



Review of the **Mental Health Act 1996**  
and **Criminal Law (Mentally Impaired Defendants) Act 1996**

**Submission regarding the Mental Health Act (MHA) 1996**

This feedback structure has been provided to assist you in your submission to the Review of the MHA. Using this format will assist the Review in the gathering of information.

**Your Details**

Name of person completing submission: \_\_\_\_\_

Name of Service (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Contact Number: \_\_\_\_\_

Do you wish to be placed on our mailing list to receive any information that the Review may distribute (eg updates, Draft Report, etc.).  Yes  No

**Confidentiality**

We are concerned about your confidentiality, so please indicate which of the following applies to this submission:

- This submission is to remain strictly confidential and is **not** to be shared/distributed to anyone outside of the Review.
- This submission may be shared/distributed to any other party, **if** my personal details are removed and kept confidential.
- This submission is public information and **may** be freely shared/distributed to anyone interested.
- Other, please specify:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Closing Date**

The closing date for submissions is **Friday 28 February 2003**. Please send your submission to:

Ms Sylvia Meier  
Executive Officer  
Review of the MHA and CLMIDA  
11<sup>th</sup> Floor, Dumas House  
2 Havelock St  
WEST PERTH 6005

Or to [ReviewofMHA@health.wa.gov.au](mailto:ReviewofMHA@health.wa.gov.au)

Or to Fax: (08) 9222 5450

This Review is about the operations and effectiveness of the existing Act and not about writing a new Act. Therefore you do not need to re-write sections of the Act, this will occur after the Review has been completed and is the responsibility of the Parliamentary Counsel's Office.

Please address those areas that are of concern and how you think the Act may be altered. The following is not a comprehensive list of all aspects of the Act. You do not need to comment on all areas. Please use the space available or add pages to include other areas of importance.

NB. Copies of the Act are available from the State Publisher or at [www.mhrbwa.org.au/publications/pdfs/The\\_Mental\\_Health\\_Act1996.pdf](http://www.mhrbwa.org.au/publications/pdfs/The_Mental_Health_Act1996.pdf).

## **AREAS OF THE ACT**

Definitions (including meaning of mental illness) (s.3)

Objects of the Act (s.5)

Administrative provisions with regard to the Minister for Health (s.7)

Office of the Chief Psychiatrist (ss. 8-16) (eg Responsibilities, Functions, Powers of Inspection, etc.)

Mental Health Practitioners (s.19, 58 & Regulation 10)

Authorised Mental Health Practitioners (s.20 Regulation 4,5,6)

Authorised Hospitals (s.21, Regulation 7)

**Involuntary Patients (Part 3)**

Becoming an involuntary patient (s.26)

Referral for Examination (ss.29, 31, 32, 33 & Consequential provisions Part 2)

Referral in certain circumstances (s.30)

Police assistance (ss.34, 35, 41, 42)

Detention for examination and choices (ss 36,37, 40)

Examination in another place (ss. 38,39)

Involuntary status (ss. 43, 44, 45, 48, 49, 50, 51)

Transfer (s. 46)

Declining to accept (s. 47)

Releasing a detained patient (ss.52, 54, 55, 56)

Absence without leave (s.57, 58 & Regulation 10)

Leave of absence (ss 59-63)

**Community Treatment Orders (CTOs) (Part 3, Division 3)**

Making a CTO (ss. 65, 66, 67, 69)

Terms of a CTO (ss. 68, 73, 74, 75, 77)

Extension of a CTO (s. 76)

Variation of a CTO (s. 79)

Revocation of a CTO & police assistance (s. 70, 71, 72, 78)

Breach of a CTO (ss. 80, 81)

Order to attend (ss. 82-84)

**Treatment of Patients (Part 5)**

Definitions (s. 92, 108)

Informed consent (ss. 95-98)

Prohibited treatments (s. 99)

Psychosurgery (ss100- 103)

Electroconvulsive Therapy (ECT- ss104-107)

Consent not required (s. 109)

Medical Treatment (s.110)

Second opinions (ss111, 112, 164)

Emergency Psychiatric Treatment (ss. 113-115)

Seclusion (ss. 116-120& Regulations 11-13)

Mechanical bodily restraint (ss. 121- 124 & Regulations 14-16)



**Protection of Patient Rights (part 7)**

Explanation of rights (ss. 156-159 & Regulation 18)

Access to records (ss. 160, 161)

Other rights- Ill-treatment/ Interview/ personal possessions/ letters/ phone calls and visitors (ss. 162-171)

Capacity to vote (ss. 201- 203)

Police Powers (ss. 195-200)

**Mental Health Review Board** (Part 6 & schedule 1 & 2) (eg Registrar (ss22-25 and Regulations 8, 9) Establishment, Constitution, Procedure, Reviews, Appeals, Provisions concerning Proceedings)

**Council of Official Visitors** (Part 9 & schedule 3 & Regulation 20) (eg Administrative and Procedural Provisions, Powers and Functions)

**Interstate Movements (Part 4)**

**Miscellaneous (Part 10)**

Restrictions on authority to practice (ss. 193,194)

Records and information (ss. 204, 205, 212, & Regulations 17, 19)

Confidentiality (s. 206)

Protection from liability (s. 213)

Inquiries (ss. 207-210)

**Other areas of concern:**