

## CLAUSE NOTES

### *Mental Health Amendment Bill 2018*

**Clause 1: Short title**

This clause provides that, once passed, the Bill will be cited as the *Mental Health Amendment Act 2018*.

**Clause 2: Commencement**

This clause provides for the amendments to commence on the day on which the Bill receives the Royal Assent.

**Clause 3: Principal Act**

This clause provides that the Principal Act to which the amendments apply is the *Mental Health Act 2013* (the Act).

**Clause 4: Section 181 amended (Review of treatment order)**

This clause amends section 181(1) of the Act to provide that where a patient has been admitted to an approved facility pursuant to section 47A of the Act, the mandatory review of that patient's treatment order in accordance with section 181(1)(d) of the Act may be conducted by a division of either one member or three or more members of the Mental Health Tribunal.

Section 181(1)(d) of the Act requires the Mental Health Tribunal to review a treatment order within three days after being notified of a patient's admission to an approved hospital pursuant to section 42(3) if the admission is pursuant to section 42(2)(b).

Section 42(2)(b) of the Act applies to both:

- patients who have failed to comply with a treatment order (under section 47 of the Act); and
- patients who have complied with a treatment order, but the treating medical practitioner believes they should be admitted to prevent possible harm (under section 47A of the Act).

Where a patient has complied with the treatment order and the decision to admit the patient is a clinical one in accordance with section 47A, there are no compliance issues that require the Tribunal's consideration.

Under section 170 of the Act, the Tribunal may sit in divisions of one member or 3 or more members appointed by the President. The amendment will provide the Tribunal with the flexibility, where appropriate, to conduct a review arising from a section 47A admission with a division of one member.

The amendment does not affect reviews of treatment orders conducted for any other reason, including mandatory reviews following admission under section 47, mandatory reviews 60 days or 180 days after a treatment order is made, or reviews requested by a person with standing or initiated by the Tribunal at any other time. These will remain unchanged and will continue to be conducted by a three-member panel.

## Clause 5

### Repeal of Act

This is a standard provision to provide for the automatic repeal of the Amendment Act (the Bill) after the amendments have been incorporated into the Principal Act.