New South Wales

Health Legislation Further Amendment Act 2010 No 96

Contents

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Act No 96, 2010

An Act to make miscellaneous amendments to various Acts that relate to health and associated matters. [Assented to 16 November 2010]

The Legislature of New South Wales enacts:

1   Name of Act

This Act is the *Health Legislation Further Amendment Act 2010*.

2   Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Mental Health Act 2007 No 8

[1] Section 37 Reviews of involuntary patients by Tribunal

Omit section 37 (2). Insert instead:

(1A) The Tribunal may review the case of an involuntary patient at such other times as it sees fit.

(2) An authorised medical officer must cause an involuntary patient to be brought before the Tribunal:

(a) as soon as practicable before the end of the initial period of detention, if it appears to the officer that the person should continue to be detained, and

(b) at such other times as may be required by the Tribunal for the purposes of any review under this section.

[2] Section 40 Re-classification of involuntary patients as voluntary patients

Omit section 40 (1). Insert instead:

(1) An involuntary patient may be classified as a voluntary patient of the mental health facility in which the patient is detained:

(a) by an authorised medical officer at any time, or

(b) by the Tribunal when conducting a review of the patient.

[3] Section 40 (2) (a)

Insert "or Tribunal" after "authorised medical officer".

[4] Section 53 Determination of applications for community treatment orders

Insert "a forensic patient or" after "12 months been" in section 53 (3A).

[5] Section 58 Breach of community treatment order

Insert after section 58 (4):

(5) For the purposes of subsection (3), the director causes a person to be given a breach notice if the director ensures that:

(a) the notice is handed directly to the person, or

(b) if it is not reasonably practicable to hand the notice directly to the person, the notice is posted to the last known address of the person.

[6]   Section 96 Purpose and findings of ECT inquiries

Omit "necessary and desirable" from section 96 (3) (b) (ii).

Insert instead "necessary or desirable".

[7]   Section 150 Composition of Tribunal

Omit section 150 (3) (b). Insert instead:

> (b)   a member referred to in section 141 (2) (c).

[8]   Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

> *Health Legislation Further Amendment Act 2010*

[9]   Schedule 6

Insert after Part 4:

Part 5   Provisions consequent on enactment of Health Legislation Further Amendment Act 2010

22   Service of notices

> Section 58 as amended by the *Health Legislation Further Amendment Act 2010* extends to a refusal or failure to comply with a community treatment order that occurred before the commencement of that amendment.

Schedule 2   Amendment of Mental Health (Forensic Provisions) Act 1990 No 10

[1]   Section 67 Community treatment orders

Omit section 67 (1) (a). Insert instead:

> (a)   a forensic patient, or

[2]   Schedule 1 Savings and transitional provisions

Insert at the end of clause 1A (1):

> *Health Legislation Further Amendment Act 2010*

Schedule 3   Amendment of Health Records and Information Privacy Act 2002 No 71

[1]   Section 4 Definitions

Insert in alphabetical order in section 4 (1):

> *healthcare identifier* has the same meaning as it has in the *Healthcare Identifiers Act 2010* of the Commonwealth.

[2]   Section 6 Definition of "health information"

Insert at the end of section 6 (d):

> or
> (e)   healthcare identifiers,

[3]   Section 75A

Insert after section 75:

75A   Regulations with respect to healthcare identifiers

(1)   Without limiting section 75, regulations may be made for or with respect to healthcare identifiers.

(2)   In particular, the regulations may specify the circumstances in which a person may or may not use or disclose a healthcare identifier.

(3)   A person who uses or discloses a healthcare identifier in contravention of a regulation made under subsection (2) is guilty of an offence.

Maximum penalty:

(a)   600 penalty units in the case of a body corporate, or

(b)   120 penalty units or imprisonment for 2 years, or both, in any other case.

[4]   Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

Health Legislation Further Amendment Act 2010

BY AUTHORITY