

[Act 1997 No 28]



New South Wales

Mental Health Legislation Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to give effect to certain of the recommendations for changes made by the Mental Health Act Implementation Monitoring committee in its 1991 report on the *Mental Health Act 1990*, to make changes relating to other matters considered by that Committee and to make other changes relating to interstate matters. The Bill amends the *Mental Health Act 1990*:

- (a) to revise the definition of *mentally ill person* to enable the detention of persons whose condition is likely to deteriorate, and to widen the kind of harm taken into account for the purpose of determining whether a person should be detained as a mentally ill person, and
- (b) to enable police to detain mentally ill persons in places other than public places, and

* Amended in committee—see table at end of volume.

Explanatory note

- (c) to restrict the circumstances when an adjournment of a Magistrate's hearing into whether a person is a mentally ill person may be granted by the Magistrate, and
- (d) to restrict the circumstances in which the proposed release of forensic patients is to be referred to the Attorney General, and
- (e) to remove the requirement to publish in the Gazette the revocation of the appointment of a Deputy Director or Director of a health care agency and the appointment of certain Deputy Directors, and
- (f) to extend the maximum duration of community treatment orders from 3 months to 6 months, and
- (g) to remove provisions relating to consent to emergency electro convulsive therapy, and
- (h) to include additional criteria for consent to special medical treatment of patients, and
- (i) to enable official visitors to be appointed to area health services rather than to be appointed in respect of particular hospitals or health care agencies and to reduce the frequency with which official visitors must visit health care agencies, and
- (j) to provide for the transfer to this State, and the treatment in this State, of patients from outside the State, and
- (k) to provide for the transfer to other States or Territories, and the treatment in other States or Territories, of patients from this State, and
- (l) to provide for patients living in this State to be treated under a community treatment order or similar order issued in another State or Territory and for patients living in other States or Territories to be treated in this State under community treatment orders made in this State, and
- (m) to enable persons from another State or Territory who are liable to apprehension under the mental health legislation of that State or Territory to be apprehended in this State.

The Bill also amends the Mental Health (Criminal Procedure) Act 1990 to remove the requirement for the detention in strict custody of persons found not guilty of offences by reason of mental illness.

A detailed explanation of each amendment is set out in the Bill after the amendment concerned.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 gives effect to the amendments to the *Mental Health Act 1990* set out in Schedule 1.

Clause 4 gives effect to the amendments to the *Mental Health (Criminal Act 1990* set out in Schedule 2.

Clause 5 makes it clear that the explanatory notes contained in the proposed Act do not form part of the proposed Act.