

# **TASMANIA**

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## **MENTAL HEALTH AMENDMENT (COMMUNITY TREATMENT ORDERS) BILL 2004**

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# **MENTAL HEALTH AMENDMENT (COMMUNITY TREATMENT ORDERS) BILL 2004**

*(Brought in by Tim Morris MHA)*

## **A BILL FOR**

**An Act to amend the *Mental Health Act 1996* to improve compliance with Community Treatment Orders and to separate the legal roles from the treatment roles in preparing Community Treatment Orders.**

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

### **Short title**

1. This Act may be cited as the *Mental Health Amendment (Community Treatment Orders) Act 2004*.

### **Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

## **Principal Act**

3. In this Act the *Mental Health Act 1996*<sup>\*</sup> is referred to as the Principal Act.

## **Act binds the Crown**

4. This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

## **Section 24 amended (Criteria for detention as involuntary patient)**

5. Section 24 of the Principal Act is amended by inserting new paragraph after (d) as follows:  
(e) should the patient be deemed to have breached the requirements of a community treatment order under section 43.

## **Section 26 amended (Initial order for admission)**

6. Section 26 (2) of the Principal Act is amended by inserting “or that the patient has failed to comply with their Community Treatment Order” after “matters referred to in section 24”.

## **Section 41 amended (Making of community treatment order)**

7. Section 41 of the Principal Act is amended as follows:  
(a) by omitting from subsection (1) “made” and substituting “recommended”

## **Section 43 amended (Requirements of patient under community treatment order)**

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<sup>\*</sup> *No. 31 of 1996*

8. Section 43 of the Principal Act is amended by inserting after paragraph (c) the following paragraph:
- (d) If a patient fails to comply with (a) (b) or (c) in this clause then they will be deemed to have breached provisions of the order and in doing so will have met the criteria for an initial order in section 26.

**New Section 44A inserted (Patient fails to comply with community treatment order requirements)**

9. The Principal Act is amended by inserting after section 44 (4) (d) new Section 44A as follows:

44A. If the person to whom a Community Treatment Order relates fails to comply with the terms of Section 43:

- (1) An approved medical practitioner who is in charge of a patient's treatment may amend a community treatment order.
- (2) The Tribunal must review an amended Community Treatment Order within 28 days after the date when the order is amended under subsection (1), and the Tribunal's review is to be conducted in accordance with Section 52.
- (3) If a Community Treatment Order is amended under subsection (1) the patient has the right to seek a review under Section 53.

**Section 65 amended (Powers of Tribunal on review)**

10. Section 65 (1) subsection (a) of the Principal Act is amended by inserting “, or requirements of the order.”, after “confirm or vary the decision or order”.