

2003

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

**MENTAL HEALTH (TREATMENT AND CARE) REGULATIONS
2003**

EXPLANATORY STATEMENT

Circulated by authority of

Simon Corbell MLA
Minister for Health

AUSTRALIAN CAPITAL TERRITORY

MENTAL HEALTH (TREATMENT AND CARE) REGULATIONS 2003

SUBORDINATE LAW No SL2003-47

EXPLANATORY STATEMENT

The purpose of the Mental Health (Treatment and Care) Regulations 2003 is to enable the Ministerial Agreements with Queensland, New South Wales and Victoria 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 Mental Health Cross Border Agreement with New South Wales. This Agreement will enable; the return of absconded mental health patients to the state or territory of origin, the involuntary admission of people with mental health disorders to interstate mental health services or facilities for initial assessment and treatment, and the transfer of involuntary orders between jurisdictions when persons are moved to another state. The transfer of involuntary orders would include both custodial and community treatment orders and would ensure continuity of care.

The Minister has also signed Forensic Mental Health Cross Border Agreements, with Queensland and with Victoria. These Agreements will enable the return of absconded forensic involuntary mental health patients back to their States of origin. This is achieved through mutually recognising each other's Mental Health Orders. The mutual recognition is currently limited to this purpose. The ACT is currently developing a civil cross-border agreement with Queensland and has begun discussions with Victoria at officer level.