

Technical Bulletin: 01/17

February 2017

Justices Examination Orders obsolete

Background

Under the *Mental Health Act 2000*, a Justice of the Peace (Qualified), Justice of Peace (Magistrates Court) or a Magistrate (JPs) is able to issue a Justices Examination Order (JEO) that allows a doctor or an authorised mental health practitioner to examine a person who is thought to be suffering from a mental illness. The purpose of the examination is to decide whether or not to recommend that they undergo a full psychiatric assessment. It allows the examination to go ahead whether or not the person concerned agrees.

On Sunday 5 March 2017, the *Mental Health Act 2000* will be repealed and replaced by the ***Mental Health Act 2016***.

As a result of the new *Mental Health Act 2016*, from 5 March, 2017 Justices Examination Orders will no longer exist and JPs will no longer have the power to consider a Justices Examination Application or issue a JEO.

Legislation

The new *Mental Health Act 2016* has three main objectives (s.3 (1)):

1. to improve and maintain the health and wellbeing of persons who have a mental illness and who do not have the capacity to consent to be treated;
2. to enable persons to be diverted from the criminal justice system if found to have been of unsound mind at the time of committing an unlawful act or to be unfit for trial; and
3. to protect the community if persons diverted from the criminal justice system may be at risk of harming others.

While the new Act is similar to the *Mental Health Act 2000*, there are several key differences that better align the legislation with good clinical practice. When the new Act takes effect, it will represent a major step forward for patient rights and will strengthen the role of family and support persons.ⁱ

Justices Examination Orders will be replaced with Examination Authorities, which can only be made by the Mental Health Review Tribunal (MHRT). The MHRT is an independent statutory body originally established under the *Mental Health Act 2000* and will continue to function under the new Act with a primary purpose to review treatment authorities, forensic and treatment orders. Consisting of a president, deputy president and other members (appointed by the Governor-in-Council), members of the MHRT will also hear applications for examination authorities and to perform electroconvulsive therapy.

If a person approaches you to witness a superseded JEO or asks what processes are in place to assist them with their concerns with a person who is suffering a mental illness and requires medical intervention, refer the person to Queensland Health or the Mental Health Review Tribunal.



Queensland Health

13 HEALTH (13 43 25 84)

www.qld.gov.au/health/mental-health

Mental Health Review Tribunal

1800 00 6478 (1800 00 MHRT)

www.mhrt.qld.gov.au

Transitional Arrangements

Any JEO issued prior to 5 March, 2017 will continue to apply under the repealed *Mental Health Act 2000* for the period of time stated in the order - This means that the JEO issued before 5 March 2017 may be executed after this time - see s.807 *Mental Health Act 2016*.

Help for People with a Mental Illness

Below are a list of agencies you can contact for help and information. If you or someone you know requires assistance with mental illness.

Lifeline

13 11 14

SANE helpline

1800 187 263

Beyond Blue

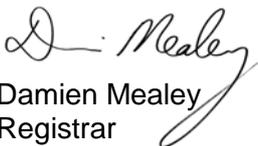
1300 224 636

Further Reading

Queensland Health has created a number of resources, fact sheets and FAQs that provides an overview of the new *Mental Health Act 2016*, you can access this information on Queensland Health's website:

www.health.qld.gov.au/clinical-practice/guidelines-procedures/clinical-staff/mental-health/act/2016

Regards,



Damien Mealey
Registrar
Justices of the Peace Branch
Department of Justice and Attorney-General

¹ <https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/clinical-staff/mental-health/act/2016/about>