



New South Wales

## Mental Health Regulation 2000

under the

Mental Health Act 1990

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mental Health Act 1990*.

CRAIG KNOWLES, M.P.,

Minister for Health

### Explanatory note

This Regulation replaces the *Mental Health Regulation 1995* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation sets out the following:

- (a) forms to be used in connection with the *Mental Health Act 1990* (including statements of the rights of patients under the Act, forms for consent to particular treatments, notices to be given to relatives and certificates of medical advice),
- (b) fees required under the Act (such as hospital licence fees),
- (c) information as to follow-up care that is to be provided to patients after discharge (including information as to patient and community support groups, out-patients services and similar services),
- (d) matters to be recorded or reported for the purposes of the Act (including requirements as to medical reports relating to the mental state of a detained person, registers of information relating to electro convulsive therapy and reports to the Mental Health Review Tribunal of involuntary admissions),
- (e) the intervals at which a continued treatment patient must be medically examined for the purpose of determining whether or not the patient's continued detention in a hospital is necessary,

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- (f) the manner in which appeals against a failure to discharge a patient may be made,
- (g) the form of summons to be used by a Magistrate, the Psychosurgery Review Board and the Mental Health Review Tribunal for an inquiry under the Act and the manner in which a summons to procure documents may be complied with,
- (h) persons who may apply for community treatment orders and community counselling orders (in addition to the persons who may apply for them under the Act).

This Regulation is made under the *Mental Health Act 1990*, including section 302 (the general regulation-making power), section 302A (Approved forms) and the sections referred to in the Regulation.

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## 2000 No 529

Clause 1                      Mental Health Regulation 2000

Part 1                        Preliminary

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# Mental Health Regulation 2000

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Mental Health Regulation 2000*.

### 2 Commencement

This Regulation commences on 1 September 2000.

**Note.** This Regulation replaces the *Mental Health Regulation 1995* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

***approved form*** means a form approved by the Minister.

***the Act*** means the *Mental Health Act 1990*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

### 4 Notes

The explanatory note, table of contents and notes in the text of this Regulation (other than in a Form) do not form part of this Regulation.

## Part 2 Admission to, and care in, hospitals

### Division 1 Voluntary admission to hospitals

#### 5 Application for informal admission to hospital

For the purposes of section 12 of the Act:

- (a) an application for admission to a hospital as an informal patient may be in an approved form, and
- (b) an application for admission of a person under guardianship to a hospital as an informal patient may be in an approved form.

#### 6 Application for review of decision of medical officer

For the purposes of section 19 of the Act, an application for review of a decision of a medical officer may be in an approved form.

### Division 2 Involuntary admission to hospitals

#### 7 Authorisation of medical examination

For the purposes of the definition of *appropriate person* in section 27 of the Act, the prescribed class of persons is persons who are justices.

#### 8 Statement of legal rights and entitlements

For the purposes of section 30 of the Act, the prescribed form of statement of a person's legal rights and other entitlements under the Act is the form set out in Form 1.

#### 9 Medical report as to mental state of detained person

For the purposes of:

- (a) section 29 (2) of the Act, the certificate of the medical superintendent may be in the form set out in Form 2, and
- (b) section 33 (1) of the Act, the prescribed form of advice to the medical superintendent is the form set out in Form 2.

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Clause 10	Mental Health Regulation 2000
Part 2	Admission to, and care in, hospitals
Division 3	Inquiries relating to mentally ill persons

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### **Division 3      Inquiries relating to mentally ill persons**

#### **10    Notice of appearance before Magistrate**

Notice under section 38 (3) of the Act is given in accordance with this Regulation if it is in the form set out in Form 3 and is served on the person or persons entitled to be given the notice.

#### **11    Appearance before a Magistrate or the Tribunal**

In addition to the requirements of sections 39, 56, 58 and 191 of the Act, and this Regulation, the medical superintendent is to ensure that a person to be brought before a Magistrate or the Tribunal has, so far as is reasonably practicable, been supplied with shaving equipment or make-up.

#### **12    Form of summons (inquiry by Magistrate)**

For the purposes of section 47 (1) of the Act, the prescribed form of summons is Form 4.

#### **13    Compliance with summons (inquiry by Magistrate)**

If a summons to produce documents at an inquiry is issued under section 47 of the Act, and the summons specifies a place at which the documents may be produced, any of those documents produced at that place before commencement of the inquiry are to be taken to have been duly produced in compliance with the summons.

### **Division 4      Temporary patients and continued treatment patients**

#### **14    Determination by the Tribunal**

For the purposes of section 57 (6) of the Act, the prescribed form of determination is the form set out in Form 5.

#### **15    Periodic medical examination of continued treatment patient**

For the purposes of section 61 of the Act, each successive interval of 3 months following the date on which the patient became a continued treatment patient is a prescribed interval.



**Division 5      Discharge of patients****16    Notice of discharge**

For the purposes of section 65 of the Act, a notice of discharge may be in an approved form.

**17    Appeal against refusal to discharge**

- (1) A patient may appeal under section 69 of the Act:
  - (a) by serving on the medical superintendent of the hospital a notice in the form set out in Form 6, or
  - (b) by declaring to the medical superintendent of the hospital a desire to appeal to the Tribunal.
- (2) A person, other than a patient, who has a right to appeal under section 69 of the Act, may appeal:
  - (a) by lodging at the office of the Tribunal, or by serving on the Tribunal by post, a notice in the form set out in Form 7, or
  - (b) by serving such a notice on the medical superintendent of the hospital, or
  - (c) by declaring to the medical superintendent of the hospital, in the presence of the patient, that the patient wishes to appeal to the Tribunal.
- (3) If an appeal is made by a declaration referred to in subclause (1) (b) or (2) (c), the medical superintendent, or a medical practitioner nominated by the medical superintendent, is the prescribed person for the purposes of section 69 (2) of the Act.
- (4) If an appeal is made under subclause (2) (a), the Registrar of the Tribunal must:
  - (a) notify the medical superintendent accordingly, and
  - (b) call on the medical superintendent to provide the report required by section 69 (3) of the Act.

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Clause 18                      Mental Health Regulation 2000

Part 3                          Forensic patients

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### Part 3 Forensic patients

#### 18 Persons taken to be forensic patients

A person who, immediately before 3 September 1990, (the date of repeal of Part 7 of the *Mental Health Act 1958*) was detained under that Part otherwise than in a hospital and who was detained as at 1 November 1996 (the date of commencement of the *Mental Health Amendment Regulation 1996*), is taken to be a forensic patient.

#### 19 Prescribed authority (forensic patients)

- (1) For the purposes of sections 84, 85, 86, 87, 90, 94, 96, 101, 102, 103, 105, 106 and 107 of the Act, the prescribed authority is:
  - (a) the Governor, if the person is the subject of an order under section 25 or 39 of the *Mental Health (Criminal Procedure) Act 1990*, or
  - (b) the Governor-General, if the person was detained by order of the Governor-General and the Governor-General is to make an order for the conditional or unconditional release of the person, or
  - (c) in any other case—the Minister.
- (2) For the purposes of section 93 of the Act, the prescribed authority is the Minister.
- (3) Section 16A of the *Acts Interpretation Act 1901* of the Commonwealth applies to the references in this clause to the Governor-General in the same way as it applies to a reference to the Governor-General in an Act of the Commonwealth.

#### 20 Transfer of prisoner to hospital

For the purposes of section 87 of the Act, the prescribed period is a period of 14 days from the making of the order under section 97 or 98 of the Act for the transfer to a hospital.

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## **Part 4 Community counselling orders and community treatment orders**

### **21 Notice of rights after refusal of treatment**

For the purposes of section 142 of the Act, the prescribed notice of rights is a notice in the form set out in Form 8.

### **22 Application for variation or revocation of community orders**

An application under section 148 of the Act for variation or revocation of a community counselling order or a community treatment order may be made in an approved form.

### **23 Orders that may be made on appeal under section 151**

On the hearing of an appeal under section 151 of the Act, the order the subject of the appeal may be revoked, varied or confirmed.

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Clause 24                      Mental Health Regulation 2000

Part 5                         Treatments for mental illness

Division 1                    Psychosurgery

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## **Part 5 Treatments for mental illness**

### **Division 1                    Psychosurgery**

#### **24    Procedure before consent to psychosurgery**

For the purposes of section 155 (2) of the Act, Form 9 is the prescribed form.

#### **25    Consent of Board to psychosurgery**

- (1) An application under section 157 of the Act for the consent of the Board to the performance of psychosurgery may be in the form set out in Form 10.
- (2) For the purposes of section 157 (2) (j) of the Act, the prescribed particulars are (in addition to those referred to in section 157 (2) (a)–(i) of the Act) the particulars that would be required to complete Form 10, including the contents of any documentation or reports to be attached to the Form.

#### **26    Form of summons (Psychosurgery Review Board)**

For the purposes of section 166 of the Act, the prescribed form of summons is Form 11.

#### **27    Compliance with summons (Psychosurgery Review Board)**

If a summons to produce documents at the hearing of an application for consent to perform psychosurgery is issued under section 166 of the Act, and the summons specifies a place at which the documents may be produced, any of those documents produced at that place before commencement of the hearing are to be taken to have been duly produced in compliance with the summons.

### **Division 2                    Electro convulsive therapy**

#### **28    Procedure before consent to electro convulsive therapy**

For the purposes of section 183 (2) of the Act, the prescribed form is Form 12, Part 1.

**29 Consent to electro convulsive therapy**

- (1) For the purposes of section 185 of the Act, the prescribed form is Form 12, Part 2.
- (2) For the purposes of section 188 (2) (a) of the Act, consent to the administration of electro convulsive therapy may be given in the form set out in Part 3 of Form 12.

**30 Notice of application to administer electro convulsive therapy**

If an application is made to the Tribunal under section 185 or 188 of the Act, notice under section 190 (1) of the Act is given in accordance with this Regulation if:

- (a) in the case of an application under section 185—the notice is in the form set out in Form 13, or
- (b) in the case of an application under section 188—the notice is in the form set out in Form 14.

**31 Register of information relating to electro convulsive therapy**

The register to be kept under section 196 of the Act in relation to treatments by electro convulsive therapy is to be a book in which pages containing the information required or permitted to be set out by Form 15 are completed in relation to each patient or other person undergoing the treatment.

**Division 3 Notice of treatment of patients****32 Notice to relative of application to perform surgical operation or carry out special treatment**

Notice under section 205 (3) of the Act is given in accordance with this Regulation if it is in the form set out in Form 16 and is served personally or by post on the person entitled to be given the notice.

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Clause 33                      Mental Health Regulation 2000

Part 6                          Authorised hospitals

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### **Part 6 Authorised hospitals**

#### **33 Application for licence for authorised hospital**

For the purposes of section 211 of the Act, the prescribed fee is \$50.

#### **34 Annual licence fee for authorised hospital**

For the purposes of section 214 of the Act, the prescribed annual licence fee is \$50.

#### **35 Fee for duplicate licence**

For the purposes of section 215 of the Act, the prescribed fee for a duplicate licence is \$25.

## **Part 7 Mental Health Review Tribunal**

### **36 Form of summons (Mental Health Review Tribunal)**

For the purposes of section 278 of the Act, the prescribed form of summons is Form 17.

### **37 Compliance with summons (Mental Health Review Tribunal)**

If a summons to produce documents at a meeting of the Tribunal is issued under section 278 of the Act, and the summons specifies a place at which the documents may be produced, any of those documents produced at that place before the meeting commences are to be taken to have been duly produced in compliance with the summons.

### **38 Fee for copy of Tribunal determination**

For the purposes of section 280 (4) of the Act, the prescribed fee for a copy of a written instrument is the fee calculated as prescribed for the purposes of section 73 (2) of the *Justices Act 1902* for copies of depositions.

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Clause 39                      Mental Health Regulation 2000

Part 8                         Miscellaneous

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### Part 8 Miscellaneous

#### 39 Fee for transcript of proceedings

For the purposes of sections 48, 167 and 279 of the Act, the prescribed fee for a transcription is the fee calculated as prescribed for the purposes of section 73 (2) of the *Justices Act 1902* for copies of depositions.

#### 40 Oath of office—assessors

For the purposes of section 282 of the Act, the prescribed form of oath to be taken by a person nominated for appointment as an assessor is the form set out in Form 18.

#### 41 Information as to follow-up care after discharge

The information required to be provided under section 293 of the Act in relation to the availability of follow-up care includes:

- (a) a description of patient support groups and community care groups operating in the vicinity of the hospital, including a description of the services provided by the groups, and the method of contacting each group, and
- (b) a description of any out-patient or other services available at the hospital that are available to the patient, and
- (c) a description of the purpose and method of obtaining community counselling orders and community treatment orders, and
- (d) a description of such other similar follow-up services as may be available in the vicinity of the hospital.

#### 42 Involuntary referrals to be reported to Tribunal

- (1) The medical superintendent of a hospital must report to the Tribunal particulars of:
  - (a) each person (other than a forensic patient or an informal patient) admitted to the hospital as a patient, and
  - (b) each person who is detained as a patient after being an informal patient.
- (2) The report must contain the information set out in Form 19A.



- (3) The report must be made as soon as practicable after the occurrence of the first of any of the following events in relation to a patient or detained person:
  - (a) any refusal to admit any person taken or detained in hospital against his or her will,
  - (b) the admission (whether as informal or involuntary patient) of a person taken to or detained in hospital against his or her will,
  - (c) the reclassification by the hospital of an informal patient to involuntary patient status.
- (4) Despite subclause (3), the medical superintendent is not required to submit more than one report each week.
- (5) To avoid doubt, a report is not required under this clause during any period in which no person was admitted or detained.

**43 Magistrate's inquiries to be reported to Tribunal**

- (1) The medical superintendent of a hospital must report to the Tribunal each week the particulars of each person presented to a Magistrate pursuant to an inquiry under Division 2 of Part 2 of Chapter 4 of the Act during that week.
- (2) The report must contain the information set out in Form 19B.
- (3) To avoid doubt, a report is not required under this clause during any week in which no person was presented to a Magistrate.

**44 Order or direction by Magistrate—inquiries relating to mentally ill persons**

An order or direction of a Magistrate pursuant to an inquiry under Division 2 of Part 2 of Chapter 4 of the Act may be in the form set out in Form 20.

**45 Persons who may apply for community counselling orders and community treatment orders**

A director of a health care agency is an authorised applicant for a community counselling order or a community treatment order for the purposes of paragraph (d) of the definition of *authorised applicant* in Schedule 1 to the Act.

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Clause 46                      Mental Health Regulation 2000

Part 8                          Miscellaneous

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### **46    Savings**

Any act, matter or thing that, immediately before the repeal of the *Mental Health Regulation 1995*, had effect under that Regulation is taken to have effect under this Regulation.

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## Schedule 1 Forms

(Clause 3 (2))

### Form 1

(Clause 8)

(Mental Health Act 1990, section 30)

#### Your rights

You should read the questions and answers below to find out your rights and what may happen to you after you are brought to a hospital.

#### What happens after I arrive at hospital?

You must be seen by a hospital doctor not later than 12 hours after you arrive at the hospital.

If you are a person who is already in hospital as an informal patient, and you have been told you are now to be kept in hospital against your will, you must be seen by a hospital doctor not later than 12 hours after it is decided to keep you in hospital.

#### When can I be kept in hospital against my will?

You can be kept in hospital against your will if you are certified by the hospital doctor as a mentally ill person or a mentally disordered person. The doctor will decide whether or not you are a mentally ill person or a mentally disordered person.

A mentally ill person is someone who has a mental illness and who needs to be kept in hospital for his or her own protection or to protect other people. A mentally disordered person is someone whose behaviour shows that he or she needs to be kept in hospital for a short time for his or her own protection or to protect other people.

The hospital cannot continue to keep you against your will unless at least one other doctor also finds that you are a mentally ill person or a mentally disordered person. At least one of the doctors who sees you must be a psychiatrist.

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### **How long can I be kept in hospital against my will?**

If you are found to be a mentally disordered person, you can only be kept in hospital for up to 3 DAYS (weekends and public holidays are not counted in this time). During this time you must be seen by a doctor at least once every 24 hours. You cannot be detained as a mentally disordered person more than 3 times in any month.

If you are found to be a mentally ill person, you will be kept in hospital until you see a Magistrate who will hold an inquiry to decide what will happen to you.

### **How can I get out of hospital?**

You, or a friend or relative, may at any time ask the medical superintendent to let you out. You must be let out if you are not a mentally ill person or a mentally disordered person or if the medical superintendent thinks that there is other appropriate care reasonably available to you.

### **Can I be treated against my will?**

The hospital staff may give you appropriate medical treatment, even if you do not want it, for your mental condition or in an emergency to save your life or prevent serious damage to your health. The hospital staff must tell you what your medical treatment is if you ask. You must not be given excessive or inappropriate medication.

### **Can I be given electro convulsive therapy (ECT) against my will?**

Yes, but only if the Mental Health Review Tribunal determines at a hearing that it is necessary or desirable for your safety or welfare. You have a right to attend that hearing.

### **What other rights do I have in hospital?**

You can receive mail. You must not be ill-treated.

### **More information**

You should read the questions and answers below to find out about Magistrates' inquiries and when you may be kept in hospital against your will after an inquiry.

### **When is a Magistrate's inquiry held?**

A Magistrate's inquiry must be held as soon as possible after it is decided to keep you in hospital against your will because you are a mentally ill person.

**What happens at a Magistrate's inquiry?**

The Magistrate will decide whether or not you are a mentally ill person.

If the Magistrate decides that you are not a mentally ill person, you must be let out of hospital. The Magistrate may make a community counselling order requiring you to have certain treatment after you are let out.

If the Magistrate decides that you are a mentally ill person, the Magistrate will then decide what will happen to you. Consideration must be given to the least restrictive environment in which care and treatment can be effectively given. The Magistrate may order that you be kept in hospital as a TEMPORARY PATIENT for a set time (not more than 3 months) or the Magistrate may order that you be let out of hospital. If you are let out, the Magistrate may make a community treatment order requiring you to have certain treatment after you are let out.

The Magistrate may adjourn the inquiry for up to 14 days where he or she considers that it is in your best interests.

If the Magistrate makes an order that you are to remain in hospital as a temporary patient, the Magistrate must also consider whether you are capable of managing your financial affairs. If the Magistrate is not satisfied that you are capable, an order must be made for the management of your affairs under the *Protected Estates Act 1983*.

**What rights do I have at a Magistrate's inquiry?**

You can tell the Magistrate what you want or have your lawyer tell the Magistrate what you want. You can wear street clothes, be helped by an interpreter and have your relatives and friends told about the inquiry. You can apply to see your medical records.

**What are my rights of appeal if I have been made a temporary patient?**

You (or a friend or relative) may at any time ask the medical superintendent to discharge you. If the medical superintendent refuses or does not respond to your request within 3 working days you (or a friend or relative) may lodge an appeal with the Mental Health Review Tribunal.

You will be given a notice setting out your appeal rights.

**What happens when the time set by an order making me a temporary patient has nearly ended?**

The hospital medical staff will review your condition before the end of the order and the hospital may either discharge you or apply to the Mental Health Review Tribunal for a further order.

The Tribunal must let you out of hospital if it decides that you are not a mentally ill person or if it feels that other care is more appropriate and reasonably available.

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### Who can I ask for help?

You may ask any hospital staff member, social worker, doctor, official visitor, chaplain, your own lawyer or the Mental Health Advocacy Service for help. The Mental Health Advocacy Service telephone number is: . . . . .

(**Note.** Additional telephone numbers may be added as appropriate.)

## Form 2

(Clause 9 (a) and (b))

(Mental Health Act 1990, sections 29 (2), 33 (1))

### Medical report as to mental state of a detained person

This report is made as:

- ☐ a certificate of the opinion of the medical superintendent after examination of a person under section 29 of the Act (initial examination),

(OR)

- ☐ advice by a medical practitioner to a medical superintendent under section 33 of the Act (further examination)

(tick whichever is appropriate)

I, the undersigned, a registered medical practitioner, on . . . . .  
(date)

personally examined . . . . . ,  
(patient's name)

a person detained at . . . . .  
(hospital)

In my opinion, .....  
(patient's name)

☐ is not a mentally ill or mentally disordered person,

(OR)

☐ is a mentally ill person,

(OR)

☐ is a mentally disordered person.

(tick the one box that is appropriate)

The basis for my opinion is as follows:

(Reported behaviour of the patient)

.....  
.....  
.....  
..... (This report can be continued on a separate page, if necessary)

(Observations by me of the patient)

.....  
.....  
.....

(Conclusion)

.....  
.....  
.....

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Name of medical practitioner: .....

Qualifications as a psychiatrist (if applicable)

.....

.....  
(Signature)

.....  
(Date)

(**Note.** This report is for the use of a legal tribunal and therefore should not be written in technical medical language.)

## Form 3

(Clause 10)

(Mental Health Act 1990, section 38 (3))

### Inquiry—Mental Health Act 1990

Hospital .....

Address .....

### Notice of proceedings before Magistrate

Dear .....

I wish to advise you that .....  
is at present a patient at this hospital under the provisions of the *Mental Health Act 1990*.

On ..... at approximately.....  
a visiting Magistrate will hold an inquiry at .....  
.....  
to consider whether or not further detention for the purpose of treatment is warranted.



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You are invited to attend this inquiry. With the permission of the patient and the Magistrate, any person at all may represent the patient. However, the patient will be legally represented unless the patient decides that he or she does not want to be. Should it be necessary, a competent interpreter will be available to assist.

If the Magistrate considers further detention is warranted the Magistrate will also consider whether or not the patient is able to manage his or her affairs. If the Magistrate considers that the patient is able to do so, then the patient will continue to do so. If the Magistrate is not satisfied that the patient can manage his or her affairs, then an order will be made that the Protective Commissioner manage the patient's affairs.

If the patient does not agree that his or her affairs should be managed by the Protective Commissioner, the patient may appeal to the Supreme Court.

If you have any questions, please feel free to discuss them with the patient's doctor or social worker. Contact may be made by telephoning .....

Yours faithfully,

.....  
(Medical Superintendent)

.....  
(Date)

## Form 4

(Clause 12)

(Mental Health Act 1990, section 47)

### Summons

#### Inquiry under Mental Health Act 1990

Hospital .....

Address .....

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To: .....

A Magistrate will be holding an inquiry under the *Mental Health Act 1990* in relation to .....  
(patient's name)

The inquiry will be held at ..... on  
(time)  
..... at the above address.  
(date)

You are required:

- ☐ to attend the inquiry as a witness
- ☐ to attend the inquiry to produce the following documents:

.....  
.....

(tick one or both boxes)

You are entitled to receive reasonable costs, including any loss of earnings incurred through compliance with this summons.

Should you fail or refuse to comply with this summons properly served, you may be guilty of an offence under the *Mental Health Act 1990*.

If you are required to attend the hearing only to produce documents, it is sufficient compliance with this summons if those documents are delivered to .....  
..... at .....  
(address)

on or before .....

.....  
(Signature)

.....  
(Name)

**Form 5**

(Clause 14)

(Mental Health Act 1990, section 57 (6))

**Temporary patient****Initial review under section 56 of the Mental Health Act 1990**

.....  
 (patient's name)

was brought before the Mental Health Review Tribunal on .....  
 (date)

The Tribunal determined under section 57 (6) of the *Mental Health Act 1990* that the patient:

- ☐ be DISCHARGED from hospital
- ☐ be DISCHARGED from hospital but the discharge was DEFERRED until  
 .....  
 (insert date—no later than 14 days after date of determination)
- ☐ be DETAINED as a temporary treatment patient from .....  
 (date)  
 until no later than ..... for further observation or treatment or both  
 (date)
- ☐ be CLASSIFIED as a continued treatment patient and detained in hospital for further observation or treatment or both.

(Tick one box only)

**Adjournment**

Pursuant to section 271 of the *Mental Health Act 1990*:

- ☐ the Tribunal ADJOURNED these proceedings until .....  
 (date)
- ☐ the Tribunal ADJOURNED these proceedings until a date to be fixed by the Registrar.

(Tick one box only)

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The reason for the adjournment is: .....

.....

Signed by the Members of the Tribunal on .....  
(date)

.....  
(Member)

.....  
(Member)

.....  
(Member)

#### Notes.

The hospital should ensure that the person or patient is given a copy of this order.

A person having any matter before the Mental Health Review Tribunal may appeal to the Supreme Court against a determination of the Tribunal (section 281 of the *Mental Health Act 1990*).

## Form 6

(Clause 17 (1) (a))

(Mental Health Act 1990, section 69 (1))

### Appeal by patient against refusal to discharge

The Registrar

Mental Health Review Tribunal

My name is .....

I am:

- ☐ a temporary patient  
☐ a continued treatment patient

at .....  
(name of hospital)

(Tick one box only)

---

I have applied to the medical superintendent for discharge under section 67 (1) of the *Mental Health Act 1990*.

I want to appeal to the Mental Health Review Tribunal against the Medical Superintendent's:

- ☐ refusal to discharge me
- ☐ failure to make a determination on my application for discharge within 3 working days after I made the application.

(Tick one box only)

.....  
(Signature)

.....  
(Date)

## Form 7

(Clause 18 (2) (a))

(Mental Health Act 1990, section 69 (1))

### Appeal by a person other than the patient against refusal to discharge a patient

This appeal relates to .....,  
(patient's name)

who is:

- ☐ a temporary patient
- ☐ a continued treatment patient

at .....  
(name of hospital)

(Tick one box only)

An application was made to the medical superintendent for discharge of the patient under section 67 or 68 of the *Mental Health Act 1990*.

My name is .....  
(name of appellant)

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I am:

- ☐ the applicant for discharge of the patient
- ☐ a person appointed by the patient.

(Tick one box only)

I want to appeal to the Mental Health Review Tribunal against the Medical Superintendent's:

- ☐ refusal to discharge the patient
- ☐ failure to make a determination within 3 working days after the application for discharge of the patient.

(Tick one box only)

.....  
(Signature)

.....  
(Date)

## Form 8

(Clause 21)

(Mental Health Act 1990, section 142 (a))

### Rights to apply for review

To .....  
(patient's name)

On ..... it was ordered under  
(date)

section 139 of the *Mental Health Act 1990* that you be taken to a hospital or health care agency as a result of breaching your community treatment order. You may have been taken directly to the hospital or you may have been taken to the hospital only after you refused treatment at a health care agency.

You may discuss your rights, including your rights of appeal, with a social worker, doctor, official visitor or your own lawyer, or with the Mental Health Advocacy Service whose legal advice is free.

- 1 You may apply to the Mental Health Review Tribunal to have the community treatment order varied or revoked.
- 2 You may lodge an appeal against the order with the Supreme Court or, where the order was made by a magistrate, the Mental Health Review Tribunal.
- 3 You may ask the Medical Superintendent to discharge you from the hospital.
- 4 You may get a relative or friend to apply to the Medical Superintendent for your discharge, if the person will give an undertaking that you will be properly taken care of and will be prevented from causing harm to yourself or others.

# Form 9

(Clause 24)

(Mental Health Act 1990, section 155)

### Information and consent—psychosurgery

## Part 1 Consent

I, ..... consent to undergo  
(patient's name)  
the psychosurgery operation known as .....  
.....  
(nature of surgery)

In giving this consent, I acknowledge that:

- (a) an explanation that I understand has been given to me, describing the operation and identifying and explaining any procedure that is not in regular use, or any procedure the results of which are difficult to predict, and
- (b) the discomforts and risks of the treatment have been explained to me, and

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- 
- (c) the benefits of the treatment have been explained to me, and
  - (d) any alternative treatments that are available and that may be of benefit to me have been explained to me, and
  - (e) an offer was made to me to answer any questions I had in relation to the procedures, and
  - (f) I have read and considered Part 2 of this form, dealing with disclosure of financial relationship, and
  - (g) I have been given the attached material which sets out in writing the above explanations relating to my operation.

I understand that:

- (a) I am free to refuse or to withdraw my consent, and discontinue the procedure or any part of it, at ANY time, and
- (b) I have a right to legal advice and representation at any time during considerations relating to the performance of the surgery.

.....  
(Signature)

.....  
(Date)

**Part 2 Disclosure of financial relationship**

**Item A**

To be completed by the person proposing the administration of the treatment.

- (a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

(OR)

- (b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....  
.....



.....  
(Signature)

.....  
(Date)

**Item B**

To be completed by the medical practitioner who proposes to administer the treatment (unless that medical practitioner is also the person who completed Item A, in which case this Item need not be completed).

(a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

(OR)

(b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....  
.....

.....  
(Signature)

.....  
(Date)

**Certification by witness**

I certify that all the matters dealt with in this form have been orally explained to the person in respect of whom treatment is proposed in a language with which that person is familiar.

.....  
(Signature)

.....  
(Date)

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**Form 10**

(Clause 25)

(Mental Health Act 1990, section 157 (1))

**Application to perform psychosurgery**

Applicant's name: .....

Applicant's address: .....

.....

Patient's name: .....

Patient's address: .....

Patient's age: .....

Patient's sex: .....

Name of nearest relative: .....

Address of nearest relative: .....

Describe nature of the psychosurgery to be performed:

.....

.....

.....

Clinical indications for psychosurgery:

.....

.....

(FULL DOCUMENTATION/CLINICAL REPORTS IN RELATION TO THIS APPLICATION  
SHOULD BE ATTACHED.)

Name(s) of person(s) proposing to perform the psychosurgery.

.....

.....

Name of hospital or institution in which it is proposed to perform the psychosurgery:

.....

Has:

- |   |        |
|---|--------|
| (a) a fair explanation been made to the patient in a language with which the patient is familiar of the techniques or procedures to be followed, including an identification and explanation of any such technique or procedure about which there is not sufficient data to recommend it as a recognised treatment or to predict accurately the outcome of its performance? | Yes/No |
| (b) a full description been given to the patient of the attendant discomforts and risks, if any?  | Yes/No |
| (c) a full description been given to the patient of the benefits, if any, to be expected?   | Yes/No |
| (d) a full disclosure been made to the patient of appropriate alternative treatments, if any, that would be advantageous for the patient?   | Yes/No |
| (e) an offer been made to the patient to answer any inquiries concerning the procedures or any part of them?  | Yes/No |
| (f) notice been given to the patient that the patient is free to refuse or to withdraw his or her consent and to discontinue the procedures or any of them at any time?   | Yes/No |
| (g) a full disclosure been made to the patient of any financial relationship between the person by whom consent for psychosurgery is sought or the medical practitioner who proposes to perform the psychosurgery, or both, and the hospital or institution in which it is proposed to perform the psychosurgery?   | Yes/No |

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(h) notice been given to the patient that the patient has the right to legal advice and representation at any time during considerations relating to the performance of psychosurgery on the patient?	Yes/No
---	--------

In your opinion, has the patient understood the explanations you have given about the treatment?	Yes/No
--	--------

In your opinion, is the patient capable of giving informed consent?	Yes/No
---	--------

In your opinion, has the patient given informed consent?	Yes/No
--	--------

Are you in doubt that the patient has given informed consent?	Yes/No
---	--------

(Circle "Yes" or "No" for each question)

.....  
(Signature)

.....  
(Date)

**Form 11**

(Clause 26)

(Mental Health Act 1990, section 166 (1))

**Summons**

**Psychosurgery Review Board**

To: .....  
.....

The Psychosurgery Review Board will be hearing an application to perform  
psychosurgery in relation to .....  
(name of patient)

The hearing will take place at ..... on .....  
(time) (date)  
at .....  
(address)

You are required:

- ☐ to attend the hearing as a witness
- ☐ to attend the hearing and produce the following documents:  
.....  
.....  
.....

(Tick one or both boxes)

You are entitled to receive reasonable costs, including any loss of earnings incurred  
through compliance with this summons.

Should you fail or refuse to comply with this summons, properly served, you may  
be guilty of an offence under the *Mental Health Act 1990*.

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If you are required to attend the hearing only to produce documents, it is sufficient compliance with this summons if those documents are delivered to .....

.....

at .....

on or before .....

Signature .....

(President/Deputy President

Psychosurgery Review Board)

## Form 12

(Clauses 28 and 29)

(Mental Health Act 1990, sections 183, 185 and 188)

### Information and consent—electro convulsive therapy

#### Part 1 Information to consider before signing

The treatment is recommended where the alternative forms of treatment have either not had the desired result or would work too slowly to be effective in a particular case.

##### **The treatment will take the following form:**

- (a) You will be given a brief general anaesthetic. This involves giving a drug to relax the muscles. The anaesthetist will normally give the anaesthetic by means of intravenous injection.
- (b) While you are anaesthetised, another medical practitioner will use medical apparatus designed to pass a modified electrical current for a few seconds through your brain, with the intention of affecting those parts concerned with emotion and thought.
- (c) While the current is passing, the anaesthetic will prevent you from feeling anything and will also prevent your body from moving more than slightly.
- (d) Treatment may be given 2 or 3 times a week.

- (e) A course of treatment will generally involve up to 12 treatments but, on some occasions, more treatments will be required. Any queries you have in relation to the number of treatments you may need can be raised with your doctor.

**Possible benefits of treatment**

Benefits depend on the symptoms of the conditions for which treatment is given. Relief may be obtained from symptoms of depression, agitation and insomnia.

**Possible alternative treatments**

Other treatments may also be suitable for your condition. Any queries you have in relation to these can be discussed with your doctor.

A written explanation of the alternative treatments available in relation to your condition is attached.

**Possible complications of treatment**

Some patients notice a difficulty with their memory of recent events which almost invariably clears up within a month of receiving the last treatment. Some patients experience a headache or a brief period of confusion, or both, on awakening after the anaesthetic. Otherwise, because the treatment and anaesthetic are very brief and present no significant stress to the body, serious complications are uncommon. All general anaesthetics carry some risk.

**Consent to treatment**

This treatment cannot be carried out without your consent (see Part 2 below), unless you are an involuntary patient at the hospital. If you are an involuntary patient, the treatment can only be carried out without your consent after a full hearing before the Mental Health Review Tribunal.

Before giving this consent you may ask your doctor any questions relating to the techniques or procedures to be followed. You may also withdraw your consent and discontinue this treatment AT ANY TIME.

**Legal and medical advice**

You also have the right to get legal advice and medical advice before you give your consent.

**Disclosure of financial relationship****Item A**

To be completed by the person proposing the administration of the treatment.

- (a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

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(OR)

- (b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....  
.....

.....  
(Signature)

.....  
(Date)

**Item B**

To be completed by the medical practitioner who proposes to administer the treatment (unless that medical practitioner is also the person who completed Item A, in which case this Item need not be completed).

- (a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

(OR)

- (b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....  
.....

.....  
(Signature)

.....  
(Date)

**Part 2 Consent to electro convulsive therapy**

I, .....  
(name in full)

consent to being treated with a course of electro convulsive therapy.



---

I ACKNOWLEDGE that I have read/have had read to me Part 1 of this Form, and that I understand the information it contains.

I UNDERSTAND that I am free at any time to change my mind and withdraw from the course of treatment if I so desire.

.....  
(Signature)

.....  
(Date)

**Part 3 Consent to electro convulsive therapy (involuntary patients)**

I, .....  
(name in full)

consent to being treated with electro convulsive therapy.

I ACKNOWLEDGE that I have read/have had read to me Part 1 of this Form, and that I understand the information it contains.

I UNDERSTAND that I am free at any time to change my mind and withdraw from the course of treatment if I so desire.

I UNDERSTAND that my consent will be reviewed by the Mental Health Review Tribunal.

.....  
(Signature)

.....  
(Date)

**Certification by witness**

I certify that all matters dealt with in this Form have been orally explained to the person in respect of whom treatment is proposed and have been so explained in a language with which that person is familiar.

.....  
(Signature)

.....  
(Date)

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**Form 13**

(Clause 30 (a))

(Mental Health Act 1990, section 190)

**Notification of application to determine validity of consent to electro convulsive therapy—persons other than involuntary patients**

Dear .....

It is my opinion as medical superintendent of .....

.....  
(name of hospital)

that it is desirable and in the best interests of .....

.....  
(full name of person the subject of the application)

for him or her to undergo a course of electro convulsive therapy. He or she has consented.

However, I am unsure whether he or she is capable of giving informed consent to the treatment.

In such cases I am required by law to notify you in writing that an application is being made to the Mental Health Review Tribunal to determine whether he or she is capable of giving informed consent and has given that consent.

He or she has consented to me giving you this notice.

If you wish to discuss this matter further please contact: .....

..... on .....  
(name) (telephone number)

Yours faithfully,

.....  
(Medical Superintendent)

.....  
(Date)

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**Form 14**

(Clause 30 (b))

(Mental Health Act 1990, section 190)

**Notification of application to administer electro convulsive therapy—involuntary patients**

Dear .....

It is my opinion as medical superintendent of .....

.....  
(name of hospital)

that it is desirable and in the best interests of .....

.....  
(patient's full name)

for him/her to undergo a course of electro convulsive therapy.

The patient:

- ☐ has consented to the treatment,
- ☐ is incapable of giving consent to the treatment,
- ☐ is capable of giving consent to the treatment but has refused to do so,
- ☐ is capable of giving consent to the treatment but has neither refused nor consented.

(Tick one box only)

In such cases I am required by law to notify you in writing that an application is being made to the Mental Health Review Tribunal to determine:

- (a) whether the patient is capable of giving informed consent to the administration of the treatment and has given that consent, and
- (b) if the patient is incapable of giving informed consent or has not consented—whether the treatment is necessary or desirable for the safety or welfare of the patient.

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If you wish to discuss this matter further please contact: .....  
..... on .....  
(name) (telephone number)

Yours faithfully,

.....  
(Medical Superintendent)

.....  
(Date)

## Form 15

(Clause 31)

(Mental Health Act 1990, section 196 (1))

### Register of electro convulsive therapy

#### 1 Information that must be set out in register

The register of electro convulsive therapy must set out the following information relating to each administration of treatment:

- (a) the date of the treatment,
- (b) the classification of the patient,
- (c) the section of the *Mental Health Act 1990* under which consent was given,
- (d) details of the patient, namely the patient's name, age, sex and medical record number,
- (e) the ward in which the treatment was administered,
- (f) details of the anaesthetic used,
- (g) the name of the anaesthetist,
- (h) a psychiatric and medical diagnosis,
- (i) the duration of the treatment,
- (j) the voltage used,

- (k) the name of the medical officer in charge of administering the treatment,
- (l) the name of any assistant to the medical officer,
- (m) the name of any registered nurse,
- (n) the placement of electrodes.

## 2 Further remarks or observations may be included in register

The register of electro convulsive therapy may include further remarks or observations in relation to any treatment registered on it.

## Form 16

(Clause 32)

(Mental Health Act 1990, section 205 (3))

### Notification to relative

Dear .....

It is my opinion as medical superintendent of .....

.....  
(name of hospital)

that it is desirable and in the best interests of .....

.....  
(patient's full name)

who is involuntarily detained in the hospital in accordance with the *Mental Health Act 1990*, to undergo a surgical operation or special medical treatment for

.....  
(lay description of condition)

This operation or treatment is called .....

.....  
(medical name)

To perform the surgery, or carry out the treatment, I am required by law to obtain the patient's consent.

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However, the patient is:

- ☐ incapable of giving that consent.
- ☐ capable of giving that consent but has refused to do so.
- ☐ capable of giving that consent but has neither refused nor consented.

(Tick one box only)

In such cases I am required by law to notify you in writing that it is my intention to obtain consent on the patient's behalf from the Mental Health Review Tribunal.

If you wish to discuss this matter further please contact .....

..... on .....  
(name) (telephone number)

Yours faithfully,

.....  
(Medical Superintendent)

.....  
(Date)

## Form 17

(Clause 36)

(Mental Health Act 1990, section 278 (1))

### Summons

#### Mental Health Review Tribunal

To: .....  
.....

The Mental Health Review Tribunal will be hearing matters in relation to

.....  
(name of patient)

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The hearing will take place at ..... on. ....  
(time) (date)  
at .....  
(address)

You are required:

- ☐ to attend the hearing as a witness
- ☐ to attend the hearing and produce the following documents:  
.....  
.....

(Tick one box only)

You are entitled to receive reasonable costs, including any loss of earnings incurred through compliance with this summons.

Should you fail or refuse to comply with this summons, properly served, you may be guilty of an offence under the *Mental Health Act 1990*.

If you are required to attend the hearing only to produce documents, it is sufficient compliance with this summons if those documents are delivered to .....  
..... at .....  
on or before.....

Signature .....

(President/Deputy President  
Mental Health Review Tribunal)

## **Form 18**

(Clause 40)

(Mental Health Act 1990, section 282 (2) (b))

### **Oath of assessor**

I, ..... , do swear that I will well and truly advise and assist, without fear or favour, affection or ill will, the Supreme Court of New South Wales as an assessor in any matter coming before that Court pursuant to the provisions of the *Mental Health Act 1990*.

## **Form 19A**

(Clause 42)

(Mental Health Act 1990, section 302 (2) (m))

### **Particulars of involuntary referrals**

#### **1 Information about the hospital preparing the report**

The report must include:

- (a) the name of the hospital,
- (b) the name and contact number of the person by whom the report was prepared.

#### **2 Information about each patient**

The report must include the following information about each patient:

- (a) the patient's medical record number (or MRN),
- (b) the patient's date of birth,
- (c) the patient's country of birth,
- (d) whether an interpreter was required for the patient and, if so, in what language,
- (e) the date the person was taken to hospital or the date the patient was reclassified to involuntary,



- 
- (f) the method of referral of the person, that is:
    - (i) by doctor's certificate under section 21 of the Act,
    - (ii) by the police under section 24 of the Act,
    - (iii) by a welfare officer under section 26 of the Act,
    - (iv) because of a breach of a community treatment order, under section 142 of the Act,
    - (v) by a relative or friend under section 23 of the Act,
    - (vi) in accordance with an order under section 33 of the *Mental Health (Criminal Procedure) Act 1990*, under section 25 of the *Mental Health Act 1990*,
    - (vii) following an order under section 27 of the Act for medical examination or observation and an authorised doctor's certificate under section 21 of the Act,
    - (viii) by being reclassified from an informal patient to an involuntary patient,
  - (g) whether the person was admitted after examination,
  - (h) whether on admission the patient was classified as:
    - (i) informal, that is voluntary,
    - (ii) involuntary, mentally ill,
    - (iii) involuntary, mentally disordered.

## Form 19B

(Clause 43)

(Mental Health Act 1990, section 302 (2) (m))

### Particulars of persons presented to a Magistrate

#### 1 Information about the hospital preparing the report

The report must include:

- (a) the name of the hospital,
- (b) the name and contact number of the person by whom the report was prepared.

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### 2 Information about each magistrate's inquiry

The form must include the following information about each person presented to the Magistrate on the date to which the form relates:

- (a) the medical record number of the person,
- (b) whether an interpreter was required for the person and, if so, in what language,
- (c) which of the following decisions or determinations was made:
  - (i) adjournment,
  - (ii) discharge or deferred discharge,
  - (iii) reclassify from an involuntary patient to an informal patient,
  - (iv) temporary patient order,
  - (v) community treatment order,
  - (vi) community counselling order.

## Form 20

(Clause 44)

(Mental Health Act 1990, Division 2 of Part 2, Chapter 4)

### Order or direction of magistrate—inquiry relating to mentally ill person

Hospital . . . . .

Address . . . . .

Date. . . . .

(Complete Part 1 or Part 2 only)

**Part 1 Order or direction**

I have today ordered or directed that .....  
(patient's name)

(who was brought before me under section 38 of the *Mental Health Act 1990*):

- ☐ must be discharged from hospital
- ☐ must be discharged from hospital into the care of  
.....  
(name)
- ☐ must be detained as a temporary patient until no later than .....  
(date)  
for further observation or treatment, or both
- ☐ must be made subject to a community treatment order
- ☐ must be made subject to a community counselling order

(Tick one box only)

The reasons for my order or direction (as required by section 53 of the Act) are annexed to this form.

(OR)

**Part 2 Order for adjournment**

I have today ordered the adjournment of the inquiry in relation to .....  
.....  
(patient's name)

(who was brought before me under section 38 of the *Mental Health Act 1990*) for a period of ..... days.

Signature of Magistrate .....

Name of Magistrate .....

The reasons for my order (as required by section 53 of the Act) are annexed to this form.

BY AUTHORITY