



New South Wales

# Mental Health Amendment (Transfer of Queensland Civil Patients) Regulation 2005

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*.

MORRIS IEMMA, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to amend the *Mental Health Regulation 2000* to enable the implementation of an agreement between the Minister for Health for New South Wales and the Minister for Health for Queensland in relation to the cross border admission and transfer of mentally ill involuntary civil patients, the apprehension of interstate involuntary civil patients who are absent without leave and the recognition of interstate community treatment orders.

For that purpose, the Regulation provides for the following:

- (a) the recognition of the *Mental Health Act 2000* of Queensland (the **Queensland law**) as a law in relation to which such agreements and related arrangements may be made,
- (b) the apprehension of Queensland patients who are in this State and who are liable to be apprehended under the Queensland law,
- (c) the persons from this State who may take a person to a Queensland health facility to be dealt with under the Queensland law,
- (d) the procedures for transferring a New South Wales patient to a Queensland health facility,
- (e) the persons from this State who may take a Queensland patient to a hospital in this State from Queensland,
- (f) the procedures for transferring a Queensland patient to a hospital in this State,
- (g) the recognition of Queensland community category involuntary treatment orders as interstate community treatment orders that may be enforced in this State,
- (h) other consequential amendments.

## **2005 No 133**

Mental Health Amendment (Transfer of Queensland Civil Patients) Regulation 2005

Explanatory note

---

This Regulation is made under the *Mental Health Act 1990*, including sections 286B, 286D, 286F, 286H, 286I, 286K, 286N, 286Q and section 302 (the general regulation-making power).

---

## **Mental Health Amendment (Transfer of Queensland Civil Patients) Regulation 2005**

under the

Mental Health Act 1990

### **1 Name of Regulation**

This Regulation is the *Mental Health Amendment (Transfer of Queensland Civil Patients) Regulation 2005*.

### **2 Amendment of Mental Health Regulation 2000**

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

## 2005 No 133

Mental Health Amendment (Transfer of Queensland Civil Patients)  
Regulation 2005

Schedule 1

Amendments

---

### Schedule 1 Amendments

(Clause 2)

**[1] Clause 38A Definitions**

Insert in alphabetical order in clause 38A (1):

***administrator*** means the person declared to be an administrator of a Queensland authorised mental health service under section 497 of the *Mental Health Act 2000* of Queensland.

***Queensland authorised mental health service*** means a health service, or part of a health service, declared to be an authorised mental health service under section 495 of the *Mental Health Act 2000* of Queensland.

**[2] Clause 38A (1), definition of “civil interstate apprehension order”**

Omit “or the ACT civil agreement”.

Insert instead “, the ACT civil agreement or the Queensland civil agreement”.

**[3] Clause 38A (1), definition of “interstate agreement”**

Insert after paragraph (d):

- (e) the agreement dated 18 October 2004 made between the Minister and the Minister for Health for Queensland (the ***Queensland civil agreement***).

**[4] Clause 38A (1), definition of “interstate hospital”**

Insert after paragraph (b):

- (c) a Queensland authorised mental health service.

**[5] Clause 38A (1), definition of “interstate transfer request notice”**

Omit “or ACT civil agreement”.

Insert instead “, ACT civil agreement or Queensland civil agreement”.

**[6] Clause 38A (1), definition of “relevant corresponding law”**

Insert “, the Queensland civil agreement” after “Queensland agreement” in paragraph (b).

---

**[7] Clause 38D Apprehension of patients and persons under interstate apprehension orders**

Insert at the end of clause 38D (2) (b) (iii):

, or

- (iv) in the case of a person subject to a civil interstate apprehension order under the Queensland civil agreement, a Queensland authorised mental health service.

**[8] Clause 38E Admission of persons to interstate hospitals and facilities**

Insert “(except where the person is being taken to a Queensland authorised mental health service)” after “NSW ambulance officer” in clause 38E (1) (c).

**[9] Clause 38E (2) (c)**

Insert after clause 38E (2) (b) (before the note):

- (c) a Queensland authorised mental health service.

**[10] Clause 38F Transfer of patients from this State to interstate hospitals**

Insert “(except where the person is being taken to a Queensland authorised mental health service)” after “NSW ambulance officer” in clause 38F (1) (c).

**[11] Clause 38F (3A)**

Insert after clause 38F (3):

- (3A) For the purposes of section 286H (4) (a) and (b) of the Act, the medical superintendent of a hospital in this State that is transferring a person, involuntarily detained as a temporary patient or a continued treatment patient, to a Queensland authorised mental health service must:
  - (a) before transferring the person:
    - (i) provide the administrator of the Queensland authorised mental health service with a completed interstate transfer request notice in the form specified in the Queensland civil agreement, and
    - (ii) ensure that the transfer has been approved in writing by the administrator (or his or her delegate), and
  - (b) forward to the administrator of the Queensland authorised mental health service an interstate transfer order and any other information (including medical records) that the superintendent considers to be reasonably necessary for the continued care and treatment of the person.

## 2005 No 133

Mental Health Amendment (Transfer of Queensland Civil Patients)  
Regulation 2005

Schedule 1

Amendments

---

**[12] Clause 38F (4)**

Insert after clause 38F (4) (b) (before the note):

- (c) a Queensland authorised mental health service.

**[13] Clause 38G Admission of interstate persons to hospitals in this State**

Omit “or the ACT” from clause 38G (1).

Insert instead “, the ACT or Queensland”.

**[14] Clause 38G (1) (c)**

Insert “(except where the person is being taken to a Queensland authorised mental health service)” after “NSW ambulance officer”.

**[15] Clause 38H Transfer of interstate persons to hospitals in this State**

Insert “(except where the person is being taken from a Queensland authorised mental health service)” after “NSW ambulance officer” in clause 38H (1) (c).

**[16] Clause 38H (4)**

Insert after clause 38H (3) (before the note):

- (4) For the purposes of section 286K (4) (a) of the Act, a person subject to an in-patient category involuntary treatment order under the *Mental Health Act 2000* of Queensland must not be transferred from a Queensland authorised mental health service to a hospital in this State unless:
  - (a) before transferring the person:
    - (i) the administrator of the Queensland authorised mental health service (or his or her delegate) provides the medical superintendent of the hospital in this State with a completed interstate transfer request notice in the form specified in the Queensland civil agreement, and
    - (ii) the transfer is approved in writing by the medical superintendent of the hospital in this State, and
  - (b) the administrator of the Queensland authorised mental health service (or his or her delegate) provides a copy of the transfer order relating to the person and any other information (including medical records) that he or she considers to be reasonably necessary for the continued care and treatment of the person.

---

**[17] Clause 38JA**

Insert after clause 38J:

**38JA Queensland treatment orders relating to New South Wales residents**

- (1) A community category involuntary treatment order made under Division 1 of Part 1 of Chapter 4 of the *Mental Health Act 2000* of Queensland is declared to be an interstate community treatment order for the purposes of Chapter 10A of the Act.
- (2) For the purposes of section 286N of the Act, a Queensland authorised mental health service is an interstate health care agency.