

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**Mental Health
(Treatment and Care)
Amendment Bill 2000**

EXPLANATORY MEMORANDUM

Presented By
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Minister for Health and Community Care

Amendment to the Mental Health (Treatment and Care) Act 1994

Reasons for amendment

The current provisions in the *Mental Health (Treatment and Care) Act 1994* relating to involuntary detention have been found to be inadequate. A minor error has also been found in section 37 of the Act. These amendments will rectify any anomalies and remove any inconsistencies.

The amendments do not introduce any new policy commitments.

Item 1

Grammatical change to section 37

The section is to be amended by use of the indefinite article "a person" rather than the definite article "the person".

This is merely a grammatical change.

Item 2

Emergency Detention

The *Mental Health (Treatment and Care) Act 1994* does not provide for the involuntary detention of individuals who have not been apprehended under s37 but require emergency detention.

This means that someone who has presented voluntarily to an approved health facility cannot be involuntarily detained. Involuntary detention for this category of individuals may be required in circumstances where the individual has lost the ability to recognise their level of illness and refuses to accept treatment after assessment has been made.

A subsection is to be added which provides doctors or mental health workers with the power to detain individuals who have voluntarily attended an approved health facility, and who meet existing criteria for emergency detention. Existing criteria is found in section s37(2).

This amendment will provide authority to detain individuals in these or similar circumstances, and will ensure that these individuals receive appropriate treatment and care.

Item 3

Examination by doctor

Section 40 will be amended to require a doctor to examine all persons detained under the proposed amendments within four hours of detention.