

2004

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT
REGULATIONS 2004 (NO 1)**

SL2004-33

EXPLANATORY STATEMENT

Circulated by authority of

Bill Wood MLA
Ag Minister for Health

AUSTRALIAN CAPITAL TERRITORY

MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT REGULATIONS 2004 (NO 1)

SUBORDINATE LAW SL2004-33

EXPLANATORY STATEMENT

The purpose of the Mental Health (Treatment and Care) Amendment Regulations 2004 (No 1) is to enable the Civil Ministerial Agreement with Queensland, under Part 5A of the *Mental Health (Treatment and Care) Act 1994* to come into effect.

In June 1996 the Australian Health Ministers made an in-principle agreement on Cross Border Issues (Mental Health). The Agreement set out the terms and conditions for the involuntary apprehension, detention, interstate transfer and treatment of persons with a mental illness, whether in a mental health facility or within the community.

Following this in-principle agreement some states and territories amended their Mental Health Acts to include parallel sections which recognise the involuntary treatment provisions of the Mental Health Acts across State / Territory borders. These sections also enable the transfer of involuntary mental health patients between jurisdictions under circumscribed conditions. Part 5A of the *Mental Health (Treatment and Care) Act 1994 (ACT)* achieves this purpose.

For the legislative scheme to come into force, the respective Health Ministers are required to sign bilateral agreements. It is also necessary for regulations to be made recognising the mental health legislation of each state as a 'corresponding law'.

The ACT Minister for Health has signed a Civil Mental Health Cross Border Agreement with Queensland. This Agreement will enable; the return of absconded mental health patients to the state or territory of origin, and the transfer of involuntary orders between jurisdictions when persons are moved to another state. This agreement does not include community treatment orders as Queensland and the ACT do not share a continuous border.

The ACT Minister has previously signed a general mental health Interstate Agreement with NSW and Forensic Mental Health Agreements with Queensland and Victoria.