

SECOND READING SPEECH

Mental Health Amendment Bill 2011

Mr Speaker

The purpose of this Bill is to amend section 19 of the *Mental Health Amendment Act 2005*.

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 at 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.

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. However, and because of the 2005 amendments, intervention can now occur when the patient's health begins to deteriorate, or where there is a significant risk of this occurring, provided of course steps have been taken before hand to obtain the patient's cooperation with the order.

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 2012.

The 2005 amendments deliberately included a 3 year sunset clause because the Mental Health Act was due for review which was expected to consider the issue of community treatment orders generally. At the time the 2005 were developed, 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. Analysis of feedback received in response to both papers indicated clear support for the development of a new Mental Health Act.

This Government is committed to getting the new Mental Health Act right. Developing new legislation of this kind is complex and takes time. To accommodate this, and in the interests of maintaining the status quo, the sunset clause associated with the 2005 amendments has been extended on two occasions, in 2007 and 2009. The 2005 amendments will now expire in January of next year.

There has been significant progress since this Parliament was last asked to consider extending the sunset clause. Specifically, I was very pleased to be able to release the draft Mental Health Bill to the public for consultation purposes, in June of this year.

The Bill was initially released for a six week period with a view to tabling the final Bill in Parliament this year. Given the difference between the current and proposed new Mental Health Acts the intention has always been to delay the new legislation's commencement for at least six months, so that it can be appropriately implemented. Tabling the Bill this year would have provided an opportunity to extend the sunset clause conditional upon the Bill's successful passage through Tasmanian Parliament, to accommodate the implementation period.

During the consultation period I received requests from a number of advocacy and peak body groups to extend the consultation period associated with the draft Mental Health Bill. In response, I extended the consultation period by an extra six weeks, until 19 September 2011.

I understand that nearly 45 individuals and groups have taken the time to provide written submissions to Statewide and Mental Health Services in respect of the Bill. Others have provided feedback in person, either at one of the public forums held around the State or directly to Statewide and Mental Health Services staff members.

I am pleased to report that the feedback received has been incredibly valuable and constructive. It demonstrates considerable support for the overall focus of the new legislation and a real interest in getting this right. Suggestions have been made for ways in which the Bill can be improved, and this feedback is in the process of being considered. The next step will be to consider how the Bill may need to be amended so that it truly meets the needs of consumers and the broader community.

I would have liked to be here speaking to the finalised Mental Health Bill. I am however comfortable with extending the consultation period on the basis that this was necessary to ensure that everybody who wishes to contribute to the development of this legislation had the opportunity to do so. To date there has been a total of 24 weeks – that is nearly six months – worth of public consultation around the current and proposed new Mental Health Acts. Extending the consultation period is consistent with this highly consultative approach.

I am also comfortable with the consequences of the decision to extend the consultation period - namely that the Mental Health Bill will not be tabled until next year; and that the 2005 amendments will need to be extended by way of a separate process.

The 2005 amendments will lapse this coming January unless they are extended. Allowing the 2005 amendments to lapse would effectively return us to the situation that existed before 2005. Before the 2005 amendments, community treatment orders were rarely made. Allowing the 2005 amendments to lapse is therefore likely to result in a marked reduction in the use of community treatment orders, which would be inconsistent with the principles of the *Mental Health Act*.

This Bill proposes extending the effective operation of the 2005 amendments for an additional two years, until 11 January 2014. This is an interim measure that is designed to provide time for the Mental Health Bill to be finalised, tabled and passed by Tasmanian Parliament, and for the new legislation to be implemented.

I commend the Bill to the House.