

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Mental Health (Treatment and Care) Amendment Bill 2005

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Mental Health (Treatment and Care) Amendment Bill 2005

A Bill for

An Act to amend the *Mental Health (Treatment and Care) Act 1994*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Mental Health (Treatment and Care) Amendment*
3 *Act 2005*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Mental Health (Treatment and Care) Act 1994*.

10 *Note* This Act also amends the following legislation (see sch 1):

- 11 • *Children and Young People Act 1999*
- 12 • *Crimes Act 1900*
- 13 • *Guardianship and Management of Property Act 1991*
- 14 • *Health Professionals Legislation Amendment Act 2004*
- 15 • *Powers of Attorney Act 1956*.

16 **4 Definitions for Act**
17 **Section 4, definition of *convulsive therapy***

18 *omit*

19 **5 Section 4, definition of *proceeding***

20 *substitute*

21 ***proceeding*** means an inquiry, review or any other proceeding of the
22 tribunal.

23 **Examples of proceeding**

24 1 hearing an application for a psychiatric treatment order

2 hearing an application for an emergency electroconvulsive therapy order

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

6 Section 4, definitions (as amended)

relocate to dictionary

7 Section 4, remainder

substitute

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*electroconvulsive therapy*—see section 55.' means that the term 'electroconvulsive therapy' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

1 **8 Offences against Act—application of Criminal Code etc**
2 **Section 4A, note 1, new dot points**

3 *insert*

- 4 • s 55B (Offence—electroconvulsive therapy without consent)
- 5 • s 55C (Offence—electroconvulsive therapy on more than
6 10 occasions since consent)
- 7 • s 55D (Offence—electroconvulsive therapy after consent
8 withdrawn)
- 9 • s 55I (Offence—electroconvulsive therapy without
10 electroconvulsive therapy order)
- 11 • s 55J (Offence—electroconvulsive therapy on more than
12 10 occasions since electroconvulsive therapy order)
- 13 • s 55K (Offence—electroconvulsive therapy after order consent
14 withdrawn)
- 15 • s 56 (Offence—electroconvulsive therapy without doctor’s
16 consent)
- 17 • s 57 (1) (Doctor must record electroconvulsive therapy)
- 18 • s 57 (2)
- 19 • s 57 (3)
- 20 • s 58 (Electroconvulsive therapy records to be kept for 5 years)

21 **9 Treatment during detention**
22 **Section 44 (1), new note**

23 *insert*

24 *Note* Special provisions apply for the emergency administration of
25 electroconvulsive therapy (see subdiv 7.2.4).

26 **10 Division 7.2 heading**

27 *substitute*

28 **Division 7.2 Electroconvulsive therapy**

11 Section 55

substitute

Subdivision 7.2.1 What is *electroconvulsive therapy*?**55 What is *electroconvulsive therapy*?**

For this Act:

electroconvulsive therapy means a procedure for the induction of an epileptiform convulsion in a person.

Subdivision 7.2.2 Informed consent for electroconvulsive therapy**55A Electroconvulsive therapy may be administered with consent**

A doctor, or person authorised by a doctor, may administer electroconvulsive therapy to a person who is not the subject of a psychiatric treatment order if—

- (a) the person gives informed consent to the administration of the electroconvulsive therapy; and
- (b) the person has not had electroconvulsive therapy administered on 10 or more occasions since the consent; and
- (c) the person has not withdrawn the consent, either orally or in writing.

55B Offence—electroconvulsive therapy without consent

- (1) A doctor commits an offence if—
 - (a) a person has not given informed consent to the administration of electroconvulsive therapy; and
 - (b) the doctor—

- 1 (i) administers electroconvulsive therapy to the person; or
2 (ii) authorises the administration of electroconvulsive therapy
3 to the person.

4 Maximum penalty: 50 penalty units, imprisonment for 6 months or
5 both.

- 6 (2) This section does not apply to the administration of
7 electroconvulsive therapy to a person in accordance with—
8 (a) an electroconvulsive therapy order in force in relation to the
9 person; or
10 (b) an emergency electroconvulsive therapy order in force in
11 relation to the person.

12 **55C Offence—electroconvulsive therapy on more than**
13 **10 occasions since consent**

- 14 (1) A doctor commits an offence if—
15 (a) a person has given informed consent to the administration of
16 electroconvulsive therapy; and
17 (b) electroconvulsive therapy has been administered to the person
18 on 10 or more occasions since the person consented; and
19 (c) the doctor—
20 (i) administers electroconvulsive therapy to the person; or
21 (ii) authorises the administration of electroconvulsive therapy
22 to the person.

23 Maximum penalty: 50 penalty units, imprisonment for 6 months or
24 both.

- 25 (2) This section does not apply to the administration of
26 electroconvulsive therapy to a person in accordance with—

- 1 (a) an electroconvulsive therapy order in force in relation to the
2 person; or
- 3 (b) an emergency electroconvulsive therapy order in force in
4 relation to the person.

5 **55D Offence—electroconvulsive therapy after consent**
6 **withdrawn**

- 7 (1) A doctor commits an offence if—
- 8 (a) a person has given informed consent to the administration of
9 electroconvulsive therapy; and
- 10 (b) the person withdraws the consent, whether orally or in writing;
11 and
- 12 (c) after the consent is withdrawn, the doctor—
- 13 (i) administers electroconvulsive therapy to the person; or
14 (ii) authorises the administration of electroconvulsive therapy
15 to the person.

16 Maximum penalty: 50 penalty units, imprisonment for 6 months or
17 both.

- 18 (2) This section does not apply to the administration of
19 electroconvulsive therapy to a person in accordance with—
- 20 (a) an electroconvulsive therapy order in force in relation to the
21 person; or
- 22 (b) an emergency electroconvulsive therapy order in force in
23 relation to the person.

1 **Subdivision 7.2.3 Electroconvulsive therapy orders**

2 **55E Electroconvulsive therapy may be administered under**
3 **electroconvulsive therapy order**

4 A doctor, or person authorised by a doctor, may administer
5 electroconvulsive therapy to a person who is the subject of a
6 psychiatric treatment order if—

- 7 (a) there is an electroconvulsive therapy order in force in relation
8 to the person; and
- 9 (b) the person has not had electroconvulsive therapy administered
10 on 10 or more occasions since the electroconvulsive therapy
11 order was made; and
- 12 (c) if the electroconvulsive therapy order states that the person had
13 the capacity to consent to the order, and gave informed consent
14 to the order—the person has not withdrawn the consent, either
15 orally or in writing.

16 **55F Application for electroconvulsive therapy order**

17 (1) The chief psychiatrist or a doctor may apply for an order
18 (an *electroconvulsive therapy order*) for the administration of
19 electroconvulsive therapy to a person if—

- 20 (a) a psychiatric treatment order is in force in relation to the
21 person; and
- 22 (b) the chief psychiatrist or doctor believes on reasonable grounds
23 that—
- 24 (i) the administration of electroconvulsive therapy is likely
25 to result in substantial benefit to the person; and
- 26 (ii) either—
- 27 (A) all other reasonable forms of treatment available
28 have been tried but have not been successful; or

1 (B) the treatment is the most appropriate treatment
2 reasonably available.

3 (2) The application must be supported by the evidence of a psychiatrist
4 other than the applicant.

5 **55G Criteria for making electroconvulsive therapy order**

6 The tribunal may make an electroconvulsive therapy order in
7 relation to a person who is the subject of a psychiatric treatment
8 order if—

9 (a) the person—

10 (i) has given informed consent to the administration of
11 electroconvulsive therapy; and

12 (ii) has not withdrawn the consent, either orally or in writing;
13 or

14 (b) the tribunal is satisfied that—

15 (i) the person is, because of mental illness, incapable of
16 weighing the considerations involved in deciding whether
17 or not to consent to the administration of
18 electroconvulsive therapy; and

19 (ii) the administration of electroconvulsive therapy is likely
20 to result in substantial benefit to the person; and

21 (iii) either—

22 (A) all other reasonable forms of treatment available
23 have been tried but have not been successful; or

24 (B) the treatment is the most appropriate treatment
25 reasonably available.

1 **55H Content of electroconvulsive therapy order**

2 An electroconvulsive therapy order made in relation to a person
3 must—

4 (a) state that the person may be given electroconvulsive therapy;
5 and

6 (b) include a statement that the person—

7 (i) has the capacity to consent to the order, and gives
8 informed consent; or

9 (ii) does not have the capacity to consent to the order.

10 *Note* The tribunal must give a copy of the order to certain people (see s 105).

11 **55I Offence—electroconvulsive therapy without**
12 **electroconvulsive therapy order**

13 (1) A doctor commits an offence if—

14 (a) a psychiatric treatment order is in force in relation to a person;
15 and

16 (b) an electroconvulsive therapy order is not in force in relation to
17 the person; and

18 (c) the doctor—

19 (i) administers electroconvulsive therapy to the person; or

20 (ii) authorises the administration of electroconvulsive therapy
21 to the person.

22 Maximum penalty: 50 penalty units, imprisonment for 6 months or
23 both.

24 (2) This section does not apply to the administration of
25 electroconvulsive therapy to a person in accordance with an
26 emergency electroconvulsive therapy order in force in relation to the
27 person.

- 1 **55J Offence—electroconvulsive therapy on more than**
2 **10 occasions since electroconvulsive therapy order**
- 3 (1) A doctor commits an offence if—
- 4 (a) a psychiatric treatment order is in force in relation to a person;
5 and
- 6 (b) an electroconvulsive therapy order is in force in relation to the
7 person; and
- 8 (c) electroconvulsive therapy has been administered to the person
9 on 10 or more occasions since the tribunal made the
10 electroconvulsive therapy order; and
- 11 (d) the doctor—
- 12 (i) administers electroconvulsive therapy to the person; or
- 13 (ii) authorises the administration of electroconvulsive therapy
14 to the person.
- 15 Maximum penalty: 50 penalty units, imprisonment for 6 months or
16 both.
- 17 (2) This section does not apply to the administration of
18 electroconvulsive therapy to a person in accordance with an
19 emergency electroconvulsive therapy order in force in relation to the
20 person.
- 21 **55K Offence—electroconvulsive therapy after order consent**
22 **withdrawn**
- 23 (1) A doctor commits an offence if—
- 24 (a) a psychiatric treatment order is in force in relation to a person;
25 and
- 26 (b) an electroconvulsive therapy order is in force in relation to the
27 person; and

- 1 (c) the electroconvulsive therapy order states that the person has
2 the capacity to consent to the order, and gives informed
3 consent; and
- 4 (d) the person withdraws the consent, whether orally or in writing;
5 and
- 6 (e) after the consent is withdrawn, the doctor—
- 7 (i) administers electroconvulsive therapy to the person; or
- 8 (ii) authorises the administration of electroconvulsive therapy
9 to the person.
- 10 Maximum penalty: 50 penalty units, imprisonment for 6 months or
11 both.
- 12 (2) This section does not apply to the administration of
13 electroconvulsive therapy to a person in accordance with an
14 emergency electroconvulsive therapy order in force in relation to the
15 person.

16 **12 New subdivision 7.2.4**

17 *insert*

18 **Subdivision 7.2.4 Emergency electroconvulsive therapy**
19 **orders**

20 **55L Electroconvulsive therapy may be administered under**
21 **emergency electroconvulsive therapy order**

22 A doctor, or person authorised by a doctor, may administer
23 electroconvulsive therapy to a person if—

- 24 (a) there is an emergency electroconvulsive therapy order in force
25 in relation to the person; and
- 26 (b) the electroconvulsive therapy is administered in accordance
27 with the emergency electroconvulsive therapy order.

1 **55M Application for emergency electroconvulsive therapy**
2 **order**

3 (1) The chief psychiatrist and a doctor may jointly apply for an order
4 (an *emergency electroconvulsive therapy order*) for the emergency
5 administration of electroconvulsive therapy to a person if the chief
6 psychiatrist and doctor believe on reasonable grounds that—

7 (a) the person is at least 16 years old; and

8 (b) the person has a mental illness; and

9 (c) the administration of the electroconvulsive therapy is necessary
10 to save the person's life.

11 (2) The application must be accompanied by—

12 (a) if a psychiatric treatment order is in force in relation to the
13 person—an application for an electroconvulsive therapy order
14 in relation to the person; or

15 (b) an application for both a psychiatric treatment order and an
16 electroconvulsive therapy order in relation to the person.

17 *Note 1* The registrar must give a copy of the application and accompanying
18 documents to the following people as soon as practicable (and within
19 24 hours) after the application is lodged:

- 20 • the president of the tribunal
- 21 • the public advocate
- 22 • if the person is a child—the C&YP chief executive (see s 87).

23 *Note 2* Certain people are entitled to appear and give evidence, and be
24 represented, at the proceeding including:

- 25 • the person who is the subject of the proceeding
- 26 • the public advocate
- 27 • the discrimination commissioner.

28 Other people are also entitled to appear (see s 89).

- 1 **55N Criteria for making emergency electroconvulsive therapy**
2 **order**
- 3 (1) The tribunal may make an emergency electroconvulsive therapy
4 order in relation to a person if satisfied that—
- 5 (a) the person is at least 16 years old; and
6 (b) the person has a mental illness; and
7 (c) the person is, because of the mental illness, incapable of
8 weighing the considerations involved in deciding whether or
9 not to consent to the administration of electroconvulsive
10 therapy; and
11 (d) the administration of electroconvulsive therapy is necessary to
12 save the person’s life; and
13 (e) either—
14 (i) all other reasonable forms of treatment available have
15 been tried but have not been successful; or
16 (ii) the treatment is the most appropriate treatment
17 reasonably available.
- 18 (2) In making an emergency electroconvulsive therapy order in relation
19 to a person, the tribunal must take into account the following:
- 20 (a) the views and wishes of the person, so far as they can be found
21 out;
22 (b) the views and wishes of the people responsible for the day-to-
23 day care of the person, so far as those views and wishes are
24 made known to the tribunal;
25 (c) the views of the people appearing at the proceeding.
- 26 **55O Content of an emergency electroconvulsive therapy order**
27 An emergency electroconvulsive therapy order made in relation to a
28 person must state that—

1 (a) electroconvulsive therapy may be administered to the person
2 on a stated number of occasions (not more than 3); and

3 (b) the order expires a stated number of days (not more than 7)
4 after it is made.

5 *Note* The tribunal must give a copy of the order to certain people within
6 24 hours (see s 105).

7 **55P Conflict between orders**

8 If an emergency electroconvulsive therapy order is in force in
9 relation to a person and the tribunal makes another order in relation
10 to the person, the emergency electroconvulsive therapy order ceases
11 to be in force.

12 **13 Sections 56 to 58**

13 *substitute*

14 **Subdivision 7.2.5 Only doctor or authorised person to**
15 **administer electroconvulsive therapy**

16 **56 Offence—electroconvulsive therapy without doctor’s**
17 **consent**

18 A person commits an offence if—

19 (a) the person administers electroconvulsive therapy to someone
20 else; and

21 (b) the person is not a doctor; and

22 (c) the person is not authorised by a doctor to administer the
23 electroconvulsive therapy.

24 Maximum penalty: 100 penalty units, imprisonment for 1 year or
25 both.

1 **Subdivision 7.2.6 Records of electroconvulsive therapy**

2 **57 Doctor must record electroconvulsive therapy**

- 3 (1) A doctor commits an offence if the doctor—
- 4 (a) administers electroconvulsive therapy to a person; and
- 5 (b) does not make a record of the administration, including
- 6 whether the administration was in accordance with an order of
- 7 the tribunal or was voluntary.

8 Maximum penalty: 20 penalty units.

- 9 (2) A doctor commits an offence if the doctor—
- 10 (a) authorises the administration of electroconvulsive therapy to a
- 11 person; and
- 12 (b) does not make a record of the authorisation, including whether
- 13 the administration is to be in accordance with an order of the
- 14 tribunal or is voluntary.

15 Maximum penalty: 20 penalty units.

- 16 (3) A doctor commits an offence if the doctor does not give a record of
- 17 electroconvulsive therapy mentioned in subsection (1) or (2) to a
- 18 person in charge of the psychiatric institution where the therapy is,
- 19 or is to be, administered.

20 Maximum penalty: 20 penalty units.

21 **58 Electroconvulsive therapy records to be kept for 5 years**

22 A person in charge of a psychiatric institution commits an offence if

23 the person does not keep a record of electroconvulsive therapy given

24 under section 57 (3) for at least 5 years after the day the record is

25 given.

26 Maximum penalty: 20 penalty units.

14 Section 83

substitute

83 When tribunal may be constituted by presidential member

The tribunal may be constituted by only a presidential member for the purpose of the following matters:

- (a) making an order for an assessment under section 16;
- (b) making an order for a person's removal under section 18;
- (c) making an order for a person's detention under section 41 (2);
- (d) making an order for a person's release under section 46.

83A When tribunal must be constituted by more members

- (1) This section applies to the tribunal constituted by the following members:

- (a) a presidential member;
- (b) a psychiatrist member, psychologist member or mental health services member, selected by the president;
- (c) a community member.

Note For par (b), the president must select the kind of member the president considers most suitable for the matter (see s 83C).

- (2) The tribunal must be constituted as mentioned in subsection (1) for the purpose of the following matters:

- (a) making a mental health order;

Note A **mental health order** is a psychiatric treatment order, a community care or a restriction order:

- a psychiatric treatment order is made under s 28
- a community care order is made under s 36
- a restriction order is made under s 30 or s 36B.

- 1 (b) reviewing a mental health order under section 36L;
- 2 (c) making an electroconvulsive therapy order under section 55G;
- 3 (d) making an emergency electroconvulsive therapy order under
- 4 section 55N;
- 5 (e) reviewing a person's fitness to plead under section 68;
- 6 (f) making a recommendation about a mentally dysfunctional or
- 7 mentally ill person under section 70;
- 8 (g) reviewing an order for detention under section 72;
- 9 (h) reviewing a condition in force in relation to a person released
- 10 from detention under section 73.

11 **83B Change of tribunal membership during matter**

- 12 (1) This section applies to the tribunal constituted as mentioned in
- 13 section 83A.
- 14 (2) If a non-presidential member ceases to be a member, or to be
- 15 available for the proceeding, before the matter is decided, the
- 16 presidential member and the remaining non-presidential member
- 17 may finish the proceeding.
- 18 (3) However, if the presidential member believes that it would be
- 19 prejudicial to the interests of the person who is the subject of the
- 20 proceeding, the proceeding must be finished by the tribunal
- 21 constituted by the presidential member, the remaining
- 22 non-presidential member and—
 - 23 (a) if the remaining non-presidential member is a community
 - 24 member—a psychiatrist member, psychologist member or
 - 25 mental health services member, selected by the president; or
 - 26 (b) if the remaining non-presidential member is not a community
 - 27 member—a community member.

28 *Note* For par (a), the president must select the kind of member the president

29 considers most suitable for the matter (see s 83C).

- 1 (4) If the tribunal is reconstituted under subsection (3), the reconstituted
2 tribunal may have regard to any evidence or information, or
3 documents produced to the tribunal as previously constituted.

4 **83C President to select most suitable members**

5 If the president must select a member of the tribunal under
6 section 83A (1) (b) or section 83B (3) (a) for a matter, the president
7 must select the kind of member the president considers most
8 suitable for the matter.

9 **83D When magistrate must not be tribunal member**

10 A magistrate must not constitute the tribunal under section 83, or be
11 a member of the tribunal under section 83A or section 83B, if the
12 proceeding before the tribunal—

- 13 (a) relates to an order made by the magistrate requiring a person to
14 submit to the jurisdiction of the tribunal; or
- 15 (b) arises from a finding made by the magistrate under the
16 *Magistrates Court Act 1930*, part 3.5 (Proceedings for
17 indictable offences) in relation to a person; or
- 18 (c) arises from a decision made by the magistrate in relation to bail
19 for a person.

20 **15 Deciding questions**
21 **Section 85 (2)**

22 *substitute*

- 23 (2) If there is a division of opinion about another question arising in a
24 proceeding, the question is decided—
- 25 (a) according to the opinion of the majority of members
26 constituting the tribunal; or
- 27 (b) if there is no majority on the question—according to the
28 opinion of the presidential member.

1 **16 Section 105**

2 *substitute*

3 **105 Who is given a copy of the order?**

- 4 (1) The registrar must give a copy of a tribunal order to—
- 5 (a) the person who is the subject of the order; and
- 6 (b) if the person has a representative—the representative; and
- 7 (c) if the person is a child—the child’s parents; and
- 8 (d) if the person has a guardian—the guardian; and
- 9 (e) if the person has made a power of attorney under the *Powers of*
- 10 *Attorney Act 1956*—the donee under the power of attorney;
- 11 and
- 12 (f) if the person has made a power of attorney under the *Medical*
- 13 *Treatment Act 1994*—the grantee under the power of attorney;
- 14 and
- 15 (g) the public advocate; and
- 16 (h) if the person was referred to the tribunal under section 15
- 17 (Referrals)—the referring officer; and
- 18 (i) if the person was ordered to submit to the jurisdiction of the
- 19 tribunal by a court—the court; and
- 20 (j) if the order requires the person to be admitted to a facility or
- 21 institution—the person in charge of that facility or institution;
- 22 and
- 23 (k) any other person stated in the order under section 104 (b).

- 1 (2) The registrar must also give a copy of the following tribunal orders
2 to the chief psychiatrist:
- 3 (a) a psychiatric treatment order;
- 4 (b) a restriction order in relation to a person subject to a
5 psychiatric treatment order;
- 6 (c) an electroconvulsive therapy order;
- 7 (d) an emergency electroconvulsive therapy order.
- 8 (3) The registrar must also give a copy of the following tribunal orders
9 to the care coordinator:
- 10 (a) a community care order;
- 11 (b) a restriction order in relation to a person subject to a
12 community care order.
- 13 (4) The tribunal must give a copy of an emergency electroconvulsive
14 therapy order to the relevant people mentioned in subsection (1) and
15 (2) within 24 hours after the order is made.
- 16 *Note* For how documents may be served, see the Legislation Act, pt 19.5.
- 17 (5) Until the *Public Advocate Act 2005* commences, the reference in
18 subsection (1) (g) to the public advocate is a reference to the
19 community advocate.
- 20 (6) Subsection (5) and this subsection expire on the day the *Public*
21 *Advocate Act 2005* commences.

1 **17 New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 3)

5 *Note 1* The Legislation Act contains definitions and other provisions relevant to
6 this Act.

7 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 8 • chief executive (see s 163)
- 9 • child
- 10 • director of public prosecutions
- 11 • discrimination commissioner
- 12 • doctor
- 13 • domestic partner (see s 169 (1))
- 14 • expire
- 15 • guardianship tribunal
- 16 • lawyer
- 17 • magistrate
- 18 • Magistrates Court
- 19 • make
- 20 • parent
- 21 • police officer
- 22 • proceeding
- 23 • public advocate
- 24 • registrar
- 25 • Supreme Court
- 26 • writing.

27 ***agreement***, for part 5A (Interstate application of mental health
28 laws)—see section 48B.

- 1 ***corresponding law***, for part 5A (Interstate application of mental
2 health laws)—see section 48B.
- 3 ***custodial order***, for part 5A (Interstate application of mental health
4 laws)—see section 48B.
- 5 ***electroconvulsive therapy***—see section 55.
- 6 ***electroconvulsive therapy order***—see section 55F.
- 7 ***emergency electroconvulsive therapy order***—see section 55M.
- 8 ***informed consent***, for part 7 (Electroconvulsive therapy and
9 psychiatric surgery)—see section 54.
- 10 ***interstate custodial patient***, for part 5A (Interstate application of
11 mental health laws)—see section 48B.
- 12 ***interstate non-custodial order***, for part 5A (Interstate application of
13 mental health laws)—see section 48B.
- 14 ***licence***, for part 12 (Private psychiatric institutions)—see
15 section 123.
- 16 ***licensed premises***, for part 12 (Private psychiatric institutions)—see
17 section 123.
- 18 ***licensee***, for part 12 (Private psychiatric institutions)—see
19 section 123.
- 20 ***non-custodial order***, for part 5A (Interstate application of mental
21 health laws)—see section 48B.
- 22 ***psychiatric institution***, for part 12 (Private psychiatric
23 institutions)—see section 123.
- 24 ***responsible person***, for part 6 (Rights of mentally dysfunctional or
25 mentally ill persons)—see section 49.
- 26 ***State***, for part 5A (Interstate application of mental health laws)—see
27 section 48B.

- 1 **18 Further amendments**
- 2 *omit*
- 3 convulsive therapy
- 4 *substitute*
- 5 electroconvulsive therapy
- 6 *in*
- 7 • section 11 (d)
- 8 • section 29 (1) (b) (i)
- 9 • part 7 heading
- 10 • section 54 (3), definition of *procedure*, paragraph (a)
- 11 • section 142 (1) (a)
- 12 • section 142 (2) (a)
- 13 • section 143 (a)

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Children and Young People Act**
4 **1999**

5 **[1.1]** **Dictionary, definitions of *mental dysfunction*, *mental***
6 ***health order* and *mental illness***

7 *omit*

8 section 4

9 *substitute*

10 dictionary

11 **Part 1.2** **Crimes Act 1900**

12 **[1.2]** **Section 300, definition of *mental health order***

13 *substitute*

14 *mental health order*—see the *Mental Health (Treatment and Care)*
15 *Act 1994*, dictionary.

16 **[1.3]** **Section 300, definition of *mental illness***

17 *omit*

18 section 4

19 *substitute*

20 dictionary

1 **[1.4] Section 309 (4), definitions of *approved health facility* and**
2 ***approved mental health facility***

3 *omit*

4 section 4

5 *substitute*

6 dictionary

7 **[1.5] Section 334 (3) (d)**

8 *omit*

9 section 26 or 27

10 *substitute*

11 section 26 (What tribunal must take into account) or section 27
12 (Tribunal may not order particular drugs etc)

13 **Part 1.3 Guardianship and Management**
14 **of Property Act 1991**

15 **[1.6] Section 70 (1)**

16 *omit*

17 psychiatric illness, convulsive therapy

18 *substitute*

19 mental illness, electroconvulsive therapy

20 **[1.7] Section 70 (1), new note**

21 *insert*

22 *Note* Treatment for mental illness, including electroconvulsive therapy and
23 psychiatric surgery, is dealt with in the *Mental Health (Treatment and*
24 *Care) Act 1994.*

- 1 **[1.8] Dictionary, definition of *convulsive therapy***
2 *omit*
- 3 **[1.9] Dictionary, new definitions**
4 *insert*
5 *electroconvulsive therapy*—see the *Mental Health (Treatment and*
6 *Care) Act 1994*, section 55.
7 *mental illness*—see the *Mental Health (Treatment and Care)*
8 *Act 1994*, dictionary.
- 9 **[1.10] Dictionary, definition of *prescribed medical procedure,***
10 ***paragraph (f)***
11 *omit*
12 psychiatric illness, convulsive therapy
13 *substitute*
14 mental illness, electroconvulsive therapy
- 15 **[1.11] Dictionary, definition of *psychiatric illness***
16 *omit*
- 17 **[1.12] Dictionary, definition of *psychiatric surgery***
18 *substitute*
19 *psychiatric surgery*—see the *Mental Health (Treatment and Care)*
20 *Act 1994*, dictionary.

1 **Part 1.4 Health Professionals Legislation**
2 **Amendment Act 2004**

3 **[1.13] Schedule 6, amendment 6.9**

4 *substitute*

5 **[6.9] Dictionary, definition of *mental health nurse***

6 *substitute*

7 *mental health nurse* means a person registered as a nurse under the
8 *Health Professionals Act 2004* in the specialist area of mental health
9 nurse.

10 *Note* Under the *Mutual Recognition Act 1992* (Cwlth), s 25 people registered
11 as nurses in a specialty in a State may be deemed to be registered in the
12 specialty in the ACT.

13 **Part 1.5 Powers of Attorney Act 1956**

14 **[1.14] Section 13 (3)**

15 *omit*

16 psychiatric illness, convulsive therapy

17 *substitute*

18 mental illness, electroconvulsive therapy

19 **[1.15] Section 13 (3), new note**

20 *insert*

21 *Note* Treatment for mental illness, including electroconvulsive therapy and
22 psychiatric surgery, is dealt with in the *Mental Health (Treatment and*
23 *Care) Act 1994.*

-
- 1 **[1.16] Section 13 (4)**
- 2 *omit*
- 3 psychiatric illness, convulsive therapy
- 4 *substitute*
- 5 mental illness, electroconvulsive therapy
- 6 **[1.17] Section 13 (5)**
- 7 *substitute*
- 8 (5) In this section:
- 9 *electroconvulsive therapy*—see the *Mental Health (Treatment and*
- 10 *Care) Act 1994*, dictionary.
- 11 *mental illness*—see the *Mental Health (Treatment and Care)*
- 12 *Act 1994*, dictionary.
- 13 *psychiatric surgery*—see the *Mental Health (Treatment and Care)*
- 14 *Act 1994*, dictionary.

Endnotes

- 1 Presentation speech**
Presentation speech made in the Legislative Assembly on 2005.
- 2 Notification**
Notified under the Legislation Act on 2005.
- 3 Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.