

South Australia

Mental Health Regulations 2010

under the *Mental Health Act 2009*

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Schedule 1—Scale of legal practitioner fees

Schedule 2—Revocation of *Mental Health Regulations 1995*

1—Short title

These regulations may be cited as the *Mental Health Regulations 2010*.

2—Commencement

These regulations will come into operation on the day on which the *Mental Health Act 2009* comes into operation.

3—Interpretation

In these regulations—

Act means the *Mental Health Act 2009*.

4—Statement of rights (sections 9, 12, 23, 27, 37 and 46 of Act)

- (1) A statement of rights given under section 9 of the Act to a voluntary patient must contain—
 - (a) an explanation of the circumstances in which a community treatment or detention and treatment order may be made; and
 - (b) an explanation of the effect of Part 6 of the Act; and
 - (c) an explanation of the effect of section 106 of the Act; and
 - (d) any other information required to be included by the Minister.
- (2) A statement of rights given under section 12 of the Act to a patient as soon as practicable after the making of a level 1 community treatment order must contain—
 - (a) an explanation of the circumstances in which a detention and treatment order may be made; and

- (b) an explanation of the effect of section 106 of the Act; and
 - (c) any other information required to be included by the Minister.
- (3) A statement of rights given under section 23 of the Act to a patient as soon as practicable after the making of a level 1 detention and treatment order must contain—
 - (a) an explanation of the powers that may be exercised in relation to the patient if he or she becomes a patient at large; and
 - (b) an explanation of the effect of section 106 of the Act; and
 - (c) any other information required to be included by the Minister.
- (4) A statement of rights given under section 27 of the Act to a patient as soon as practicable after the making of a level 2 detention and treatment order must contain—
 - (a) an explanation of the powers that may be exercised in relation to the patient if he or she becomes a patient at large; and
 - (b) an explanation of the effect of Part 6 of the Act; and
 - (c) an explanation of the effect of section 106 of the Act; and
 - (d) any other information required to be included by the Minister.
- (5) A statement of rights given under section 37 of the Act to a patient detained in a treatment centre before commencing leave of absence from the centre must contain—
 - (a) an explanation of the effect of section 38 of the Act; and
 - (b) an explanation of the powers that may be exercised in relation to the patient if he or she becomes a patient at large; and
 - (c) any other information required to be included by the Minister.
- (6) A statement of rights given under section 46 of the Act to a patient as soon as practicable after the making by the Board of an order or decision under the Act in respect of the patient must contain information required to be included by the Minister.

**5—Notification to Commissioner of Police of action taken under Act
(section 57(10) of Act)**

Notification under section 57(10) of the Act to the Commissioner of Police of action taken under the Act in relation to a person who has been arrested for an offence and released from police custody for the purpose of medical examination or treatment under the Act must be given as soon as practicable after the action is taken in accordance with the following requirements:

- (a) if a community treatment order is made in respect of the person as a result of the examination—the notification must include details of the type of order and its duration;
- (b) if a detention and treatment order is made in respect of the person as a result of the examination or before the expiry of such an order made as a result of the examination—the notification must include details of the type of order and its duration and specify the treatment centre at which the person is detained;

- (c) if the person is subsequently transferred to another treatment centre—the notification must specify the treatment centre to which the person is transferred.

6—Arrangements between South Australia and other jurisdictions (Part 10 of Act)

Each of the following is declared to be a *corresponding law* for the purposes of Part 10 of the Act:

- (a) the *Mental Health and Related Services Act* of the Northern Territory;
(b) the *Mental Health Act 2007* of New South Wales;
(c) the *Mental Health Act 1986* of Victoria.

7—Scale of legal practitioner fees (section 84 of Act)

A legal practitioner (not being an employee of the Crown or a statutory authority) who represents a person under section 84 of the Act is entitled to receive fees for his or her services from the Minister in accordance with the scale set out in Schedule 1.

Schedule 1—Scale of legal practitioner fees

1 For each 15 minutes, or part of 15 minutes, spent preparing for the hearing of an appeal (subject to a maximum of 3 hours) or attending the hearing of an appeal (including if the hearing is adjourned but excluding time taken to travel to or from the place of hearing)	\$33.65
2 For each 15 minutes, or part of 15 minutes, spent travelling from the practitioner's usual place of business to the place where the person to whom the proceedings relate is to be interviewed or the hearing is to be held or from such a place to the practitioner's usual place of business	\$12.50
3 For each kilometre, or part of a kilometre, travelled from the practitioner's usual place of business to the place where the person to whom the proceedings relate is to be interviewed or the hearing is to be held or from such a place to the practitioner's usual place of business	\$0.71

Schedule 2—Revocation of *Mental Health Regulations 1995*

The *Mental Health Regulations 1995* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 24 June 2010

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