

Office of the Chief Psychiatrist

# Plain Language Guide

Mental Health Act 2009



Government  
of South Australia

SA Health



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**Dr Aaron Groves**  
Chief Psychiatrist

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# Plain Language Guide Mental Health Act 2009

## What is this Guide?

This guide to the Act is written in plain language and is arranged to follow the consumer journey. It has been provided to assist understanding of the powers, responsibilities and processes described in the Act.

As well as the simplified content of the Act, this guide lists section numbers for reference and indicates when forms, statements of rights, copies, notifications, documentation and delegations are required.

This guide is a reference resource only and anyone requiring precise information must read the Act or talk to a health professional, a lawyer or an appropriate agency such as the Office of the Chief Psychiatrist, the South Australian Civil and Administrative Tribunal, or the Office of the Public Advocate.

# 1. Introduction

## 1. Introduction

### What is the *Mental Health Act 2009*?

The *Mental Health Act 2009* is a law which was made by the Parliament of South Australia. A law is a set of rules that control certain actions and guides the policies of the Government.

The Act describes the set of rules in South Australia for the treatment of people with mental illness who are at risk, in certain circumstances. The Act gives trained health professionals limited powers to provide assessment, transport, custody and treatment even if the person does not want this to occur. The Act also provides rights and protections for people with mental illness and their carers.

### Why do we need the Act?

The United Nations provides Conventions to protect people's rights, including universal rights, and rights for children, people with mental illness and people with disabilities. Australia recognises these conventions and rights, and agrees that laws are needed to protect the rights of vulnerable people and to control powers which suspend the usual rights of individuals to freedom and liberty.

### Why did the Act change?

The Act, which commenced on 1 July 2010, was reviewed in 2013 and 2014 by the Office of the Chief Psychiatrist in collaboration with consumers, carers, mental health services, general health services, other Government agencies, lawyers, non-government organisations and statutory officers. That review found that the Act was solidly based on modern rights and service delivery, and made recommendations for minor changes to improve on those solid foundations.

Of the 72 recommendations made in the review, the Government accepted 65 and requested the drafting of the *Mental Health (Review) Amendment Bill 2015*, which was passed by both Houses of the South Australian Parliament and then approved by the Governor on 14 July 2016.

The changes will improve the rights of people with mental illness, enhance the ability of mental health services to provide treatment and care, enhance the ability of government agencies to collaborate, provide clarity for matters that were unclear and remove provisions that were stigmatising or discriminatory.

### How to read the Act

The Act is made up of instructions, arranged so that instructions about the same thing are grouped together. The groupings in the Act are called Parts and Divisions. The Act is divided into 13 Parts with, for example, Part 4 containing instructions about community treatment orders and Part 6 containing instructions about treatment and care plans. Some Parts, if they contain many instructions, are further divided into Divisions. For example, Part 4 about community treatment orders is divided into Division 1 about level 1 community treatment orders and Division 2 about level 2 community treatment orders.

Each set of instructions is called a "section" and each specific instruction is called a "subsection". For example, the 3 sets of instructions in Part 6 are: section 39 about treatment and care plans for voluntary persons, section 40 about treatment and care plans for people on community treatment orders, and section 41 about treatment and care plans for people on inpatient treatment orders. Section 39 has 3 specific instructions or subsections within it.



The table below provides a breakdown of section 39, with the exact wording in the first column and the plain language explanation in the second column, as an example of how to read the Act.

The Act	Plain Language Explanation
<b>Part 6—Treatment and care plans</b>	Part 6 is the part of the Act with instructions about treatment and care plans.
<b>39—Treatment and care plans for voluntary persons</b>	Section 39 tells the reader that the following set of instructions is about treatment and care plans for voluntary persons.
(1) The treatment and care of a voluntary person must, as far as possible and practical, be provided in line with a treatment and care plan directed towards the person's recovery.	Subsection 39(1) tells the reader that the treatment and care of all voluntary persons must be, as much as possible, guided by a plan.
(2) The treatment and care plan—  (a) must describe the treatment and care that will be provided to the person at the treatment centre and should describe any rehabilitation services and other significant services that will be provided or made available to the person; and  (b) must, as far as possible and practical, be prepared and revised in consultation with— (i) the person and any guardian, medical agent, relative, carer or friend of the person who is providing support to the person under this Act; and (ii) any service provider or agency that is providing treatment, care or support to the person; and  (c) must comply with the requirements of the regulations as to the making or contents of such plans.	Subsection 39(2)(a) tells the reader that the treatment and care plan must describe the treatment, rehabilitation and other services that the person is receiving and will receive.  Subsection 39(2)(b) tells the reader that the treatment and care plan must, as much as possible, be made and revised with the person, any carer and any other service that is providing support.  Subsection 39(2)(c) tells the reader that the treatment and care plan must follow any instructions in the <i>Mental Health Regulations 2010</i> .
(3) In this section— <b>voluntary person</b> means— (a) a voluntary community person; or (b) a voluntary inpatient.	Subsection 39(3) tells the reader that all the instructions in section 39 apply to both voluntary community persons and voluntary inpatients.

## Meaning of common words and phrases

The meaning of some common words and phrases used in this guide and the Act are explained below.

### Appropriate

The Act says that actions to provide copies of documents or share information should only be made with “appropriate” carers or others. This means that the officer thinking about providing a copy or sharing information must consider if the other person is involved, or will be involved, in the person’s treatment and care and if the action will be in the person’s best interests. This means that the health professional must consider if the guardian, substitute decision maker (medical agent), relative, carer or friend will assist to stabilise, maintain or improve the person’s mental health and safety, as well as any risk the person or the carer may pose to each other.

### Decision making capacity

The Act requires that an officer considering the making of a treatment order for a person must consider their decision making capacity relating to treatment of their mental illness. A person has decision making capacity relating to the treatment of their mental illness if they can understand, remember, use and communicate information about that treatment. This means that the officer must consider if the person does or does not have capacity in any of those areas and, if not, if a treatment order is the best treatment option.

### Delegations

Some actions and powers in the Act can be delegated. The officer who is given the power in the Act can, by writing formally, give or share that power with other officers. This makes the Act more flexible and responsive to the needs of the people with mental illness, within a supervised multi-disciplinary team environment.

### Must versus Should versus May

The Act ranks the importance of different instructions by requiring that they “must” be done, “should” be done or “may” be done.

A “must” instruction means the officer responsible needs to do that action every time, unless there are exceptions listed in the instruction. For example, subsection 12(1) requires that when an officer makes a level 1 inpatient treatment order, the person placed on an order “must” be given a copy when it is possible and practical to do so. The officer can delay the giving of the copy until the person is willing to accept it, a photocopier is available and other more urgent medical tasks have been finished, but the instruction must be carried out eventually.

A “should” instruction means the officer responsible needs to do that action most of the time, unless there are obvious reasons not to. For example, the guiding principle in subsection 7(1)(b) requires that mental health services “should” be provided voluntarily when possible. Most people receive community mental health services voluntarily but some people, who may be too unwell to be able to think about their own health and safety, may require a community treatment order to get appropriate treatment.

A “may” instruction means the officer responsible needs to do that action on the basis of their own professional judgement of the situation. For example, subsection 55(1)(d) says that an officer who has made a level 1 inpatient treatment order in the community “may” make a patient transport request to transport the person to a treatment centre. In some cases, the person will agree to go to a treatment centre and can be transported by mental health services or ambulance without a patient transport request. In other cases, the person will not want to go to the treatment centre, and a patient transport request will be needed.

## People named in this Guide and the Act

This guide uses standard words to describe the people who are affected by and use the Act, including:

- > A “person” is a consumer, patient or person who is experiencing mental illness.
- > A “carer” is a guardian, substitute decision maker (medical agent), relative, carer or friend providing support to a person experiencing mental illness.
- > An “officer” is any health professional, ambulance officer, police officer or employee of another Government agency who is given powers or functions by the Act.
- > A “doctor” is any medical practitioner, authorised medical practitioner or psychiatrist.

## Possible and Practical

When an action must be done as soon as possible and practical, the officer responsible for the action needs to balance the clinical and safety aspects of the situation versus the practical reality of the situation versus the requirement to carry out the action. This means that an action might be delayed until it is safe and practical to carry it out.

## Reasonable

When an action can be done when “reasonable” or “reasonably required” it means that the action should not be done automatically, but instead that the officer thinking about using the action must balance the clinical and safety aspects of the situation versus the least restrictive principle. This means that there must be a specific reason or reasons for the carrying out of the action.

## Revoke

The Act says that treatment orders can be “revoked” by a psychiatrist, an authorised medical practitioner or the South Australian Civil and Administrative Tribunal if they believe the reasons for the making of the order no longer exist. Revoke is a legal word that means “officially cancelled”.

## Vary

The Act says that treatment orders can be “varied” by a psychiatrist, an authorised medical practitioner or the South Australian Civil and Administrative Tribunal if they believe the person’s circumstances have changed but that the reasons for the making of the order still exist. Vary is a legal word that means “officially altered”.

## How to Read this Guide

This guide has been set out with the Act instructions in plain language in the centre of each page, with a listing of the Act section numbers on the left-hand side for reference and, on the right-hand side, icons indicating when a form, a statement of rights, copies, documentation, notification and delegation is required.



## 2. The Foundations of the Act

## 2. The Foundations of the Act

The Act provides definitions, aims, guiding principles and rights to guide its use.

### Definitions

This section defines the people, places and practices that are described in the Act. The most important ones are listed below:

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#### Approved Treatment Centre

A hospital that has been approved by the Chief Psychiatrist to provide inpatient treatment and care to voluntary inpatients and people placed on inpatient treatment orders.

#### Authorised Community Mental Health Facility

A community mental health service site that has been approved by the Chief Psychiatrist to provide community treatment and care to voluntary community patients and people placed on community treatment orders.

#### Authorised Medical Practitioner

A senior psychiatric trainee or overseas trained doctor who has been approved by the Chief Psychiatrist to have powers similar to a psychiatrist.

#### Authorised Mental Health Professional

An experienced mental health nurse, psychologist, occupational therapist or social worker who has been approved by the Chief Psychiatrist to be able to make level 1 community treatment orders and level 1 inpatient treatment orders.

#### Authorised Officer

An authorised officer can be:

- > A mental health clinician, or
- > An ambulance officer, or
- > A medical officer or flight nurse of the Royal Flying Doctor Service, or
- > An officer of a class approved by the Chief Psychiatrist, or
- > An officer of a class approved in the regulations.

#### Carer

A person who provides ongoing care or assistance to a person with mental illness, as defined in the *Carers Recognition Act 2005*. Carers can also be a guardian, substitute decision maker (medical agent), relative or friend of a person with mental illness.

#### Chief Psychiatrist

A senior psychiatrist appointed by the Governor.

#### Community Visitor Scheme

A scheme established by the Act to visit and inspect treatment centres and community facilities, to help people and carers resolves issues, and to refer matters of concern to other authorities. The scheme is carried out by Community Visitors and supervised by the Principal Community Visitor.

## 3

**Director of a Treatment Centre**

The person for the time being in charge of the mental health services of the treatment centre.

**Limited Treatment Centre**

A hospital that has been approved by the Chief Psychiatrist to provide inpatient treatment and care to voluntary inpatients and people placed on a level 1 inpatient treatment order.

**Medical Practitioner**

A doctor registered to practice under the *Health Practitioner Regulation National Law (South Australia) Act 2010*.

**Mental Health Clinician**

A health professional of a class approved by the Chief Psychiatrist as a mental health clinician.

**Patient**

A patient, for the purposes of the Act, is a person who is:

- > A voluntary inpatient,
- > Placed under section 56 care and control,
- > Placed under a community treatment order,
- > Placed under an inpatient treatment order,
- > Placed under a section 2690 supervision order of the *Criminal Law Consolidation Act 1935* for mental incapacity from mental illness.

**Police officer**

A member of the South Australian Police under the *Police Act 1998*.

**Psychiatrist**

A doctor holding a specialist registration to practice as a psychiatrist under the *Health Practitioner Regulation National Law (South Australia) Act 2010*.

**Restrictive Practice**

The use of physical, mechanical or chemical means to restrain a person, or the seclusion of a person in an area they cannot leave.

**South Australian Civil and Administrative Tribunal**

The Tribunal appointed by the Act to consider applications for consent and some treatment orders, and carry out the review of treatment orders, established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Objects of the Act

The aims of the Act are to:

## 6

- > Give limited powers to make community treatment orders and inpatient treatment orders.
- > Make sure that people with severe mental illness retain their freedom, rights, dignity and self-respect as much as possible.
- > Make sure people with severe mental illness receive a broad range of high-quality treatment and care services.

## Guiding Principles of the Act

The guiding principles provide guidance and direction for officers using the Act, including health professionals, ambulance officers, police officers, the Chief Psychiatrist, and the South Australian Civil and Administrative Tribunal.

### General Principles and Rights

	Mental health services should be:
<b>7(1)(a)</b>	> Therapeutic.
<b>7(1)(ab)</b>	> Of the highest safety and quality.
<b>7(1)(ac)</b>	> Provided within the human rights framework of international treaties and agreements wherever possible.
<b>7(1)(b)</b>	> Provided on a voluntary basis wherever possible.
<b>7(1)(c)</b>	> Provided in the least restrictive way in the least restrictive environment.
	> Provided as close to a person's residence, and that of their families and carers, as possible.
	> Provided in line with a treatment and care plan made with the person and their carer.

### Service Provision Principles and Rights

	Mental health services and officers should:
<b>7(1)(d)</b>	> Provide regular medical examination of every person's mental and physical health.
<b>7(1)(e)</b>	> Provide regular medical review of every treatment order.
<b>7(1)(f)</b>	> Care for children and young people separately from adults.
<b>7(1)(g)</b>	> Protect the rights, welfare and safety of children and other dependants of persons as far as possible.
<b>7(1)(h)</b>	> Use medication only for therapeutic or safety purposes.
<b>7(1)(i)</b>	> Use restrictive practices only as a last resort for safety purposes.
<b>7(1)(j)</b>	> Provide information to persons (and families and carers) about mental illness, treatment orders, legal rights, treatments, services and alternatives.
	> Provide information in a way that it is understood by those to whom it is provided, as far as possible.

### Personalised Care Rights

	Mental health services should take into account:
<b>7(1)(ca)</b>	> Aboriginal and Torres Strait Islander descent.
	> Age.
	> Cultural and linguistic background.
	> Disability.
	> Experience of torture and trauma.
	> Gender and gender identity.
	> Sexuality, sexual identity and orientation.



### 3. Rights of people receiving mental health care

## 3. Rights of people receiving mental health care

### General Rights

Every person receiving voluntary or involuntary mental health care has the rights described in the Guiding Principles of the Act, which include general rights, service provision rights and personalised care rights. In addition, a person placed under the Act is entitled to specific rights, outlined below.

### Copies of Orders and Decisions

Many sections	<p>A person under the Act must receive a copy of:</p> <ul style="list-style-type: none"> <li>&gt; The making of a treatment order.</li> <li>&gt; The variation of a treatment order.</li> <li>&gt; The revocation of a treatment order.</li> <li>&gt; The making of a leave of absence</li> <li>&gt; The making of a Patient Assistance Request.</li> <li>&gt; The making of a Patient Transport Request.</li> </ul>
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### Statements of Rights

Many sections	<p>A person should receive a statement of rights when:</p> <ul style="list-style-type: none"> <li>&gt; They are admitted for voluntary inpatient treatment.</li> <li>&gt; They are placed under a treatment order.</li> <li>&gt; They are granted a leave of absence.</li> <li>&gt; They are placed under section 56 care and control, a Patient Assistance Request, or a Patient Transport Request.</li> <li>&gt; They receive treatment in South Australia under an interstate treatment order.</li> </ul>
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### Treatment and Care Plans

7(1)(c)	A person should have a treatment and care plan if they have been placed under a level 1 community treatment order or a level 1 inpatient treatment order, prepared in consultation with the person.
40 41	A person must have a treatment and care plan if they have been placed under a level 2 community treatment order, a level 2 inpatient treatment order or a level 3 inpatient treatment order, which must, as much as possible, be prepared and revised in consultation with the person.

### Interpreters

45	<p>If a doctor or authorised mental health professional intends to examine a person and that person is unable to understand or speak adequately in English, the doctor or authorised mental health professional must arrange for an interpreter to be at the examination, except if</p> <ul style="list-style-type: none"> <li>&gt; The doctor or authorised mental health professional can speak adequately in a language the person can understand.</li> <li>&gt; The examination is to consider a level 1 community treatment order or level 1 inpatient treatment order and a translator cannot be easily arranged.</li> </ul>
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## Support

<b>47(1)</b>	A person under the Act is entitled to the support of another person, wherever possible and practical, to exercise their rights under this Act and to communicate with a doctor or the director or staff of a treatment centre.
<b>47(2)</b>	That support can be provided by: <ul style="list-style-type: none"> <li>&gt; A parent or guardian of a child.</li> <li>&gt; A guardian, substitute decision maker (medical agent), relative, carer or friend who has been nominated by the person or who is or will be responsible for the person.</li> <li>&gt; A volunteer or professional advocate.</li> <li>&gt; A community visitor.</li> </ul>
<b>47(3)</b>	The support person must be allowed access to the person within reasonable limits set by the treating doctor or director or staff of the treatment centre.
<b>47(4)</b>	The support person will be allowed or denied access to the person at the discretion of the treating doctor or director or staff of the treatment centre.

## Communication

<b>48(1)</b>	A person in a treatment centre is entitled to: <ul style="list-style-type: none"> <li>&gt; Communicate with people outside the centre,</li> <li>&gt; Have visitors,</li> <li>&gt; Reasonable privacy when communicating with others.</li> </ul>
<b>48(2)</b>	However, communication and visitors are subject to restrictions and conditions set by the Director of the treatment centre to enable: <ul style="list-style-type: none"> <li>&gt; Inpatient treatment orders to be carried out.</li> <li>&gt; The maintenance of safety and security in the treatment centre.</li> </ul>
<b>48(3)</b>	No restrictions or conditions can be applied to communication with, or visits from, the Minister, SACAT, the Public Advocate, the Chief Psychiatrist, the Health and Community Services Complaints Commissioner, a community visitor, a Member of Parliament, a legal practitioner, an officer delegated to represent any of the preceding officers or agencies, or an officer named in the regulations.

## Confidentiality

<b>106</b>	Information about a person is confidential. However, information can be shared with carers, health services and other agencies in certain circumstances, described below:
<b>106(2)(b)</b>	Information about a person can be shared with a carer providing support to the person with the consent of the person.
<b>106(2)(e)</b>	Information about a person can be shared with a carer providing support to the person to prevent or lessen a serious threat to the life, health or safety of anyone.
<b>106(2)(c)</b> <b>106(3)</b>	Information about a person not placed under the Act can be shared with a carer providing support to the person if it is: <ul style="list-style-type: none"> <li>&gt; Reasonably required for the treatment and care of the person, and</li> <li>&gt; There is no reason to believe it would be against the person's best interests, and</li> <li>&gt; The person has not provided a direction to not share the information.</li> </ul>
<b>106(2)(c)</b> <b>106(4)</b>	Information about a person placed on a treatment order can be shared with a carer providing support to the person if it is: <ul style="list-style-type: none"> <li>&gt; Reasonably required for the treatment and care of the person.</li> <li>&gt; There is no reason to believe it would be against the person's best interests.</li> </ul>

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- Information about a person can be shared with health and other services if it:
- > Has been consented to by the person, or
  - > Is reasonably required for the treatment and care of the person, or
  - > Is reasonably required to lessen or prevent a serious threat to the life, health or safety of the person or others, or
  - > Is reasonably required for the effective management of health services, or
  - > Is required for electronic health information systems, or
  - > Is required to administer the Act, or
  - > Is required by another law, or
  - > Is reasonably required for ethics-approved research.

### Community Visitor Scheme

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- > A person can speak to a community visitor when they are visiting a treatment centre or authorised community mental health facility.
- > A person can request a visit by the community visitor scheme to a treatment centre or authorised community mental health facility.
- > A person can request the assistance of the community visitor scheme to solve an issue or problem.

### Reviews and Appeals

81(1)

83(1)

83A

- > A person can apply to SACAT for a review of:
  - > A treatment order made by a health practitioner.
  - > An interstate transfer.
  - > A treatment order made by SACAT.
- > A person can apply to the Supreme Court to appeal against a decision made by SACAT.

### Legal Representation

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- > In every SACAT review or Supreme Court appeal the person under the Act is entitled to be represented by a lawyer.
- > The lawyer can be engaged by and paid for by the person, or
- > The lawyer can be engaged through the program established by the Minister and either:
  - > Chosen by the person, or
  - > By the agency running the program (the Legal Services Commission).
- > A lawyer engaged through the Minister's program will be at no cost to the person but will be paid in accordance with the fee schedule in the regulations.

## 4. Rights of carers of people receiving mental health care

## 4. Rights of carers of people receiving mental health care

Any guardian, substitute decision maker (medical agent), relative, carer or friend providing support to the person has the following rights:

### Copies of Orders and Decisions

<b>Many sections</b>	<p>A carer of a person under the Act must, if appropriate, receive a copy of:</p> <ul style="list-style-type: none"> <li>&gt; The making of a treatment order.</li> <li>&gt; The revocation of a treatment order.</li> <li>&gt; The variation of a treatment order.</li> <li>&gt; The transfer of the person between treatment centres or hospitals.</li> </ul>
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### Statements of Rights

<b>Many sections</b>	<p>A carer of a person under the Act must, if appropriate, receive a copy of the statement of rights when the person:</p> <ul style="list-style-type: none"> <li>&gt; Is admitted for voluntary inpatient treatment.</li> <li>&gt; Is placed under a treatment order.</li> <li>&gt; Is granted a leave of absence.</li> </ul>
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### Treatment and Care Plans

<b>7(1)(c)</b>	A person should have a treatment and care plan if they have been placed under a level 1 community treatment order or a level 1 inpatient treatment order, prepared in consultation with any carer.
<b>40 41</b>	A person must have a treatment and care plan if they have been placed under a level 2 community treatment order, a level 2 inpatient treatment order or a level 3 inpatient treatment order, which must, as much as possible and practical, be prepared and revised in consultation with any carer providing support to the person.

### Information Sharing

<b>106(2)(b)</b>	Information about a person can be shared with a carer providing support to the person with the consent of the person.
<b>106(2)(e)</b>	Information about a person can be shared with a carer providing support to the person to prevent or lessen a serious threat to the life, health or safety of anyone.
<b>106(2)(c) 106(3)</b>	<p>Information about a person not placed under the Act can be shared with a carer providing support to the person if it is:</p> <ul style="list-style-type: none"> <li>&gt; Reasonably required for the treatment and care of the person, and</li> <li>&gt; There is no reason to believe it would be against the person's best interests, and</li> <li>&gt; The person has not provided a direction to not share the information.</li> </ul>
<b>106(2)(c) 106(4)</b>	<p>Information about a person placed on a treatment order can be shared with a carer providing support to the person if it is:</p> <ul style="list-style-type: none"> <li>&gt; Reasonable required for the treatment and care of the person.</li> <li>&gt; There is no reason to believe it would be against the person's best interests.</li> </ul>

## Community Visitor Scheme

**51**

- > A carer can speak to a community visitor when they are visiting a treatment centre or authorised community mental health facility.
- > A carer can request a visit by the community visitor scheme to a treatment centre or authorised community mental health facility.
- > A carer can request the assistance of the community visitor scheme to solve an issue or problem.

## Reviews and Appeals

**81(1)**

- > A carer can apply to SACAT for a review of:
  - > A treatment order made by a health practitioner.

**83(1)**

- > An interstate transfer.

**83A**

- > A treatment order made by SACAT.

- > A carer can apply to the Supreme Court to appeal against a decision made by SACAT.






# 5. Voluntary Treatment

## 5. Voluntary Treatment

A person can ask for voluntary treatment of their own free will.

### Voluntary Community Treatment

A person can ask for voluntary community treatment at an authorised community mental health facility or other community facility or service.

<b>39</b>	<ul style="list-style-type: none"> <li>&gt; The treatment and care of a voluntary community person must be provided in line with a treatment and care plan, as much as possible and practical.</li> <li>&gt; The treatment and care plan must describe the treatment and care to be provided to the person.</li> <li>&gt; The treatment and care plan must be prepared and revised with:                             <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; Any guardian, substitute decision maker (medical agent), relative, carer or friend providing support to the person,</li> <li>&gt; Any other service that is providing treatment, care or support.</li> </ul> </li> </ul>	 <p>Treatment and Care Plan</p>
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### Voluntary Inpatient Treatment

A person can ask for voluntary inpatient treatment at an approved treatment centre or limited treatment centre or, sometimes in country areas, at a general hospital.


#### Being Admitted and Leaving

<b>8</b>	<ul style="list-style-type: none"> <li>&gt; A person may be admitted as a voluntary inpatient at treatment centre at their own request.</li> <li>&gt; A person so admitted can leave the treatment centre at any time.</li> </ul>
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#### Statement of Rights

<b>9</b>	<ul style="list-style-type: none"> <li>&gt; The person must be given a copy of the Statement of Rights as soon as possible.</li> <li>&gt; If the person cannot understand the Statement of Rights, possible and practical steps must be taken to convey the information to the person.</li> <li>&gt; A copy of the Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible. This carer may be:                             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other carer that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the Statement of Rights should not be given to a carer if it would be against the person's best interests.</li> </ul>	 <p>Statement of Rights #1</p>
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#### Treatment and Care Plan

<b>39</b>	<ul style="list-style-type: none"> <li>&gt; The treatment and care of a voluntary inpatient must be provided in line with a treatment and care plan, as much as possible and practical.</li> <li>&gt; The treatment and care plan must describe the treatment and care to be provided to the person.</li> <li>&gt; The treatment and care plan must be prepared and revised with:                             <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; Any guardian, substitute decision maker (medical agent), relative, carer or friend providing support to the person,</li> <li>&gt; Any other service that is providing treatment, care or support.</li> </ul> </li> </ul>	 <p>Treatment and Care Plan</p>
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# 6. Involuntary Assessment and Treatment

## 6. Involuntary Assessment and Treatment

Involuntary assessment, transport, custody and treatment can be provided in the following ways. (Note that custody can only be provided to a person to lessen or prevent a risk of harm to their physical or mental health, or a risk of harm to others, because of mental illness.)


### Care and Control by Authorised Officers

Section 56 or “care and control” powers give authorised officers the ability to help people who are mentally unwell and at risk of harm get assessment and treatment.

56(1)	<p>An authorised officer may use their care and control powers if they believe that a person:</p> <ul style="list-style-type: none"> <li>&gt; Appears to have a mental illness and:             <ul style="list-style-type: none"> <li>&gt; has caused harm to themselves, others or property, or</li> <li>&gt; there is significant risk of them causing harm to themselves, others or property.</li> </ul> </li> <li>&gt; Is under a Patient Assistance Request,</li> <li>&gt; Is under a Patient Transport Request, or</li> <li>&gt; Is a person who is absent without leave from a treatment centre.</li> </ul>	
56(2)	<p>An authorised officer may form an opinion about the person based on the officer’s own observations of the person’s behaviour or appearance, or on reports about the person’s behaviour, appearance or history.</p>	
56(3) 56(6)	<p>An authorised officer may:</p> <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Transport the person from place to place,</li> <li>&gt; Restrain the person if reasonably required,</li> <li>&gt; Restrain the person by the administration of a drug if reasonably required (but only if permitted to administer medication under the <i>Controlled Substances Act 1984</i>.)</li> <li>&gt; Enter and remain in a place,</li> <li>&gt; Search the person’s clothes and belongings and confiscate items.</li> </ul>	
56(4)	<p>An authorised officer who takes a person into care and control must, as soon as possible and practical:</p> <ul style="list-style-type: none"> <li>&gt; Transport or arrange the transport of the person, or</li> <li>&gt; For a person under a Patient Assistance Request – provide assistance to enable treatment where the person is located, and</li> <li>&gt; Give the person a copy of the Statement of Rights.</li> </ul>	 Statement of Rights #2
56(5)	<p>The powers of this section can be used as long as reasonably required to enable the assessment or treatment of a person.</p>	
56(7)	<p>Any search of a person must be carried out quickly and avoid humiliation or offence to the person, as far as reasonable.</p>	
56(8)	<p>Anything confiscated from the person may be kept as long as necessary to manage safety but should then be returned.</p>	
58A	<p>Authorised officers must keep records of the use of these powers.</p>	 Document actions




## Care and Control by Police Officers

Section 57 or “care and control” powers give police officers the ability to help people who are mentally unwell and at risk of harm get assessment and treatment.

<b>57(1)</b>	<p>A police officer may use their care and control powers if they believe that a person:</p> <ul style="list-style-type: none"> <li>&gt; Appears to have a mental illness and             <ul style="list-style-type: none"> <li>&gt; has caused harm to themselves, others or property, or</li> <li>&gt; there is significant risk of them causing harm to themselves, others or property.</li> </ul> </li> <li>&gt; Is under a Patient Assistance Request,</li> <li>&gt; Is under a Patient Transport Request, or</li> <li>&gt; Is a person who is absent without leave from a treatment centre.</li> </ul>	
<b>57(3)</b>	<p>A police officer may form an opinion about the person based on the officer’s own observations of the person’s behaviour or appearance, or on reports about the person’s behaviour, appearance or history.</p>	
<b>57(4)</b>	<p>A police officer may:</p> <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Transport the person from place to place,</li> <li>&gt; Restrain the person if reasonably required,</li> <li>&gt; Use reasonable force to break into a place,</li> <li>&gt; Enter and remain in a place,</li> <li>&gt; Search the person’s clothes and belongings and confiscate items.</li> </ul>	
<b>57(5)</b>	<p>A police officer who takes a person into care and control must, as soon as possible and practical:</p> <ul style="list-style-type: none"> <li>&gt; Transport or arrange the transport of the person, or</li> <li>&gt; For a person under a Patient Assistance Request – provide assistance to enable treatment where the person is located.</li> </ul>	
<b>57(6)</b>	<p>The powers of this section may be used as long as reasonably required to enable the assessment or treatment of the person.</p>	
<b>57(7)</b>	<p>Any search of a person must be carried out quickly and avoid humiliation or offence to the person, as far as reasonable.</p>	
<b>57(8)</b>	<p>Anything confiscated from the person may be kept as long as necessary to manage safety but should then be returned.</p>	
<b>58A</b>	<p>Police officers must keep records of the use of these powers.</p>	 <p>Document actions</p>



## Patient Assistance Requests

If a person refuses their medication under a community treatment order, a patient assistance request can be used to give the medication on the spot, if it is safe and appropriate to do so.

<b>54A</b>	<ul style="list-style-type: none"> <li>&gt; If a community treatment order applies to a person and the person does not follow the requirements of the order, a doctor or mental health clinician may issue a Patient Assistance Request to treat the person where they are located in accordance with the order.</li> <li>&gt; A Patient Assistance Request must be given to authorised officers and police officers.</li> <li>&gt; A Patient Assistance Request must be made using the official form.</li> <li>&gt; A person who is under a Patient Assistance Request must be given a copy of the Request.</li> <li>&gt; A person who is under a Patient Assistance Request must be given a copy of the Statement of Rights.</li> </ul>	 Form J  Copy of form J  Statement of Rights #2
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## Patient Transport Requests

If a person is unwell and unsafe in the community, a patient transport request can be used to take them to a treatment centre, authorised community mental health facility or other facility for assessment or treatment.

<b>55</b>	<ul style="list-style-type: none"> <li>&gt; A Patient Transport Request may be made by a doctor or mental health clinician for a person if:                         <ul style="list-style-type: none"> <li>&gt; The person is under a community treatment order and is refusing the treatment required by the order,</li> <li>&gt; A new inpatient treatment order has been made for the person but they are refusing transport,</li> <li>&gt; The person is under an inpatient treatment order and is absent without leave from a treatment centre.</li> </ul> </li> <li>&gt; A Patient Transport Request may be made by the Director of a Treatment Centre (or delegate) for a person if:                         <ul style="list-style-type: none"> <li>&gt; The person is under an inpatient treatment order and is absent without leave from a treatment centre.</li> <li>&gt; The person is under an inpatient treatment order but is being transferred to another treatment centre (or hospital) using a Transfer form.</li> </ul> </li> <li>&gt; A Patient Transport Request must be given to authorised officers and police officers.</li> <li>&gt; A person who is under a Patient Transport Request must be given a copy of the Request.</li> <li>&gt; A person who is under a Patient Transport Request must be given a copy of the Statement of Rights.</li> </ul>	 Form I  Statement of Rights #2
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## Treatment Orders

Involuntary treatment can be given under a treatment order.

### Decision Making Capacity

The decision making capacity of a person must be assessed when considering a treatment order.

<b>5A(1)</b>	A person will be assumed to be able to make all decisions themselves about their health care, accommodation and personal affairs, unless there is evidence or a law says otherwise.
<b>5A(2)</b>	Under this Act, a person will be assumed to have impaired decision making capacity if the person cannot: <ul style="list-style-type: none"> <li>&gt; Understand information relevant to a decision,</li> <li>&gt; Retain such information,</li> <li>&gt; Use such information to make a decision,</li> <li>&gt; Communicate their decision.</li> </ul>
<b>5A(2)</b>	Under this Act, a person will be assumed to have impaired decision making capacity if the person has an advance care directive and the requirements of the advance care directive for impaired decision making capacity have been met.
<b>5A(3)</b>	Under this Act: <ul style="list-style-type: none"> <li>&gt; A person will not be assumed to be unable to understand information because they cannot understand technical or trivial information.</li> <li>&gt; A person will not be assumed to be unable of retaining information because they can only retain information for a limited time.</li> <li>&gt; A person may fluctuate between having full decision making capacity and limited decision making capacity.</li> <li>&gt; A person's decision making capacity will not be assumed to be impaired merely because a decision will or may result in an adverse outcome for the person.</li> </ul>

## Community Treatment Orders


Involuntary treatment can be given in the community under a community treatment order.

### Level 1 Community Treatment Orders





A level 1 community treatment order can be made for up to 42 days by a doctor or authorised mental health professional.

#### Making the Order



<b>10(1)</b>	A doctor or authorised mental health professional may make a level 1 community treatment order if, after examining a person, it appears that: <ul style="list-style-type: none"> <li>&gt; The person has a mental illness, and</li> <li>&gt; Because of the mental illness the person requires treatment to protect them from harm (whether physical or mental), or the person requires treatment to protect others from harm, and</li> <li>&gt; The person has impaired decision-making capacity relating to the mental illness, and</li> <li>&gt; There is no less restrictive treatment option available.</li> </ul>
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10(4)	A level 1 community treatment order expires at 2pm on a business day up to 42 days after the day on which it was made.	
10(3)	A level 1 community treatment order must be made using the official form.	 Form A

### Copies and Statements of Rights


12(1)	The doctor or authorised mental health professional making the level 1 community treatment order must give the person a copy as soon as possible and practical.	 Copy of form A
12(2) 12(3)	> The person must be given a copy of the Statement of Rights as soon as possible and practical. > If the person cannot understand the Statement of Rights, possible and practical steps must be taken to explain their rights to the person.	 Statement of Rights #3
12(4) 12(5) 12(6)	> A copy of the order and Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be: > Nominated by the person, or if not possible or appropriate, > A person who has or is assuming responsibility for the person, or if not possible or appropriate, > Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate. > A copy of the order or Statement of Rights should not be given to a carer if it would be against the person’s best interests.	 Copy of form A   Statement of Rights #3

### Reviewing the Order


10(5)	On the making of a level 1 community treatment order, > The person must be examined by a psychiatrist or authorised medical practitioner (who must be a different clinician than the clinician making the order). > The examination must be within 24 hours or as soon as possible and practical after that. > The reviewer must confirm the order if the person meets the criteria for making a level 1 community treatment order or revoke the order if the person does not meet the criteria. > The review and confirmation or revocation of the order must use the official form.	 Form C
10(6)	A doctor or authorised mental health professional making or reviewing an order may form an opinion based on their own observations and any other evidence they think reliable and relevant.	
10(7)	> A psychiatrist or authorised medical practitioner who has examined a person may revoke the order at any time. > The subsequent revocation of the order must use the official form.	 Form C



## Treatment and Care

13	<ul style="list-style-type: none"> <li>&gt; A person placed on a level 1 community treatment order may be given treatment for their mental illness as authorised by a psychiatrist or authorised medical practitioner who has examined them.</li> <li>&gt; Authorisation is not required if urgent treatment is required and it is not possible or practical to seek authorisation.</li> <li>&gt; Treatment may be given even if the person refuses or is unable to give consent.</li> <li>&gt; A community treatment order does not authorise the use of prescribed psychiatrist treatment or prescribed treatment under the <i>Guardianship and Administration Act 1993</i>.</li> </ul>	
7(1)(c)	<ul style="list-style-type: none"> <li>&gt; Treatment and care should be provided in line with a treatment and care plan.</li> <li>&gt; The treatment and care plan should be multi-disciplinary and be made with the person and their family, carer or supporters.</li> </ul>	 <p>Treatment and Care Plan</p>


## Notifications

11	<ul style="list-style-type: none"> <li>&gt; A doctor or authorised mental health professional making, confirming or revoking an order must send a copy to the Chief Psychiatrist within 1 business day.</li> <li>&gt; The Chief Psychiatrist must acknowledge receipt of orders within 1 business day.</li> <li>&gt; The Chief Psychiatrist must provide copies of all orders to SACAT within 1 business day.</li> </ul>	 <p>Send to OCP</p>
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## Level 2 Community Treatment Orders

A level 2 community treatment order can be made for up to 12 months by the South Australian Civil and Administrative Tribunal.



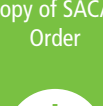

### Applying for the Order

16(3)	<p>An application to SACAT for a level 2 community treatment order may be made:</p> <ul style="list-style-type: none"> <li>&gt; On the applicant's assessment of the needs of the person, or</li> <li>&gt; At the same time as an application for the revocation of a level 3 inpatient treatment order.</li> </ul>	 <p>SACAT form</p>
16(4)	<p>An application to SACAT for a level 2 community treatment order may be made by:</p> <ul style="list-style-type: none"> <li>&gt; The Public Advocate</li> <li>&gt; A doctor</li> <li>&gt; A mental health clinician</li> <li>&gt; A guardian, substitute decision maker (medical agent), relative, carer or friend of the person</li> <li>&gt; Anyone else SACAT determines has a proper interest in the person.</li> </ul>	


## Making the Order

<b>16(1)</b>	<p>SACAT may make a level 2 community treatment order if they are satisfied that:</p> <ul style="list-style-type: none"> <li>&gt; The person has a mental illness, and</li> <li>&gt; Because of the mental illness the person requires treatment to protect them from harm (whether physical or mental), or the person requires treatment to protect others from harm, and</li> <li>&gt; The person has impaired decision-making capacity relating to the mental illness, and</li> <li>&gt; There is no less restrictive treatment option available.</li> </ul>
<b>16(2)</b>	SACAT must consider if there is a less restrictive way to provide necessary treatment.
<b>10(5)</b>	A level 2 community treatment order for an adult expires at 2pm on a business day up to 12 months after the day on which it was made, and for a child expires at 2pm on a business day up to 6 months after the day on which it was made.


## Copies and Statements of Rights

<b>46(1)</b>	SACAT must give the person a copy of the level 2 community treatment order as soon as possible and practical.	 Copy of SACAT Order
<b>46(1)</b> <b>46(2)</b>	<ul style="list-style-type: none"> <li>&gt; The person must be given a copy of the Statement of Rights as soon as possible and practical.</li> <li>&gt; If the person cannot understand the Statement of Rights, all possible and practical steps must be taken to explain their rights to the person.</li> </ul>	 Statement of Rights #3
<b>46(3)</b> <b>46(4)</b>	<ul style="list-style-type: none"> <li>&gt; A copy of the order and Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be:           <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to a carer if it would be contrary to the person's best interests.</li> </ul>	 Copy of SACAT Order   Statement of Rights #3



## Varying or Revoking the Order

<b>16(7)</b> <b>16(8)</b>	<ul style="list-style-type: none"> <li>&gt; SACAT may vary or revoke a level 2 community treatment order at any time upon application.</li> <li>&gt; An application for variation or revocation may be made by:           <ul style="list-style-type: none"> <li>&gt; The Public Advocate</li> <li>&gt; A medical practitioner</li> <li>&gt; A mental health clinician</li> <li>&gt; A guardian, substitute decision maker (medical agent), relative, carer or friend of the person</li> <li>&gt; Anyone else SACAT determines has a proper interest in the person.</li> </ul> </li> </ul>	
<b>46(1)</b>	SACAT must give the person a copy of the decision as soon as possible and practical.	 Copy of decision

## Treatment and Care

18	<ul style="list-style-type: none"> <li>&gt; A person placed on a level 2 community treatment order may be given treatment for their mental illness as authorised by a psychiatrist or authorised medical practitioner who has examined them.</li> <li>&gt; Authorisation is not required if urgent treatment is required and it is not possible and practical to seek authorisation.</li> <li>&gt; Treatment may be given even if the person refuses or is unable to give consent.</li> <li>&gt; A community treatment order does not authorise the use of prescribed psychiatrist treatment or prescribed treatment under the <i>Guardianship and Administration Act 1993</i>.</li> </ul>	
40	<ul style="list-style-type: none"> <li>&gt; Treatment and care must be provided in line with a treatment and care plan.</li> <li>&gt; The treatment and care plan must describe the treatment and care to be provided to the person.</li> <li>&gt; The treatment and care plan must be made and revised with:               <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; Any guardian, substitute decision maker (medical agent), relative, carer or friend providing support to the person,</li> <li>&gt; Any other service that is providing treatment, care or support.</li> </ul> </li> </ul>	 <p>Treatment and Care Plan</p>

## Notifications

17	SACAT must notify the Chief Psychiatrist if a level 2 community treatment order is made, varied or revoked within 1 business day.	 <p>Send to OCP</p>
16(6)	2 months before the expiry of a level 2 community treatment order SACAT must notify the applicant, the Public Advocate and anyone else with a proper interest in the person's welfare that the order is due to expire.	 <p>Send to all Parties</p>


## Inpatient Treatment Orders

Involuntary treatment can be given in a treatment centre or hospital under an inpatient treatment order.





### Level 1 Inpatient Treatment Orders

A level 1 inpatient treatment order can be made for up to 7 days by a doctor or authorised mental health professional.



#### Making the Order

<b>21(1)</b>	A doctor or authorised mental health professional may make a level 1 inpatient treatment order if, after examining a person, it appears to them that: <ul style="list-style-type: none"> <li>&gt; The person has a mental illness, and</li> <li>&gt; Because of the mental illness the person requires treatment to protect them from harm (whether physical or mental), or the person requires treatment to protect others from harm, and</li> <li>&gt; The person has impaired decision-making capacity relating to the mental illness, and</li> <li>&gt; There is no less restrictive treatment option available.</li> </ul>	
<b>21(4)</b>	A level 1 inpatient treatment order expires at 2pm on a business day up to 7 days after the day on which it was made.	
<b>21(3)</b>	A level 1 inpatient treatment order must be made using the official form.	 <p>Form B</p>


#### Copies and Statements of Rights

<b>23(1)</b>	The doctor or authorised mental health professional making or revoking the level 1 inpatient treatment order must give the person a copy as soon as possible and practical.	 <p>Copy of form B</p>
<b>23(2)</b> <b>23(3)</b>	<ul style="list-style-type: none"> <li>&gt; The person must be given a copy of the Statement of Rights as soon as possible and practical.</li> <li>&gt; If the person cannot understand the Statement of Rights, possible and practical steps must be taken to explain their rights to the person.</li> </ul>	 <p>Statement of Rights #4</p>
<b>23(4)</b> <b>23(5)</b> <b>23(6)</b>	<ul style="list-style-type: none"> <li>&gt; A copy of the order and Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be: <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to a carer if it would be contrary to the person's best interests.</li> </ul>	 <p>Copy of form B</p>  <p>Statement of Rights #4</p>


## Reviewing the Order

21(5)	<p>On the making of a level 1 inpatient treatment order,</p> <ul style="list-style-type: none"> <li>&gt; The person must be examined by a psychiatrist or authorised medical practitioner (who must be a different clinician than the clinician making the order).</li> <li>&gt; The examination must be within 24 hours or as soon as possible and practical after that.</li> <li>&gt; The reviewer must confirm the order if the person meets the criteria for making a level 1 inpatient treatment order or revoke the order if the person does not meet the criteria.</li> <li>&gt; The review and confirmation or revocation of the order must use the official form.</li> </ul>	 <p>Form C</p>
21(6)	<p>A doctor or authorised mental health professional making or reviewing an order may form an opinion based on their own observations and any other evidence they think reliable and relevant.</p>	
21(7)	<ul style="list-style-type: none"> <li>&gt; A psychiatrist or authorised medical practitioner who has examined a person may revoke the order at any time.</li> <li>&gt; The subsequent revocation of the order must use the official form.</li> </ul>	 <p>Form C</p>

## Treatment and Care

24	<ul style="list-style-type: none"> <li>&gt; A person placed on a level 1 inpatient treatment order may be given treatment for their mental illness, or any illness causing or contributing to the mental illness, as authorised by a psychiatrist or authorised medical practitioner who has examined them.</li> <li>&gt; Authorisation is not required if urgent treatment is required and it is not possible or practical to seek authorisation.</li> <li>&gt; Treatment may be given even if the person refuses or is unable to give consent.</li> <li>&gt; This section does not authorise the use of prescribed psychiatrist treatment or prescribed treatment under the <i>Guardianship and Administration Act 1993</i>.</li> </ul>	
7(1)(c)	<ul style="list-style-type: none"> <li>&gt; Treatment and care should be provided in line with a treatment and care plan.</li> <li>&gt; The treatment and care plan should be multi-disciplinary and be developed in consultation with the person and their family, carer or supporters.</li> </ul>	 <p>Treatment and Care Plan</p>


## Notifications

22	<ul style="list-style-type: none"> <li>&gt; A doctor or authorised mental health professional making, confirming or revoking an order must notify the Chief Psychiatrist within 1 business day.</li> <li>&gt; The Chief Psychiatrist must acknowledge receipt of notifications within 1 business day.</li> <li>&gt; The Chief Psychiatrist must provide copies of all notifications to SACAT within 1 business day.</li> </ul>	 <p>Send to OCP</p>
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## Level 2 Inpatient Treatment Orders

A level 2 inpatient treatment order can be made for up to 42 days by a psychiatrist or authorised medical practitioner.




### Making the Order

<p><b>25(1)</b> <b>25(2)</b></p>	<p>If a level 1 inpatient treatment order has been made or confirmed by a psychiatrist or authorised medical practitioner, a psychiatrist or authorised medical practitioner may examine a person and make a level 2 inpatient treatment order if they are satisfied that:</p> <ul style="list-style-type: none"> <li>&gt; The person has a mental illness, and</li> <li>&gt; Because of the mental illness the person requires treatment to protect them from harm (whether physical or mental), or the person requires treatment to protect others from harm, and</li> <li>&gt; The person has impaired decision-making capacity relating to the mental illness, and</li> <li>&gt; There is no less restrictive treatment option available.</li> </ul>	
<p><b>25(4)</b></p>	<p>A psychiatrist or authorised medical practitioner making an order may form an opinion based on their own observations and any other evidence they think reliable and relevant.</p>	
<p><b>25(6)</b></p>	<p>A level 2 inpatient treatment order expires at 2pm on a business day up to 42 days after the day on which it was made.</p>	
<p><b>25(2)</b></p>	<p>A level 2 inpatient treatment order must be made using the official form.</p>	 Form D


### Copies and Statements of Rights

<p><b>27(1)</b></p>	<p>The psychiatrist or authorised mental health professional making or revoking the level 2 inpatient treatment order must give the person a copy as soon as possible and practical.</p>	 Copy of form D
<p><b>27(2)</b> <b>27(3)</b></p>	<ul style="list-style-type: none"> <li>&gt; The person must be given a copy of the Statement of Rights as soon as possible and practical.</li> <li>&gt; If the person cannot understand the Statement of Rights, possible and practical steps must be taken to convey the information to the person.</li> </ul>	 Statement of Rights
<p><b>27(4)</b> <b>27(5)</b> <b>27(6)</b></p>	<ul style="list-style-type: none"> <li>&gt; A copy of the order and Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This other person may be:                         <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible and practical or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible and practical or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and practical and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to another person if it would be contrary to the person's best interests.</li> </ul>	 Copy of form D   Statement of Rights


## Writing the Report

26(4)	A psychiatrist or authorised medical practitioner making or extending an order must provide a report to the director of the treatment centre about their examination of the person and the reasons for the order.	 Form E  Send to Director
26(5)	The Director must forward a copy of the report to the Chief Psychiatrist.	 Send to OCP


## Reviewing the Order

25(8)	<ul style="list-style-type: none"> <li>&gt; A psychiatrist or authorised medical practitioner who has examined a person may revoke the level 2 inpatient treatment order at any time.</li> <li>&gt; The subsequent revocation of the order must use the official form.</li> </ul>	 Form C
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## Treatment and Care

28	<ul style="list-style-type: none"> <li>&gt; A person placed on a level 2 inpatient treatment order may be given treatment for their mental illness, or any illness causing or contributing to the mental illness, as authorised by a doctor who has examined them.</li> <li>&gt; Treatment may be given despite if the person refuses or is unable to give consent.</li> <li>&gt; This section does not authorise the use of prescribed psychiatrist treatment or prescribed treatment under the <i>Guardianship and Administration Act 1993</i>.</li> </ul>	
41	<ul style="list-style-type: none"> <li>&gt; Treatment and care must be provided in line with a treatment and care plan.</li> <li>&gt; The treatment and care plan must describe the treatment and care to be provided to the person.</li> <li>&gt; The treatment and care plan must be prepared and revised in consultation with:             <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; Any guardian, substitute decision maker (medical agent), relative, carer or friend providing support to the person,</li> <li>&gt; Any service provider or agency that is providing treatment, care or support.</li> </ul> </li> </ul>	 Treatment and Care Plan

## Notifications

26	<ul style="list-style-type: none"> <li>&gt; A doctor or authorised medical practitioner making, revoking or extending an order must notify the Chief Psychiatrist within 1 business day.</li> <li>&gt; The Chief Psychiatrist must acknowledge receipt of notifications within 1 business day.</li> <li>&gt; The Chief Psychiatrist must provide copies of all notifications to SACAT within 1 business day.</li> </ul>	 Send to OCP
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## Extending the Order

<b>25(7)</b>	A psychiatrist or authorised medical practitioner (who must be different to the psychiatrist or authorised medical practitioner who made the order) who has examined a person may, once only, extend a level 2 inpatient treatment order for up to 42 days from the day on which the first level 2 order would have expired.	 Form D
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## Level 3 Inpatient Treatment Orders

A level 3 inpatient treatment order can be made for up to 12 months for adults or 6 months for children by the South Australian Civil and Administrative Tribunal.



## Applying for the Order

<b>29(4)</b>	<ul style="list-style-type: none"> <li>&gt; An application to SACAT for a level 3 inpatient treatment order may be made by:</li> <li>&gt; The Public Advocate,</li> <li>&gt; The Director of an Approved Treatment Centre, or</li> <li>&gt; An officer authorised to do so by the Director.</li> </ul>	 SACAT form
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## Making the Order

<b>29(1) 29(2)</b>	SACAT may make a level 3 inpatient treatment order if they are satisfied that: <ul style="list-style-type: none"> <li>&gt; The person has a mental illness, and</li> <li>&gt; Because of the mental illness the person requires treatment to protect them from harm (whether physical or mental), or the person requires treatment to protect others from harm, and</li> <li>&gt; The person has impaired decision-making capacity relating to the mental illness, and</li> <li>&gt; There is no less restrictive treatment option available.</li> </ul>
<b>29(3)</b>	A level 3 inpatient treatment order can be made for a person placed on a level 1, level 2 or level 3 inpatient treatment order.
<b>29(5)</b>	A level 3 inpatient treatment order for an adult expires at 2pm on a business day up to 12 months after the day on which it was made, and for a child expires at 2pm on a business day up to 6 months after the day on which it was made.


## Copies and Statements of Rights

<b>46(1)</b>	SACAT must give the person a copy of the level 3 inpatient treatment order as soon as possible and practical.	 Copy of SACAT order
<b>46(1) 46(2)</b>	<ul style="list-style-type: none"> <li>&gt; The person must be given a copy of the Statement of Rights as soon as possible and practical.</li> <li>&gt; If the person cannot understand the Statement of Rights, possible and practical steps must be taken to convey the information to the person.</li> </ul>	 Statement of Rights #4




<p><b>46(3)</b> <b>46(4)</b></p>	<ul style="list-style-type: none"> <li>&gt; A copy of the order and Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This other person may be:             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible and practical or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible and practical or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and practical and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to another person if it would be contrary to the person’s best interests.</li> </ul>	<div style="text-align: center; margin-bottom: 10px;">  <p>Copy of SACAT order</p> </div> <div style="text-align: center;">  <p>Statement of Rights #4</p> </div>
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### Varying or Revoking the Order

<p><b>29(6)</b> <b>29(7)</b></p>	<ul style="list-style-type: none"> <li>&gt; SACAT may vary or revoke a level 3 community treatment order at any time upon application.</li> <li>&gt; An application for variation or revocation may be made by:             <ul style="list-style-type: none"> <li>&gt; The person</li> <li>&gt; The Public Advocate</li> <li>&gt; A medical practitioner</li> <li>&gt; A mental health clinician</li> <li>&gt; A guardian, substitute decision maker (medical agent), relative, carer or friend of the person</li> <li>&gt; Anyone else SACAT determines has a proper interest in the person.</li> </ul> </li> </ul>	
<p><b>46(1)</b></p>	<p>SACAT must give the person a copy of the decision as soon as possible and practical.</p>	<div style="text-align: center;">  <p>Copy of decision</p> </div>

### Treatment and Care


<p><b>31</b></p>	<ul style="list-style-type: none"> <li>&gt; A person placed on a level 3 inpatient treatment order may be given treatment for their mental illness as authorised by a doctor who has examined them.</li> <li>&gt; Treatment may be given even if the person refuses or is unable to give consent.</li> <li>&gt; This section does not authorise the use of prescribed psychiatrist treatment or prescribed treatment under the <i>Guardianship and Administration Act 1993</i>.</li> </ul>	
<p><b>41</b></p>	<ul style="list-style-type: none"> <li>&gt; Treatment and care must be provided in line with a treatment and care plan.</li> <li>&gt; The treatment and care plan must describe the treatment and care to be provided to the person.</li> <li>&gt; The treatment and care plan must be prepared and revised in consultation with:             <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; Any guardian, substitute decision maker (medical agent), relative, carer or friend providing support to the person,</li> <li>&gt; Any service provider or agency that is providing treatment, care or support.</li> </ul> </li> </ul>	<div style="text-align: center;">  <p>Treatment and Care Plan</p> </div>

### Notifications







<p><b>30</b></p>	<p>SACAT must notify the Chief Psychiatrist within 1 business day if a level 3 inpatient treatment order is made, varied or revoked.</p>	<div style="text-align: center;">  <p>Send to OCP</p> </div>
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## Administering Involuntary Treatment

### Administering an Inpatient Treatment Order





<b>33</b>	The Director of a treatment centre must admit a person who is under an inpatient treatment order and comply with the order.	 Or delegate
<b>34A</b>	For a person placed on an inpatient treatment order at a treatment centre, treatment centre staff may enforce that order, including the use of reasonable force, to: <ul style="list-style-type: none"> <li>&gt; Fulfil the requirements of the order,</li> <li>&gt; Maintain the functions and safety of the treatment centre.</li> </ul>	
<b>34</b>	<ul style="list-style-type: none"> <li>&gt; A person placed on an inpatient treatment order cannot leave the treatment centre except if they are in the company of treatment centre staff or have been granted a leave of absence.</li> <li>&gt; A person placed on an inpatient treatment order in the company of treatment centre staff outside of the treatment centre must remain in the company of staff.</li> </ul>	

### Leave of Absence

<b>36</b>	<ul style="list-style-type: none"> <li>&gt; A person placed on an inpatient treatment order may be granted a leave of absence, by the Director of the treatment centre, for any purpose and period.</li> <li>&gt; A leave of absence may be granted with or without conditions.</li> <li>&gt; A leave of absence must be made using the official form.</li> </ul>	 Or delegate   Form F
<b>36(3)</b> <b>37(1)</b> <b>37(2)</b>	<ul style="list-style-type: none"> <li>&gt; The person being granted the leave of absence must be given a copy.</li> <li>&gt; The person must be given a copy of the Statement of Rights as soon as possible and practical.</li> <li>&gt; If the person cannot understand the Statement of Rights, possible and practical steps must be taken to convey the information to the person.</li> </ul>	 Copy of form F   Statement of Rights #5
<b>37(3)</b> <b>37(4)</b>	<ul style="list-style-type: none"> <li>&gt; A copy of the Leave of Absence and the Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This other person may be:                         <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible and practical or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible and practical or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and practical and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to another person if it would be contrary to the person's best interests.</li> </ul>	 Copy of form F   Statement of Rights #5

<b>38</b>	<ul style="list-style-type: none"> <li>&gt; The Director of a treatment centre may cancel a leave of absence at any time.</li> <li>&gt; The Director must take reasonable steps for notice of the cancellation to be made to the person before, or as soon as possible and practical after, the person returns to the care of treatment centre staff.</li> </ul>	 Or delegate   Form F
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### Transfers

<b>35(1)</b>	The Director of a treatment centre may transfer a person placed on an inpatient treatment order from the centre to another treatment centre.	 Or delegate
<b>35(2)</b> <b>35(3)</b> <b>35(4)</b>	<ul style="list-style-type: none"> <li>&gt; The Director of a treatment centre may transfer a person placed on an inpatient treatment order from the centre to a hospital, or between hospitals, for treatment for a physical illness after making arrangements with the officer in charge of that hospital.</li> <li>&gt; If a person placed on an inpatient treatment order has been transferred to a hospital the staff of the hospital will be taken to be treatment centre staff for the purposes of enforcing the order.</li> <li>&gt; A transfer must be made using the official form.</li> </ul>	 Form K
<b>35(5)</b> <b>35(6)</b>	<ul style="list-style-type: none"> <li>&gt; The person must be given a copy of the transfer as soon as possible and practical.</li> <li>&gt; A copy of the transfer must be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This other person may be:                             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible and practical or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible and practical or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and practical and appropriate.</li> </ul> </li> <li>&gt; A copy of the transfer should not be given to another person if it would be contrary to the person's best interests.</li> </ul>	 Copy of form K   Copy of form K


### Inpatient Treatment Orders displace Community Treatment Orders

<b>32</b>	If an inpatient treatment order is made for a person already on a community treatment order, the community treatment order is on hold until the inpatient treatment order expires or is revoked.
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## Cross-Agency Collaboration


### From and to Police Custody

A person in police custody who appears to be unwell may have their care and custody temporarily given to mental health services for assessment and treatment before returning to police custody.

<p><b>57(9)</b> <b>57(10)</b></p>	<ul style="list-style-type: none"> <li>&gt; If a police officer has apprehended or arrested a person under another law, the person may be released (despite any other law) from Police custody to mental health services for assessment and treatment under this Act.</li> <li>&gt; If a person has been so released,                             <ul style="list-style-type: none"> <li>&gt; The Police Commissioner must be informed of what action was taken under the Act (if a community treatment order, an inpatient treatment order or a transfer has been made), and</li> <li>&gt; The person must, at the request of the Police Commissioner, be returned to Police custody when assessment and/or treatment is complete.</li> </ul> </li> </ul>	 <p>Document action</p>
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### Cross Agency Collaboration

A memorandum of understanding can be written to provide additional guidance and instruction on cross-agency collaboration.



<p><b>58</b></p>	<p>Authorised officers and police officers may assist each other.</p>	 <p>Memorandum of Understanding</p>
<p><b>59</b></p>	<ul style="list-style-type: none"> <li>&gt; The Minister can approve a memorandum of understanding between agencies (with the agreement of the Minister for Police) about the powers of authorised officers and police officers and how they will work together.</li> <li>&gt; Authorised officers, police officers and others using the Act should try to comply with the memorandum.</li> <li>&gt; Nothing in a memorandum can affect the lawfulness of actions taken by authorised officers, police officers or others when using the Act.</li> </ul>	

# 7. Prescribed Psychiatric Treatment


## 7. Prescribed Psychiatric Treatment

### Electro-Convulsive Therapy


#### Consent to ECT

<b>42(1)</b>	ECT must not be administered to a person unless: <ul style="list-style-type: none"> <li>&gt; They have a mental illness, and</li> <li>&gt; ECT has been authorised by a psychiatrist who has examined the person, and</li> <li>&gt; Consent has been given for the ECT by: <ul style="list-style-type: none"> <li>&gt; The person (if 16 years of age or over and has decision making capacity), or</li> <li>&gt; A parent or guardian (if the person is under 16), or</li> <li>&gt; If the person is 16 years of age or over but does not have decision making capacity: <ul style="list-style-type: none"> <li>&gt; By each substitute decision maker under an Advance Care Directive, or</li> <li>&gt; By a substitute decision maker (medical agent) or guardian, or</li> <li>&gt; By SACAT on application.</li> </ul> </li> </ul> </li> </ul>	
<b>42(7)</b>	Consent to a course of ECT must be made using the official form.	 Form L
<b>42(5)</b>	An application for SACAT consent must be made by a doctor or mental health clinician.	 SACAT form
<b>42(2)</b>	Consent to a course of ECT is limited to a maximum of 12 treatments or 3 months, whichever comes first.	
<b>42(4)</b>	Consent to a course of ECT includes consent to the administration of anaesthetics.	
<b>42(4)</b>	Consent to a course of ECT does not include the use of force.	
<b>42(4)</b>	Consent may be withdrawn at any time by the person who gave it.	
<b>42(3)</b>	ECT administered to determine the correct dose for future treatment will be counted as the first treatment in a course.	

#### Emergency ECT


<b>42(6)</b>	A psychiatrist may administer ECT in an emergency situation if: <ul style="list-style-type: none"> <li>&gt; The person has an illness that requires treatment urgently, and</li> <li>&gt; It is not possible to get consent.</li> </ul>	
<b>42(7) form</b>	A psychiatrist carrying out emergency ECT must use the official form.	 Form M

#### Notifications



<b>42(7)</b>	The Chief Psychiatrist must be notified within 1 business day of the making of consent for ECT or the use of emergency ECT.	 Send to OCP
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## Neurosurgery for Mental Illness



### Consent to Neurosurgery

43(1)	<p>Neurosurgery for mental illness must not be carried out unless:</p> <ul style="list-style-type: none"> <li>&gt; The person has a mental illness.</li> <li>&gt; The neurosurgery has been authorised by:             <ul style="list-style-type: none"> <li>&gt; The person, or</li> <li>&gt; SACAT (if the person does not have decision making capacity), and</li> <li>&gt; The officer who will carry out the neurosurgery, and</li> <li>&gt; 2 psychiatrists, and</li> <li>&gt; The Prescribed Psychiatric Treatment Panel.</li> </ul> </li> </ul>	
43(2)	An application to SACAT for consent may be made by a doctor or mental health clinician.	 <p>SACAT form</p>

### Application Process

43(1a)	The officer who will be carrying out the neurosurgery must, at least 14 days beforehand, send the Chief Psychiatrist notification of the neurosurgery and request approval from the Prescribed Psychiatric Treatment Panel.	
43(1a)	The application for neurosurgery must be made using the official form.	 <p>Form N</p>
43(1a)	The officer must include a report written by each of the 2 psychiatrists who have examined the person.	 <p>Report</p>

### Reporting

43(2a)	The officer who carried out the neurosurgery must, within 3 months of the surgery, send a progress report to the Chief Psychiatrist.	
43(2a)	The report must be made according to the Chief Psychiatrist's instruction.	 <p>Report</p>
43(2a)	The officer who carried out the neurosurgery must ensure a report from a psychiatrist who has examined the person since the surgery is also provided.	 <p>Report</p>

## Other Prescribed Psychiatric Treatment

### Powers and Responsibilities

<b>44</b>	<ul style="list-style-type: none"> <li>&gt; The regulations may regulate any prescribed psychiatric treatment other than ECT or neurosurgery.</li> <li>&gt; The regulations will have effect despite any other Act.</li> <li>&gt; The regulations may impose penalties for offences.</li> <li>&gt; No regulations can be made without the recommendation of the Prescribed Psychiatric Treatment Panel.</li> </ul>
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## Prescribed Psychiatric Treatment Panel

### Membership

<b>41A</b>	<ul style="list-style-type: none"> <li>&gt; The PPTP consists of the Chief Psychiatrist, and</li> <li>&gt; No more than 8 other members, including             <ul style="list-style-type: none"> <li>&gt; 1 person who is, or was previously, a patient</li> <li>&gt; 1 carer or former carer</li> <li>&gt; 1 senior psychiatrist</li> <li>&gt; 1 neurosurgeon</li> <li>&gt; 1 legal practitioner</li> <li>&gt; 1 bioethicist</li> </ul> </li> </ul>
<b>41A</b>	The members must be qualified through experience, knowledge and expertise to assist the PPTP to exercise its functions under the Act.
<b>41A</b>	The members will be recommended by the Chief Psychiatrist to the Minister, for consideration and recommendation to the Governor for appointment.

### Conditions of Appointment

<b>41B(1)</b>	A PPTP member will be appointed for a 5-year term of office. Conditions may be included in the contract of appointment.
<b>41B(2)</b>	A PPTP member may receive allowances and expenses, as determined by the Governor.
<b>41B(4)</b>	<p>A PPTP member will cease to be a member if the member</p> <ul style="list-style-type: none"> <li>&gt; Dies.</li> <li>&gt; Completes a term and is not reappointed.</li> <li>&gt; Resigns in writing to the Minister.</li> <li>&gt; Ceases to meet the criterion of their appointment.</li> <li>&gt; Is removed from office.</li> </ul>
<b>41B(3)</b>	<p>The Governor may, on the recommendation of the Minister (who must consult the Chief Psychiatrist), remove a member from office for:</p> <ul style="list-style-type: none"> <li>&gt; Mental or physical incapacity to carry out PPTP functions.</li> <li>&gt; Neglect of duty.</li> <li>&gt; Dishonourable conduct.</li> </ul>



## Functions

**41C**

The PPTP's functions are to:

- > Review a person who has received 3 or more courses of ECT in 1 year.
- > Review a person who has received 2 or more episodes of emergency ECT in 1 year.
- > Authorise the use of neurosurgery for mental illness.
- > Recommend regulations relating to other prescribed psychiatric treatment.

## Proceedings

**41D**

- > The Chief Psychiatrist is the presiding member of the PPTP.
- > The PPTP will meet as required by the Chief Psychiatrist.
- > The PPTP will be made up of the Chief Psychiatrist and at least 2 other members, as selected by the Chief Psychiatrist.
- > The PPTP will make recommendations according to the majority opinion, with the Chief Psychiatrist having the deciding vote if necessary.
- > Meetings may be a telephone or video conference between members.
- > A decision of the PPTP must be recorded in writing by the Chief Psychiatrist.
- > The PPTP may decide its own processes.






# 8. Community Visitor Scheme

## 8. Community Visitor Scheme

### Community Visitor Functions

<b>51(1)</b>	<ul style="list-style-type: none"> <li>&gt; Conduct visits to and inspections of treatment centres and authorised community mental health facilities.</li> <li>&gt; Refer matters of concern to the Minister, Chief Psychiatrist or other appropriate person or body.</li> <li>&gt; Advocate for the resolution of issues relating to the care, treatment or management of a person.</li> </ul>
<b>51(3)</b>	Conduct inspections as an inspector under Part 10 of the <i>Health Care Act 2008</i> .

### Principal Community Visitor Functions

<b>51(1)</b>	<ul style="list-style-type: none"> <li>&gt; Conduct visits to and inspections of treatment centres and authorised community mental health facilities.</li> <li>&gt; Refer matters of concern to the Minister, Chief Psychiatrist or other appropriate person or body.</li> <li>&gt; Advocate for the resolution of issues relating to the care, treatment or control of a person.</li> </ul>	 <p>Or delegate</p>
<b>51(2)</b>	<ul style="list-style-type: none"> <li>&gt; Oversee and coordinate community visitor's functions.</li> <li>&gt; Advise and assist community visitors in the performance of their functions.</li> <li>&gt; Report to the Minister about community visitor's functions.</li> </ul>	 <p>Or delegate</p>
<b>51(3)</b>	Conduct inspections as an inspector under Part 10 of the Health Care Act 2008.	 <p>Or delegate</p>


### Visits and Inspections

<b>52 52A</b>	Each treatment centre and authorised community mental health facility must be visited at least once every 2 months by 2 or more community visitors.
<b>52 52A</b>	<ul style="list-style-type: none"> <li>&gt; Each treatment centre or authorised community mental health facility may be visited at any time by 2 or more community visitors.</li> <li>&gt; Each treatment centre or authorised community mental health facility may be visited at any time by the Principal Community Visitor alone.</li> </ul>
<b>52 52A</b>	A visit may be made with or without notice.
<b>52 52A</b>	A visit may be made on the request of a person or a guardian, substitute decision maker (medical agent), relative, carer or friend.
<b>52 52A</b>	<p>On a visit the community visitors must:</p> <ul style="list-style-type: none"> <li>&gt; Inspect all parts of the centre or facility used for the care, treatment and control of persons.</li> <li>&gt; Make any necessary inquiries about the care, treatment and control of persons.</li> </ul>
<b>52 52A</b>	After each visit the community visitor must make a report to the Principal Community Visitor.

## Requests

<b>53</b>	<ul style="list-style-type: none"> <li>&gt; A person or a guardian, substitute decision maker (medical agent), relative, carer or friend may request to see a community visitor.</li> <li>&gt; The Director of a treatment centre must advise the Community Visitor Scheme of such a request within 2 days.</li> </ul>
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## Reports

<b>53</b>	<ul style="list-style-type: none"> <li>&gt; The Principal Community Visitor must provide an Annual Report to the Minister by 30 September each year. The Minister must provide that report to both Houses of Parliament within 6 sitting days.</li> <li>&gt; The Principal Community Visitor can, at any time, provide a special report to the Minister. The Minister must provide that report to both Houses of Parliament within 2 weeks.</li> </ul>	 <p>Report</p>
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## Principal Community Visitor Delegations

<b>51A</b>	<ul style="list-style-type: none"> <li>&gt; The Principal Community Visitor can delegate a power or function to a community visitor.</li> <li>&gt; The delegation can be absolute or conditional, can be revoked at will by the Principal Community Visitor and does not stop the Principal Community Visitor from using that power or function.</li> </ul>
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## Appointment

<b>50(1)</b>	> There will be a Principal Community Visitor.
<b>50(2)</b>	> There will be a number of Community Visitors as determined by the Governor.
<b>50(3)</b>	A person will be appointed as Principal Community Visitor or Community Visitor by the Governor for a term of office of 3 years. Conditions may be included in the appointment.
<b>50(5)</b>	> The Governor may remove a person from either position on the presentation of an address from both Houses of Parliament seeking the person's removal.
<b>50(6)</b>	<ul style="list-style-type: none"> <li>&gt; The Governor may suspend a person from either position for incompetence or misbehaviour and             <ul style="list-style-type: none"> <li>&gt; A full statement of the reason must be laid before both Houses of Parliament within 3 sitting days.</li> <li>&gt; If after 1 month from the suspension statement being made, an address from both Houses of Parliament seeking the person's removal has not been made, the person will be restored to the position.</li> </ul> </li> </ul>
<b>50(7)</b>	<p>The position of Principal Community Visitor or Community Visitor becomes vacant if the appointed person:</p> <ul style="list-style-type: none"> <li>&gt; Dies.</li> <li>&gt; Resigns in writing to the Minister.</li> <li>&gt; Completes a term of appointment and is not reappointed.</li> <li>&gt; Is removed from the position by the Governor.</li> <li>&gt; Becomes bankrupt or applies as a debtor under bankruptcy laws.</li> <li>&gt; Is convicted of an indictable offence or sentenced to imprisonment.</li> <li>&gt; Becomes a member of Parliament of a State, Territory or Commonwealth.</li> <li>&gt; Becomes mentally or physically incapable of carrying out the role's functions.</li> </ul>
<b>50(8)</b>	<p>The Minister may appoint a person to act in the position of Principal Community Visitor:</p> <ul style="list-style-type: none"> <li>&gt; During a vacancy in the position.</li> <li>&gt; When the Principal Community Visitor is absent or unable to perform.</li> <li>&gt; If the Principal Community Visitor is suspended by the Governor.</li> </ul>





# 9. South Australian Civil and Administrative Tribunal

## 9. South Australian Civil and Administrative Tribunal


### Automatic Reviews

<b>79</b>	<ul style="list-style-type: none"> <li>&gt; SACAT must conduct reviews of:                             <ul style="list-style-type: none"> <li>&gt; A level 2 community treatment order applying to a child for over 3 months.</li> <li>&gt; Any level 1 inpatient treatment order made within 7 days of the expiry or revocation of any inpatient treatment order.</li> <li>&gt; Any extension of a level 2 inpatient treatment order.</li> <li>&gt; A level 3 inpatient treatment order applying to a child for over 3 months.</li> </ul> </li> <li>&gt; SACAT may conduct other reviews relating to treatment orders as it sees fit.</li> <li>&gt; SACAT may conduct a review in any way it deems appropriate.</li> <li>&gt; This type of review will be in the original jurisdiction of SACAT.</li> </ul>
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### Reviews of Orders made by Health Practitioners


<b>81</b>	<ul style="list-style-type: none"> <li>&gt; A treatment order not made by SACAT may be reviewed on request by:                             <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; The Public Advocate,</li> <li>&gt; A guardian, substitute decision maker (medical agent), relative, carer or friend of the person,</li> <li>&gt; Any person SACAT deems appropriate.</li> </ul> </li> <li>&gt; A review under this section must be started before the order expires.</li> <li>&gt; A review under this section must include at least 1 doctor and 1 lawyer.</li> <li>&gt; Such a review will be made according to section 34 of the South Australian Civil and Administrative Act 2013.</li> </ul>	 SACAT form
<b>81</b>	The Chief Psychiatrist must provide a copy of the person's treatment and care plan to SACAT.	 Or delegate

### Reviews of Interstate Transfers

<b>83</b>	<ul style="list-style-type: none"> <li>&gt; A direction for a transfer to an interstate treatment centre under section 70 may be reviewed on request by:                             <ul style="list-style-type: none"> <li>&gt; The person,</li> <li>&gt; The Public Advocate,</li> <li>&gt; A guardian, substitute decision maker (medical agent), relative, carer or friend of the person,</li> <li>&gt; Any person SACAT deems appropriate.</li> </ul> </li> <li>&gt; A review under this section must be started within 14 days of Chief Psychiatrist approval.</li> <li>&gt; SACAT may affirm or revoke the direction.</li> <li>&gt; Such a review will be made according to section 34 of the South Australian Civil and Administrative Act 2013.</li> </ul>	 SACAT form
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## Internal Reviews of SACAT Orders and Decisions

83A(b)	<ul style="list-style-type: none"> <li>&gt; An application for an internal review can be made by:               <ul style="list-style-type: none"> <li>&gt; The person.</li> <li>&gt; The applicant for a treatment order or interstate transfer.</li> <li>&gt; The Public Advocate.</li> <li>&gt; Any person who provided evidence, material or submissions previously.</li> <li>&gt; Any person SACAT deems appropriate.</li> </ul> </li> </ul>	 SACAT form
83A(c)	The applicant for the internal review and the person subject to the application or order will participate in the review.	
83A(d)	SACAT must hear and determine a matter as quickly as possible and give priority to review requests for inpatient treatment orders.	
83A(e)	A SACAT panel must be composed of more than a doctor when conducting a review of a SACAT made order.	
83A(f)	SACAT may make an order to recover costs from a party if SACAT deems the request for a review, or the party's behaviour during the review, as frivolous, vexatious or calculated to cause delay.	
83A(a)	A SACAT decision not to publish a report about proceedings cannot be subject to an internal review.	

## Review Decisions and Reports

80	<ul style="list-style-type: none"> <li>&gt; If, after a review of a treatment order, SACAT does not think there are proper grounds for the order to continue, then SACAT must revoke the order.</li> <li>&gt; After a review of a treatment order, SACAT may           <ul style="list-style-type: none"> <li>&gt; Affirm the order,</li> <li>&gt; Vary the order,</li> <li>&gt; Revoke the order, or</li> <li>&gt; Make another order (not an inpatient treatment order) that SACAT deems appropriate, including an order that the treatment and care plan be reviewed.</li> </ul> </li> <li>&gt; SACAT may provide a report to the Minister.</li> </ul>
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## Appeals to the Supreme Court

83A(g)	<ul style="list-style-type: none"> <li>&gt; An appeal to the Supreme Court must be made within 14 days after           <ul style="list-style-type: none"> <li>&gt; The making of a decision by SACAT, or</li> <li>&gt; SACAT providing the reasons for that decision.</li> </ul> </li> <li>&gt; The Court may decide to ignore the 14 day period as it deems appropriate.</li> </ul>
83A(h)	SACAT decisions which are not appealable to the Supreme Court are: <ul style="list-style-type: none"> <li>&gt; A decision not to publish a report about proceedings.</li> <li>&gt; A decision made under a review according to section 34 of the <i>South Australian Civil and Administrative Act 2013</i>.</li> </ul>
83A(i)	No order to recover costs can be made against an applicant if they are the person that the decision appealed against relates.

## Advocacy

**85B**

A person subject to a SACAT hearing may be represented by an advocate, including:

- > The Public Advocate,
- > Any other advocate recognised by SACAT in writing (except for internal review hearings).

## Notice of Proceedings

**85**

> SACAT must give reasonable notice about hearings to:

- > The person,
- > The applicant,
- > The Public Advocate,
- > The Chief Psychiatrist (for hearings about prescribed psychiatric treatment).
- > Any person SACAT deems appropriate

> SACAT is not obliged to give notice if:

- > A person cannot be contacted after reasonable enquiries, or
- > SACAT regards the matter as urgent and makes an urgent order or decision (which cannot be in place longer than 21 days).

## Reasons for Decisions

**85A**

SACAT must, on request by a person who has the right to request an internal review, or another person SACAT deems appropriate, provide a written statement of the reasons for SACAT's original decision, except if:

- > The request is made after the period when a review can be requested, or
- > The request is made after the review findings have already been made.



Copy of decision

# 10. Cross Border Arrangements

## 10. Cross Border Arrangements

### Foundations of cross border arrangements

#### Definitions

**61** Specific definitions for cross border arrangements.

#### Regulations

**65** Cross border arrangements may be modified by the Regulations.

#### Ministerial Agreements

**62** The Minister may make an agreement with the corresponding Minister in another state or territory about cross border arrangements.



Ministerial Agreement

#### Requests and Approvals between Jurisdictions

**63**




- > Some cross border arrangements may only be made if
  - > The action is described in a Ministerial Agreement or is not prevented in a Ministerial Agreement, and
  - > The action has been requested or approved by an interstate officer under corresponding law, and
  - > The action is in the best interests of the person.
- > The Chief Psychiatrist may request or approve action by an interstate officer under corresponding law if:
  - > The action is described in a Ministerial Agreement or is not prevented in a Ministerial Agreement, and
  - > The action may be taken under corresponding law or a Ministerial Agreement or with the approval of a SA officer, and
  - > The action is in the best interests of the person.

#### Powers of South Australian Officers

**64** A South Australian officer may use any power given to them by this Act, a corresponding law or a Ministerial Agreement.

## People with apparent mental illness

### Apparent mental illness to other states

<p><b>75(1)</b> <b>75(2)</b></p>	<p>If a South Australian authorised officer has taken a person into care and control because they appear to have a mental illness and require medical examination, the officer may, with the approval of the Chief Psychiatrist, instead of transporting the person to a South Australian treatment centre or other place:</p> <ul style="list-style-type: none"> <li>&gt; Transport the person to an interstate treatment centre or interstate doctor or interstate authorised mental health professional, or</li> <li>&gt; Deliver the person into the care and control of an interstate authorised officer for transport to an interstate treatment centre or interstate doctor or interstate authorised mental health professional.</li> </ul>	
<p><b>3(3)</b></p>	<p>The approval of the Chief Psychiatrist must be sought using the official form.</p>	 Form R
<p><b>3(3)</b></p>	<p>The person must be given a copy of the form and the Statement of Rights as soon as possible and practical.</p>	 Copy of form R   Statement of Rights #2
<p><b>75(4)</b></p>	<p>A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to transport the person to an interstate location or officer.</p>	
<p><b>75(3)</b></p>	<p>The use of these powers may be modified or prevented by a Ministerial Agreement.</p>	

### Apparent mental illness to South Australia


<p><b>78(1)</b></p>	<p>If an interstate authorised office or police officer has taken a person into care and control under corresponding law because they appear to have a mental illness, the interstate officer may, instead of taking action under the corresponding law:</p> <ul style="list-style-type: none"> <li>&gt; Transport the person to a South Australian treatment centre or other place for examination, or</li> <li>&gt; Deliver the person into the care and control of a South Australian authorised officer or police officer for transport to a South Australian treatment centre or other place for examination.</li> </ul>
<p><b>78(2)</b></p>	<p>A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to transport the person to a South Australian treatment centre or other place for examination.</p>

## People subject to community treatment orders

### Powers of Interstate Officers about community treatment orders

<b>67</b>	<ul style="list-style-type: none"> <li>&gt; An interstate officer may use the community treatment order powers given to them under corresponding law to enforce an interstate community treatment order in South Australia.</li> <li>&gt; An interstate police officer may use break and enter powers in South Australia.</li> </ul>
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### SA community treatment orders in other states with the requirement for treatment interstate

<b>66(1)</b> <b>66(2)</b>	<ul style="list-style-type: none"> <li>&gt; A South Australian community treatment order may be made or varied to require treatment at an interstate treatment centre.</li> <li>&gt; If a South Australian community treatment order requires treatment at an interstate treatment centre and the person does not comply with the order, the Chief Psychiatrist may make a patient transport request to transport the person to the interstate treatment centre.</li> </ul>	 Form I
<b>66(6)</b>	If a South Australian or interstate officer believes a person is subject to a Chief Psychiatrist patient transport request the officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to enforce the patient transport request.	
<b>66(4)</b>	The use of these powers may be modified or prevented by a Ministerial Agreement.	






### SA community treatment orders in other states without the requirement for treatment interstate

<b>66(3)</b> <b>66(5)</b>	<ul style="list-style-type: none"> <li>&gt; If an interstate authorised officer believes that a person is under a South Australian community treatment order (that does not require treatment at an interstate treatment centre) the interstate authorised officer may:                             <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Deliver the person into the care and control of a South Australian authorised officer for transport to a South Australian authorised community mental health facility, the person's residence or another place named in the order.</li> </ul> </li> <li>&gt; Take the person to an interstate treatment centre,</li> <li>&gt; Provide involuntary treatment to the person based on                             <ul style="list-style-type: none"> <li>&gt; The requirements of the South Australian community treatment order, or</li> <li>&gt; The instructions of a doctor who has examined the person.</li> </ul> </li> <li>&gt; These powers may only be used (up to 42 days) until the expiry of the South Australian community treatment order or until an interstate order is made.</li> </ul>
<b>66(4)</b>	> The use of these powers may be modified or prevented by a Ministerial Agreement.

### Interstate community treatment orders in South Australia with the requirement for treatment in SA

<b>68(1)</b>	<p>If an interstate community treatment order is made or varied to require treatment in South Australia, this Act will apply except that:</p> <ul style="list-style-type: none"> <li>&gt; The person must receive treatment in South Australia in accordance with the requirements of the interstate order, and</li> <li>&gt; The treatment in South Australia will continue until the expiry of the interstate order.</li> </ul>
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## Interstate community treatment orders in South Australia without the requirement for treatment in SA

<p>68(2) 68(4)</p>	<ul style="list-style-type: none"> <li>&gt; If a South Australian authorised officer believes that a person is under an interstate community treatment order (that does not require treatment in South Australia) the South Australian authorised officer may:             <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Deliver the person into the care and control of an interstate authorised officer for transport to an interstate treatment centre, the person's residence or another place named in the order.</li> <li>&gt; Take the person to a South Australian authorised community mental health facility,</li> <li>&gt; Provide involuntary treatment to the person based on                 <ul style="list-style-type: none"> <li>&gt; The requirements of the interstate community treatment order, or</li> <li>&gt; The instructions of a doctor who has examined the person.</li> </ul> </li> </ul> </li> <li>&gt; These powers may only be used (up to 42 days) until either the expiry of the interstate community treatment order or a South Australian order is made.</li> </ul>	
<p>68(3)</p>	<p>The use of the powers to deliver the person into the care and control of an interstate officer may be modified or prevented by a Ministerial Agreement.</p>	
<p>68(8)</p>	<p>A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to transport or enable treatment of the person.</p>	
<p>3(3) 68(5)</p>	<ul style="list-style-type: none"> <li>&gt; A request for treatment in South Australia under an interstate community treatment order must be made to the Chief Psychiatrist using the official form.</li> <li>&gt; The official form must be sent to the Chief Psychiatrist as soon as possible and practical.</li> </ul>	 Form S
<p>3(3) 68(6)</p>	<p>The person must be given a copy of the form and the Statement of Rights as soon as possible and practical.</p>	 Form S  Statement of Rights #3
<p>68(7)</p>	<ul style="list-style-type: none"> <li>&gt; A copy of the Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be:             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the Statement of Rights should not be given to a carer if it is not in the person's best interests.</li> </ul>	 Form S  Statement of Rights #3







## Making a South Australian community treatment order when an interstate order applies

<p><b>69(1)</b></p>	<p>If an interstate community treatment order applies to a person in South Australia the Chief Psychiatrist, without examining the person, may make a level 1 community treatment order based on the requirements of the interstate order.</p>	
<p><b>69(2)</b></p>	<ul style="list-style-type: none"> <li>&gt; The Chief Psychiatrist may make the order whether or not the person lives in South Australia.</li> <li>&gt; The level 1 community treatment order must be made using the official form.</li> </ul>	 <p>Form A</p>
<p><b>69(2a)</b></p>	<p>The Chief Psychiatrist must ensure that the person is given a copy of the order and the statement of rights as soon as possible and practical.</p>	 <p>Or delegate</p>  <p>Copy of form A</p>  <p>Statement of Rights #3</p>
<p><b>3(3)</b> <b>69(2b)</b></p>	<ul style="list-style-type: none"> <li>&gt; A copy of the order and Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be:             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the Statement of Rights should not be given to a carer if it is not in the person's best interests.</li> </ul>	 <p>Copy of form A</p>  <p>Statement of Rights #3</p>






## People subject to inpatient treatment orders


### Transfer from South Australian treatment centres

70(1)	The Chief Psychiatrist may approve the transfer of a person placed on an inpatient treatment order from a South Australian treatment centre to an interstate treatment centre.	
70(3)	The transfer of a person from a South Australian treatment centre to an interstate treatment centre must be made using the official form.	 Form T
3(3)	A copy of the transfer must be given to the person as soon as possible and practical.	 Copy of form T
3(3) 70(5)	<ul style="list-style-type: none"> <li>&gt; A copy of the transfer must be given by the Chief Psychiatrist to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be:               <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the Statement of Rights should not be given to a carer if it is not in the person's best interests.</li> </ul>	 Or delegate   Copy of form T
70(4)	If the person is under a level 3 inpatient treatment order the Chief Psychiatrist must notify SACAT of the transfer.	 Or delegate   Send to SACAT
70(5) 70(6)	<ul style="list-style-type: none"> <li>&gt; A transfer cannot occur for 14 days until the person has had an opportunity to appeal against the transfer, nor can the transfer occur until any started appeals have been completed.</li> <li>&gt; The waiting time can be waived:               <ul style="list-style-type: none"> <li>&gt; If the person agrees to the transfer, is capable of making this decision and consents to the transfer in writing, or</li> <li>&gt; If the person does not have decision making capacity, consent is given in writing by a guardian, substitute decision maker (medical agent), relative, carer or friend.</li> </ul> </li> </ul>	
70(2)	The use of these powers may be modified or prevented by a Ministerial Agreement.	


### Transfer to South Australian treatment centres

<p><b>71(1)</b></p>	<p>The Chief Psychiatrist may approve the transfer of a person placed on an inpatient treatment order from an interstate treatment centre to a South Australian treatment centre.</p>	
<p><b>71(2)</b></p>	<p>The transfer of a person from an interstate treatment centre to a South Australian treatment centre must be made using the official form.</p>	 Form T
<p><b>71(3) 3(3)</b></p>	<ul style="list-style-type: none"> <li>&gt; This Act applies from the time of admission to a South Australian treatment centre as if a level 1 inpatient treatment order has been made.</li> <li>&gt; The back page of the official form must be used when admitting the person under this power.</li> </ul>	 Form B
<p><b>71(2a) 3(3)</b></p>	<p>A copy of the transfer, the order and the statement of rights must be given to the person as soon as possible and practical.</p>	 Copy of form T   Copy of form B   Statement of Rights #4
<p><b>71(2b) 3(3)</b></p>	<ul style="list-style-type: none"> <li>&gt; A copy of the transfer, the order and the Statement of Rights must be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be:                         <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the Statement of Rights should not be given to a carer if it is not in the person's best interests.</li> </ul>	 Copy of form T   Copy of form B   Statement of Rights #4






## Patient Transport Requests for interstate transfers

<p><b>72(1)</b> <b>72(2)</b> <b>72(3)</b></p>	<ul style="list-style-type: none"> <li>&gt; If the Chief Psychiatrist has approved the transfer of a person to an interstate treatment centre the Chief Psychiatrist may make a Patient Transport Request to enable the transfer.</li> <li>&gt; If the Chief Psychiatrist has approved the transfer of a person to a South Australian treatment centre the Chief Psychiatrist may make a Patient Transport Request to enable the transfer.</li> <li>&gt; The Patient Transport Request must be made using the official form.</li> </ul>	 Form I
<p><b>73</b></p>	<ul style="list-style-type: none"> <li>&gt; A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to carry out the Patient Transport Request.</li> </ul>	

## Transport interstate when a new inpatient treatment order has been made

<p><b>74(1)</b></p>	<p>If a South Australian inpatient treatment order has been made, the officer making the order or an authorised officer may, with the approval of the Chief Psychiatrist, instead:</p> <ul style="list-style-type: none"> <li>&gt; Deliver the person into the care and control of an interstate authorised officer for transport to an interstate treatment centre, or</li> <li>&gt; Take the person to an interstate treatment centre.</li> </ul>	
<p><b>3(3)</b></p>	<p>The approval of the Chief Psychiatrist must be sought using the official form.</p>	 Form R
<p><b>74(3)</b></p>	<p>A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to transfer the person to an interstate treatment centre.</p>	
<p><b>74(2)</b></p>	<p>The use of these powers may be modified or prevented by a Ministerial Agreement.</p>	

**Interstate person absent without leave**

<p><b>76(1)</b></p>	<ul style="list-style-type: none"> <li>&gt; If a South Australian authorised officer or police officer believes that a person in South Australia is under an interstate inpatient treatment order and absent without leave from that order, the officer may:             <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Transport the person to an interstate treatment centre,</li> <li>&gt; Deliver the person into the care and control of an interstate officer for transport to an interstate treatment centre,</li> <li>&gt; With the approval of the Chief Psychiatrist:                 <ul style="list-style-type: none"> <li>&gt; Take the person to a South Australian treatment centre and admit them as an involuntary person pending transport to an interstate treatment centre,</li> <li>&gt; Provide involuntary treatment based on the instructions of a doctor who has examined the person.</li> </ul> </li> </ul> </li> </ul>	
<p><b>3(3)</b></p>	<p>The approval of the Chief Psychiatrist must be sought using the official form.</p>	 <p>Form S</p>
<p><b>76(2)</b></p>	<p>The use of the powers to transport the person to an interstate treatment centre or deliver the person into the care and control of an interstate officer may be modified or prevented by a Ministerial Agreement.</p>	
<p><b>3(3)</b> <b>76(2a)</b></p>	<p>The person must be given a copy of the form and the Statement of Rights as soon as possible and practical after their admission to a South Australian treatment centre.</p>	 <p>Copy of form S</p>  <p>Statement of Rights #4</p>
<p><b>3(3)</b> <b>76(2b)</b></p>	<ul style="list-style-type: none"> <li>&gt; A copy of the form and the Statement of Rights must also be given to a guardian, substitute decision maker (medical agent), relative, carer or friend as soon as possible and practical. This carer may be:             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not practical or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not practical or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is practical and appropriate.</li> </ul> </li> <li>&gt; A copy of the Statement of Rights should not be given to a carer if it would be contrary to the person’s best interests.</li> </ul>	 <p>Copy of form S</p>  <p>Statement of Rights #4</p>
<p><b>76(4)</b></p>	<p>If an interstate authorised officer or police officer believes that a person in South Australia is absent without leave from another state, the interstate officer may transport the person to an interstate treatment centre.</p>	
<p><b>76(5)</b></p>	<p>A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to transport the person to a South Australian or interstate treatment centre or to enable treatment of the person.</p>	

<b>76(6)</b>	The use of these powers does not prevent the transfer of the person to a South Australian treatment centre or an interstate treatment centre under section 71 or 72 of the Act.
<b>76(3)</b>	Involuntary treatment under this section cannot include prescribed psychiatric treatment or prescribed treatment under the Guardianship and Administration Act 1993.

### Transport to South Australia when SA inpatient treatment order applies

<b>77(1)</b>	If a South Australian authorised officer or police officer believes that a person in the care and control of an interstate officer outside South Australia is a South Australian absent without leave, the South Australian officer may transport the person to a South Australian treatment centre.
<b>77(2)</b>	The use of the powers to transport the person to a South Australian treatment centre may be modified or prevented by a Ministerial Agreement.
<b>77(3)</b>	If an interstate authorised officer or police officer believes that a person in the care and control of an interstate officer outside South Australia is a South Australian absent without leave, the interstate officer may: <ul style="list-style-type: none"> <li>&gt; Transport the person to a South Australian treatment centre, or</li> <li>&gt; Deliver the person into the care and control of a South Australian officer for transport to a South Australian treatment centre.</li> </ul>
<b>77(4)</b>	A South Australian or interstate officer may use section 56 or 57 powers (depending if they are an authorised officer or police officer) to transport the person to a South Australian treatment centre.
<b>77(5)</b>	The use of these powers does not prevent the transfer of the person to a South Australian treatment centre or an interstate treatment centre under section 71 or 72 of the Act.



# 11. Officers with Functions under the Act

## 11. Officers with Functions under the Act

### Authorised Officers

An authorised officer is a mental health clinician or ambulance officer, or other officer classified as such by the Chief Psychiatrist, who can use the Act to protect the safety of people who have or appear to have a mental illness and be at risk.

<b>56(1)</b>	<p>May use care and control powers if they believe a person:</p> <ul style="list-style-type: none"> <li>&gt; Appears to have a mental illness and:             <ul style="list-style-type: none"> <li>&gt; Has caused harm to themselves, others or property, or</li> <li>&gt; There is significant risk of the person causing harm to themselves, others or property.</li> </ul> </li> <li>&gt; Has been placed on a patient assistance request.</li> <li>&gt; Has been placed on a patient transport request.</li> <li>&gt; Is absent without leave from a treatment centre.</li> </ul>
<b>56(2)</b>	<p>May form an opinion about a person based on their own observations of the person's behaviour or appearance, or on reports about the person's behaviour, appearance or history.</p>
<b>56(3)</b>	<p>May use care and control powers to:</p> <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Transport the person from place to place,</li> <li>&gt; Restrain the person if reasonably required,</li> <li>&gt; Restrain the person by the administration of a drug if reasonably required (but only if permitted to administer medication under the <i>Controlled Substances Act 1984</i>.)</li> <li>&gt; Enter and remain in a place,</li> <li>&gt; Search the person's clothes and belongings and confiscate items.</li> </ul>
<b>56(4)</b>	<p>Must as soon as possible and practical, for a person in their care and control:</p> <ul style="list-style-type: none"> <li>&gt; Provide assistance to enable treatment,</li> <li>&gt; Provide transport, or</li> <li>&gt; Arrange transport by another authorised officer or police officer.</li> </ul>
<b>56(4)</b>	<p>Must give a copy of the statement of rights as soon as possible and practical to a person they have taken into care and control who:</p> <ul style="list-style-type: none"> <li>&gt; Appears to have a mental illness and have caused, or be at significant risk of causing, harm, or</li> <li>&gt; Who is absent without leave from a treatment centre.</li> </ul>
<b>56(5)</b>	<p>May use care and control powers for as long as reasonably required.</p>
<b>56(7)</b>	<p>Must search a person as quickly and respectfully as possible and practical.</p>
<b>56(8)</b>	<p>Must return confiscated items to the person when safe to do so.</p>
<b>58A</b>	<p>Must record the use of care and control powers in the person's medical record.</p>
<b>58</b>	<p>May assist police officers to fulfil their requirements under the Act.</p>
<b>59</b>	<p>Should comply with the requirements of any memorandum of understanding with police.</p>



## Police Officers

Police Officers are members of the South Australian Police Force under the Police Act 1998.

<b>57(1)</b>	<p>May use care and control powers if they believe a person:</p> <ul style="list-style-type: none"> <li>&gt; Appears to have a mental illness and:             <ul style="list-style-type: none"> <li>&gt; Has caused harm to themselves, others or property, or</li> <li>&gt; There is significant risk of the person causing harm to themselves, others or property.</li> </ul> </li> <li>&gt; Has been placed on a patient assistance request.</li> <li>&gt; Has been placed on a patient transport request.</li> <li>&gt; Is absent without leave from a treatment centre.</li> </ul>
<b>57(3)</b>	<p>May form an opinion about a person based on their own observations of the person's behaviour or appearance, or on reports about the person's behaviour, appearance or history.</p>
<b>57(4)</b>	<p>May use care and control powers to:</p> <ul style="list-style-type: none"> <li>&gt; Take the person into care and control,</li> <li>&gt; Transport the person from place to place,</li> <li>&gt; Restrain the person if reasonably required,</li> <li>&gt; Use reasonable force to break into a place,</li> <li>&gt; Enter and remain in a place,</li> <li>&gt; Search the person's clothes and belongings and confiscate items.</li> </ul>
<b>57(5)</b>	<p>Must as soon as possible and practical, for a person in their care and control:</p> <ul style="list-style-type: none"> <li>&gt; Provide assistance to enable treatment,</li> <li>&gt; Provide transport, or</li> <li>&gt; Arrange transport by another authorised officer or police officer.</li> </ul>
<b>57(6)</b>	<p>May use care and control powers for as long as reasonably required.</p>
<b>57(7)</b>	<p>Must search a person as quickly and respectfully as possible and practical.</p>
<b>57(8)</b>	<p>Must return confiscated items to the person when safe to do so.</p>
<b>58A</b>	<p>Must record the use of care and control powers in police records.</p>
<b>58</b>	<p>May assist authorised officers to fulfil their requirements under the Act.</p>
<b>59</b>	<p>Should comply with the requirements of any memorandum of understanding with mental health services.</p>

## Treatment Centre Staff and Hospital Staff

Treatment centre staff and hospital staff are all clinical and non-clinical staff employed by the facility. Only those staff who usually interact with persons, and who are allowed to do so within local workplace instructions, clinical supervision and delegations, are expected to consider using these powers.

<b>34A</b>	Treatment centre staff may keep a person (who is on an inpatient treatment order) at the treatment centre and use powers (including reasonable force) reasonably required to: <ul style="list-style-type: none"> <li>&gt; Fulfil the requirements of an inpatient treatment order, and</li> <li>&gt; Maintain safety and security and prevent harm at the treatment centre.</li> </ul>
<b>34</b>	Treatment centre staff may use care and control powers to escort a person placed on an inpatient treatment order outside of the treatment centre.
<b>35(3)</b>	If a person who is on an inpatient treatment order is transferred to a hospital for treatment of a general health matter, the staff of that hospital may keep the person at the hospital and use powers (including reasonable force) reasonably required to: <ul style="list-style-type: none"> <li>&gt; Fulfil the requirements of the inpatient treatment order, and</li> <li>&gt; Maintain safety and security and prevent harm at the hospital.</li> </ul>
<b>47(3)</b>	May set reasonable limits to the support a person can receive in a treatment centre.

## Mental Health Clinicians

A mental health clinician is a health professional who provides care and treatment to people with mental illness and who belongs to a profession the Chief Psychiatrist has approved as mental health clinicians. Mental health clinicians also have the powers of authorised officers.

<b>14 19</b>	Must have ongoing responsibility for a person placed on a community treatment order.
<b>16(4) 16(8) 29(7) 42(5) 43(2)</b>	May apply to SACAT for: <ul style="list-style-type: none"> <li>&gt; A level 2 community treatment order to be made for a person.</li> <li>&gt; A level 2 community treatment order to be varied or revoked.</li> <li>&gt; A level 3 inpatient treatment order to be varied or revoked.</li> <li>&gt; Consent to a course of ECT.</li> <li>&gt; Consent to neurosurgery for mental illness.</li> </ul>
<b>54A</b>	<ul style="list-style-type: none"> <li>&gt; May make a patient assistance request.</li> <li>&gt; Must make sure the person is given a copy of the patient assistance request and the statement of rights as soon as possible and practical.</li> </ul>
<b>55(1)</b>	<ul style="list-style-type: none"> <li>&gt; May make a patient transport request for: <ul style="list-style-type: none"> <li>&gt; A person placed on a community treatment order who is refusing the treatment required by the order.</li> <li>&gt; A person placed on an inpatient treatment order who is absent without leave from a treatment centre.</li> </ul> </li> <li>&gt; Must make sure the person is given a copy of the patient transport request and the statement of rights as soon as possible and practical.</li> </ul>

## Authorised Mental Health Professionals

An authorised mental health professional is a specially trained mental health clinician who has been approved by the Chief Psychiatrist to be able to make level 1 community treatment orders and level 1 inpatient treatment orders.

<b>10(1) 21(1)</b>	<p>May, after examining a person, make a:</p> <ul style="list-style-type: none"> <li>&gt; Level 1 community treatment order, or</li> <li>&gt; Level 1 inpatient treatment order, if it appears:             <ul style="list-style-type: none"> <li>&gt; The person has a mental illness,</li> <li>&gt; Because of the mental illness the person is at risk of harm to their mental or physical health,</li> <li>&gt; The person has impaired decision making capacity about treatment for their mental illness, and</li> <li>&gt; There is no less restrictive way to provide treatment.</li> </ul> </li> </ul>
<b>45</b>	<p>Must, when examining a person who cannot understand or speak English adequately, arrange for an interpreter to be at the examination, unless:</p> <ul style="list-style-type: none"> <li>&gt; The authorised mental health professional can communicate adequately in a language the person can understand, or</li> <li>&gt; An interpreter cannot be readily arranged.</li> </ul>
<b>10(6) 21(6)</b>	<p>May form an opinion about a person based on their own observations and any other evidence they consider reliable and relevant.</p>
<b>12(1) 23(1)</b>	<p>Must make sure the person is given a copy of the order as soon as possible and practical.</p>
<b>12(2) 23(2)</b>	<p>Must make sure the person is given a copy of the statement of rights as soon as possible and practical.</p>
<b>12(3) 23(3)</b>	<p>If the person cannot read or understand the statement of rights, must make sure possible and practical steps are taken to explain their rights to the person.</p>
<b>12(4) 12(6)</b>	<ul style="list-style-type: none"> <li>&gt; Must make sure a guardian, substitute decision maker (medical agent), relative, carer or friend is given a copy of the order and the statement of rights. This carer may be:             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to a carer if it would be against the person's best interests.</li> </ul>
<b>11(1)</b>	<p>Must make sure that a copy of the order is sent to the Chief Psychiatrist.</p>
<b>55(1)</b>	<ul style="list-style-type: none"> <li>&gt; May make a patient transport request for:             <ul style="list-style-type: none"> <li>&gt; A person newly placed on an inpatient treatment order when not at a treatment centre.</li> <li>&gt; A person placed on an inpatient treatment order who is absent without leave from a treatment centre.</li> </ul> </li> <li>&gt; Must make sure the person is given a copy of the patient transport request and the statement of rights as soon as possible and practical.</li> </ul>
<b>55(3)</b>	<p>Must make sure the person is given a copy of the patient transport request and the statement of rights as soon as possible and practical.</p>
<b>95</b>	<p>Must comply with the requirements of any code of conduct made by the Chief Psychiatrist.</p>

## Medical Practitioners

A medical practitioner is a doctor registered under the Health Practitioner Regulation National Law to practice medicine in South Australia.

<p><b>10(1)</b> <b>21(1)</b></p>	<p>May, after examining a person, make a:</p> <ul style="list-style-type: none"> <li>&gt; Level 1 community treatment order, or</li> <li>&gt; Level 1 inpatient treatment order, if it appears: <ul style="list-style-type: none"> <li>&gt; The person has a mental illness,</li> <li>&gt; Because of the mental illness the person is at risk of harm to their mental or physical health,</li> <li>&gt; The person has impaired decision making capacity about treatment for their mental illness, and</li> <li>&gt; There is no less restrictive way to provide treatment.</li> </ul> </li> </ul>
<p><b>45</b></p>	<p>Must, when examining a person who cannot understand or speak English adequately, arrange for an interpreter to be at the examination, unless:</p> <ul style="list-style-type: none"> <li>&gt; The medical practitioner can communicate adequately in a language the person can understand, or</li> <li>&gt; An interpreter cannot be readily arranged.</li> </ul>
<p><b>10(6)</b> <b>21(6)</b></p>	<p>May form an opinion about a person based on their own observations and any other evidence they consider reliable and relevant.</p>
<p><b>12(1)</b> <b>23(1)</b></p>	<p>Must make sure the person is given a copy of the order as soon as possible and practical.</p>
<p><b>12(2)</b> <b>23(2)</b></p>	<p>Must make sure the person is given a copy of the statement of rights as soon as possible and practical.</p>
<p><b>12(3)</b> <b>23(3)</b></p>	<p>If the person cannot read or understand the statement of rights, must make sure possible and practical steps are taken to explain their rights to the person.</p>
<p><b>12(4)</b> <b>12(6)</b></p>	<ul style="list-style-type: none"> <li>&gt; Must make sure a guardian, substitute decision maker (medical agent), relative, carer or friend is given a copy of the order and the statement of rights. This carer may be: <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A carer who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the order or Statement of Rights should not be given to a carer if it would be against the person's best interests.</li> </ul>
<p><b>11(1)</b></p>	<p>Must make sure that a copy of the order is sent to the Chief Psychiatrist.</p>
<p><b>13(2)</b> <b>18(2)</b></p>	<p>May authorise treatment for mental illness for a person on a community treatment order in urgent circumstances when it is not possible or practical to get the authorisation of a psychiatrist or authorised medical practitioner.</p>
<p><b>24(1)</b> <b>28(1)</b> <b>31(1)</b></p>	<p>May authorise treatment for mental illness (or any other illness causing or contributing to mental illness) for a person on an inpatient treatment order.</p>
<p><b>16(4)</b> <b>16(8)</b> <b>29(7)</b> <b>42(5)</b> <b>43(2)</b></p>	<p>May apply to SACAT for:</p> <ul style="list-style-type: none"> <li>&gt; A level 2 community treatment order to be made for a person.</li> <li>&gt; A level 2 community treatment order to be varied or revoked.</li> <li>&gt; A level 3 inpatient treatment order to be varied or revoked.</li> <li>&gt; Consent to a course of ECT.</li> <li>&gt; Consent to neurosurgery for mental illness.</li> </ul>

<b>47(3)</b> <b>47(4)</b>	May set reasonable limits to the support a person can receive and may allow or exclude a particular person from providing support.
<b>54A</b>	<ul style="list-style-type: none"> <li>&gt; May make a patient assistance request.</li> <li>&gt; Must make sure the person is given a copy of the patient assistance request and the statement of rights as soon as possible and practical.</li> </ul>
<b>55(1)</b>	<ul style="list-style-type: none"> <li>&gt; May make a patient transport request for:             <ul style="list-style-type: none"> <li>&gt; A person placed on a community treatment order who is refusing the treatment required by the order.</li> <li>&gt; A person newly placed on an inpatient treatment order when not at a treatment centre.</li> <li>&gt; A person placed on an inpatient treatment order who is absent without leave from a treatment centre.</li> </ul> </li> <li>&gt; Must make sure the person is given a copy of the patient transport request and the statement of rights as soon as possible and practical.</li> </ul>

### Authorised Medical Practitioners

An authorised medical practitioner is a doctor authorised by the Chief Psychiatrist to have most of the functions of a psychiatrist under the Act. Authorised medical practitioners also have the powers of medical practitioners.

<b>10(5)</b> <b>21(5)</b>	Must review a person placed on a level 1 community treatment order or level 1 inpatient treatment order within 24 hours or as soon as possible or practical and confirm the order or revoke the order.
<b>25(1)</b> <b>25(2)</b>	<p>May, after examining a person, make a level 2 inpatient treatment order if they are satisfied that:</p> <ul style="list-style-type: none"> <li>&gt; The person has a mental illness,</li> <li>&gt; Because of the mental illness the person is at risk of harm to their mental or physical health,</li> <li>&gt; The person has impaired decision making capacity about treatment for their mental illness, and</li> <li>&gt; There is no less restrictive way to provide treatment.</li> </ul>
<b>25(7)</b>	May, after examining a person, extend a level 2 inpatient treatment order made by a different psychiatrist or authorised medical practitioner.
<b>25(4)</b>	May form an opinion about a person based on their own observations and any other evidence they consider reliable and relevant.
<b>10(7)</b> <b>21(7)</b> <b>25(8)</b>	May, after reviewing a person, revoke a level 1 community treatment order, a level 1 inpatient treatment order or a level 2 inpatient treatment order at any time.
<b>12(5)</b>	Must make sure the person is given a copy of the revocation of a level 1 community treatment order as soon as possible and practical.
<b>12(5)</b> <b>12(6)</b>	<ul style="list-style-type: none"> <li>&gt; Must make sure a guardian, substitute decision maker (medical agent), relative, carer or friend is given a copy of the revocation of a level 1 community treatment order. This carer may be:             <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the revocation should not be given to a carer if it would be against the person's best interests.</li> </ul>
<b>11(1)</b> <b>22(1)</b>	Must make sure that a copy of the making of a level 2 inpatient treatment order and the revocation of a level 1 community treatment order or level 1 inpatient treatment order is sent to the Chief Psychiatrist.

<b>13(1)</b> <b>18(1)</b>	May authorise treatment for mental illness for a person placed on any community treatment order.
<b>45</b>	Must, when examining a person who cannot understand or speak English adequately, arrange for an interpreter to be at the examination, unless: <ul style="list-style-type: none"> <li>&gt; The medical practitioner can communicate adequately in a language the person can understand, or</li> <li>&gt; An interpreter cannot be readily arranged.</li> </ul>
<b>27(1)</b>	Must make sure the person is given a copy of a level 2 inpatient treatment order as soon as possible and practical.
<b>27(2)</b>	Must make sure the person is given a copy of the statement of rights as soon as possible and practical.
<b>27(3)</b>	If the person cannot read or understand the statement of rights, must make sure possible and practical steps are taken to explain their rights to the person.

## Psychiatrists

A psychiatrist is a doctor registered under the Health Practitioner Regulation National Law to practice medicine and specialise in psychiatry in South Australia. Psychiatrists also have the powers of medical practitioners.

<b>10(5)</b> <b>21(5)</b>	Must review a person placed on a level 1 community treatment order or level 1 inpatient treatment order within 24 hours or as soon as possible or practical and confirm the order or revoke the order.
<b>25(1)</b> <b>25(2)</b>	May, after examining a person, make a level 2 inpatient treatment order if they are satisfied that: <ul style="list-style-type: none"> <li>&gt; The person has a mental illness,</li> <li>&gt; Because of the mental illness the person is at risk of harm to their mental or physical health,</li> <li>&gt; The person has impaired decision making capacity about treatment for their mental illness, and</li> <li>&gt; There is no less restrictive way to provide treatment.</li> </ul>
<b>25(7)</b>	May, after examining a person, extend a level 2 inpatient treatment order made by a different psychiatrist or authorised medical practitioner.
<b>25(4)</b>	May form an opinion about a person based on their own observations and any other evidence they consider reliable and relevant.
<b>10(7)</b> <b>21(7)</b> <b>25(8)</b>	May, after reviewing a person, revoke a level 1 community treatment order, a level 1 inpatient treatment order or a level 2 inpatient treatment order at any time.
<b>12(5)</b>	Must make sure the person is given a copy of the revocation of a level 1 community treatment order as soon as possible and practical.
<b>12(5)</b> <b>12(6)</b>	<ul style="list-style-type: none"> <li>&gt; Must make sure a guardian, substitute decision maker (medical agent), relative, carer or friend is given a copy of the revocation of a level 1 community treatment order. This carer may be: <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the revocation should not be given to a carer if it would be against the person's best interests.</li> </ul>
<b>11(1)</b> <b>22(1)</b>	Must make sure that a copy of the making of a level 2 inpatient treatment order and the revocation of a level 1 community treatment order or level 1 inpatient treatment order is sent to the Chief Psychiatrist.

13(1) 18(1)	May authorise treatment for mental illness for a person placed on any community treatment order.
45	Must, when examining a person who cannot understand or speak English adequately, arrange for an interpreter to be at the examination, unless: <ul style="list-style-type: none"> <li>&gt; The medical practitioner can communicate adequately in a language the person can understand, or</li> <li>&gt; An interpreter cannot be readily arranged.</li> </ul>
27(1)	Must make sure the person is given a copy of a level 2 inpatient treatment order as soon as possible and practical.
27(2)	Must make sure the person is given a copy of the statement of rights as soon as possible and practical.
27(3)	If the person cannot read or understand the statement of rights, must make sure possible and practical steps are taken to explain their rights to the person.
42(1) 42(6)	<ul style="list-style-type: none"> <li>&gt; May, after examining a person, authorise ECT with the consent of the person, a substitute decision maker or guardian, or SACAT.</li> <li>&gt; May, after examining a person, authorise emergency ECT if treatment is required urgently and consent cannot readily be sought.</li> </ul>
42(7)	Must make sure a copy of the ECT with consent form or emergency ECT form is sent to the Chief Psychiatrist.
43	<ul style="list-style-type: none"> <li>&gt; May, after examining a person, write a report authorising neurosurgery for mental illness for the consideration of the Prescribed Psychiatric Treatment Panel.</li> <li>&gt; May, after examining a person after neurosurgery for mental illness, write a progress report.</li> </ul>

## Directors of Treatment Centres

The director of a treatment centre is the senior officer in charge of the mental health services of the centre.

23(5)	Must make sure that the person is given a copy of the revocation of a level 1 or 2 inpatient treatment order.
23 27	May provide (if appropriate) a copy of the ITO1, ITO2 to a guardian, substitute decision maker (medical agent), relative, carer or friend.
9 23 37 76	Must provide the person with a statement of rights for: <ul style="list-style-type: none"> <li>&gt; Voluntary admissions.</li> <li>&gt; Inpatient treatment orders.</li> <li>&gt; Leave of absence.</li> <li>&gt; Interstate inpatient treatment orders receiving treatment in SA.</li> </ul>
9 23 37	If the person cannot read or understand the statement of rights, must make sure possible and practical steps are taken to explain their rights to the person.
9 23 27 37 76	May provide (if appropriate) a guardian, substitute decision maker (medical agent), relative, carer or friend with a statement of rights for: <ul style="list-style-type: none"> <li>&gt; Voluntary admissions.</li> <li>&gt; Inpatient treatment orders.</li> <li>&gt; Leave of absence.</li> <li>&gt; Interstate inpatient treatment orders receiving treatment in SA.</li> </ul>
26	Must provide a copy of the ITO2 report to the Chief Psychiatrist.

<p><b>23(5)</b> <b>27(5)</b></p>	<ul style="list-style-type: none"> <li>&gt; Must make sure a guardian, substitute decision maker (medical agent), relative, carer or friend is given a copy of the revocation of a level 1 or 2 inpatient treatment order. This carer may be:               <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the revocation should not be given to a carer if it would be against the person's best interests.</li> </ul>
<p><b>33</b></p>	<p>Must admit a person placed on an inpatient treatment order.</p>
<p><b>29(7)</b></p>	<p>May apply to SACAT for a level 3 inpatient treatment order to be made.</p>
<p><b>35</b></p>	<p>May make arrangements for the transfer of a person placed on an inpatient treatment order.</p>
<p><b>35</b></p>	<p>May notify (if appropriate) a guardian, substitute decision maker (medical agent), relative, carer or friend about a transfer.</p>
<p><b>47(3)</b> <b>48(2)</b></p>	<ul style="list-style-type: none"> <li>&gt; May set reasonable limits to the support a person can receive in a treatment centre.</li> <li>&gt; May set reasonable restrictions and conditions to a person's communication with people outside of the treatment centre.</li> </ul>
<p><b>36</b></p>	<ul style="list-style-type: none"> <li>&gt; May grant a person on an inpatient treatment order a leave of absence and may attach conditions to the leave.</li> <li>&gt; Must make sure the person is given a copy of the leave of absence.</li> </ul>
<p><b>37</b></p>	<ul style="list-style-type: none"> <li>&gt; Must make sure the person is given a copy of the statement of rights.</li> <li>&gt; Must make sure a guardian, substitute decision maker (medical agent), relative, carer or friend is given a copy of the statement of rights. This carer may be:               <ul style="list-style-type: none"> <li>&gt; Nominated by the person, or if not possible or appropriate,</li> <li>&gt; A person who has or is assuming responsibility for the person, or if not possible or appropriate,</li> <li>&gt; Any other guardian, substitute decision maker (medical agent), relative, carer or friend that is possible and appropriate.</li> </ul> </li> <li>&gt; A copy of the statement of rights should not be given to a carer if it would be against the person's best interests.</li> </ul>
<p><b>38</b></p>	<p>May cancel a leave of absence at any time and must make sure reasonable steps are taken to tell the person about the cancellation as soon as possible and practical.</p>
<p><b>55(1)</b></p>	<ul style="list-style-type: none"> <li>&gt; May make a patient transport request for:               <ul style="list-style-type: none"> <li>&gt; A person placed on an inpatient treatment order who is absent without leave from a treatment centre.</li> <li>&gt; A person placed on an inpatient treatment order for whom transfer arrangements have been made.</li> </ul> </li> <li>&gt; Must make sure the person is given a copy of the patient transport request and the statement of rights as soon as possible and practical.</li> </ul>
<p><b>53</b></p>	<p>Must advise the community visitor scheme within 2 days of the request of a person or a carer for the treatment centre to be visited.</p>
<p><b>100</b></p>	<ul style="list-style-type: none"> <li>&gt; The Director of a treatment centre may delegate a power of this Act.</li> <li>&gt; The power or function may be further delegated, if the instrument of delegation allows it to be.</li> <li>&gt; A delegation may be absolute or conditional, is revocable at any time and does not stop the Director from carrying out any power or function.</li> </ul>



## Community Visitors

<b>51</b>	<ul style="list-style-type: none"> <li>&gt; Must visit and inspect each treatment centre and authorised community mental health facility at least every 2 months.</li> <li>&gt; May assist a person or carer with solving issues or problems.</li> <li>&gt; May refer matters of concern to the Minister, Chief Psychiatrist or others.</li> <li>&gt; May conduct inspections as a hospital inspector under the <i>Health Care Act 2008</i>.</li> </ul>
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## Principal Community Visitor

In addition to the functions of a community visitor, the principle community visitor must:

<b>51</b>	<ul style="list-style-type: none"> <li>&gt; Must oversee and coordinate the community visitor's functions.</li> <li>&gt; Must advise and assist community visitors.</li> <li>&gt; Must report to the Minister about the community visitor's functions.</li> </ul>
<b>51A</b>	<ul style="list-style-type: none"> <li>&gt; The Principal Community Visitor may delegate a power of this Act.</li> <li>&gt; The power or function may be further delegated, if the instrument of delegation allows it to be.</li> <li>&gt; A delegation may be absolute or conditional, is revocable at any time and does not stop the Principal Community Visitor from carrying out any power or function.</li> </ul>

## South Australian Civil and Administrative Tribunal

<b>85</b>	Must give reasonable notice of hearings to all participants
<b>16</b> <b>29</b>	May, on application, make a level 2 community treatment order or level 3 inpatient treatment order.
<b>42</b>	May, on application, provide consent to ECT if the person does not have decision making capacity.
<b>79</b>	Must automatically review some treatment orders in certain circumstances.
<b>81</b>	May, on application, review a treatment order made by a health professional.
<b>83</b>	May, on application, review an interstate transfer.
<b>83A</b>	May, on application, hold an interval review of a SACAT decision or treatment order.
<b>85A</b>	Must, on application, provide a statement of reason for a decision (except in certain circumstances).
<b>80</b>	May provide a report to the Minister.

## Chief Psychiatrist

The Chief Psychiatrist is a senior psychiatrist appointed by the Governor.

<b>90(1)</b>	<ul style="list-style-type: none"> <li>&gt; To promote the continuous improvement of the organisation and delivery of mental health services.</li> <li>&gt; To monitor the treatment of persons and the use of restrictive practices.</li> <li>&gt; To monitor the administration of the Act and the standard of mental health care.</li> <li>&gt; To advise the Minister on issues relating to mental health.</li> </ul>
<b>90(2)</b>	To issue Chief Psychiatrist standards.
<b>14</b> <b>19</b>	<ul style="list-style-type: none"> <li>&gt; Ensure a mental health clinician is responsible for monitoring and reporting on the person's compliance with their level 1 community treatment order.</li> <li>&gt; Ensure a mental health clinician is responsible for monitoring and reporting on the person's compliance with their level 2 community treatment order.</li> </ul>
	<p>To approve Forms for:</p> <ul style="list-style-type: none"> <li>&gt; Making a level 1 community treatment order.</li> <li>&gt; Making a level 1 inpatient treatment order.</li> <li>&gt; Confirming or revoking a level 1 treatment order.</li> <li>&gt; Administering emergency ECT.</li> <li>&gt; Making a level 2 inpatient treatment order.</li> <li>&gt; A leave of absence.</li> <li>&gt; Making a patient assistance request.</li> <li>&gt; Making a patient transport request.</li> <li>&gt; Transferring a person between treatment centres and/or hospitals.</li> <li>&gt; Transferring a person from SA to another state.</li> <li>&gt; Transferring a person from another state to SA.</li> <li>&gt; Revoking a treatment order.</li> <li>&gt; Providing treatment on an interstate CTO in SA.</li> <li>&gt; Providing treatment on an interstate ITO in SA.</li> <li>&gt; Providing prescribed treatment.</li> <li>&gt; Applying for neurosurgery for mental illness.</li> </ul>
	<p>To approve Statements of Rights for:</p> <ul style="list-style-type: none"> <li>&gt; Community treatment orders.</li> <li>&gt; Cross-border arrangements.</li> <li>&gt; Inpatient treatment orders.</li> <li>&gt; Patient assistance requests.</li> <li>&gt; Patient transport requests.</li> <li>&gt; Section 56 care and control.</li> <li>&gt; Voluntary inpatient treatment.</li> </ul>
	<p>To provide Instructions for:</p> <ul style="list-style-type: none"> <li>&gt; Documenting the use of section 56 care and control powers.</li> <li>&gt; Proceedings of the Prescribed Psychiatric Treatment Panel.</li> <li>&gt; The contents of reports for neurosurgery for mental illness.</li> <li>&gt; The lodgement of forms and other instruments of the Act.</li> </ul>

<b>92</b>	To provide an Annual Report to the Minister by 30 September each year. The Minister must provide that report to both Houses of Parliament within 12 sitting days. The report must contain information about: <ul style="list-style-type: none"> <li>&gt; The demographics of persons.</li> <li>&gt; The use and number of treatment orders.</li> <li>&gt; The use and number of cross-border arrangements.</li> <li>&gt; The administration of the Act.</li> </ul>
<b>93</b>	To authorise, and keep records of, authorised medical practitioners.
<b>94</b>	To authorise, and keep records of, authorised mental health professionals.
<b>95</b>	To authorise a code of practice for authorised mental health professionals.
<b>96</b>	To authorise, and place conditions on, places as:
<b>97</b>	> Approved treatment centres.
<b>97A</b>	> Limited treatment centres.
	> Authorised community mental health facilities.
<b>91</b>	> The Chief Psychiatrist can delegate a power of this Act. > The power or function may be further delegated, if the instrument of delegation allows it to be. > A delegation can be absolute or conditional, is revocable at any time and does not stop the Chief Psychiatrist from carrying out any power or function.

### Chief Executive

The Chief Executive is the executive in charge of the Department for Health and Ageing who is appointed by the Premier.

<b>106</b>	The Chief Executive may authorise the disclosure of information by SA Health staff about a person under the Act.	<b>106</b>
<b>100</b>	> The Chief Executive can delegate a power of this Act. > The power or function may be further delegated, if the instrument of delegation allows it to be. > A delegation can be absolute or conditional, is revocable at any time and does not stop the Chief Executive from carrying out any power or function.	<b>100 del</b>

## Minister

The Minister is the Member of Parliament appointed by the Governor to be responsible for the Act.

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- > To ensure the participation of consumers and carers in the design and delivery of mental health services.
- > To ensure a strong and viable mental health system, with a full range of services and facilities.
- > To ensure appropriate mental health services for children and young people under the guardianship of the Minister.
- > To ensure mental health promotion, prevention and early intervention.
- > To ensure information about mental health and mental illness is available.
- > To ensure education and training for people delivering mental health services.
- > To ensure systems of accountability for people delivering mental health services.
- > To promote non-government sector mental health services.
- > To ensure programs to reduce the impact of mental illness on family and community life.

87

- > The Minister can delegate a power of this Act or another Act.
- > The power or function may be further delegated, if the instrument of delegation allows it to be.
- > A delegation can be absolute or conditional, is revocable at any time and does not stop the Minister from carrying out any power or function.

## 12. Administration of the Act

## 12. Administration of the Act

The Act also provides instructions on some specific things, including facilities, how the Act applies to children, audio-visual technology, errors and offences for abusing the Act.

### Treatment Centres and Facilities

The Act defines 3 kinds of centres and facilities for the treatment and care of people with mental illness.

#### Approved Treatment Centres

An approved treatment centre can provide treatment and care to voluntary inpatients and to people placed on a level 1, level 2 or level 3 inpatient treatment order.

96

- The Chief Psychiatrist may:
- > Authorise a place as an approved treatment centre.
  - > Attach conditions or limitations to the centre.
  - > Vary or revoke an approval or condition.

#### Limited Treatment Centres

A limited treatment centre can provide treatment and care to voluntary inpatients and to people placed on a level 1 inpatient treatment order.

97

- The Chief Psychiatrist may:
- > Authorise a place as a limited treatment centre.
  - > Attach conditions or limitations to the centre.
  - > Vary or revoke an approval or condition.

#### Authorised Community Mental Health Facilities

An authorised community mental health facility can provide treatment and care to voluntary community persons and to people placed on a level 1 or level 2 community treatment order.

97A

- The Chief Psychiatrist may:
- > Authorise a place as an authorised community mental health facility.
  - > Attach conditions or limitations to the facility.
  - > Vary or revoke an approval or condition.

### Application of the Act to Children

The Act clarifies how it will apply to children.

3(1)

A child is a person under 18 years of age.

4(1)

- > A right given to a person, if the person is a child under 16, will be conferred on the parent or guardian on behalf of the child.
- > An obligation to provide a document to a person, if the person is a child under 16, will be conferred to the parent or guardian of the child.
- > An obligation to provide information to a person, if the person is a child under 16, will be conferred to the parent or guardian of the child.

4(2)

- The provisions about children in this Act should be considered with the provisions about children in the:
- > *Advance Care Directives Act 2013*
  - > *Consent to Medical Treatment and Palliative Care Act 1995*
  - > *Guardianship and Administration Act 1993*.

## Use of Audio-Visual Technology

The Act permits the use of audio-visual technology to carry out reviews and examinations.

<b>5(2)</b>	Audio-visual conferencing means any two-way communication technology that allows both parties to see and hear each other.
<b>5(1)</b>	Any examination or medical examination that can be done by a medical practitioner or authorised mental health professional in this Act can be carried out using audio-visual conferencing, if it is not possible for a face to face examination to occur.

## Errors in Act Documentation

The Act permits carrying out of Act functions and powers despite minor errors or omissions in forms or other documents.

<b>101(1)</b>	An order, notice or other instrument will be valid despite non-compliance with an Act requirement if its intended meaning and effect are reasonably apparent.
<b>101(2)</b>	If there is a clerical error, omission or misdescription of a person in an order, notice or other instrument, the author of the instrument or the officer confirming or varying the instrument, or SACAT, may make a correction to the document.

## Officers cannot use Act Powers on Relatives

<b>103</b>	A doctor or authorised mental health professional cannot sign any order or authorisation under this Act relating to a person they are related to by blood, marriage or defacto relationship.
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## Review of the Act

<b>111</b>	The Act will be reviewed every 5 years and a report tabled in Parliament.
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## Evidentiary Provisions

<b>109</b>	Apparently genuine orders, instruments and other Act documents will be accepted as genuine in the absence of proof to the contrary.
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## Regulations

<b>110</b>	The Governor may make regulations to regulate the use of the Act.
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## Offences

The Act describes offenses, including fines and imprisonment, for the improper use of the Act and impeding an officer from carrying out the Act.

<b>42(8)</b>	<ul style="list-style-type: none"> <li>&gt; An officer who does not provide ECT consent or treatment in accordance with the Act.</li> <li>&gt; Maximum penalty: \$50,000 or 4 years imprisonment.</li> </ul>
<b>43(3)</b>	<ul style="list-style-type: none"> <li>&gt; An officer who does not provide neurosurgery for mental illness consent or approval in accordance with the Act.</li> <li>&gt; Maximum penalty: \$50,000 or 4 years imprisonment.</li> </ul>
<b>44(4)</b>	<ul style="list-style-type: none"> <li>&gt; An officer who does not provide other prescribed psychiatric treatment in accordance with the Regulations.</li> <li>&gt; Maximum penalty: \$50,000 or 4 years imprisonment.</li> </ul>
<b>49</b>	<ul style="list-style-type: none"> <li>&gt; An officer having care and control or oversight of a person who ill-treats or wilfully neglects the person.</li> <li>&gt; Maximum penalty: \$25,000 or 2 years imprisonment.</li> </ul>
<b>60</b>	<ul style="list-style-type: none"> <li>&gt; A person who hinders or obstructs an authorised officer or police officer from exercising their powers under the Act.</li> <li>&gt; Maximum penalty: \$25,000.</li> </ul>
<b>90(6)</b>	<ul style="list-style-type: none"> <li>&gt; An officer must not refuse or fail to comply with actions taken by the Chief Psychiatrist when inspecting a hospital.</li> <li>&gt; Maximum penalty: \$10,000.</li> </ul>
<b>90(7)</b>	<ul style="list-style-type: none"> <li>&gt; An officer must not hinder or obstruct the Chief Psychiatrist from inspecting a hospital.</li> <li>&gt; Maximum penalty: \$10,000.</li> </ul>
<b>102(1)</b>	<ul style="list-style-type: none"> <li>&gt; A doctor or authorised mental health professional who signs an order or authorisation without examining the person.</li> <li>&gt; Maximum penalty: \$25,000 or 2 years imprisonment.</li> </ul>
<b>102(3)</b>	<ul style="list-style-type: none"> <li>&gt; A doctor or authorised mental health professional who:             <ul style="list-style-type: none"> <li>&gt; Certifies that a person has a mental illness without believing they have a mental illness.</li> <li>&gt; Makes a knowingly false statement in an order or authorisation.</li> </ul> </li> <li>&gt; Maximum penalty: \$25,000 or 2 years imprisonment.</li> </ul>
<b>102(4)</b>	<ul style="list-style-type: none"> <li>&gt; A person, not being a doctor or authorised mental health professional, who:             <ul style="list-style-type: none"> <li>&gt; Signs any order or instrument.</li> <li>&gt; Otherwise acts as a doctor or authorised mental health professional.</li> </ul> </li> <li>&gt; Maximum penalty: \$25,000 or 2 years imprisonment.</li> </ul>
<b>102(5)</b>	<ul style="list-style-type: none"> <li>&gt; A person who through deceit attempts or causes any person who does not have a mental illness to be received in a treatment centre or be treated as a person under the Act.</li> <li>&gt; Maximum penalty: \$25,000 or 2 years imprisonment.</li> </ul>
<b>104</b>	<ul style="list-style-type: none"> <li>&gt; A person must not, without lawful reason, remove an involuntary inpatient from a treatment centre or aid them to leave the centre.</li> <li>&gt; Maximum penalty: \$25,000 or 2 years imprisonment.</li> </ul>



<b>106</b>	<ul style="list-style-type: none"><li>&gt; Any person who does not disclose personal information about a person under the Act in accordance with the Act.</li><li>&gt; Maximum penalty: \$25,000.</li></ul>
<b>107</b>	<ul style="list-style-type: none"><li>&gt; A person must not publish a report of any proceedings under the Act unless SACAT, on application, authorises the publication.</li><li>&gt; Any such publication cannot identify individuals or provide details that could identify individuals.</li><li>&gt; Maximum penalty: \$25,000.</li></ul>
<b>108</b>	<ul style="list-style-type: none"><li>&gt; A doctor must, unless there is a reasonable excuse, provide SACAT or the Chief Psychiatrist with documents in accordance with the Act.</li><li>&gt; Maximum penalty: \$1,250.</li></ul>





For more information

**Office of the Chief Psychiatrist**  
**PO Box 287 Rundle Mall**  
**Adelaide SA 5000**  
**Telephone: 08 8226 1091**  
**[www.chiefpsychiatrist.sa.gov.au](http://www.chiefpsychiatrist.sa.gov.au)**



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