (d)).



**12 Place to which people can be taken under interstate apprehension orders—Act, s 48R (e)**

The only place in the ACT that a person apprehended under an interstate apprehension order can be taken to and detained at is The Canberra Hospital.

## Dictionary

(see reg 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to these regulations.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- doctor
- under.

*Note 3* Terms used in these regulations have the same meaning that they have in the *Mental Health (Treatment and Care) Regulations 1994* (see Legislation Act, s 148). For example, the following terms are defined in the *Mental Health (Treatment and Care) Regulations 1994*, section 4:

- mental health officer.

***interstate agreement*** means any of the following agreements about the interstate application of mental health laws:

- (a) the agreement dated 25 July 2002 between the Minister for Health for the ACT and the Minister for Health of the State of Victoria (the ***Victorian agreement***);
- (b) the agreement dated 30 August 2002 between the Minister for Health for the ACT and the Minister for Health of the State of Queensland (the ***Queensland agreement***);
- (c) the agreement dated 18 November 2003 between the Minister for Health for the ACT and the Minister for Health of the State of New South Wales (the ***New South Wales agreement***).

***interstate apprehension order*** means an interstate apprehension order under an interstate agreement.

***NSW Act*** means the *Mental Health Act 1990* (NSW).

***Queensland Act*** means the *Mental Health Act 2000* (Qld).

***Victorian Act*** means the *Mental Health Act 1986* (Vic).

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## Endnotes

**1 Notification**

Notified under the Legislation Act on 15 December 2003.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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