



TASMANIA

**MENTAL HEALTH (CONSEQUENTIAL
AMENDMENTS) ACT 1996**

No. 32 of 1996

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MENTAL HEALTH (CONSEQUENTIAL AMENDMENTS) ACT 1996

No. 32 of 1996

**An Act to amend certain Acts in consequence of the
enactment of the *Mental Health Act 1996***

[Royal Assent 12 November 1996]

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

Short title

1. This Act may be cited as the *Mental Health
(Consequential Amendments) Act 1996*.

Commencement

2. This Act commences on a day to be proclaimed.

Amendment of certain Acts

3. The Acts specified in column 1 of Schedule 1 are, in the
provisions specified in column 2 of that Schedule, amended
as specified in column 3 of that Schedule.

SCHEDULE 1 - AMENDMENT OF CERTAIN ACTS

Section 3

COLUMN 1 Acts	COLUMN 2 Provisions amended	COLUMN 3 Amendment
<p style="text-align: center;"><i>Acts Interpreta- tion Act 1931</i></p>	<p style="text-align: center;">Section 46</p>	<p>After the definition of "Magistrates Court", insert the following definition:</p> <p style="padding-left: 40px;">"mental disorder" means mental illness, within the meaning of section 4(1) of the <i>Mental Health Act 1996</i>, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind;</p> <p>After the definition of "Plumbing Regulations", insert the following definition:</p>

		<p>"psychopathic disorder" means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) that results in abnormally aggressive or seriously irresponsible conduct on the part of a person and requires or is susceptible to medical treatment;</p>
<p><i>Adminis- tration and Probate Act 1935</i></p>	<p>Section 40(1)(b)</p>	<p>Omit "a patient within the meaning of Part VI of the <i>Mental Health Act 1963</i>" and substitute "an involuntary patient within the meaning of the <i>Mental Health Act 1996</i>".</p>
	<p>Section 40(1)(d)</p>	<p>Omit "within the meaning of the <i>Mental Health Act 1963</i>".</p>
<p><i>Alcohol and Drug Dependency Act 1968</i></p>	<p>Section 2(1)</p>	<p>Omit the definitions of "hospital" and "hospital authority" and substitute the following definitions:</p>

"hospital" means a hospital within the meaning of the *Mental Health Act 1996*;

"hospital authority" means –

- (a) in the case of a hospital administered under the *Health (Regional Boards) Act 1991*, the Board maintaining and operating the hospital under that Act; or
- (b) in the case of any other hospital, the body or person responsible for administering the hospital;

Section 6

Omit "1963" and substitute "1996".

	Section 39(2)	Omit paragraph (c) and substitute the following paragraph: (c) the making of an initial order or continuing care order under the <i>Mental Health Act 1996</i> or a guardianship order under the <i>Guardianship and Administration Act 1995</i> ; or
<i>Ambulance Service Act 1982</i>	Section 36(2)	Omit paragraph (d) and substitute the following paragraph: (d) an approved hospital within the meaning of the <i>Mental Health Act 1996</i> –
<i>Anatomy Act 1964</i>	Section 3(1)	Omit the definition of "mental hospital" and substitute the following definition: "mental hospital" means an approved hospital within the meaning of the <i>Mental Health Act 1996</i> ;

<i>Associations Incorporation Act 1964</i>	Section 14(5)	Omit paragraph (c) and substitute the following paragraph: (c) is unable to perform the duties of the office competently;
<i>Chiropractors Registration Act 1982</i>	Section 34(1)(b)	Omit subparagraph (iii) and substitute the following subparagraph: (iii) he has become unable to practise chiropractic competently;
	Schedule 1, clause 4(1)	Omit paragraph (e) and substitute the following paragraph: (e) if he becomes unable to perform competently the duties of the office;
<i>Commissions of Inquiry Act 1995</i>	Section 22(5)	Omit "institution under the <i>Mental Health Act 1963</i> ," and "institution", lastly occurring, and substitute "approved hospital under the <i>Mental Health Act 1996</i> ," and "approved hospital", respectively.

<i>Companies Auditors and Liquidators Discip- linary Board Act 1982</i>	Schedule 1, clause 4(1)	Omit paragraph (c) and substitute the following paragraph: (c) if the member becomes unable to perform competently the duties of the office;
<i>Consumer Affairs Act 1988</i>	Schedule 1, clause 3	Omit paragraph (f) and substitute the following paragraph: (f) if the member becomes unable to perform competently the duties of the office;
<i>Coroners Act 1995</i>	Section 3, definition of "person held in care"	Omit paragraph (b) and substitute the following paragraph: (b) a person detained or liable to be detained in an approved hospital within the meaning of the <i>Mental Health Act 1996</i> ;

<i>Council of Law Reporting Act 1990</i>	Schedule 1, clause 7(1)	Omit paragraph (d) and substitute the following paragraph: (d) if the member becomes unable to perform competently the duties of the office;
<i>Criminal Code</i>	Section 106	Omit paragraph (d).
	Section 126(3)	Omit "within the meaning of the <i>Mental Health Act 1963.</i> " and substitute "a state of arrested or incomplete development of mind that includes subnormality of intelligence and is of such a nature or degree that the person is incapable of living an independent life or of guarding himself or herself against serious exploitation or will be so incapable when of age to do so."
<i>Dental Act 1982</i>	Section 54(1)	Omit paragraph (c) and substitute the following paragraph:

		(c) a dental mechanic who has become unable to perform competently the duties of a dental mechanic; and
	Schedule 1, Part 1, clause 9(1)	Omit paragraph (d).
	Schedule 2, Part 1, clause 8(1)	Omit paragraph (d).
<i>Forest Practices Act 1985</i>	Schedule 2, clause 4(1)	Omit paragraph (c).
<i>Friendly Societies Act 1888</i>	Section 15(g)	Omit "of unsound mind and".
<i>Health (Regional Boards) Act 1991</i>	Schedule 1, clause 5(1)	Omit paragraph (d) and substitute the following paragraph: (d) if the member becomes unable to perform competently the duties of the office; or

<i>Hospitals Act 1918</i>	Section 4(1), definition of "private medical establish- ment", paragraph (a)	Omit "within the meaning of the <i>Mental Health Act 1963</i> ".
	Schedule 4, clause 2(2)	Omit paragraph (c).
<i>Hydro- Electric Commis- sion Act 1944</i>	Section 10(1)	Omit paragraph (aa) and substitute the following paragraph: (aa) becomes unable to perform competently the duties of the office;
<i>Legal Aid Commis- sion Act 1990</i>	Schedule 1, clause 4(1)	Omit paragraph (c) and substitute the following paragraph: (c) becomes unable to perform competently the duties of the office; or
<i>Libraries Act 1984</i>	Schedule 2, clause 5(1)	Omit paragraph (d).

	Schedule 3, clause 5(1)	Omit paragraph (d).
	Schedule 4, clause 5(1)	Omit paragraph (d).
<i>Limitation Act 1974</i>	Section 2(3)	Omit paragraph (a) and substitute the following paragraph: (a) while he is subject to an initial order, a continuing care order or a community treatment order under the <i>Mental Health Act 1996</i> ; or
<i>Local Govern- ment Act 1993</i>	Section 254(2)	Omit paragraph (d) and substitute the following paragraph: (d) is not subject to an initial order or a continuing care order under the <i>Mental Health Act 1996</i> or an order under the <i>Guardianship and Administration Act 1995</i> .

	Section 255(3)(c)	Omit subparagraph (iii) and substitute the following subparagraph: (iii) is subject to an initial order or a continuing care order under the <i>Mental Health Act 1996</i> or an order under the <i>Guardianship and Administration Act 1995</i> .
	Section 270(1)	Omit paragraph (g) and substitute the following paragraph: (g) is not subject to an initial order or a continuing care order under the <i>Mental Health Act 1996</i> or an order under the <i>Guardianship and Administration Act 1995</i> ; and
	Schedule 5, clause 2(2)	Omit paragraph (d).
<i>Magistrates Court Act 1987</i>	Section 9(3)	Omit paragraph (b) and substitute the following paragraph:

		(b) he becomes unable to perform competently the duties of the office.
<i>North West Regional Water Act 1987</i>	Schedule 1, clause 6(2)	Omit paragraph (d) and substitute the following paragraph: (d) if he becomes unable to perform competently the duties of the office;
<i>Nursing Act 1995</i>	Section 83(1)	Omit paragraphs (a) and (b) and substitute the following paragraph: (a) an initial order, a continuing care order or a community treatment order under the <i>Mental Health Act 1996</i> ; or
<i>Optometrists Registration Act 1994</i>	Section 73	Omit "a medical recommendation within the meaning of the <i>Mental Health Act 1963</i> , a medical affidavit within the meaning of that Act" and substitute "an order under the <i>Mental Health Act 1996</i> ".

<i>Pharmacy Act 1908</i>	Section 17A(3)(b)	Omit "within the meaning of the <i>Mental Health Act 1963</i> ".
	Section 17A(9)	Omit "1963" and substitute "1996".
<i>Podiatrists Registra- tion Act 1995</i>	Section 68(1)	Omit paragraphs (a) and (b) and substitute the following paragraph: (a) an initial order, a continuing care order or a community treatment order under the <i>Mental Health Act 1996</i> ; or
	Section 7	Omit "patient within the meaning of Part VI of the <i>Mental Health Act 1963</i> " and substitute "involuntary patient within the meaning of the <i>Mental Health Act 1996</i> ".
<i>Prescrip- tion Act 1934</i>	Section 7	Omit "patient within the meaning of Part VI of the <i>Mental Health Act 1963</i> " and substitute "involuntary patient within the meaning of the <i>Mental Health Act 1996</i> ".
<i>Prison Act 1977</i>	Section 7(2)	Omit ", the <i>Parole Act 1975</i> , and the <i>Mental Health Act 1963</i> " and substitute "and the <i>Parole Act 1975</i> ".
	Part IV	After section 20, insert the following section:

**Reports by medical
practitioners**

20A. Before authorising the transfer of a prisoner to a hospital, the Chief Superintendent must have –

- (a) a report from the senior medical practitioner of the hospital that the prisoner would benefit from admission to the hospital and that the admission would not present an unreasonable risk to the safety of the prisoner or to any other person; and
- (b) a report from the senior medical practitioner of the hospital approving the admission to the hospital.

<i>Probation of Offenders Act 1973</i>	Section 8A(1)	Omit "1963" and substitute "1996".
<i>Racing Act 1983</i>	Schedule 1, clause 5(1)	Omit paragraph (e).
<i>Radio- graphers Registra- tion Act 1971</i>	Section 11(2)(d)	Omit "(within the meaning of the <i>Mental Health Act 1963</i>)".
<i>Retirement Benefits Act 1993</i>	Schedule 1, clause 7(1)	Omit paragraph (d) and substitute the following paragraph: (d) if he or she becomes unable to perform competently the duties of the office;
<i>Southern Regional Cemetery Act 1981</i>	Schedule 1, clause 6(1)	Omit paragraph (d).
<i>Travel Agents Act 1987</i>	Schedule 1, clause 5(1)	Omit paragraph (f) and substitute the following paragraph: (f) if that member becomes unable to perform competently the duties of the office;

<i>Trustee Act 1898</i>	Section 32(1)	Omit "within the meaning of the <i>Mental Health Act 1963</i> ".
	Section 33(1)(b)(ii)	Omit "within the meaning of the <i>Mental Health Act 1963</i> ".
	Section 34(1)(b)(ii)	Omit "within the meaning of the <i>Mental Health Act 1963</i> ".
	Section 36	Omit "a patient within the meaning of Part VI of the <i>Mental Health Act 1963</i> " and substitute "an involuntary patient within the meaning of the <i>Mental Health Act 1996</i> ".
	Section 49	Omit "patient within the meaning of Part VI of the <i>Mental Health Act 1963</i> " and substitute "involuntary patient within the meaning of the <i>Mental Health Act 1996</i> ".
<i>Trustee Banks Act 1985</i>	Section 11(4)	Omit paragraph (d) and substitute the following paragraph: (d) if he becomes unable to perform competently the duties of the office;

*Uniting
Church in
Australia
Act 1977*

Section
13(b)

Omit subparagraph (iv)
and substitute the
following subparagraph:

(iv) is unable to
perform
competently the
duties of the
office;

*Valuers
Registra-
tion Act
1974*

Section
12(2)(d)

Omit "(within the meaning
of the *Mental Health Act
1963*)".

*Veterinary
Surgeons
Act 1987*

Section
15(3)

Omit paragraph (d) and
substitute the following
paragraph:

(d) the person has
become unable to
perform
competently the
duties of a
veterinary
surgeon.

Section
46(1)

Omit paragraph (e) and
substitute the following
paragraph:

(e) is unable to
perform
competently the
duties of the office;

Omit "physically" from
paragraph (f).

<i>Workers Rehabilita- tion and Compensa- tion Act 1988</i>	Schedule 1, clause 8(1)	Omit paragraph (d).
	Schedule 1, clause 7(1)	Omit paragraph (d) and substitute the following paragraph: (d) if he becomes unable to perform competently the duties of the office;
	Schedule 3, clause 7(1)	Omit paragraph (c) and substitute the following paragraph: (c) if he becomes unable to perform competently the duties of the office;
	Schedule 6, clause 7(1)	Omit paragraph (d) and substitute the following paragraph: (d) if he becomes unable to perform competently the duties of the office;

*[Second reading presentation speech made in:-
Legislative Council on 5 September 1996
House of Assembly on 3 October 1996]*

