

AUSTRALIAN CAPITAL TERRITORY
MENTAL HEALTH (AMENDMENT) ORDINANCE
EXPLANATORY STATEMENT

No. 12 of 1985

The Mental Health (Amendment) Ordinance has been prepared to overcome a technical difficulty in Section 36 of the Mental Health Ordinance 1983.

Advice has been received from the Attorney-General's Department that Sub-sections 36(2) and (3) of the Mental Health Ordinance 1983 would give retrospective operation to a treatment order made by the Supreme Court where that order was made after the expiration of a previous order on an application which was made during the currency of the previous order. Retrospective operation of a Supreme Court order is not regarded as acceptable. To avoid this result it is necessary to delete "on an application made" from both Sub-sections 36(2) and (3).

The deletion of this phrase from Sub-sections 36(2) and (3) will require the Supreme Court to make a second or subsequent order before the expiration of the previous order. If this is not done and further compulsory treatment is required it will be necessary to apply to the Court of Petty Sessions for a treatment order with a maximum period of 28 days.

ORD 47/84