



Mental Health Amendment (Interstate Patients) Regulation 2002

under the

Mental Health Act 1990

Her 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

The object of this Regulation is to enable the apprehension in New South Wales of certain Victorian forensic, security and other mental health patients, in the event that any such patients escape into this State, and the transfer of such patients to Victoria. The Regulation complements an agreement between the Ministers for Health for New South Wales and Victoria.

This Regulation is made under the *Mental Health Act 1990*, including sections 286D, 286O, 286P, 286Q and 302 (the general regulation-making power).

2002 No 162

Clause 1 Mental Health Amendment (Interstate Patients) Regulation 2002

**Mental Health Amendment (Interstate Patients)
Regulation 2002**

1 Name of Regulation

This Regulation is the *Mental Health Amendment (Interstate Patients) Regulation 2002*.

2 Amendment of Mental Health Regulation 2000

The *Mental Health Regulation 2000* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Part 7A

Insert at the end of Part 7:

Part 7A Interstate patients and mental health laws

Division 1 Preliminary

38A Definitions

(1) In this Part:

Victorian Agreement means the agreement dated 19 February 2002 made between the Minister and the Minister for Health for Victoria with respect to the interstate application of mental health laws.

Victorian corresponding law means the *Mental Health Act 1986* of Victoria.

Victorian interstate apprehension order means an interstate apprehension order issued under the Victorian Agreement.

Victorian patient has the same meaning as it has in the Victorian Agreement.

Note. Patients that are subject to the agreement are forensic and security patients and certain other patients dealt with by courts.

(2) Words and expressions used in this Part have the same meanings as they have in Chapter 10A of the Act.

38B Corresponding laws

The following laws are corresponding laws for the purposes of Chapter 10A of the Act:

Mental Health Act 1986 of Victoria

**Division 2 Apprehension of persons absent from hospital
 or in breach of orders**

38C Recognition of Victorian interstate apprehension orders

For the purposes of section 286O of the Act, it is a condition of recognition of a Victorian interstate apprehension order that it must comply with the Victorian Agreement and any applicable requirements of the Victorian corresponding law.

**38D Apprehension of patients under Victorian interstate
 apprehension orders**

- (1) The following persons are authorised to apprehend a Victorian patient who is liable to be apprehended under a Victorian interstate apprehension order:
 - (a) a person who is authorised to apprehend the patient under any order made under the Victorian corresponding law,
 - (b) a person who is authorised to retake a forensic patient under section 111 of the Act.

Note. Under section 286P (1) of the Act, a police officer and any person authorised to do so under a provision of a corresponding law may also apprehend such a person.

- (2) The following actions may, in accordance with the Victorian Agreement, be taken in respect of a Victorian patient who is liable to be apprehended under a Victorian interstate apprehension order:
 - (a) the patient may be conveyed to and detained in any premises the subject of an order in force under section 208 of the Act,
 - (b) the patient may be conveyed to or transferred to an approved mental health service within the meaning of the Victorian corresponding law.