

# Queensland



## Subordinate Legislation 1994 No. 109

### *Mental Health Act 1974*

# MENTAL HEALTH AMENDMENT REGULATION (No. 1) 1994

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CEASING TO BE

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PSYCHIATRIC HOSPITALS

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**Short title**

1. This regulation may be cited as the *Mental Health Amendment Regulation (No. 1) 1994*.

**Commencement**

2. This regulation commences on 28 March 1994.

**Regulation amended**

3. This regulation amends the *Mental Health Services Regulation 1985*.

**Replacement of s 1 (Title and commencement)**

4. Section 1—

*omit, insert—*

**‘Short title**

‘1. This regulation may be cited as the *Mental Health Regulation 1985*.’.

**Amendment of s 4 (Interpretation)**

5.(1) Section 4(1) (definitions “**liquor**” and “**the Act**”)

*omit.*

(2) Section 4(1)—

*insert—*

‘ “**Chief Health Officer**” means the Chief Health Officer of the department;

“**liquor**” has the meaning given in the *Liquor Act 1992*;’.

(3) Section 4(2)—

*omit.*

**Replacement of s 5 (Forms)****6.** Section 5—

*omit, insert—*

**‘Forms**

**‘5.(1)** If a provision of the Act or this regulation requires or permits a person to use a prescribed or approved form—

- (a) the Chief Health Officer must approve a form for the purpose of the provision; and
- (b) the form approved by the Chief Health Officer is the prescribed or approved form for the purpose of the provision.

**(2)** A person may ask the Chief Health Officer for a document setting out the approved form.

**(3)** The Chief Health Officer must promptly comply with the request.’.

**Omission of s 6 (Offences and penalties)****7.** Section 6—

*omit.*

**Amendment of s 7 (Mode of service of documents)****8.** Section 7(d)—

*omit* ‘Director-General, Director or Deputy Director’,

*insert* ‘Director-General or Director’.

**Insertion of new ss 7A and 7B****9.** After section 7—

*insert—*

**‘Cessation of certain psychiatric hospitals and training centres**

**‘7A.(1)** The psychiatric hospitals mentioned in Part 1 of Schedule 1 cease to be psychiatric hospitals.

**‘(2)** The training centres mentioned in Part 2 of Schedule 1 cease to be training centres.

**‘Establishment of psychiatric hospitals, security patients’ hospitals, training centres and other places**

**‘7B.(1)** The following are established under section 16(1) of the Act—

- (a) the psychiatric hospitals mentioned in Schedule 2;
- (b) the security patients’ hospitals mentioned in Schedule 3;
- (c) the places mentioned in Schedule 4;
- (d) the training centres mentioned in Schedule 5.

**‘(2)** Responsibility for the administration of a psychiatric hospital, security patients’ hospital or other place mentioned in Schedule 2, 3 or 4 is assigned under section 16(3) of the Act to the person or Authority mentioned in the Schedule opposite the name of the hospital or place.’<sup>1</sup>

**Amendment of s 9 (Lapse of appointment of authorized person or designated authorized person)**

**10.** Section 9—

*omit* ‘a hospitals board constituted under the *Hospitals Act 1936*’,  
*insert* ‘a Regional Health Authority’.

**Amendment of s 10 (Hospital administrator)**

**11.** Section 10(c)—

*omit.*

**Amendment of s 12 (Functions, powers and duties of official visitor)**

**12.(1)** Section 12(1)(d) and (2)—

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<sup>1</sup> Under section 16(3A) of the Act, the Director of Intellectual Handicap Services, Department of Family Services and Aboriginal and Islander Affairs is charged with the administration of training centres.

*omit* ‘Form 1’, *insert* ‘the approved form’.

(2) Section 12(2) (at the end)—

*insert*—

‘Maximum penalty—4 penalty units.’.

**Amendment of s 13 (Duties of hospital administrator or training centre administrator with respect to official visitor)**

13. Section 13(b)—

*omit* ‘Form 1’, *insert* ‘the approved form’.

**Amendment of s 19 (Form of notice of renewal of detention)**

14. Section 19—

*omit* ‘Form 11’, *insert* ‘the approved form’.

**Amendment of s 20 (Form of recommendation by medical practitioner)**

15. Section 20—

*omit* ‘Form 7’, *insert* ‘the approved form’.

**Amendment of s 21 (Person prescribed for purposes of section 27 of the Act and time prescribed for the purposes of section 29A(8), 30(2), 31(7) and 38(5) of the Act)**

16. Section 21(2)—

*omit* ‘Form 35’, *insert* ‘the approved form’.

**Amendment of s 22 (Hospitals to which defendant may be admitted upon order under section 29A of the Act)**

17.(1) Section 22—

*omit* ‘or institutions’.

**(2)** Section 22(c)—

*omit.*

**Amendment of s 23 (Applications and medical recommendations under section 31 of the Act)**

**18.** Section 23—

*omit* ‘shall be in Form 39 and Form 7 respectively’,

*insert* ‘must be in the approved form’.

**Amendment of s 25 (Grant of leave of absence by Director)**

**19.** Section 25(2)—

*omit* ‘Comptroller-General of Prisons’,

*insert* ‘chief executive of the Commission’.

**Amendment of s 31 (Designated psychiatric facilities)**

**20.(1)** Section 31—

*omit* ‘or institutions’.

**(2)** Section 31(c)—

*omit.*

**(3)** Section 31(d)—

*insert—*

‘(v) Barrett Adolescent Centre, Wacol;

(vi) Kirwan Rehabilitation Unit, Townsville;

(vii) Wacol Rehabilitation Clinic, Wacol.’.

**(4)** Section 31(e)—

*omit, insert—*

‘(e) the following security patients’ hospitals—



- (i) John Oxley Memorial Hospital, Wacol;
- (ii) Osler House (a ward of Wolston Park Hospital), Wacol.’.

**Amendment of s 33 (Form of instruments in writing and notification re vacancy)**

**21.(1)** Section 33(1)—

*omit* ‘forms prescribed’, *insert* ‘approved forms’.

**(2)** Section 33(2)—

*omit* ‘a form is not prescribed’,

*insert* ‘if there is no form approved by the Chief Health Officer’.

**Amendment of s 35 (Power of chairman to issue summons to witness and examine on oath)**

**22.(1)** Section 35(1)—

*omit* ‘by writing in Form 3 signed by him’,

*insert* ‘in the approved form’.

**(2)** Section 35(3)—

*omit* ‘to a penalty of \$200’,

*insert* ‘to a maximum penalty of 4 penalty units’.

**Amendment of s 36 (General powers, authorities, duties and functions of Tribunal)**

**23.** Section 36(6) (at the end)—

*insert*—

‘Maximum penalty—4 penalty units.’.

**Amendment of s 38 (Duties and responsibilities of medical superintendent)**

**24.** Section 38—

*omit* ‘Director’, *insert* ‘Regional Health Authority’.

**Amendment of s 39 (Duties and responsibilities of manager)**

**25.** Section 39—

*omit* ‘Director’, *insert* ‘Regional Health Authority’.

**Amendment of s 40 (Duties and responsibilities of principal nurse)**

**26.** Section 40—

*omit* ‘Director, the Chief Nursing Officer within the meaning of the *Hospitals Act 1936–1984*’,

*insert* ‘Regional Health Authority’.

**Amendment of s 46 (Duties and responsibilities of centre director)**

**27.(1)** Section 46—

*omit* ‘the Director’.

**(2)** Section 46(b)(ix)—

*omit* ‘subject also to the Chief Nursing Officer within the meaning of the *Hospitals Act 1936–1984*’,

**Amendment of s 56E (Use of liquor)**

**28.** Section 56E(3)—

*omit* ‘Director’, *insert* ‘Regional Health Authority’.

**Amendment of s 56G (Control of traffic)**

**29.** Section 56G(1)—

*omit* ‘Director’, *insert* ‘Regional Health Authority’.

**Amendment of s 62 (Payment to medical practitioner or authorized person who is a salaried officer of the Crown or a hospitals board)**

**30.(1)** Section 62 (heading)—

*omit ‘hospitals board’, insert ‘Regional Health Authority’.*

**(2)** Section 62—

*omit ‘a hospitals board constituted under the Hospitals Act 1936–1984’,  
insert ‘Regional Health Authority’.*

**Amendment of s 63 (Maintenance charges for treatment and control of a patient in a psychiatric hospital)**

**31.(1)** Section 63 (heading) (after ‘hospital’)—

*insert ‘, security patients’ hospital or other place’.*

**(2)** Section 63(1) (after ‘hospital’)—

*insert—*

‘, a security patients’ hospital or other place established under section 16 of the Act’.

**(3)** Section 63(1)(a) and (2)(a)—

*omit ‘Social Security Act 1947 (Commonwealth)’,*

*insert ‘Social Security Act 1991 (Cwlth)’.*

**(4)** Section 63(3)—

*omit, insert—*

‘**(3)** However, a maintenance charge is not payable for accommodation at a psychiatric hospital, security patients’ hospital or other place established under section 16 of the Act—

(a) for the first 30 days after admission; and

(b) for the last 30 days before discharge to accommodation that, in the Chief Health Officer’s opinion formed on reasonable grounds, is privately operated commercial accommodation.’.

**(5)** Section 63(4)(e)—

*omit.*

(6) Section 63—

*insert—*

‘(5) A maintenance charge payable under subsections (1) or (2) may be waived, in whole or part, if the Minister is satisfied that payment of the charge would cause the patient undue financial hardship.’.

**Amendment of s 63A (Maintenance charges for treatment and control of a resident in a training centre)**

32. Section 63A(1) and (2)—

*omit* ‘Social Security Act 1947 (Commonwealth)’,

*insert* ‘Social Security Act 1991 (Cwlth)’.

**Amendment of s 65 (Notice of death of patient or resident)**

33. Section 65—

*omit* ‘thereof in Form 72’, *insert* ‘in the approved form’.

**Amendment of s 66 (Prescription of other place under section 41)**

34. Section 66—

*omit* ‘Prisons Act 1958–1974’, *insert* ‘Corrective Services Act 1988’.

**Insertion of new s 69**

35. After section 68—

*insert—*

**‘Prescribed amount under s 73A of the Act**

‘69. For the purposes of section 73A of the Act, the prescribed amount is \$10 000.’.

**Replacement of Schedule**

36. Schedule—

*omit, insert—*

## **‘SCHEDULE 1**

### **‘PSYCHIATRIC HOSPITALS AND TRAINING CENTRES CEASING TO BE**

section 7A

#### **PART 1—PSYCHIATRIC HOSPITALS**

1. Baillie Hendersen Hospital, Toowoomba
2. Mosman Hall Hospital, Charters Towers
3. Wolston Park Hospital, Wacol

#### **PART 2—TRAINING CENTRES**

1. Basil Stafford Training Centre for the Intellectually Handicapped, Wacol
2. Challinor Centre for the Training and Care of the Intellectually Handicapped, Ipswich

**‘SCHEDULE 2****‘PSYCHIATRIC HOSPITALS**

section 7B(1)(a) and (2)

<b>Hospitals</b>	<b>Person or Authority</b>
<b>1.</b> Baillie Hendersen Hospital, Toowoomba	Darling Downs Regional Health Authority
<b>2.</b> Mosman Hall Hospital, Charters Towers	Northern Regional Health Authority
<b>3.</b> Wolston Park Hospital, Wacol	West Moreton Regional Health Authority

**‘SCHEDULE 3****‘SECURITY PATIENTS’ HOSPITALS**

section 7B(1)(b) and (2)

<b>Hospitals</b>	<b>Person or Authority</b>
<b>1.</b> John Oxley Memorial Hospital, Wacol	West Moreton Regional Health Authority
<b>2.</b> Osler House (a ward of Wolston Park Hospital), Wacol	West Moreton Regional Health Authority

**‘SCHEDULE 4****‘OTHER PLACES**

section 7B(1)(c) and (2)

<b>Place</b>	<b>Person or Authority</b>
<b>1.</b> Barrett Adolescent Centre, Wacol	West Moreton Regional Health Authority
<b>2.</b> Barrett Psychiatry Centre, Wacol	West Moreton Regional Health Authority
<b>3.</b> Kirwan Rehabilitation Unit, Townsville	Northern Regional Health Authority
<b>4.</b> Wacol Rehabilitation Unit, Wacol	West Moreton Regional Health Authority



**‘SCHEDULE 5****‘TRAINING CENTRES**

section 7B(1)(d)

1. Basil Stafford Centre, Wacol
2. Challinor Centre, Ipswich
3. Community Villas at Ipswich, Toowoomba, Maryborough and Rockhampton’.

**Repeal**

**37.(1)** The following orders in council made under section 16 of the Act are repealed—

- order in council published in the Gazette on 29 July 1978 at page 1504
- order in council published in the Gazette on 18 May 1985 at page 767
- order in council published in the Gazette on 10 March 1990 at page 1281
- *Establishment of Places Order 1992*
- *Psychiatric and Security Patients’ Hospitals (Administration Assignment) Order 1992.*

**(2)** The following orders in council and declarations, to the extent (if any) that they are still in force, are repealed—

- order in council made under the *Mental Hygiene Act 1938* published in the Gazette on 3 July 1954 at page 957
- order in council made under the *Mental Hygiene Act 1938* published in the Gazette on 31 May 1958 at page 1159
- declaration made under the *Mental Health Act 1962* published in

the Gazette on 3 August 1968 at page 1514

- declaration made under the *Mental Health Act 1962* published in the Gazette on 21 September 1968 at page 182.
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#### ENDNOTES

1. Made by the Governor in Council on 24 March 1994.
2. Notified in the Gazette on 25 March 1994.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Health.