

FACT SHEET

Mental Health Amendment Bill 2018

The *Mental Health Act 2013* (the Act) commenced on 17 February 2014, replacing the *Mental Health Act 1996*.

The Act balances consumer rights with the need for treatment, while also recognising the important role played by carers and family members of people with a mental illness. It enables individuals with capacity to make their own treatment choices, while facilitating treatment for individuals who lack decision-making capacity and who need treatment for their own health or safety, or for the safety of others.

The Mental Health Tribunal makes decisions about when a person can be detained and what treatment a doctor can provide when it has been decided that the person is too unwell to make treatment decisions for himself or herself.

The *Mental Health Amendment Bill 2018* (the Bill) 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 to prevent possible harm, 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.

Where a patient has complied with their 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.

The requirement for a mandatory review following a patient's admission under section 47A will remain in place. The amendment will provide the Tribunal with the flexibility, where appropriate, to conduct that review with a division of one member rather than three or more members.

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.