

South Australia

# Mental Health Regulations 2010

under the *Mental Health Act 2009*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Mental Health Regulations 2010*.

### 3—Interpretation

In these regulations—

*Act* means the *Mental Health Act 2009*.

### 4—Statement of rights (sections 9, 12, 23, 27, 37 and 46 of Act)

- (1) A statement of rights given under section 9 of the Act to a voluntary patient must contain—
  - (a) an explanation of the circumstances in which a community treatment order or an inpatient treatment order may be made; and
  - (b) an explanation of the effect of Part 6 of the Act; and
  - (c) an explanation of the effect of section 106 of the Act; and
  - (d) any other information required to be included by the Minister.
- (2) A statement of rights given under section 12 of the Act to a patient as soon as practicable after the making of a level 1 community treatment order must contain—
  - (a) an explanation of the circumstances in which an inpatient treatment order may be made; and
  - (b) an explanation of the effect of section 106 of the Act; and
  - (c) any other information required to be included by the Minister.
- (3) A statement of rights given under section 23 of the Act to a patient as soon as practicable after the making of a level 1 inpatient treatment order must contain—
  - (a) an explanation of the powers that may be exercised in relation to the patient if he or she becomes a patient at large; and

- (b) an explanation of the effect of section 106 of the Act; and
  - (c) any other information required to be included by the Minister.
- (4) A statement of rights given under section 27 of the Act to a patient as soon as practicable after the making of a level 2 inpatient treatment order must contain—
  - (a) an explanation of the powers that may be exercised in relation to the patient if he or she becomes a patient at large; and
  - (b) an explanation of the effect of Part 6 of the Act; and
  - (c) an explanation of the effect of section 106 of the Act; and
  - (d) any other information required to be included by the Minister.
- (5) A statement of rights given under section 37 of the Act to an involuntary inpatient before commencing leave of absence must contain—
  - (a) an explanation of the effect of section 38 of the Act; and
  - (b) an explanation of the powers that may be exercised in relation to the patient if he or she becomes a patient at large; and
  - (c) any other information required to be included by the Minister.
- (6) A statement of rights given under section 46 of the Act to a patient as soon as practicable after the making by the Tribunal of an order or decision under the Act in respect of the patient must contain information required to be included by the Minister.

## **5—Notification to Commissioner of Police of action taken under Act (section 57(10) of Act)**

Notification under section 57(10) of the Act to the Commissioner of Police of action taken under the Act in relation to a person who has been arrested for an offence and released from police custody for the purpose of medical examination or treatment under the Act must be given as soon as practicable after the action is taken in accordance with the following requirements:

- (a) if a community treatment order is made in respect of the person as a result of the examination—the notification must include details of the type of order and its duration;
- (b) if an inpatient treatment order is made in respect of the person as a result of the examination or before the expiry of such an order made as a result of the examination—the notification must include details of the type of order and its duration and specify the treatment centre at which the person is an involuntary inpatient;
- (c) if the person is subsequently transferred to another treatment centre—the notification must specify the treatment centre to which the person is transferred.

**6—Arrangements between South Australia and other jurisdictions (Part 10 of Act)**

Each of the following is declared to be a *corresponding law* for the purposes of Part 10 of the Act:

- (a) the *Mental Health and Related Services Act 1998* of the Northern Territory;
- (b) the *Mental Health Act 2007* of New South Wales;
- (c) the *Mental Health Act 1986* of Victoria;
- (d) the *Mental Health (Treatment & Care) Act 1994* of the Australian Capital Territory;
- (e) the *Mental Health Act 2000* of Queensland;
- (f) the *Mental Health Act 1996* of Tasmania;
- (g) the *Mental Health Act 1996* of Western Australia.

**7—Scale of legal practitioner fees (section 84(3) of Act)**

A legal practitioner (not being an employee of the Crown or a statutory authority) who represents a person under section 84 of the Act is entitled to receive fees for their services from the Minister in accordance with the scale prescribed by fee notice.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Mental Health Regulations 2010* revoked the following:

*Mental Health Regulations 1995*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2010	160	<i>Gazette 24.6.2010 p3231</i>	1.7.2010: r 2
2012	191	<i>Gazette 23.8.2012 p3900</i>	23.8.2012: r 2
2015	21	<i>Gazette 5.3.2015 p898</i>	29.3.2015: r 2
<b>2022</b>	<b>15</b>	<b><i>Gazette 17.2.2022 p498</i></b>	<b>21.3.2022: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>23.8.2012</i>
r 4		
r 4(1)	varied by 191/2012 r 4(1)	23.8.2012
r 4(2)	varied by 191/2012 r 4(2)	23.8.2012
r 4(3)	varied by 191/2012 r 4(3)	23.8.2012
r 4(4)	varied by 191/2012 r 4(4)	23.8.2012
r 4(5)	varied by 191/2012 r 4(5), (6)	23.8.2012
r 4(6)	varied by 21/2015 r 4	29.3.2015
r 5	varied by 191/2012 r 5(1), (2)	23.8.2012
r 6	varied by 191/2012 r 6	23.8.2012
<b>r 7</b>	<b>substituted by 15/2022 r 3</b>	<b>21.3.2022</b>
<i>Sch 1</i>	<i>varied by 21/2015 r 5</i>	<i>29.3.2015</i>

	<i>deleted by 15/2022 r 4</i>	<b>21.3.2022</b>
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<b>23.8.2012</b>

## Historical versions

23.8.2012

29.3.2015