

CLAUSE NOTES

Mental Health Amendment Bill 2022

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| Clause 1 | Short Title

This clause provides that the Act will be cited as the <i>Mental Health Amendment Act 2022</i> . |
| Clause 2 | Commencement

This clause provides for the Act to commence on a day or days to be proclaimed. |
| Part 2 – Corrections Act 1997 Amended | |
| Clause 3 | Principal Act

This clause identifies the <i>Corrections Act 1997</i> as the Principal Act for the purposes of Part 2 of the Act. |
| Clause 4 | Section 3 amended (Interpretation)

This clause amends section 3 of the Principal Act by omitting the definition of “Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist. |
| Clause 5 | Section 36A amended (Removal of prisoners and detainees to secure mental health units)

This clause amends section 36A of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist. |
| Clause 6 | Section 36B amended (Appeal against direction under section 36A)

This clause amends section 36B of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist. |
| Clause 7 | Section 72 amended (Release on parole)

This clause amends section 72 of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist. |

Clause 8 Section 87C amended (Disclosure of critical health information by health officials)

This clause amends section 87C of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Part 3 – *Criminal Code Act 1924* Amended

Clause 9 Principal Act

This clause identifies the *Criminal Code Act 1924* as the Principal Act for the purposes of Part 3 of the Act.

Clause 10 Section 348 amended (On adjournment of trial accused may be remanded, &c.)

This clause amends section 3 of the Principal Act by omitting the definition “Chief Forensic Psychiatrist” and inserting a new definition of “Chief Psychiatrist”, and removes various uses of the word “Forensic”, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Part 4 – *Criminal Justice (Mental Impairment) Act 1999* Amended

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| Clause 11 | <p>Principal Act</p> <p>This clause identifies the <i>Criminal Justice (Mental Impairment) Act 1999</i> as the Principal Act for the purposes of Part 4 of the Act.</p> |
| Clause 12 | <p>Section 3 amended (Interpretation)</p> <p>This clause amends section 3 of the Principal Act by omitting the definitions “Chief Forensic Psychiatrist” and “Chief Civil Psychiatrist”, inserting a new definition of “Chief Psychiatrist”, and removing the word “Forensic”, in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.</p> |
| Clause 13 | <p>Section 21A amended (Breach of conditions on release)</p> <p>This clause amends section 21A of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p> |
| Clause 14 | <p>Section 26 amended (Discharge of restriction orders)</p> <p>This clause amends section 26 of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p> |
| Clause 15 | <p>Section 29 amended (Subsequent fitness for trial of person subject to treatment order or forensic order)</p> <p>This clause amends section 29 of the Principal Act by omitting subsections (1) and (2) and subparagraphs (iii) and (iv) from subsection (3A)(b) and inserting a new subsection (1) and subparagraph (iii) in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.</p> |
| Clause 16 | <p>Section 29A amended (Supervision orders)</p> <p>This clause amends section 29A of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p> |
| Clause 17 | <p>Section 30 amended (Variation or revocation of supervision order)</p> |

This clause amends section 30 of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 18

Section 31 amended (Apprehension of defendant under supervision order)

This clause amends section 31 of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 19

Section 35 amended (Matters to which courts are to have regard)

This clause amends section 35 of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 20

Section 39 amended (Power of court to deal with defendant before proceedings completed)

This clause amends section 39 of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 21

Section 39A amended (Limitation on making certain orders in respect of youth)

This clause amends section 39A of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 22

Section 39B amended (Report of Chief Psychiatrist)

This clause amends section 39B of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

- Clause 23 **Section 39C amended (Custody on making of order committing defendant to secure mental health unit)**
- This clause amends section 39C of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 24 **Section 41A amended (Authorisation of persons)**
- This clause amends section 41A of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 25 **Section 42A amended (Provision of reports to certain persons)**
- This clause amends section 42A of the Principal Act by omitting paragraphs (b) and (ba) and substituting a new paragraph (b) in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Part 5 – *Dangerous Criminals and High Risk Offenders Act 2021* Amended**
- Clause 26 **Principal Act**
- This clause identifies the *Dangerous Criminals and High Risk Offenders Act 2021* as the Principal Act for the purposes of Part 5 of the Act.
- Clause 27 **Section 3 amended (Interpretation)**
- This clause amends section 3 of the Principal Act by omitting the definition “Chief Forensic Psychiatrist” and substituting a new definition “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 28 **Section 5 amended (Reports and examination of offender to whom application under section 4(1) relates)**
- This clause amends section 5 of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 29 **Section 11 amended (Reports and examination of offender to whom review application relates)**
- This clause amends section 11 of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 30 **Section 26 amended (High risk offenders assessment committee)**

This clause amends section 26 of the Principal Act by removing various uses of the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 31 **Section 34 amended (Hearing of application)**

This clause amends section 34 of the Principal Act by removing the word “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Part 6 – *Disability Services Act 2011* Amended

Clause 32 **Principal Act**

This clause identifies the *Disability Services Act 2011* as the Principal Act for the purposes of Part 6 of the Act.

Clause 33 **Section 36 amended (Use of unauthorised restrictive intervention prohibited)**

This clause amends section 36 of the Principal Act by removing various references to the roles of the “Chief Forensic Psychiatrist” or the “Chief Civil Psychiatrist”, and inserting references to the Chief Psychiatrist, in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 34 **Section 50 amended (Sharing of information)**

This clause amends section 50(1) of the Principal Act by omitting paragraph (h) and replacing with a new paragraph (h) in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Part 7 – *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* Amended

Clause 35 Principal Act

This clause identifies the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* as the Principal Act for the purposes of Part 7 of the Act.

Clause 36 Section 117 amended (Commission to approve voluntary assisted dying training courses)

This clause amends section 117 of the Principal Act by removing the word “Civil” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Part 8 – *Justices Act 1959* Amended

Clause 37 Principal Act

This clause identifies the *Justices Act 1959* as the Principal Act for the purposes of Part 8 of the Act.

Clause 38 Section 47 amended (Place of committal when defendant on remand)

This clause amends section 47 of the Principal Act by omitting the definition “Chief Forensic Psychiatrist”, inserting a new definition of “Chief Psychiatrist”, and removing various uses of the word “Forensic”, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Part 9 – Magistrates Court (Criminal and General Division) Act 2019 amended

Clause 39

Principal Act

This clause identifies the *Magistrates Court (Criminal and General Division) Act 2019* as the Principal Act for the purposes of Part 9 of the Act.

Clause 40

Section 34 amended (Committing defendant on remand to secure mental health unit)

This clause amends section 34 of the Principal Act by omitting the definition “Chief Forensic Psychiatrist”, inserting a new definition of “Chief Psychiatrist”, and removing various uses of the word “Forensic”, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 41

Section 35 amended (Variation or revocation of order committing defendant to secure mental health unit)

This clause amends section 35 of the Principal Act by omitting the definition “Chief Forensic Psychiatrist”, inserting a new definition of “Chief Psychiatrist”, and removing various uses of the word “Forensic”, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Part 10 – *Mental Health Act 2013* Amended

Clause 42

Principal Act

This clause identifies the *Mental Health Act 2013* as the Principal Act for the purposes of Part 10 of the Act.

Clause 43

Section 3 amended (Interpretation)

This clause:

- omits the definition of, and various references to, “Aborigine” and inserts a definition of, and references to, “Aboriginal person” to align with the *Aboriginal Lands Act 1995*;
- replaces the definition of “approved form” in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist;
- omits the definitions of “CCP” and “CFP”;
- omits the definitions of “Chief Civil Psychiatrist”, “Chief Forensic Psychiatrist” and “Chief Psychiatrist” and inserts a new definition of Chief Psychiatrist to merge the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist;
- substitutes a broader definition of parent to include a non-exhaustive range of legally recognised parent/s, guardian/s, and custodial arrangements.

If the person intending to assess or treat a child under the terms of the Act is unable to identify a parent within the meaning of paragraph (a) who is capable of providing or refusing informed consent, the intention of paragraph (b) is to include less formal parent-like relationships where a person meets three criteria in relation to the child:

- the parental figure generally acts as the parent of a child, in that they generally care for and have responsibility for the child through an ongoing interpersonal relationship that is not in the course of their employment or otherwise for similar gain; and
- the parental figure has acted in this way for a significant length of time, in that they have not so recently come into the child’s life that it would be inappropriate for them to consent to mental health treatment for the child; and

- the requirement that the child recognises the person as a parental figure is intended to mean that the child appears to rely on or expect that person to care or have some responsibility for the child, it is not intended that the child would actively describe the person as a parent;
- paragraphs (h) and (k) omit the definition of “protective custody” and insert a definition of “temporarily detain” as a consequence of modernising the language to more accurately reflect temporary detainment for the purpose of assessment;
- omits the definition of “relevant Chief Psychiatrist” in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist;
- omits the definition of “State Servant” to align with the *Acts Interpretation Act 1931*;
- omits subsection (2) in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 44

Section 4 amended (Meaning of *mental illness*)

This clause amends section 4(2) of the Principal Act by clarifying that a person does not have a mental illness because of their current or past expression of, or failure or refusal to express, a particular sexual preference or orientation, or gender identity or expression.

The intention is to ensure that only those people with a mental illness for whom the application of the Act may be appropriate, are brought within the scope of the Act.

Clause 45

Section 6 amended (Meaning of *treatment*)

This clause amends section 6 of the Principal Act by omitting “monitor or evaluate” and substituting the defined term, “assess”.

Clause 46

Section 8 amended (Meaning of *informed consent to assessment or treatment*)

This clause amends section 8 of the Principal Act by variously inserting “special psychiatric treatment” as necessary to bring psychosurgery under the established informed consent provisions.

Clause 47

Section 9 amended (Informed consent for child who lacks capacity to decide on own assessment or treatment)

This clause amends section 9 of the Principal Act by omitting subsections (3) and (4) and substituting new subclauses (3), (4) and (5).

These subclauses will continue to govern the withdrawal of consent to assessment or treatment for a child who lacks decision-making capacity, by a parent.

This clause removes the requirement that “each parent” of the child to consent to the withdrawal of consent – even where all parents may not be available or capable of providing informed consent.

The amended requirement for the parent who originally provided consent to agree to the withdrawal of consent has relevance given the ability of another parent to provide informed consent, pursuant to subsection (1) – within this context, the withdrawal of consent by one parent will be ineffective if the parent who originally gave consent is still available but does not agree to the withdrawal of consent.

Subclause (4) and (5) clarify the effect of withdrawing consent, including at paragraph (b) which requires that the assessment or treatment is to be stopped as soon as it is medically safe to do so, which is intended to acknowledge situations where chemical treatment, having been administered with informed consent, cannot be immediately withdrawn.

Clause 48

Chapter 2, Part 1: Heading amended

This clause amends the heading of Part 1 of Chapter 2 of the Principal Act by omitting “principles and policies” from the heading to that Part and substituting “rights and policies”.

Clause 49

Section 15 substituted

This clause amends section 15 (Mental health service delivery principles) of the Principal Act by substituting a revised paragraph 15 (Mental health service delivery principles).

Section 13, section 15 and Schedule 1 continue to jointly determine how the Act’s provisions are to be interpreted and applied.

This clause requires all persons, including statutory officers, police officers and members and staff of the Tribunal, exercising responsibilities under the Act, including but not limited to the performance of functions and the exercise of powers, to have

regard to the mental health service delivery principles set out in Schedule 1 when exercising those responsibilities.

Subparagraph (2) supports the oversight functions in sections 156 and 162, and clause 137(d), which inserts a new paragraph at section 147(8)(ga).

Paragraph 15A further asserts the right to receive the assessment, or treatment, under the Act in accordance with the mental health service delivery principles.

Paragraph 15A, which includes those rights contained in the current section 62 (Rights of involuntary patients), establishes rights for all voluntary, involuntary, and forensic patients under and pursuant to the Act.

Clause 50

Chapter 2, Part 2: Heading amended

This clause amends the heading of Part 2 of Chapter 2 of the Principal Act by omitting “protective custody” from the heading to that Part and substituting “detaining for the purposes of assessment”.

Clause 51

Section 17 amended (Power to temporarily detain person for assessment)

This clause amends section 17 of the Principal Act by omitting authority for a person to be taken into protective custody and inserting authority for a person to be temporarily detained for the purpose of assessment.

The manner in which mental health officers and police officers are to detain a person is outlined in Schedule 2 (Custody and escort provisions).

Clause 52

Section 18 amended (Handover of person temporarily detained for assessment)

This clause amends section 18 of the Principal Act by:

- omitting various references to taking a person into protective custody and inserting references to temporarily detaining a person for the purposes of assessment; and
- clarifying the handover process established by section 18 for when a person is temporarily detained for the purposes of assessment while already at an approved assessment centre.

Clause 53

Section 19 amended (Dealing with person while temporarily detained)

This clause amends section 19 of the Principal Act by:

- omitting various references to taking a person into protective custody and inserting references to temporarily detaining a person for the purposes of assessment; and
- omitting a reference to “CCP” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist; and
- inserting a requirement that the patient be examined as soon as practicable; and
- requiring that the patient be examined by a medical practitioner within four hours of the person having arrived on the premises of the assessment centre regardless of how the patient was conveyed to the assessment centre. The requirement for the examination to occur within four hours is linked to the requirement in clause 54 (section 20) for a person to be released from temporary detainment on the expiry of the authorised detaining period in relation to the person that is established by this clause.

Clause 54

Section 20 substituted

This clause substitutes section 20 of the Principal Act with a new clause that governs matters relevant to a person’s release from temporary detainment for the purposes of assessment.

Subclauses 1 and 2 jointly require a mental health officer or police officer who is responsible for a person who has been temporarily detained for the purposes of assessment to release that person from the detainment if and when:

- the person gives informed consent to be assessed or treated. Such a person would not meet the assessment or treatment criteria such that the temporary detainment for the purposes of assessment would be unnecessary; or
- an assessment or treatment order is made. A person who is subject to an assessment or treatment order may be detained in an approved facility pursuant to the order – this effectively removes the need for the person to remain in temporary detainment; or
- the mental health officer or police officer who has responsibility for the person being temporarily detained forms the belief that the person no longer meets the criteria outlined in section 17(1); and

- four hours have passed since the person's arrival at the premises of the approved assessment centre.

The intention is to ensure that there are clear trigger points at which a person must be released from temporary detainment, that assessment centre staff and the mental health or police officer responsible for the person work together to ensure the patient is examined as quickly as practicable, and additionally a person is not detained at an approved assessment centre pursuant to the temporary detainment provisions for more than four hours.

Clause 55

Section 21 amended (Records, &c.)

This clause amends section 21 of the Principal Act by:

- omitting various references to taking a person into protective custody and inserts references to temporarily detaining a person for the purpose of assessment as appropriate; and
- omitting various references to "CCP" and inserting "Chief Psychiatrist", where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 56

Section 23 repealed

This clause repeals section 23 (Application for assessment order) of the Principal Act to remove an unnecessary application process.

Clause 57

Section 24 amended (Making an assessment order)

This clause amends section 24 of the Principal Act by:

- omitting paragraphs (c) and (d) and part of subsection (1)(e) to remove process that are unnecessary in addition to the requirement that the person needs to be assessed against the assessment criteria stipulated in section 25; and
- omitting subsection 4 in consequence of clause 56.

Clause 58

Section 26 amended (Form and content of assessment order)

This clause amends section 26 of the Principal Act by:

- omitting the reference to "CCP" in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist; and
- omitting paragraph (c) from subsection (2) in consequence of clause 56.

Clause 59

Section 27 amended (Effect of assessment order)

This clause amends section 27 of the Principal Act by inserting “available” after “place” for consistency with like provision in the Act.

Clause 60 Section 29 amended (Action to be taken by medical practitioner on making assessment order)

This clause amends section 29(a) of the Principal Act by omitting the reference to “CCP” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 61 Section 32 amended (Affirmation or discharge of assessment order)

This clause amends section 32(5) of the Principal Act by omitting the reference to “CCP” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 62 Section 33 amended (Action to be taken by medical practitioner on affirming assessment order)

This clause amends section 33(1)(a)(iii) of the Principal Act by omitting the reference to “CCP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 63 Section 35 amended (Discharge of assessment order by medical practitioner or Tribunal)

This clause amends section 35 of the Principal Act by:

- from subsection (2) “examining” and substituting the appropriately defined term, “assessing”; and
- omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 64 Section 42 amended (Effect of treatment order)

This clause amends section 42 of the Principal Act by omitting various references to “CCP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 65 Section 45 amended (Action to be taken by Tribunal on making treatment order)

This clause amends section 45(b)(iv) of the Principal Act by omitting “CCP” and substituting “Chief Psychiatrist” in

consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

- Clause 66** **Section 47 amended (Failure to comply with treatment order)**
- This clause amends section 47(3)(b) of the Principal Act by inserting “available” after “place” for consistency with like provision in the Act.
- Clause 67** **Section 47A amended (Admission to prevent possible harm)**
- This clause amends section 47A(3)(b) of the Principal Act by inserting “available” after “place” for consistency with like provision in the Act.
- Clause 68** **Section 48 amended (Renewal of treatment order)**
- This clause amends section 48 of the Principal Act by omitting “CCP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.
- Clause 69** **Section 49 amended (Discharge of treatment order by medical practitioner or Tribunal)**
- This clause amends section 49 of the Principal Act by omitting “CCP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.
- Clause 70** **Section 51 amended (Requirement for treatment plan)**
- This clause amends section 51 of the Principal Act by omitting “CCP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.
- Clause 71** **Section 52 amended (Form of treatment plan)**
- This clause amends section 52 of the Principal Act by omitting “CCP” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.
- Clause 72** **Section 53 amended (Preparation of treatment plan)**
- This clause amends section 53 of the Principal Act by omitting “CCP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 73

Section 54 amended (Variation of treatment plan)

This clause amends section 54 of the Principal Act by omitting “CCP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 74

Section 55 amended (Urgent circumstances treatment)

This clause amends section 55 of the Principal Act by omitting subsections (1), (2) and (3) and substituting new clauses that enable treatment to be given to an involuntary patient, without informed consent or Tribunal authorisation, if the treatment is authorised by an approved medical practitioner as being urgently needed in respect of the patient. Such an authorisation may only be made where the medical practitioner is satisfied that:

- the treatment is necessary for the patient’s health or safety or the safety of other persons; and
- waiting for the treatment to be authorised by the Tribunal (or by a member thereof on an interim basis) would compromise the outcomes of the treatment or the effectiveness of the treatment in meeting the treatment outcomes.

The clause explicitly refers to the definition of treatment in section 6(1) as a marker that underlines the requirement that the urgent circumstances treatment may only include treatment that is within the scope of this Act and not any other treatment, such as those described in section 6(2) as not within the scope of the Act. The authorisation must not be on terms of condescension, but on terms of relevant medical necessity.

Subsection (7) is omitted in consequence of amendments that commenced in 2017.

Clause 74 also amends section 55 by omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 75

Section 56 amended (Seclusion)

This clause amends section 56 of the Principal Act by:

- omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist; and
- by substituting a new subsection (2) that determines the monitoring and oversight arrangements applicable in relation to a patient who is secluded, including:
 - a requirement that the patient be clinically observed by a nurse at least every 15 minutes or such other intervals as the standing orders may mandate; and
 - a requirement that the patient be assessed by a medical practitioner within three hours; and
 - under no circumstances should there be an interval of more than three hours between assessments by a medical practitioner to see if the seclusion should continue or be terminated; and
 - that seclusion must not extend beyond three hours unless a medical practitioner has conducted such an assessment of the patient and a medical practitioner or nurse has conducted a physical examination of the patient and approves the continuation of the seclusion for one specified period not exceeding three hours; and
 - meaning that a patient is not permitted to be held in seclusion for a total period of greater than six hours under an authorisation made under section 56(1); and
 - seclusion must not continue if it is causing obvious detriment to the patient's mental or physical health.

A subsequent authorisation is not precluded, but any person authorising a subsequent authorisation will do so subject to any relevant standing order issued pursuant to section 152, which may include special reporting requirements for subsequent authorisations; and

- clause 75 further adds that the Chief Psychiatrist may impose conditions on the seclusion of the patient at any point during the period of seclusion for the patient; and

- and requires that the patient must be provided with necessities including, clothing, bedding, sustenance, medication and means of communication while secluded.

Clause 76

Section 57 amended (Restraint)

This clause amends section 57 of the Principal Act by:

- omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist; and
- by substituting a new subsection (2) that determines the monitoring and oversight arrangements applicable in relation to a patient who is restrained, including:
 - a requirement that the patient be clinically observed by a nurse at least every 15 minutes or such other intervals as the standing orders may mandate; and
 - a requirement that the patient be assessed by a medical practitioner within three hours; and
 - under no circumstances should there be an interval of more than three hours between assessments by a medical practitioner to see if the restraint should continue or be terminated; and
 - that restraint must not extend beyond three hours unless a medical practitioner has conducted such an assessment of the patient and a medical practitioner or nurse has conducted a physical examination of the patient and approves the continuation of the restraint for one specified period not exceeding three hours; and
 - meaning that a patient is not permitted to be held in a non-chemical restraint for a total period of greater than six hours under an authorisation made under section 56(1); and
 - where a medical practitioner has administered a chemical restraint to the patient, the medical practitioner must have intended that the substance so administered would not have the effect of restraining the patient in excess of the six permitted hours; and
 - restraint must not continue if it is causing obvious detriment to the patient’s mental or physical health.

A subsequent authorisation is not precluded, but any person authorising a subsequent authorisation will do so subject to any relevant standing order issued pursuant to section 152, which may include special reporting requirements for subsequent authorisations; and

- clause 76 further adds that the Chief Psychiatrist may impose conditions on the restraint of the patient at any point during the period of restraint for the patient; and
- requires that the patient must be provided with necessities including, clothing, bedding, sustenance, medication and means of communication while restrained.

Clause 77

Section 58 amended (Records, &c.)

This clause amends section 58 of the Principal Act by omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 78

Section 59 amended (Transfer of involuntary patients between approved hospitals)

This clause amends section 59 of the Principal Act by omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Subclauses (b) and (c) insert a power to prescribe another reason that the Chief Psychiatrist may direct that an involuntary patient be transferred from one approved hospital to another.

Clause 79

Section 60 amended (Leave of absence from approved hospital)

This clause amends section 60 of the Principal Act by omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

This clause further amends section 60 by removing requirements for a patient to make application for leave, while retaining the ability of any person with a genuine interest in the patient’s welfare to prompt the approved medical practitioner to consider granting leave to the patient. However, if the approved medical practitioner does not grant leave in response to a request from the patient or another person, the approved medical practitioner must provide reasons for that decision.

Clause 80

Section 61 amended (Absence from approved hospital without

leave or in breach of condition, &c.)

This clause amends section 61 of the Principal Act by omitting “take the patient into protective custody and return” and substituting “detain the patient as may be required for the purpose of returning” in consequence of clause 51.

Clause 81

Chapter 2, Part 3, Division 7 repealed

This clause repeals Division 7 of Part 3 of Chapter 2 (Rights of involuntary patients) of the Principal Act in consequence of clause 49.

Section 63 amended (Admission)

This clause amends section 63 of the Principal Act by:

- omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and
- omitting paragraphs (a), (b) and (c) from subsection (2). Subsection (2) provides the circumstances in which an involuntary patient who is not a forensic patient may be authorised under subsection (1) for admission to a secure mental health unit.

The amendments will remove the former requirement that the involuntary patient be detained at an approved hospital at the time the admission is authorised. The intended effect is to allow for a patient who

- has been a forensic patient; and
- the order that deemed the patient to be a forensic patient is coming to an end; and
- the patient requires ongoing inpatient treatment; and
- it would be untenable risk to the patient or other people to detain the patient at an approved hospital or an approved facility other than a secure mental health unit.

The intention is to ensure that only involuntary patients who cannot be safely detained in an approved hospital, are admitted to a secure mental health unit. This is because of the highly restrictive nature of secure mental health units and the increase in restrictions on rights that patients accommodated in such units usually experience. The intention is to ensure that involuntary patients are only detained in such an environment when the impact on the person's rights, of being detained in that environment, is outweighed by the danger that the patient would to themselves if they were not detained in a secure mental health unit.

Clause 83	<p>Section 64 amended (Admissions procedure, extensions and transfer)</p> <p>This clause amends section 64 of the Principal Act by omitting various references to “CFP” or “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist. Amendments omitting subsection (3) and subparagraph (iii) from subsection (4)(b) and the substitution of subsections (5), (6) and (7) further remove interactions between the two statutory roles.</p>
Clause 84	<p>Section 65 amended (Period of detention)</p> <p>This clause amends section 65 of the Principal Act by:</p> <ul style="list-style-type: none"> • omitting the requirement for an application for a renewal of a treatment order to the Tribunal to include particulars of any recommended change in treatment; and • allowing for a 24-hour overlap in consequence of clause 82 in order to provide for continuous treatment.
Clause 85	<p>Section 65A amended (Renewal of treatment order for patient in SMHU)</p> <p>This clause amends section 65A of the Principal Act by omitting the reference to “CPF” (sic) and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 86	<p>Section 67 amended (Leave of absence for involuntary SMHU patient)</p> <p>This clause amends section 67 of the Principal Act by removing the Chief Civil Psychiatrist as an interested person for the purposes of Division 6 of Part 4 (Leave of absence for forensic patients not subject to restriction orders).</p>
Clause 87	<p>Section 69 amended (Period of detention)</p> <p>This clause amends section 69 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>

Clause 88	<p>Section 70 amended (Certain forensic patients may request return to prison, &c.)</p> <p>This clause amends section 70 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p> <p>This clause further amends section 70 by omitting the words “examined” and “examination” variously occurring and substituting the defined term “assessed” and “assessment” as appropriate.</p>
Clause 89	<p>Section 72 amended (Transfer of forensic patients between SMHUs)</p> <p>This clause amends section 72 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, and omits “and to discharge any of the responsibilities of authorised persons under this Part” from subsection (6)(c), in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 90	<p>Section 73 amended (Transfer of forensic patients to hospitals, &c.)</p> <p>This clause amends section 73 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 91	<p>Section 75 amended (Return of forensic patient in Tasmania to SMHU)</p> <p>This clause amends section 75(2) of the Principal Act by omitting “an authorised person or police officer to take the patient into protective custody” and substituting “a police officer to lawfully detain the patient”.</p> <p>This clause amends section 75(3) of the Principal Act by inserting to a patient being lawfully detained under this section as if the patient were temporarily detained for assessment.” after “apply” in order to clarify that Schedule 2, the custody and escort provisions, applies to such temporary detainment.</p>
Clause 92	<p>Section 77 amended (Definitions for this Division)</p> <p>This clause amends section 77 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>

- Clause 93** **Section 78 amended (When leave of absence for forensic patients subject to restriction orders may be granted)**
- This clause amends section 78 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 94** **Section 79 amended (Extension, variation and cancellation of leave of absence)**
- This clause amends section 79 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 95** **Section 80 amended (Victims to be notified of leave of absence of patient)**
- This clause amends section 80 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 96** **Section 81 amended (Definitions for this Division)**
- This clause amends section 81 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 97** **Section 82 amended (When leave of absence for forensic patients not subject to restriction orders may be granted)**
- This clause amends section 82 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 98** **Section 83 amended (Extension, variation and cancellation of leave of absence)**
- This clause amends section 83 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
- Clause 99** **Section 84 amended (Victims to be notified of leave of absence of patient)**

This clause amends section 84 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 100

Section 85 amended (Interpretation of Part)

This clause amends section 85 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 101

Section 87 amended (Urgent circumstances treatment)

This clause amends section 87 of the Principal Act by:

- omitting the phrase “the patient’s best interest” from subsections (1) and (2) and providing that urgent circumstances treatment of a forensic patient may only be authorised by an approved medical practitioner under subsection (1) where the approved medical practitioner is of the opinion that achieving the necessary treatment outcome would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal (or by a member thereof on an interim basis). This means that the authorisation must not be on terms of condescension, but on terms of relevant medical necessity; and
- omitting the reference to examination in subsection (3) and replacing with the defined term “assessed” and requiring the approved medical practitioner to be satisfied that the precursors for urgent circumstances treatment of a forensic patient be met, including that the urgent circumstances treatment is necessary in terms of the outcomes referred to in section 6(1);

Subsection (7) is omitted in consequence of amendments that commenced in 2017.

Clause 101 also amends section 87 by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 102

Section 88 amended (Authorisation of treatment by Tribunal)

This clause amends section 88 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into

the new role of Chief Psychiatrist.

Clause 103

Section 91 amended (Interim authorisation of treatment by Tribunal member)

This clause amends section 91 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 104

Section 92 amended (Interpretation of Division)

This clause amends section 92 of the Principal Act by omitting a reference to “CFP” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 105

Section 94 amended (Seclusion)

This clause amends section 94 of the Principal Act by:

- omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and
- by substituting a new subsection (2) that determines the monitoring and oversight arrangements applicable in relation to a patient who is secluded, including:
 - a requirement that the patient be clinically observed by a nurse at least every 15 minutes or such other intervals as the standing orders may mandate; and
 - a requirement that the patient be assessed by a medical practitioner within three hours; and
 - under no circumstances should there be an interval of more than three hours between assessments by a medical practitioner to see if the seclusion should continue or be terminated; and
 - that seclusion must not extend beyond three hours unless a medical practitioner has conducted such an assessment of the patient and a medical practitioner or nurse has conducted a physical examination of the patient and approves the continuation of the seclusion for one specified period not exceeding three hours; and

- meaning that a patient is not permitted to be held in seclusion for a total period of greater than six hours under an authorisation made under section 94(1); and
- seclusion must not continue if it is causing obvious detriment to the patient's mental or physical health.

A subsequent authorisation is not precluded, but any person authorising a subsequent authorisation will do so subject to any relevant standing order issued pursuant to section 152, which may include special reporting requirements for subsequent authorisations.

Clause 105 further adds that the Chief Psychiatrist may impose conditions on the seclusion of the patient at any point during the period of seclusion for the patient; and requires that the patient must be provided with necessities including, clothing, bedding, sustenance, medication and means of communication while secluded.

Clause 106

Section 95 amended (Restraint)

This clause amends section 95 of the Principal Act by:

- omitting various references to "CFP" and inserting "Chief Psychiatrist", where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and
- by substituting a new subsection (2) that determines the monitoring and oversight arrangements applicable in relation to a patient who is restrained, including:
 - a requirement that the patient be clinically observed by a nurse at least every 15 minutes or such other intervals as the standing orders may mandate; and
 - a requirement that the patient be assessed by a medical practitioner within three hours; and
 - under no circumstances should there be an interval of more than three hours between assessments by a medical practitioner to see if the restraint should continue or be terminated; and

- that restraint must not extend beyond three hours unless a medical practitioner has conducted such an assessment of the patient and a medical practitioner or nurse has conducted a physical examination of the patient and approves the continuation of the restraint for one specified period not exceeding three hours; and
- meaning that a patient is not permitted to be held in a non-chemical restraint for a total period of greater than six hours under an authorisation made under section 95(1); and
- where a medical practitioner has administered a chemical restraint to the patient, the medical practitioner must have intended that the substance so administered would not have the effect of restraining the patient in excess of the six permitted hours; and
- restraint must not continue if it is causing obvious detriment to the patient's mental or physical health.

A subsequent authorisation is not precluded, but any person authorising a subsequent authorisation will do so subject to any relevant standing order issued pursuant to section 152, which may include special reporting requirements for subsequent authorisations.

Clause 106 further adds that the Chief Psychiatrist may impose conditions on the restraint of the patient at any point during the period of restraint for the patient; and requires that the patient must be provided with necessities including, clothing, bedding, sustenance, medication and means of communication while restrained.

Clause 107

Section 96 amended (Records, &c.)

This clause amends section 96 of the Principal Act by omitting various references to "CFP" and inserting "Chief Psychiatrist", where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 108	<p>Section 98 amended (Privileged visitors, callers and correspondents)</p> <p>This clause amends section 98 of the Principal Act by omitting various references to “a Chief” and inserting “the Chief” in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 109	<p>Section 100 amended (Visitor identity)</p> <p>This clause amends section 100 of the Principal Act by omitting a reference to “CFP” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 110	<p>Section 105 amended (Police visits)</p> <p>This clause amends section 105 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 111	<p>Chapter 2, Part 5, Division 6 repealed</p> <p>This clause repeals Division 6 of Part 5 of Chapter 2 of the Principal Act (Division 6 - Further rights, &c.) as a consequence of clause 49.</p>
Clause 112	<p>Section 109 amended (Authorisation of persons)</p> <p>This clause amends section 109 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 113	<p>Section 110 amended (Screening of persons seeking entry to SMHU)</p> <p>This clause amends section 110 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 114	<p>Section 111 amended (Searches)</p> <p>This clause amends section 111 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 115	<p>Section 112 amended (Seizure)</p>

This clause amends section 112 of the Principal Act by omitting various references to “CFP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 116

Section 113 amended (Certain things not to be brought into SMHU)

This clause amends section 113 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 117

Section 114 amended (Records, &c.)

This clause amends section 114 of the Principal Act by:

- omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist;
- removing the Tribunal as an entity to whom weekly report of records prepared in accordance with section 114(1) must be sent and substituting a power for the Tribunal to make a request for a copy of any such report or related information on an as needs basis; and
- inserting the Principal Official Visitor as an entity to whom the controlling authority is to provide a weekly report of records prepared in accordance with section 114(1) must be sent.

Clause 118

Section 116 amended (Bringing patients before courts)

This clause amends section 116(3) of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 119

Section 117 amended (Presence at taking of certain depositions)

This clause amends section 117(2) of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 120

Section 118 amended (Court may proceed in absence of forensic patient, &c.)

This clause amends section 118 of the Principal Act by omitting a reference to “CFP” and inserting “Chief Psychiatrist” in

consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 121

Section 119 amended (Notifying victims of final release, &c.)

This clause amends section 119 of the Principal Act, by allowing notification to be made as soon as practicable after a final release. The intent is to provide for circumstances where a patient may have been finally released while on leave and is accordingly released by a court before it is possible to provide victims with advance notification of that final release.

Clause 122

Section 125 amended (Clinical restriction on authorisation of special psychiatric treatment)

This clause amends section 125 of the Principal Act by omitting a reference to “a Chief” and inserting “the Chief” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 123

Section 127 amended (Tribunal obligations regarding authorisations)

This clause amends section 127 of the Principal Act by omitting various references to “CCP or CFP” and inserting “the Chief Psychiatrist”, where appropriate, in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 124

Section 128 amended (Records, &c.)

This clause amends section 128 of the Principal Act by omitting various references to “relevant” in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 125

Section 129 amended (Statements of rights on admission and discharge)

This clause amends section 129 of the Principal Act by omitting various references to “relevant” and inserting “an”, and removing the definition of “relevant approved form” contained in subsection (4), in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 126

Section 132 amended (Withholding, &c., of information by mental health authorities)

This clause amends section 132 of the Principal Act by omitting

various references to “a Chief” and substituting “the Chief”, and removing the word “relevant”, in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 127

Section 133 amended (Publication of sensitive information about patients)

This clause amends section 133 of the Principal Act by allowing for the publication of de-identified information. The clause also omits a reference to “CFP” and inserting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 128

Section 134 amended (Disclosure of confidential, &c., information about patients)

This clause amends section 134 of the Principal Act by providing that the *Personal Information Protection Act 2004* governs the disclosure of any personal information about a voluntary patient and, where possible or appropriate, any other patient. Subclause (c) further clarifies that the exemptions for disclosure of information of a confidential or personal nature about an involuntary patient may be those contained in subsection (2), where necessary. The intent is to require that patients with the capacity to consent to the disclosure of their personal information are given the opportunity to do so.

Clause 129

Section 136 amended (Monthly reports on voluntary inpatients)

This clause amends section 136 of the Principal Act by omitting various references to “CCP” and inserting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 130

Section 138 amended (Medical practitioners and nurses)

This clause amends section 138 of the Principal Act by omitting various references to:

- “a Chief” and substituting “the Chief”; and
- “relevant” where it referred to options of two Chief Psychiatrists; and
- omitting from subsection (3)(a) “within that Chief Psychiatrist’s jurisdiction”

in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

This clause further omits an unnecessary reference to “State Servant” from subsection (5) and substitutes “person”.

Clause 131

Section 139 amended (Mental health officers)

This clause amends section 139 of the Principal Act by omitting various references to:

- “a Chief” or “that Chief” and substituting “the Chief”; and
- “relevant” where it referred to options of two Chief Psychiatrists; and
- omitting from subsection (13) “within that Chief Psychiatrist’s jurisdiction”

in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

This clause further omits various references to “State Servant” and substituting “State Service employee” and omits various unnecessary references to “State Servant or police officer” and omitting from subsection (4)(b) the second occurring “State Servant” and substituting “State Service officer, State Service employee” in consequence of clause 43 applying terminology consistent with the *Acts Interpretation Act 1931*.

Clause 132

Chapter 3, Part 1: Heading amended

This clause amends Part 1 of Chapter 3 of the Principal Act by omitting “Chief Psychiatrists” from the heading to that Part and substituting “Chief Psychiatrist”.

Clause 133

Section 143 amended (Chief Psychiatrist)

This clause amends section 143 of the Principal Act by omitting:

- “Chief Civil Psychiatrist” from subsection (1) and substituting “the Chief Psychiatrist”
- various references to “Civil”; and
- “met in respect of –” from subsection (4) and substituting “met.”; and
- paragraphs (a) and (b) from subsection (4)

in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 134	<p>Section 144 repealed</p> <p>This clause repeals section 144 of the Principal Act (Chief Forensic Psychiatrist) in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 135	<p>Section 145 amended (Term of office)</p> <p>This clause amends section 145 of the Principal Act by omitting “A Chief” and substituting “The Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 136	<p>Section 146 amended (Functions and powers)</p> <p>This clause amends section 146 of the Principal Act by omitting:</p> <ul style="list-style-type: none"> • various references to “a Chief” or “that Chief” or “either Chief” and substituting “the Chief”; and • “within his or her jurisdiction” from subsection (3)(a); and • paragraph (b) from subsection (3) <p>in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 137	<p>Section 147 amended (Power of direct intervention)</p> <p>This clause amends section 147 of the Principal Act by:</p> <ul style="list-style-type: none"> • omitting various references to “a Chief” or and substituting “the Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and • inserting a new paragraph prescribing whether the mental health service delivery principles, set out in Schedule 1, have been considered as an additional matter for which Chief Psychiatrist has the authority to directly intervene in accordance with section 147.
Clause 138	<p>Section 148 amended (Independence)</p> <p>This clause amends section 148 of the Principal Act by omitting “a Chief” and substituting “the Chief”, and removing the “other Chief Psychiatrist” as a person to whom the Chief Psychiatrist is not subject in acting or forming any opinion in clinical matters, in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>

Clause 139	<p>Section 149 amended (Delegation)</p> <p>This clause amends section 149 of the Principal Act by omitting “A Chief” and substituting “The Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 140	<p>Section 150 amended (Reporting)</p> <p>This clause amends section 150 of the Principal Act by omitting “A Chief” and substituting “The Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 141	<p>Section 151 amended (Clinical guidelines)</p> <p>This clause amends section 151 of the Principal Act by omitting various references to “A Chief” and substituting “The Chief”, omitting “relevant” from subsection (3) and “within that Chief Psychiatrist’s jurisdiction” from subsection (1)(a), in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 142	<p>Section 152 amended (Standing orders)</p> <p>This clause amends section 152 of the Principal Act by omitting:</p> <ul style="list-style-type: none"> • various references to “a Chief” or “that Chief” and substituting “the Chief”; and • “within his or her jurisdiction” from subsection (1)(a); and • “relevant” from subsection (3) <p>in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 143	<p>Section 153 amended (Matters common to clinical guidelines and standing orders)</p> <p>This clause amends section 153 of the Principal Act by omitting:</p> <ul style="list-style-type: none"> • various references to “issuing them”; and • “CCP and CFP are” from subsection (3) and substituting “Chief Psychiatrist is”; and • “and each other” from subsection (3); and • “A Chief” from subsection (6) and substituting “The Chief” <p>in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>

Clause 144	<p>Section 155 amended (Appointment)</p> <p>This clause amends section 155 of the Principal Act by omitting “State Servant,” and substituting “State Service officer, State Service employee” in consequence of clause 43 applying terminology consistent with the <i>Acts Interpretation Act 1931</i>.</p>
Clause 145	<p>Section 156 amended (Functions of Principal Official Visitor)</p> <p>This clause amends section 156 of the Principal Act by adding the controlling authority of an approved facility as an entity with whom the Principal Official Visitor may raise any matters of particular concern.</p>
Clause 146	<p>Section 157 amended (Functions of Official Visitors)</p> <p>This clause amends section 157 of the Principal Act by adding a function of the Principal Official Visitor to prescribe checking that the additional requirements in the Act are met in relation to services provided to a child.</p>
Clause 147	<p>Section 158 amended (Delegation)</p> <p>This clause amends section 158 of the Principal Act by omitting “State Servant” and substituting “State Service officer or State Service employee” in consequence of clause 43 applying terminology consistent with the <i>Acts Interpretation Act 1931</i>.</p>
Clause 148	<p>Section 161 amended (Complaints)</p> <p>This clause amends section 161 of the Principal Act by adding a clause to the provisions regulating the making of complaints to Official Visitors to clarify that a patient who is a child or young person may make their own complaint to an Official Visitor, regardless of whether the patient has the consent of a parent or guardian.</p>
Clause 149	<p>Section 163 amended (Obligation of officials to assist Official Visitors, &c.)</p> <p>This clause amends section 163 of the Principal Act to provide that a person discharging responsibilities under this Act must grant an Official Visitor access to records relating to a patient’s assessment treatment and care (including clinical records) if so requested by the Official Visitor. The Official Visitor may only request access to information where it is necessary to perform the functions prescribed by section 157. Section 134 (Disclosure of confidential, &c., information about patients) continues to apply to the accessed information.</p>

The clause confirms the ability for a patient, or a parent of a child patient, to ask that an Official Visitor not be granted access to records relating to the patient's assessment, treatment and care. The intention is to balance the need for Official Visitors to have access to information to enable them to perform their functions appropriately with the patient's right to have control over when and to whom sensitive information concerning their assessment, treatment and care, is provided.

Clause 150

Section 165 amended (Operational and monthly reporting, &c.)

This clause amends section 165 of the Principal Act by:

- adding the controlling authority of an approved facility as an entity with whom the Principal Official Visitor may give a private report on any matter related to the responsibilities or activities of Official Visitors; and
- omitting "relevant" from subsection (4)(a) in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 151

Section 179 amended (The Tribunal's review function)

This clause amends section 179(3) of the Principal Act by omitting:

- "CFP" from paragraph (a) and substituting "Chief Psychiatrist"; and
- various references to "a Chief" and substituting "the Chief"

in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 152

Section 180 amended (Review of assessment order)

This clause amends section 180(e)(ii) of the Principal Act by omitting "CFP" and substituting "Chief Psychiatrist" in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 153

Section 181 amended (Review of treatment order)

This clause amends section 181(3)(b) of the Principal Act by omitting:

- "CFP and the" from subparagraph (ii); and
- "in any other case, the CCP" and substituting a new subparagraph (iii) "the Chief Psychiatrist"

in consequence of merging the roles of Chief Civil Psychiatrist and

Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 154 Section 182 amended (Review of involuntary admission to SMHU)

This clause amends section 182 of the Principal Act to provide that the Tribunal must review the admission (or extension) of the admission (or any extension of the admission) of an involuntary patient to a secure mental health unit within seven days. The intention is to align this review period with section 185.

Clause 155 Section 183 amended (Review of refusal to return forensic patient to external custodian)

This clause amends section 183 of the Principal Act by omitting various references to “CFP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 156 Section 186 amended (Review of urgent circumstances treatment)

This clause amends section 186 of the Principal Act by omitting:

- various references “relevant” where it refers to options of two Chief Psychiatrists in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and
- “examined” from paragraph (c)(i) and substituting the defined term, “assessed”.

Clause 157 Section 192A amended (Tribunal to review forensic patient’s treatment authorisation)

This clause amends section 192A(2)(b)(ii) of the Principal Act by omitting “CFP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 158 Section 194 amended (General powers, &c., on review)

This clause amends section 194 of the Principal Act by:

- omitting “relevant” from paragraph (b) in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and
- adding the defined term “assessed” to provide that the Tribunal may direct a person to be assessed in addition to the option of directing that the person be medically or physically examined, as the case may require.

Clause 159	<p>Section 203 amended (Operation of interstate transfer agreements)</p> <p>This clause amends section 203(e) of the Principal Act by omitting “CFP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 160	<p>Section 208 amended (Apprehension, &c., of involuntary patients, &c., from interstate)</p> <p>This clause amends section 208(5)(a) of the Principal Act by omitting “taken into protective custody” and substituting “temporarily detained for assessment” in consequence of clause 51.</p>
Clause 161	<p>Section 210 amended (Apprehension of persons under supervision orders found interstate)</p> <p>This clause amends section 210(2) of the Principal Act by omitting “CFP” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 162	<p>Section 211 amended (Remote medical procedures)</p> <p>This clause amends section 211(2) of the Principal Act by removing “examination” from the definition of medical procedures which may be carried out by technical means for the purpose of the Act, as any of the examinations that remain within the purposes of the Act should be carried out in person or in accordance with the direction of the Tribunal.</p>
Clause 163	<p>Section 212 amended (Special powers of ambulance officers and medical practitioners acting as MHO)</p> <p>This clause amends section 212 of the Principal Act by omitting various references to “CCP” and substituting “Chief Psychiatrist”, where appropriate, in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 164	<p>Section 215 amended (Obstruction of persons discharging responsibilities under Act, &c.)</p> <p>This clause amends section 215(2) of the Principal Act by omitting “a Chief” and substituting “the Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>

Clause 165	<p>Section 218 amended (Immunities)</p> <p>This clause amends section 218(4) of the Principal Act by omitting “a Chief” and substituting “the Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 166	<p>Section 222 amended (Conflicts of interest)</p> <p>This clause amends section 222(3)(b) of the Principal Act by omitting “a Chief” and substituting “the Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 167	<p>Section 224 amended (Correction of orders, &c., where validity not affected)</p> <p>This clause amends section 224 of the Principal Act by omitting various references to “CCP” and substituting “Chief Psychiatrist”, where appropriate, omitting subsection (4), in consequence of merging the role of Chief Civil Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 168	<p>Section 224A amended (Correction of orders, &c., where validity affected)</p> <p>This clause amends section 224A of the Principal Act by omitting various references, and processes related, to there being separate roles of the Chief Psychiatrist in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 169	<p>Section 227 amended (Regulations)</p> <p>This clause amends section 227(4) of the Principal Act by omitting “a Chief” and substituting “the Chief” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.</p>
Clause 170	<p>Section 229 repealed</p> <p>This clause repeals section 229 of the Principal Act which required the Minister to complete a review the operation of the Act within 6 years of its commencement.</p>
Clause 171	<p>Schedule 1 amended (Mental health service delivery principles)</p> <p>Section 13, section 15 (clause 49), and this Schedule jointly provide guidance about how the Act’s provisions should be read and interpreted. Clause 49 (section 15A) and clause 137 (section 147)</p>

add further rights and oversight functions reliant on these mental health service delivery principles.

This Schedule identifies the mental health service delivery principles established by section 15 of the Act.

Clause 172

Schedule 2 amended (Custody and escort provisions)

This clause amends Schedule 2, which sets out how custody and escort functions provided for or referred to in this Act, are to be performed by:

- removing various references to protective custody and inserting appropriate references to temporarily detaining the patient for the purpose of assessment in consequence of clause 51, while maintaining the principle that detainment should be a last resort; and
- omitting various reference to “a Chief” and substituting “the Chief” and “CFP” with “Chief Psychiatrist” in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist; and
- removing “examination” from clause 1(f) and (h) of Part 2 as something that needs to be provided as a power of a custodian or escort under the Act.

Clause 173

Schedule 4 amended (Proceedings of Tribunal)

This clause amends Schedule 4 of the Principal Act by omitting:

- “a Chief” from clause 3 of Part 4 and substituting “the Chief”; and
- removing other distinctions between separate Chief Psychiatrist roles

in consequence of merging the roles of Chief Civil Psychiatrist and Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 174

Schedule 5 amended (Official Visitors)

This clause amends Schedule 5 of the Principal Act by omitting “State Servant” and substituting “State Service officer or State Service employee” to align with the *Acts Interpretation Act 1931*

Part 11 – Sentencing Act 1997 Amended

Clause 175 **Principal Act**

This clause identifies the *Sentencing Act 1997* as the Principal Act for the purposes of Part 11 of the Act.

Clause 176 **Section 4 amended (Interpretation)**

This clause amends section 4 of the Principal Act by omitting the definition of “Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 177 **Section 72 amended (Court may make assessment order)**

This clause amends section 72 of the Principal Act by omitting “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 178 **Section 75 amended (Treatment order, supervision order and restriction order)**

This clause amends section 75 of the Principal Act by omitting various references to the Chief Civil Psychiatrist or Chief Forensic Psychiatrist and replacing with references to Chief Psychiatrist, where appropriate, in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Clause 179 **Section 77A amended (What is a supervision order?)**

This clause amends section 77A of the Principal Act by omitting various references to “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.

Clause 180 **Section 78 amended (Custody of admitted person)**

This clause amends section 78 of the Principal Act by omitting a reference to the “Chief Civil Psychiatrist or Chief Forensic Psychiatrist” and replacing with a reference to “Chief Psychiatrist” in consequence of merging the roles of Chief Forensic Psychiatrist and Chief Civil Psychiatrist into the new role of Chief Psychiatrist.

Part 12 – *Youth Justice Act 1997* Amended

Clause 181	Principal Act This clause identifies the <i>Youth Justice Act 1997</i> as the Principal Act for the purposes of Part 12 of the Act.
Clause 182	Section 3 amended (Interpretation) This clause amends section 3 of the Principal Act by omitting the definition of “Chief Forensic Psychiatrist” and substituting “Chief Psychiatrist” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
Clause 183	Section 105 amended (Adjournment to determine mental health or disability of youth) This clause amends section 105 of the Principal Act by omitting various references to “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
Clause 184	Section 134A amended (Removal of detainee to secure mental health unit) This clause amends section 134A of the Principal Act by omitting various references to “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.
Clause 185	Section 134B amended (Appeal against direction under section 134A) This clause amends section 134B of the Principal Act by omitting “Forensic” in consequence of merging the role of Chief Forensic Psychiatrist into the new role of Chief Psychiatrist.