

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

TERMS OF REFERENCE

Purpose

The purpose of this review is to consider the operations and effectiveness of the *Mental Health Act (1996)* and the *Criminal Law (Mentally Impaired Defendants) Act (1996)* and make recommendations as to alterations in the legislation. The Review will be independently chaired by Professor D'Arcy Holman, who will be directly accountable to the Hon Robert (Bob) Kucera, Minister for Health.

The Review is not required to draft a bill; this is the responsibility of Parliamentary Counsel.

Objectives of the Review

1. To review the operation and effectiveness of the *Mental Health Act 1996* and in the course of that review consider and have regard to:
 - (a) the effectiveness of the operations of the Mental Health Review Board and the Council of Official Visitors;
 - (b) the need for the continuation of the functions of the Mental Health Review Board and the Council of Official Visitors; and
 - (c) such other matters as appear to be relevant to the operation and effectiveness of the *Mental Health Act 1996*.

2. To review the operation and effectiveness of the *Criminal Law (Mentally Impaired Defendants) Act 1996* and in the course of that review consider and have regard to:
 - (a) the effectiveness of the operations of the Mentally Impaired Defendants Review Board;
 - (b) the need for the continuation of the functions of the Mentally Impaired Defendants Review Board; and
 - (c) such other matters as appear to be relevant to the operations and effectiveness of the *Criminal Law (Mentally Impaired Defendants) Act 1996*, including its relationship with the *Mental Health Act 1996*.

Components of the Review

CHAIRPERSON

The Minister for Health and the Attorney General have commissioned Professor D'Arcy Holman, as the Chairperson, to conduct the review and prepare a report outlining recommendations. Professor Holman has the final decision-making authority regarding the recommendations.

STAKEHOLDER COMMITTEE

The function of the Stakeholder Committee is to enable discussions, collate information and identify issues for the Chairperson, thereby guiding the development of the recommendations that will be made to the Minister for Health and the Attorney General. The focus of the Stakeholder Committee discussions will be Objective 1 and 2, as listed above. This is likely to include:

1. Discussions regarding issues raised by the submissions.
2. Assist in setting the priorities for areas of review.
3. The establishment of Working Parties to address specific areas of the Objectives.
4. Collation of information from stakeholders and presentation to the Committee.

WORKING PARTIES

The purpose of the Working Parties will be to collate specific information for the Stakeholder Committee. Small working parties will be established, to address specific operational issues relating to the:

1. Mental Health Review Board
2. Council of Official Visitors
3. Mentally Impaired Defendants Board
4. Involuntary Status & Community Treatment Orders
5. Part 5 – Treatment of Patients
6. Part 7 – Protection of Patients Rights

Membership will be determined in the future, with input from the Stakeholder Committee. The Working Parties will include members who are not on the Stakeholder Committee.

REFERENCE COMMITTEE (previously known as Executive/Drafting Committee)

The Reference Committee will provide a forum for the Chairperson to discuss legal, psychiatric and service delivery issues. This body is not a decision-making committee, but rather an opportunity for the Chairperson to discuss specific issues.

EXECUTIVE OFFICER

The Executive Officer will be responsible for coordinating the Review process. This will involve facilitating the Stakeholder Committee and gathering information from other stakeholders. The Executive Officer will provide the Chairperson with executive support throughout the Review and be responsible for the operations of the Review's Office.

Accountability

Final decision-making authority is the responsibility of Professor D'Arcy Holman, who will be directly accountable to the Minister for Health. A final report is to be produced by October 2003.

**Bob Kucera APM MLA
MINISTER FOR HEALTH**

21 August 2002