

SECOND READING SPEECH

Mental Health Amendment Bill 2009

Mr Speaker

The purpose of this Bill is to amend section 19 of the *Mental Health Amendment Act 2005*. The *Mental Health Amendment Act 2005* amended the *Mental Health Act 1996* to provide a course of action for incidences of failure to comply with community treatment orders. Section 19 of the *Mental Health Amendment Act 2005* is in the form of a sunset clause that limits the operation of the 2005 amendments until 11 January 2010.

The *Mental Health Act 1996* is legislation for the care and treatment of persons with a mental illness. It requires the use of the least restrictive approach to the treatment of people with a mental illness.

Community treatment orders are a mid-range option lying between voluntary admission on the one hand and involuntary detention in an approved hospital on the other. Community treatment orders essentially allow an involuntary patient to receive treatment in the community, rather than in hospital, provided the patient complies with the terms of the order. This may include taking or submitting to the administration of medication, or attending a treatment centre.

The *Mental Health Amendment Act 2005* amended the *Mental Health Act 1996* to enable a patient who had failed to comply with a community treatment order to be temporarily admitted to an approved hospital for up to 14 days to obtain treatment.

The 2005 amendments effectively enable early intervention to prevent a person's mental health from deteriorating.

Before the 2005 amendments, patients known to have failed to comply with a community treatment order could not be involuntarily admitted to hospital to receive treatment until they had become so unwell that they effectively constituted a significant risk of harm to themselves or to others.

Because of the 2005 amendments it is now possible for a patient's treating medical practitioner to intervene at an earlier point in time. Intervention can now occur at the point that the patient's health begins to deteriorate, or where there is a significant risk of this occurring, provided of course steps have been taken beforehand to obtain the patient's cooperation with the order.

The 2005 amendments deliberately included a three year sunset clause because the Act was due for a major review and it was anticipated that the review would be completed by the middle of 2008.

As you all know, the review of the *Mental Health Act* formally commenced in late 2006. An Issues Paper and a Discussion Paper were released during 2007. Each Paper was accompanied by a six week consultation period. The analysis of feedback received following the release of both papers indicated clear support for the development of a new Mental Health Act.

In 2007 I extended the deadline for completion of the review until mid-2009 in recognition of the complexity of the task ahead in developing a new Mental Health Act. This necessitated extending the 2005 amendments, which will now expire in January next year.

Before the 2005 amendments, community treatment orders were rarely used. They now constitute around a quarter of all orders made.

The 2005 amendments will lapse in January 2010 unless they are extended. Allowing the 2005 amendments to lapse would effectively return us to the situation that existed before 2005. We could expect to see a marked reduction in the use of community treatment orders, which would be inconsistent with the principles of the *Mental Health Act*.

The Bill for the new Mental Health Act has been significantly progressed. It will not however be tabled in Tasmanian Parliament this year. Instead I am commending to you a Bill to extend the 2005 amendments beyond January 2010, to maintain the status quo while the new Mental Health Act is finalised.

I would of course prefer to be standing here before you commending a Bill for the new Mental Health Act. Despite the significant effort that has been put in by my Department, this has simply not been possible.

As you know I am committed to achieving a new Mental Health Act that gets it right, and to taking whatever time is needed to do this properly. I am pleased to announce that the Bill is currently with external quality consultants engaged by my Department to independently review the Bill. The consultants will shortly be providing my Department with their thoughts about the Bill and in particular, how the Bill may need to be changed so that it strikes the right balance between the rights of persons with a mental illness and the role of the State in regulating their treatment.

I am also committed to ensuring that we consult properly with all Tasmanians. My Department is currently working towards publicly releasing a draft exposure Bill for the new Mental Health Act in early 2010 for a six week period. In conjunction with the Issues and Discussion Paper consultations, this will ensure a total of three months' consultation with the public and with key stakeholders.

Following this timeline, the Bill will be finalised and tabled in Tasmanian Parliament later next year after the feedback from the public consultation process is analysed and taken into account. Pending the Parliament's approval of the Bill, the new legislation would commence after a six month implementation period, in mid-2011.

In the interim, the *Mental Health Amendment Bill 2009* proposes extending the sunset clause within the 2005 amendments for an additional two years. This would extend the operation of the 2005 amendments until 11 January 2012.

Some of you will be wondering why we are proposing extending the sunset clause until January 2012 when in fact it is feasible that we will have a new Mental Health Act by mid-2011. The additional period has been included not because we think we will necessarily need it, but rather to provide some flexibility in case we do. I would prefer to use the extra time if we need to do so to ensure that we get the new Mental Health Act right, rather than push ahead with legislation that may not be quite right purely to avoid being back here again in early 2011.

I commend the Bill to the House.