

**HE304\***

**MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) ACT 1996  
MENTAL HEALTH (TRANSITIONAL) REGULATIONS 1997**

Made by the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Mental Health (Transitional) Regulations 1997*.

**Commencement**

2. These regulations come into operation on the same day as the *Mental Health Act 1996* comes into operation.

**Interpretation**

3. In these regulations, the definitions set out in section 53 of the Act apply.

**Patient discharged to after-care under the repealed Act**

4. (1) The psychiatrist in charge of psychiatric services at a hospital from which, immediately before the commencement, a patient is discharged to after-care under the repealed Act may, at any time until a determination is made in respect of that person under section 69 (3) of the Act, rescind the discharge of the patient to after-care and recall the patient to that hospital or another authorized hospital.

(2) A patient who has been recalled under subregulation (1) is to be regarded as a person subject to detention as an involuntary patient by force of an order under section 43 (2) (a) of the new Act.

(3) A patient who does not return when recalled under subregulation (1) is absent without leave within the meaning of that expression in the new Act and may be apprehended under section 58 of that Act.

(4) A patient discharged to after-care under the repealed Act immediately before the commencement may, at any time until a determination is made in respect of that person under section 69 (3) of the Act, seek re-admission to an authorized hospital and such a patient is to be received into the authorized hospital and —

- (a) may be detained there for 72 hours after the time of reception; and
- (b) is to be examined by a psychiatrist who is to determine, having regard to section 26 of the new Act, whether the person —
  - (i) should be an involuntary patient under the new Act; or
  - (ii) should be discharged from status as a patient.

(5) If the psychiatrist determines that subregulation (4) (b) (i) applies, he or she is to make an order under section 43 (2) (a) or (b) of the new Act.

(6) If the psychiatrist determines in writing that subregulation (4) (b) (ii) applies, the patient is by that determination discharged from any status as a patient.

(7) In this regulation, unless the contrary intention appears —

**“patient”** means patient as defined under the repealed Act.

**Commissioner may give directions with respect to hostels approved under the repealed Act**

5. (1) The Commissioner may give such directions as he or she thinks fit to the holder of a licence to conduct a private psychiatric hostel referred to in section 57 of the Act, requiring any matter or thing to be done in relation to the hostel for the purpose of ensuring that the premises are suitable for use as a private psychiatric hostel.

(2) If a direction under subregulation (1) has not been complied with within the time specified in the direction the Commissioner may, by notice in writing given to the holder of the licence, cancel the licence.

(3) The holder of a licence cancelled under subregulation (2) may within 30 days of the cancellation appeal to the Local Court against the cancellation.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

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