

Authorised Version No. 002
Mental Health Regulations 2014

S.R. No. 77/2014

Authorised Version incorporating amendments as at
25 November 2015

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1 Objective

The objective of these Regulations is to prescribe for the purposes of the **Mental Health Act 2014**—

- (a) hospitals and services that are designated mental health services; and
- (b) the contents of various Orders under the Act; and
- (c) remuneration and allowances payable to members of the Tribunal; and
- (d) matters in relation to the Community Visitors Mental Health Board; and
- (e) the rate of payment for an examination.

2 Authorising provision

These Regulations are made under section 370 of the **Mental Health Act 2014**.

3 Commencement

These Regulations come into operation on 1 July 2014.

4 Definition

In these Regulations—

the Act means the **Mental Health Act 2014**.

5 Designated mental health service

For the purposes of the definition of *designated mental health service* in section 3(1) of the Act, the hospitals and services listed in Schedule 1 are prescribed.

Reg. 5A
inserted by
S.R. No.
141/2015
reg. 4.

5A Restriction on right to communicate—prescribed persons and bodies

For the purposes of section 16(2)(f) of the Act, the Independent Mental Health Advocacy service is a prescribed body.

6 Contents of an Assessment Order, Temporary Treatment Order and Treatment Order

- (1) For the purposes of section 31(b) of the Act, the following information is prescribed in relation to an Assessment Order—
 - (a) the date and time that the person was examined in accordance with section 30(1)(b) of the Act;
 - (b) the date and time that the Assessment Order was made;
 - (c) advice about the duration of the Assessment Order in accordance with section 34(1) of the Act.
- (2) For the purposes of section 49(b) of the Act, the following information is prescribed in relation to a Temporary Treatment Order—
 - (a) the date and time that the Temporary Treatment Order was made;
 - (b) advice that the Temporary Treatment Order has a duration of 28 days unless it is revoked at an earlier date.
- (3) For the purposes of section 56(c) of the Act, the prescribed information in relation to a Treatment Order is the date that the Order was made.

7 Remuneration and allowances

For the purposes of section 165(1) of the Act—

- (a) the prescribed remuneration of a class of Tribunal member specified in column 1 of the Table in Schedule 2 is expressed as a percentage of the remuneration payable from time to time to a member of VCAT specified in column 2 of that Table corresponding to that class of Tribunal member and, in the case of a part-time appointment, is reduced pro rata; and
- (b) the prescribed allowances to which a member of the Tribunal are entitled are the allowances determined in relation to that office by the Secretary from time to time in accordance with any applicable departmental policy.

8 Prescribed premises

For the purposes of paragraph (c) of the definition of *prescribed premises* in section 213 of the Act, the prescribed class of mental health service providers is the class of services known as the "Prevention and Recovery Care Services".

9 Electing persons to Community Visitors Mental Health Board

For the purposes of section 221(2)(b) of the Act—

- (a) an election must be held before 30 June in each year and conducted in accordance with these Regulations; and
- (b) the office of one community visitor elected to the Community Visitors Mental Health Board will fall vacant each year; and
- (c) a community visitor elected to the Community Visitors Mental Health Board holds office from 1 July of the year that the

community visitor was elected for a period of 2 years unless the community visitor resigns or the office of that community visitor becomes vacant.

10 Functions of the Public Advocate

For the purposes of section 221(2)(b) of the Act, the functions of the Public Advocate in relation to elections to the Community Visitors Mental Health Board are—

- (a) to determine the process for the election of members to the Community Visitors Mental Health Board and the filling of any casual vacancy in respect of that Board, including, but not limited to, the requirements in relation to the notice of an election, nomination of candidates, ballot papers, method of voting and counting votes; and
- (b) to appoint a returning officer to conduct an election of members to the Community Visitors Mental Health Board or the filling of any casual vacancy in respect of that Board; and
- (c) to determine questions relating to the validity or regularity of votes; and
- (d) to ensure that a list of names and addresses of community visitors is maintained.

11 Transition provision

- (1) A community visitor holding or elected to hold office as a member of the Community (Psychiatric Services) Board immediately before 1 July 2014 is taken to be a member of the Community Visitors Mental Health Board on and from that day for the remainder of the community visitor's term of appointment unless the community visitor sooner resigns or the office of that community visitor becomes vacant.

- (2) An election held to fill any vacancy that arises as a result of subregulation (1) must be conducted in accordance with these Regulations.

12 Payment for examination

For the purposes of section 357 of the Act, the prescribed rate in relation to an examination under the Act is the fee that is applicable in respect of the item of medical service in relation to such an examination that is set out in the table of medical services prescribed under section 4 of the Health Insurance Act 1973 of the Commonwealth.

Schedules

Regulation 5

Schedule 1—Designated mental health services

Albury Wodonga Health
Alfred Health
Austin Health
Ballarat Health Services
Barwon Health
Bendigo Health Care Group
Eastern Health
Goulburn Valley Health
Melbourne Health
Mercy Public Hospitals Incorporated
Monash Health
Latrobe Regional Hospital
New Mildura Base Hospital
Peninsula Health
South West Healthcare
St Vincent's Hospital (Melbourne) Limited
The Royal Children's Hospital

Mental Health Regulations 2014
S.R. No. 77/2014
Schedule 2—Mental Health Tribunal Member remuneration table

**Schedule 2—Mental Health Tribunal
Member remuneration table**

Regulation 7

| <i>Column 1</i> | <i>Column 2</i> |
|---|---|
| Mental Health Tribunal Member class | Percentage rate of comparable VCAT member remuneration |
| President | 75% of remuneration payable to VCAT Deputy President |
| Deputy President | 70% of remuneration payable to VCAT Deputy President |
| Senior Member Psychiatrist/Registered medical practitioner/Legal | 80% of remuneration payable to VCAT Senior Member |
| Senior Member Community | 75% of remuneration payable to VCAT Senior Member |
| Ordinary Member Psychiatrist/Registered medical practitioner/Legal | 80% of remuneration payable to VCAT Ordinary Member |
| Ordinary Member Community | 75% of remuneration payable to VCAT Ordinary Member |
| Ordinary Member (Sessional) Psychiatrist/Registered medical practitioner/Legal | 80% of remuneration payable to VCAT Ordinary Member (Presiding) (Sessional) |
| Ordinary Member (Sessional) Community | 75% of remuneration payable to VCAT Ordinary Member (Non-presiding) (Sessional) |

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Mental Health Regulations 2014, S.R. No. 77/2014 were made on 24 June 2014 by the Lieutenant-Governor as the Governor's deputy with the advice of the Executive Council under section 370 of the **Mental Health Act 2014**, No. 26/2014 and came into operation on 1 July 2014: regulation 3.

The Mental Health Regulations 2014 will sunset 10 years after the day of making on 24 June 2024 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

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Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Mental Health Regulations 2014 by statutory rules, subordinate instruments and Acts.

Mental Health Amendment Regulations 2015, S.R. No. 141/2015

Date of Making: 24.11.15

Date of Commencement: Reg. 4 on 25.11.15; reg. 3

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

No entries at date of publication.