Western Australia

Mental Health Regulations 2015

Compare between:

[30 Nov 2023, 00-t0-01] and [08 Mar 2024, 00-u0-00]

Mental Health Regulations 2015

1. Citation

These regulations are the *Mental Health Regulations 2015*.

2. Commencement

These regulations come into operation on the day on which the *Mental Health Act 2014* section 586 comes into operation.

3. Metropolitan area (Act s. 4)

(1) In this regulation —

WA Country Health Service means the health service provider established with that corporate name by order under the *Health Services Act 2016* section 32(1).

(2) For the definition of ***metropolitan area*** in section 4 of the Act, the region of the State that is not serviced by the WA Country Health Service is prescribed as a metropolitan area.

[Regulation 3 amended: Gazette 24 Jun 2016 p. 2310.]

4A. Psychiatrists (Act s. 4)

(1) In this regulation —

Register of Medical Practitioners means the register kept by the Medical Board of Australia under the *Health Practitioner Regulation National Law (Western Australia)* section 222;

registration number, in relation to a medical practitioner, means the registration number for the medical practitioner that is included in the Register of Medical Practitioners under the *Health Practitioner Regulation National Law (Western Australia)* section 225.

(2) For the definition of ***psychiatrist*** in section 4 of the Act, these classes of person are prescribed —

(a) a medical practitioner who holds specialist registration under the *Health Practitioner Regulation National Law (Western Australia)* in the specialty of psychiatry;

(b) a medical practitioner who holds limited registration under the *Health Practitioner Regulation National Law (Western Australia)* that enables the medical practitioner to practise in the specialty of psychiatry.

(3) For the definition of ***psychiatrist*** in section 4 of the Act, a person is prescribed if the person is a medical practitioner whose name and registration number are set out in the Table.

Table

Name	**Registration number**
~~Ali Morshed Aski~~Adnan Khan Afridi	~~MED0001667589~~MED0001770473
Ramesh Babu Atikum	MED0002570269
~~Bryn Daniel Elphick~~Otsile Cyndrella Dinama	~~MED0001926283~~MED0001916188
Etop Etim	MED0001583791
Helen Findlay	MED0001549545
Nanayakkarawasam Alexander Vidanalage Sunietha Galappaththi	MED0002018200
Harprabhdeep Gill	MED0001946794
Tracey Lee Hay	MED0001551333

Name	**Registration number**
Alex Hegarty	MED0001760770
Than Htaik	MED0001615298
Maryam Tashakkori Jahromi	MED0001763607
Jaspreet Kaur	MED0001535665
Nasir Khan	MED0002496760
Altaf Nissar Khoja	MED0001208326
Sabrina Amanda Pozzi Langhi	MED0001546857
Bolanle Lotsu	MED0002459345
~~Thomas Blacklay Mole~~Olivia Della Martina	~~MED0002210280~~MED0002003788
Samanta Nagpal	MED0002739098
Sujay Nama	MED0001206567
Sharon Anne Notley	MED0001538850
Omolola Oboro	MED0002262715
Suhail Rafiq	MED0002652973
Panduranga Mallikarjun Rapuri	MED0002580284
Jeremi Runyan	MED0001878529
Madhavan Seshadri	MED0002651207
Anders Roy Hargrave Skarsten	MED0002495503

Name	**Registration number**
Ihab Ahmed Mohamed Soliman	MED0001676672
Richard Murray Laird Stewart	MED0001538248
Joy Ukonu	MED0002760450
Luke Ian Williams	MED0001926511
Hisham Ziauddeen	MED0002660515

[Regulation 4A inserted: Gazette 27 Nov 2015 p. 4755-6; amended: Gazette 22 Jul 2016 p. 3133; 18 Aug 2017 p. 4447; 6 Oct 2017 p. 5180; 1 May 2018 p. 1433; 12 Jun 2018 p. 1892; SL 2020/13 r. 4; SL 2020/215 r. 4; SL 2021/180 r. 4; SL 2022/200 r. 4; SL 2022/215 r. 4; SL 2023/23 r. 4; SL 2023/56 r. 4; SL 2023/150 r. 4; SL 2023/184 r. 4; SL 2024/30 r. 4.]

4. Standards for diagnosing mental illness (Act s. 6(4))

For section 6(4) of the Act, a decision whether or not a person has a mental illness must be made in accordance with the diagnostic standards set out in either or both of these publications —

(a) the International Statistical Classification of Diseases and Related Health Problems published from time to time by the World Health Organisation;

(b) the Diagnostic and Statistical Manual of Mental Disorders published from time to time by the American Psychiatric Association.

5. Persons authorised to exercise powers under section 172 of the Act (Act s. 83(2)(c), 86(c), 130(3) and 225)

For a prescribed provision under section 171 of the Act that is specified in column 1 of the Table in Schedule 1, a person is

authorised to exercise the powers under section 172 of the Act for the purpose specified in the prescribed provision in respect of a person specified in column 2 of the Table opposite the prescribed provision if the person is specified in column 3 of the Table opposite the person specified in column 2.

6. Persons authorised to carry out apprehension and return orders (Act s. 99)

For section 99 of the Act, each of these people is authorised to carry out an apprehension and return order —

(a) a transport officer;

(b) a staff member of a mental health service.

7. Transport officers (Act s. 147)

(1) In this regulation —

transport contractor means a person engaged under a contract for services to provide transport services for the purposes of the Act.

(2) For section 147 of the Act, a person who is an employee of a transport contractor is authorised to carry out a transport order, but only if the person's duties of employment include the carrying out of such orders.

8. Power of transport officers to enter premises (Act s. 159(3))

For section 159(3) of the Act, a transport officer can enter under section 159(2)(a) of the Act these premises, subject to the conditions specified —

(a) residential premises at any time, but only with the consent of —

(i) the person to be apprehended under the apprehension and return order or transport order that the transport officer is carrying out; or

(ii) the occupier or person in charge of the premises;

(b) premises other than residential premises at any time without the consent of any person.

9. Persons authorised to exercise search and seizure powers (Act s. 161)

For section 161 of the Act, each of these people is authorised to exercise the powers under Part 11 Division 2 of the Act —

(a) if those powers are to be exercised in respect of a person who is at a hospital —

(i) the person in charge of a ward; or

(ii) a staff member of the hospital who, immediately before those powers are exercised, is authorised by the person in charge of a ward to do so;

(b) if those powers are to be exercised in respect of a person who is at a mental health service other than a hospital — a staff member of the mental health service;

(c) if those powers are to be exercised in respect of a person who is at a place other than a mental health service — a health professional at the place.

10. Explanation of rights (Act s. 244 and 245)

(1) For section 244 of the Act, a person must be provided with an explanation of the person's rights under the Act, as appropriate to the person, having regard to the person's legal status under section 243 of the Act.

(2) The explanation described in subregulation (1) is to be given both orally and in writing in the language in which the person to whom it is given is used to communicating.

(3) For section 245 of the Act, the explanation to be provided to the carer, close family member or other personal support person of a person is the explanation of the rights under the Act that was provided to the person, as described in subregulation (1).

11. Provision of information to, or involvement of, patient's nominated person by a person other than psychiatrist (Act s. 267)

If a patient does not have a psychiatrist, the person in charge of the mental health service admitting or receiving the patient must ensure that the patient's nominated person is provided with information referred to in section 266(1)(a) or (c) of the Act, or involved in a matter referred to in section 266(1)(b) of the Act.

12. Provision of information to, or involvement of, carer or close family member by a person other than psychiatrist (Act s. 290)

If a patient does not have a psychiatrist, the person in charge of the mental health service admitting or receiving the patient must ensure that any carer or close family member of the patient is provided with information referred to in section 285(1)(a), (c) or (d) of the Act, or involved in a matter referred to in section 285(1)(b) of the Act.

13. Standards for provision of mental health services (Act s. 333(3)(c))

For section 333(3)(c) of the Act, the Director must have regard to these standards for the provision of mental health services in making a decision under section 333(2) of the Act —

(a) standards in the practice of a health profession that are commonly accepted by health professionals in the health profession;

(b) standards for the treatment and care to be provided by mental health services to the persons specified in section 515(1) of the Act published from time to time by the Chief Psychiatrist under section 547(2) of the Act;

(c) national standards for mental health services published from time to time by the Commonwealth.

14. Specific powers of mental health advocates (Act s. 359(1)(g))

For section 359(1)(g) of the Act, these classes of documents are prescribed —

(a) documents (other than documents that contain the identifying information of a patient) that —

(i) form part of a register that records the use of seclusion or bodily restraint on a person; or

(ii) otherwise record the use of seclusion or bodily restraint on a person;

(b) documents that contain statistical information about —

(i) the number of involuntary treatment orders made or in force; or

(ii) the average length of involuntary treatment orders; or

(iii) the average length of admission to a mental health service; or

(iv) the rate of readmission to a mental health service.

15. Conflict of interest (Act s. 373(4)(f))

(1) For section 373(4)(f)(i) of the Act, the amount prescribed is $10 000.

(2) For section 373(4)(f)(ii) of the Act, the percentage prescribed is 1%.

16. Particulars of involuntary patients to be kept by registrar of Mental Health Tribunal (Act s. 484(a))

For section 484(a) of the Act, the registrar of the Mental Health Tribunal must keep particulars of these things in respect of each involuntary patient —

(a) the name, address and date of birth of the patient;

(b) the name and contact details of any carer, close family member or other personal support person of the patient if provided to the Tribunal;

(c) any inpatient treatment order made in respect of the patient and any continuation or revocation of the order;

(d) any community treatment order made in respect of the patient and any continuation or revocation of the order;

(e) any order or direction made by the Tribunal under section 395(1) of the Act in respect of the patient;

(f) any recommendation made by the Tribunal under section 395(3) of the Act in respect of the patient's treatment, support and discharge plan;

(g) any declaration made by the Tribunal under section 398(1) or (3)(a) of the Act about the validity of a treatment order made in respect of the patient and any order made by the Tribunal under section 398(3)(b) of the Act varying the terms of the treatment order;

(h) any decision of the Tribunal made under section 415 of the Act approving, or refusing to approve, electroconvulsive therapy being performed on the patient;

(i) any decision of the Tribunal made under section 421 of the Act approving, or refusing to approve, psychosurgery being performed on the patient;

(j) any compliance notice issued to a service provider by the Tribunal under section 423(1) of the Act for non-compliance with a prescribed requirement in respect of the patient or a carer, close family member or other personal support person of the patient;

(k) any decision of the Tribunal made under section 429 of the Act on review of an order made under section 262 of the Act prohibiting the patient from exercising, or limiting the extent to which the patient can exercise, a right under section 261;

(l) any declaration made by the Tribunal under section 431(1) or (2)(a) of the Act about the validity of a nomination made by the patient and any order made by the Tribunal under section 431(2)(b) of the Act varying the terms of the nomination;

(m) any orders or directions made by the Tribunal under section 436 on review of a decision made under this Act affecting the patient's rights, or the rights of a carer, close family member or other personal support person of the patient, under this Act;

(n) any other particulars in respect of the patient that the President of the Tribunal directs the registrar to keep.

17. Authorised mental health practitioners (Act s. 539(4))

(1) For section 539(4)(a) of the Act, the Chief Psychiatrist must have regard to the following training when deciding whether to make or amend an order under section 539(1) —

(a) the completion of a course of training approved by the Chief Psychiatrist;

(b) the completion of annual continuing professional development approved by the Chief Psychiatrist;

(c) the completion of annual clinical supervision approved by the Chief Psychiatrist.

(2) For section 539(4)(c) of the Act, an authorised mental health practitioner must notify the Chief Psychiatrist in writing within 28 days if the authorised mental health practitioner —

(a) completes, or fails to complete, annual continuing professional development approved by the Chief Psychiatrist; or

(b) completes, or fails to complete, annual clinical supervision approved by the Chief Psychiatrist.

(3) A notification under subregulation (2) must be accompanied by any documentary evidence that the Chief Psychiatrist directs.

(4) For section 539(4)(d) of the Act, the Chief Psychiatrist must revoke the designation of an authorised mental health practitioner under section 539(3) if any of these grounds exist —

(a) the authorised mental health practitioner has requested in writing that the designation be revoked;

(b) the authorised mental health practitioner is no longer a mental health practitioner;

(c) the Chief Psychiatrist is notified in writing that the authorised mental health practitioner has resigned, retired or is deceased.

(5) For section 539(4)(d) of the Act, the Chief Psychiatrist may revoke the designation of an authorised mental health practitioner under section 539(3) on any of these grounds —

(a) the authorised mental health practitioner has failed to complete —

(i) a course of training approved by the Chief Psychiatrist; or

(ii) annual continuing professional development approved by the Chief Psychiatrist; or

(iii) annual clinical supervision approved by the Chief Psychiatrist;

(b) mental or physical incapacity;

(c) incompetence;

(d) neglect of duty;

(e) misconduct.

18. Transfer of patients where public hospital no longer authorised (Act s. 543(2))

(1) In this regulation —

public hospital includes a part of a public hospital.

(2) This regulation applies in relation to every person received into, and every involuntary patient admitted by, a public hospital who must be transferred under section 543(2) of the Act to an authorised hospital or other place because the authorisation of the public hospital will be revoked under section 542(2) of the Act.

(3) On becoming aware that the public hospital's authorisation will be revoked and after consulting the people referred to in subregulation (4), the Chief Psychiatrist must issue a direction setting out the arrangements that the Chief Psychiatrist considers necessary for the transfer of a person referred to in subregulation (2).

(4) For subregulation (3), these people must be consulted —

(a) the person in charge of the public hospital;

(b) the person in charge of any authorised hospital or other place that may have facilities sufficient and appropriate for the treatment and care of a person referred to in subregulation (2).

(5) The Chief Psychiatrist must give a copy of the direction to each of these people —

(a) the person in charge of the public hospital;

(b) the person in charge of the authorised hospital or other place to which a person referred to in subregulation (2) is to be transferred under the direction;

(c) the registrar of the Mental Health Tribunal;

(d) the Chief Mental Health Advocate;

(e) if a person referred to in subregulation (2) is a mentally impaired accused — the Mentally Impaired Accused Review Board.

(6) On receipt of a copy of the direction, the person in charge of the public hospital —

(a) must give to a person referred to in subregulation (2) who is to be transferred in accordance with the direction written notice of the arrangements for the person's transfer contained in the direction; and

(b) must ensure that the copy of the direction and a copy of the notice are filed.

(7) A person who receives a copy of the direction must ensure that the direction is complied with to the extent that it applies to that person or in relation to the hospital or other place of which that person is in charge.

(8) The issuing of a direction under subregulation (3) is an event to which Part 9 of the Act applies and the person in charge of the public hospital is the person responsible under that Part for notification of that event.

19. Prescribed State authorities (Act s. 573(1))

(1) For paragraph (a) of the definition of ***prescribed State authority*** in section 573(1) of the Act, the following are prescribed —

(a) the department of the Public Service principally assisting in the administration of the *Children and Community Services Act 2004*;

(b) the department of the Public Service principally assisting in the administration of the *Criminal Procedure Act 2004*;

(c) the department of the Public Service principally assisting in the administration of the *Prisons Act 1981*;

(d) the Disability Services Commission referred to in the *Disability Services Act 1993* section 6;

(e) the Health and Disability Services Complaints Office referred to in the *Health and Disability Services (Complaints) Act 1995* section 6;

(f) the department of the Public Service principally assisting in the administration of the *Higher Education Act 2004*;

(g) the Housing Authority preserved and continued under the *Housing Act 1980* section 6;

(h) the Police Force of Western Australia;

(i) the department of the Public Service principally assisting in the administration of the *Mental Health Act 2014*;

(j) the State Administrative Tribunal established under the *State Administrative Tribunal Act 2004* section 7.

(2) For paragraph (b) of the definition of ***prescribed State authority*** in section 573(1) of the Act, the following are prescribed —

(a) the office of the State Coroner established under the *Coroners Act 1996* section 6;

(b) the office of the Public Advocate created under the *Guardianship and Administration Act 1990* section 91.

[Regulation 19 amended: Gazette 14 Sep 2018 p. 3311-12; 8 Oct 2019 p. 3615.]

20. Prescribed authorised recording, disclosure or use of information (Act s. 577(1)(h))

For section 577(1)(h) of the Act, the following circumstances are prescribed —

(a) where the recording, disclosure or use of the information is reasonably necessary to lessen or prevent a serious risk to the life, health or safety of any individual;

(b) where the recording, disclosure or use of the information is reasonably necessary to lessen or prevent a real or immediate risk of danger to the public;

(c) to the Mental Health Tribunal for the purposes of the performance of the Tribunal's functions.

[Regulation 20 amended: Gazette 14 Sep 2018 p. 3312; SL 2020/112 r. 4.]

Schedule 1 — Persons authorised to exercise powers under section 172 of the Act

[r. 5]

Table

Column 1 Prescribed provision	Column 2 Person in respect of whom powers can be exercised	Column 3 Person authorised to exercise powers
s. 83(2)(c)	A voluntary inpatient who can be detained at an authorised hospital under s. 34(3) because of an order for an assessment made under s. 34(1) (see s. 83(1)(a)).	A staff member of the authorised hospital.
	A person who can be detained at an authorised hospital under s. 52(1)(b) because of a referral made under s. 26(2) (see s. 83(1)(b)).	A staff member of the authorised hospital.
	A voluntary inpatient who can be detained at an authorised hospital under s. 53(1) because of a referral made under s. 36(2) (see s. 83(1)(c)).	A staff member of the authorised hospital.
	A person who is under an order made under s. 55(1)(c) authorising the continuation of the person's detention at an authorised hospital to enable a further examination to be conducted (see s. 83(1)(d)).	A staff member of the authorised hospital.

Column 1 Prescribed provision	Column 2 Person in respect of whom powers can be exercised	Column 3 Person authorised to exercise powers
	A person who can be detained at a place that is not an authorised hospital under s. 58(1)(b) because of a referral made under s. 26(3)(a) (see s. 83(1)(e)).	• If the person specified in col. 2 is referred to a mental health service — a staff member of the mental health service. • If the person specified in col. 2 is referred to a place other than a mental health service — a health professional at the place.
	A person who is under an order made under s. 59(2) authorising the continuation of the person's detention at a place that is not an authorised hospital to enable an examination to be completed (see s. 83(1)(f)).	• If the person specified in col. 2 is referred to a mental health service — a staff member of the mental health service. • If the person specified in col. 2 is referred to a place other than a mental health service — a health professional at the place.
	A person who is under an order made under s. 61(1)(c) authorising the person's detention at an authorised hospital to enable an examination to be conducted (see s. 83(1)(g)).	A staff member of the authorised hospital.

Column 1 Prescribed provision	Column 2 Person in respect of whom powers can be exercised	Column 3 Person authorised to exercise powers
s. 86(c)	An involuntary inpatient who is under an inpatient treatment order authorising the inpatient's detention at a hospital.	A staff member of the hospital.
s. 130(3)	An involuntary community patient who is under an order to attend made under s. 128(2) requiring the patient to attend at a place.	• If the person specified in col. 2 is ordered to attend at a mental health service — a staff member of the mental health service. • If the person specified in col. 2 is ordered to attend at a place other than a mental health service — a health professional at the place.
s. 225	A person at an authorised hospital who is under an oral authorisation made under s. 214(1) or a seclusion order made under s. 215(1), including as extended under s. 218(1).	A staff member of the authorised hospital.

Notes

This is a compilation of the *Mental Health Regulations 2015* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
Mental Health Regulations 2015	13 Nov 2015 p. 4675-90	30 Nov 2015 (see r. 2 and *Gazette* 13 Nov 2015 p. 4632)
Mental Health Amendment Regulations 2015	27 Nov 2015 p. 4755	30 Nov 2015 (see r. 2 and *Gazette* 13 Nov 2015 p. 4632)
Mental Health Amendment Regulations 2016	24 Jun 2016 p. 2310	r. 1 and 2: 24 Jun 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2016 (see r. 2(b) and *Gazette* 24 Jun 2016 p. 2291)
Mental Health Amendment Regulations (No. 2) 2016	22 Jul 2016 p. 3133	r. 1 and 2: 22 Jul 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Jul 2016 (see r. 2(b))
Mental Health Amendment Regulations (No. 2) 2017	18 Aug 2017 p. 4447	r. 1 and 2: 18 Aug 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Aug 2017 (see r. 2(b))
Mental Health Amendment Regulations (No. 3) 2017	6 Oct 2017 p. 5180	r. 1 and 2: 6 Oct 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 7 Oct 2017 (see r. 2(b))
Mental Health Amendment Regulations 2018	1 May 2018 p. 1433	r. 1 and 2: 1 May 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 2 May 2018 (see r. 2(b))
Mental Health Amendment Regulations (No. 2) 2018	12 Jun 2018 p. 1892	r. 1 and 2: 12 Jun 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Jun 2018 (see r. 2(b))
Mental Health Amendment Regulations (No. 3) 2018	14 Sep 2018 p. 3311-12	r. 1 and 2: 14 Sep 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 15 Sep 2018 (see r. 2(b))

Citation	Published	Commencement
Mental Health Amendment Regulations 2019	8 Oct 2019 p. 3615	r. 1 and 2: 8 Oct 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Oct 2019 (see r. 2(b))
Mental Health Amendment Regulations 2020	SL 2020/13 3 Mar 2020	r. 1 and 2: 3 Mar 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 4 Mar 2020 (see r. 2(b))
Mental Health Amendment Regulations (No. 2) 2020	SL 2020/112 7 Jul 2020	r. 1 and 2: 7 Jul 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 8 Jul 2020 (see r. 2(b))
Mental Health Amendment Regulations (No. 3) 2020	SL 2020/215 6 Nov 2020	r. 1 and 2: 6 Nov 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 7 Nov 2020 (see r. 2(b))
Mental Health Amendment Regulations 2021	SL 2021/180 5 Nov 2021	r. 1 and 2: 5 Nov 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Nov 2021 (see r. 2(b))
Mental Health Amendment Regulations 2022	SL 2022/200 18 Nov 2022	r. 1 and 2: 18 Nov 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Nov 2022 (see r. 2(b))
Mental Health Amendment Regulations (No. 2) 2022	SL 2022/215 23 Dec 2022	r. 1 and 2: 23 Dec 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Dec 2022 (see r. 2(b))
Mental Health Amendment Regulations 2023	SL 2023/23 24 Mar 2023	r. 1 and 2: 24 Mar 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Mar 2023 (see r. 2(b))
Mental Health Amendment Regulations (No. 2) 2023	SL 2023/56 2 Jun 2023	r. 1 and 2: 2 Jun 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Jun 2023 (see r. 2(b))
Mental Health Amendment Regulations (No. 3) 2023	SL 2023/150 4 Oct 2023	r. 1 and 2: 4 Oct 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Oct 2023 (see r. 2(b))

Citation	Published	Commencement
Mental Health Amendment Regulations (No. 4) 2023	SL 2023/184 29 Nov 2023	r. 1 and 2: 29 Nov 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Nov 2023 (see r. 2(b))
Mental Health Amendment Regulations 2024	SL 2024/30 7 Mar 2024	r. 1 and 2: 7 Mar 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 8 Mar 2024 (see r. 2(b))

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