

MEMORANDUM OF AGREEMENT

DATED this

day of

2003

BETWEEN:

The MINISTER FOR HEALTH FOR THE STATE OF NEW SOUTH WALES of Level 30, 1 Farrer Place, Sydney 2000 (“the NSW Minister”)

AND

The MINISTER FOR HEALTH FOR THE STATE OF QUEENSLAND of Level 19, 147–163 Charlotte Street, Brisbane 4000 (“the Queensland Minister”)

RECITALS

WHEREAS:

- A. Chapter 5, Part 2 of the Queensland Act and Chapter 10A of the NSW Act provide for the interstate application of mental health laws.
- B. The Queensland Minister may, in accordance with section 176 of the Queensland Act, enter into an agreement with another State about, among other things, the application of the mental health laws of Queensland or the other State, the transfer, detention and apprehension of persons in Queensland and the other State under mental health laws and administrative and other matters incidental to such matters.
- C. The NSW Minister may, in accordance with section 286C of the NSW Act, enter into an agreement with a Minister of another State for or with respect to the application of mental health laws of NSW or the other State, the transfer, detention and apprehension of persons in NSW and the other State and any matters contained in or ancillary to Chapter 10A of the NSW Act.
- D. The NSW Minister and the Queensland Minister now make this Agreement in accordance with their respective powers under section 286C of the NSW Act and section 176 of the Queensland Act to provide for the administration of Chapter 10A of the NSW Act and

Chapter 5, Part 2 of the Queensland Act and the corresponding laws declared under each of those Acts

- E.** On 30 April 2002, the Queensland Minister and the NSW Minister executed the Forensic Agreement enabling the commencement of provisions of the corresponding laws to allow for the apprehension and return of Queensland classified and forensic patients and patients described in subsection 508(1)(c) of the Queensland Act who abscond into NSW, and NSW forensic patients who escape into Queensland.
- F.** By this Agreement, the Queensland Minister and the NSW Minister provide for the administration of Chapter 5, Part 2 of the Queensland Act, of Chapter 10A of the NSW Act and provide for or with respect to:
- (i) the involuntary admission of certain interstate persons to facilities in NSW and Queensland;
 - (ii) the transfer of certain interstate persons between facilities in NSW and Queensland;
 - (iii) the apprehension and return of interstate persons who abscond from Queensland to NSW and from NSW to Queensland and who are not covered by the Forensic Agreement;
 - (iv) the recognition and interstate application of community treatment orders made under the NSW Act and the community category of involuntary treatment orders made under the Queensland Act for the care and treatment of certain interstate persons.

IT IS AGREED:

PART 1: DEFINITIONS AND INTERPRETATION

1.1 The following words and expressions have the following meanings unless the context otherwise requires:

“Administrator” means the person declared, under section 497 of the Queensland Act, to be the Administrator for an authorised mental health service;

“Agreement” means this Agreement including the Schedules to it;

“authorised mental health service” means a health service, or part of a health service declared by the Queensland Director, by gazette notice, to be an authorised mental health service under section 495 of the Queensland Act;

“authorised psychiatrist” means a psychiatrist who is an authorised doctor for an authorised mental health service;

"authorised doctor", for an authorised mental health service, means a doctor who, under section 504 of the Queensland Act is or holds appointment as an authorised doctor for the health service

“Civil Interstate Apprehension Order” means the document that sets out the information specified in Part 6 and in the form set out in Schedule 2, as amended from time to time in accordance with clauses 6.4 and 6.5

“community category of an involuntary treatment order” means an involuntary treatment order made under the community category according to Chapter 4, Part 1 of the Queensland Act;

“community treatment order” means an order made under section 131 of the NSW Act;

“Contact Officer” means the person or persons so described in Schedule 1;

“continued treatment patient” has the same meaning as under Schedule 1 to the NSW Act;

“corresponding laws” means:

- (a) with respect to Queensland, the NSW Act as declared under the Queensland Act;
and
- (b) with respect to NSW, the Queensland Act when declared as such under and in accordance with section 286D of the NSW Act;

“facility” means a gazetted mental health service or an authorised mental health service;

“Forensic Agreement” means the agreement between the Queensland Minister and the NSW Minister dated 30 April 2002 for the apprehension and return of Queensland classified and forensic patients or persons described in subsection 508(1)(c) of the Queensland Act who

abscond into NSW, and NSW forensic patients who escape into Queensland and references to this document include the document as varied or replaced;

“gazetted mental health service” means premises in relation to which the Director General of the NSW Department of Health has made an order under section 208 of the NSW Act;

“health care agency” has the same meaning as under Schedule 1 to the NSW Act;

“in-patient category of an involuntary treatment order” means an involuntary treatment order made under the in-patient category according to section 109 of Chapter 4, Part 1 of the Queensland Act;

“Interstate Guidelines” means any guidelines developed in accordance with Part 13;

“interstate person” means with respect to NSW, a person who at the relevant time is in Queensland; and with respect to Queensland, a person who at the relevant time is in NSW;

“Interstate Transfer Request Notice” means a document that sets out the information specified in Part 5 of the Agreement and in the form set out in Schedule 3, as amended from time to time in accordance with clauses 5.9 and 5.10;

“involuntary treatment order” means an involuntary treatment order made under section 108 of Chapter 4, Part 1 of the Queensland Act. The category of an involuntary treatment order must be either “in-patient” or “community” according to section 109 of the Queensland Act;

“Medical Superintendent” has the same meaning as under Schedule 1 of the NSW Act;

“NSW Act” means the NSW *Mental Health Act* 1990, including any regulations and orders made under that Act (but for the purposes of this Agreement a reference to the NSW Act does not, unless expressly provided, include a reference to the Queensland Act on the basis that the Queensland Act has been declared a corresponding law under the NSW Act);

“NSW Department of Health” means the Department established pursuant to section 6 of the NSW *Health Administration Act* 1982 and in the event that the name of the Department of Health is changed pursuant to that Act, the Department by its new name;

“NSW Regulations” means the Regulations made pursuant to Part 10A of the NSW Act in relation to matters provided for in this Agreement;

“Queensland Act” means the Queensland *Mental Health Act 2000*, including any regulations and orders made under that Act (but for the purposes of this Agreement a reference to the Queensland Act does not, unless expressly provided, include a reference to the NSW Act on the basis that the NSW Act has been declared a corresponding law under the Queensland Act);

“Queensland Director” means the Director of Mental Health in Queensland who is appointed by the Governor in Council in accordance with section 488 of the Queensland Act;

“receiving facility” means the facility to which it is proposed to transfer a person in accordance with Part 5;

“referring facility” means the facility from which it is proposed to transfer a person in accordance with Part 5;

“temporary patient” has the same meaning as under Schedule 1 to the NSW Act;

1.2 In this Agreement, unless the context requires otherwise:

- a) words importing the singular include the plural and vice versa;
- b) references to persons include corporations and bodies corporate;
- c) references to Clauses, Parts, Schedules and Annexures are references to Clauses and Parts of and Schedules to and Annexures to, this Agreement (unless stated otherwise);
- d) references to a person include the legal personal representatives, successors and assignees of that person;
- e) references to this or any other document include the document as varied or replaced, and notwithstanding any change to the identity of the parties;
- f) references to a month shall be construed as references to a calendar month.

PART 2: COMMENCEMENT OF AGREEMENT

The parties agree and acknowledge that this Agreement shall commence on the day on which the NSW Regulations commence operation.

PART 3: SCOPE AND PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to provide for matters in connection with the administration and implementation of Chapter 10A of the NSW Act and Chapter 5, Part 2 of the Queensland Act.
- 3.2 The application and effect of the NSW Act and the Queensland Act as corresponding laws of Queensland and NSW respectively are subject to the express limitations, conditions and variations imposed by the terms of this Agreement.
- 3.3 Nothing in this clause or otherwise in this Agreement is to be taken or construed as extending, limiting or otherwise varying the provisions of the NSW Act or the Queensland Act or a corresponding law declared under the NSW Act or the Queensland Act, unless expressly provided.
- 3.4 The parties agree that they will cooperate in a spirit of goodwill to facilitate the purposes of this Agreement.
- 3.5 The NSW Minister and the Queensland Minister agree that each will, through the Contact Officers, advise the other party of any proposed amendment to legislation or other relevant instrument or authority which is likely to affect the obligations arising under this Agreement or the application and effect of the corresponding laws.

PART 4: INTERSTATE INVOLUNTARY ADMISSIONS

- 4.1 This Part applies only to the admission of interstate persons under a corresponding law.

Involuntary Admission Under Corresponding Laws

- 4.2 The parties agree:
 - (a) a person subject to a certificate under section 21 of the NSW Act indicating that the person is a “mentally ill person” or a “mentally disordered person”, or a person

apprehended by a NSW police officer in accordance with section 24 of the NSW Act, may be admitted to and detained in an authorised mental health service in Queensland;

- (b) a person for whom a request for assessment and recommendation for assessment under Chapter 2, Part 2 of the Queensland Act are made or a person for whom an emergency examination order under Chapter 2, Part 3, Division 3 of the Queensland Act is made, may be admitted to and detained in a gazetted mental health service in NSW.

Documents for the Purposes of Involuntary Admission

4.3 The documents listed in Column 2 are the documents required for the purpose of allowing involuntary admission of persons specified in clause 4.2 to the facilities listed in Column 1:

| <u>Column 1</u> | <u>Column 2</u> |
|---|---|
| (a) an authorised mental health service | (i) a Schedule 2 certificate issued pursuant to section 21 of the NSW Act. |
| (b) a Gazetted mental health service | (i) a request for assessment and a recommendation for assessment for the person that comply with Chapter 2, Part 2 of the Queensland Act; or (ii) an emergency examination order for the person under Chapter 2, Part 3, Division 3 of the Queensland Act. |

Admissions After Detention by NSW Police Officers

4.4 A person who may be taken to a hospital by a NSW police officer under section 24 of the NSW Act may be taken to and detained in an authorised mental health service without documentation pursuant to section 182 of the Queensland Act.

Admissions After Detention by Queensland Police or Ambulance Officers

4.5 A person who may be taken to an authorised mental health service by a Queensland police officer or Queensland ambulance officer without documentation according to Chapter 2, Part 3, Division 3, Subdivision 1 of the Queensland Act, may be taken to and detained in a Gazetted mental health service without documentation pursuant to section 286I of the NSW Act.

Persons Authorised to Take an Interstate Person to a Gazetted or Authorised Mental Health Service

4.6 The parties agree that the persons who may take an interstate person to a Gazetted mental health service in accordance with this Part are:

- (a) a person prescribed under the NSW Regulations in accordance with section 286F(3)(b) or section 286I(3)(b) of the NSW Act, being :
- The medical superintendent of a gazetted mental health service or any other suitably qualified person authorized to do so by the medical superintendent;
 - A NSW Police Officer;
- (b) a person authorised under section 180 and Chapter 2 of the Queensland Act being:
- a Queensland health practitioner;
 - a Queensland Ambulance Officer;
 - a Queensland Police Officer.

4.7 The parties agree that the persons who may take an interstate person to an authorised mental health service in accordance with this Part are:

- (a) a person prescribed under the NSW Regulations in accordance with section 286F(3)(b) or section 286I(3)(b) of the NSW Act, being :
- The medical superintendent of a gazetted mental health service or any other suitably qualified person authorized to do so by the medical superintendent;
 - A NSW Police Officer;
- (b) a person authorised under section 182 of the Queensland Act being:
- a Queensland health practitioner;

- a Queensland Police Officer, assisting a Queensland health practitioner;

Status of Person After Admission

4.8 The parties agree that an interstate person admitted to a Gazetted mental health service shall thereafter be dealt with as if that person had been taken to and detained in a Gazetted mental health service under Chapter 4, Part 2 of the NSW Act;

4.9 The parties agree that:

- subject to subclause (b), an interstate person admitted to an authorised mental health service shall thereafter be dealt with in accordance of Chapter 2, Part 4 of the Queensland Act as if that person were a person in relation to whom a request for assessment and recommendation for assessment has been made under Chapter 2, Part 2 of the Queensland Act;
- where an interstate person subject to section 24 of the NSW Act is taken to an authorised mental health service by a NSW police officer without documentation, the person may be detained for a reasonable time to allow the person's examination to decide whether assessment documents should be made for the person according to section 182 of the Queensland Act.

PART 5: TRANSFER OF INTERSTATE PERSONS

Operation of this Part

This Part applies only to the transfer of interstate persons who:

- with respect to NSW, are detained as continued treatment patients or temporary patients; and
- with respect to Queensland, are subject to an in-patient category of an involuntary treatment order.

5.1 In the case of Queensland, notices and orders referred to in this Part will be provided by the Administrator of the person's treating authorised mental health service. In the case of NSW,

notices and orders referred to in this Part will be provided by the Medical Superintendent of the gazetted mental health service in which the person is involuntarily detained.

- 5.2 The parties agree that subject to the terms and conditions set out in this Part:
- (a) persons detained as temporary patients and continued treatment patients under the NSW Act may be transferred to any authorised mental health service in Queensland; and
 - (b) persons subject to an in-patient category of an involuntary treatment order may be transferred to any gazetted mental health service in NSW.
- 5.3 A transfer from NSW to Queensland shall be made in accordance with the NSW Regulations and in accordance with section 183 of the Queensland Act.
- 5.4 A transfer from Queensland to NSW shall be made in accordance with section 181 of the Queensland Act and in accordance with the NSW Regulations.
- 5.5 The “interstate authority” for the purpose of section 181 of the Queensland Act shall be the Medical Superintendent of the facility to which the interstate person is transferred.

Interstate Transfer Request Notice

- 5.6 Prior to any transfer, the referring facility shall provide the receiving facility with an Interstate Transfer Request Notice.
- 5.7 The Interstate Transfer Request Notice is to be in the form attached as Schedule 3 to this Agreement, and is to include the following information:
- (a) the full name of the person and his or her date of birth;
 - (b) the status of the person under the relevant mental health legislation;
 - (c) the reason for the proposed transfer;
 - (d) any information that may assist in the ongoing care and treatment of the person; and
 - (e) the details, if any, of who is proposed to take the interstate person to the receiving facility.

- 5.9 The Interstate Guidelines may specify further information to be included in the Interstate Transfer Request Notice.
- 5.10 The parties agree that the form of Interstate Transfer Request Notice may be amended by the written agreement of the Director, Centre for Mental Health of the NSW Department of Health and the Queensland Director.
- 5.11 Prior to a referring facility issuing an Interstate Transfer Request Notice, that facility will consult with the receiving facility concerning the person and the contents of the Interstate Transfer Request Notice, which the referring facility proposes to deliver in accordance with this Part.

Transfer Subject to Prior Approval of Receiving Facility

- 5.12 A person subject to an in-patient category of involuntary treatment order shall not be transferred from Queensland to NSW unless the Medical Superintendent of the receiving facility has approved the transfer in writing.
- 5.13 A person detained as a temporary patient or a continuing treatment patient under the NSW Act shall not be transferred from NSW to Queensland unless the Administrator of the receiving facility has approved the transfer in writing.

Transfer

- 5.14 Where an interstate person is transferred in accordance with this Part, the referring facility shall forward to the receiving facility:
- (a) in respect of a transfer from Queensland to NSW, a written transfer order under section 181 of the Queensland Act;
 - (b) in respect of a transfer from NSW to Queensland, a transfer order in accordance with section 286H of the NSW Act, including the date and time at which the order was signed;
 - (c) such other information, including medical records, of the interstate person as is reasonably necessary or required for the continued care and treatment of the person by the receiving facility.

5.15 A transfer will be deemed complete once the person has been admitted to the receiving facility.

Persons Authorised to Take a Transferring Interstate Person to a Receiving Facility

5.16 The parties agree that the persons who may take an interstate person to a gazetted mental health service in accordance with this Part are:

- (a) a person prescribed under the NSW Regulations in accordance with section 286F(3)(b) or section 286I(3)(b) of the NSW Act, being :
- The medical superintendent of a gazetted mental health service or any other suitably qualified person authorized to do so by the medical superintendent;
 - A NSW Police Officer;
- (b) a person authorised under sections 181 and 508 of the Queensland Act being:
- a Queensland health practitioner;
 - a Queensland Police Officer.

5.17 The parties agree that the persons who may take an interstate person to an authorised mental health service in accordance with this Part are:

- (a) a person prescribed under the NSW Regulations in accordance with section 286F(3)(b) or section 286I(3)(b) of the NSW Act, being :
- The medical superintendent of a gazetted mental health service or any other suitably qualified person authorized to do so by the medical superintendent;
 - A NSW Police Officer;
- (b) a person authorised under section 183 of the Queensland Act being:
- a Queensland health practitioner;
 - a Queensland Police Officer, assisting a Queensland health practitioner;

Status of Person After Transfer

5.18 The parties recognise and agree that, in the case of an interstate person transferred to a gazetted mental health service in NSW:

- (a) the person shall, from the time of admission, be dealt with as if the person was a continued treatment patient under the NSW Act.
- (b) from the time of admission to the gazetted mental health service, the person will cease to be dealt with as a person to whom the Queensland Act applies.

5.19 In the case of an interstate person transferred to an authorised mental health service in Queensland:

- (a) the person shall, according to section 183 of the Queensland Act, thereafter be dealt with as if that person were a person for whom an involuntary treatment order has been made under section 112 the Queensland Act.
- (b) An order made under clause 5.14(b) of this Agreement shall be taken to be the involuntary treatment order for the purposes of subsection 183(4) of the Queensland Act;
- (c) the transferred person must be examined by an authorised psychiatrist **within 72 hours** after the making of the order under clause 5.14(b) of this Agreement;
- (d) from the time of admission to the authorised mental health service following transfer, the person will cease to be dealt with as a person to whom the NSW Act applies.

PART 6: APPREHENSION OF PERSONS ABSENT WITHOUT LEAVE

6.1 This Part applies only to “interstate persons absent without leave”, those being persons who are:

- (a) absent without leave from a gazetted mental health service and liable to apprehension under section 76 of the NSW Act and who there are reasonable grounds to suspect are in Queensland; or
- (b) subject to an order for apprehension for breach of a community treatment order under section 139 of the NSW Act and who there are reasonable grounds to suspect are in Queensland;

- (c) required to return to a treating health service for assessment or treatment in accordance with section 507 of the Queensland Act and who there are reasonable grounds to suspect are in NSW.

6.2 This Part does not apply to any person covered by the Forensic Agreement, those being:

- (a) forensic patients as defined in Schedule 1 to the NSW Act, and who are liable to apprehension or retaking under section 93 or 111 of the NSW Act;
- (b) classified patients or forensic patients (as these terms are defined in the Queensland Act) or persons described in subsection 508(1)(c) of the Queensland Act, who may be taken to the in-patient facility of an authorised mental health service in accordance with section 508 of that Act.

Civil Interstate Apprehension Order

6.3 The Civil Interstate Apprehension Order is to be in the form attached as Schedule 2, and is to include the following information:

- (a) the full name of the person and his or her date of birth;
- (b) a description of the person;
- (c) date and time the order signed
- (d) the status of the person under the relevant mental health legislation;
- (e) any information that may assist in the apprehension of the person; and
- (f) the name and address of the authorised mental health service or the gazetted mental health service to which the person is to be returned.

6.4 The Interstate Guidelines may specify further information to be included in the Civil Interstate Apprehension Order.

6.5 The parties agree that the form of the Civil Interstate Apprehension Order may be amended by the written agreement of the Director, Centre for Mental Health of the NSW Department of Health and the Queensland Director.

6.6 A Civil Interstate Apprehension Order may be issued by:

- the Medical Superintendent of the relevant gazetted mental health service;
- an authorised psychiatrist from the person’s treating authorised mental health service;
- the Queensland Director;
- an authorised officer as defined in Schedule 1 to the NSW Act.

6.7 The Interstate Guidelines may specify the requirements for consultation and distribution following the issue of a Civil Interstate Apprehension Order.

Basis for Apprehension of an Interstate Person Absent Without Leave

6.8 Each party undertakes to do all things that are reasonably required and within power to facilitate the apprehension of an interstate person absent without leave named in the Civil Interstate Apprehension Order.

6.9 Subject to clause 6.10, an interstate person absent without leave will not be apprehended unless an Civil Interstate Apprehension Order has been issued in accordance with the terms of this Agreement and the Interstate Guidelines.

6.10 In an emergency, a person referred to in clause 6.6 may request the apprehension of the interstate person absent without leave without an Civil Interstate Apprehension Order provided that:

- (a) the request outlines the nature of the emergency;
- (b) a copy of the relevant Civil Interstate Apprehension Order is provided within 24 hours of the initial request for apprehension;

In this clause “emergency” means those situations where the delay involved in obtaining an Civil Interstate Apprehension Order may place the interstate person’s health or safety at risk, or place members of the public at risk (through deterioration of the interstate person’s physical or mental condition or otherwise).

Persons Authorised to Apprehend an Interstate Person Without Leave

6.11 The parties agree that the persons who may apprehend an interstate person absent from a gazetted mental health service in accordance with this Part are:

- (a) A person authorized to apprehend such a person under section 76 of the NSW Act, those persons being:
 - (i) A NSW Police Officer;
 - (ii) the medical superintendent of the facility;
 - (iii) a person authorized by the Minister; or
 - (iv) a person authorized by the medical superintendent.
- (c) A person authorized to apprehend a person who is the subject of an order under section 139 of the NSW Act, those persons being,
 - (i) A NSW Police Officer;
 - (ii) A member of staff of the health care agency named in the order;
- (d) Any other person authorised under the NSW Regulations for the purposes of section 286P(1)(b) of the NSW Act.
- (e) A person authorised under section 184 of the Queensland Act, those persons being
 - a Queensland health practitioner;
 - a Queensland police officer;

6.12 The parties agree that the persons who may apprehend an interstate person absent from an authorised mental health service in accordance with this Part are:

- (a) A person authorized to apprehend such a person under the NSW Regulations for the purposes of section 286P(1)(b) of the NSW Act those persons being:
 - (i) A NSW Police Officer;
 - (ii) the medical superintendent of the facility;
 - (iii) a person authorized by the Minister; or
 - (iv) a person authorized by the medical superintendent.
- (b) A person authorized to apprehend such a person under sections 185 and 508 of the Queensland Act those persons being
 - a Queensland health practitioner;
 - a Queensland police officer.

- 6.13 The parties agree that the powers set out in section 184 of the Queensland Act may be exercised in respect of:
- (a) an interstate person absent without leave from a gazetted mental health service for the purposes of taking that person to an authorised mental health service or a gazetted mental health service;
 - (b) an interstate person absent without leave from an authorised mental health service for the purposes of taking that person to an authorised mental health.

Facilities to Which an Interstate Person Absent Without Leave can be Returned

- 6.14 Subject to clause 6.15, an interstate person absent without leave who is apprehended under this Part may be taken to a gazetted mental health service (subject to consultation with the Medical Superintendent) or an authorised mental health service (subject to consultation with the Administrator).
- 6.15 Where the Civil Interstate Apprehension Order specifies that a person should be taken to a specific facility, every effort should be made to return the person to that facility unless this is not reasonably practicable.

Status of an Interstate Person Absent Without Leave after Apprehension

- 6.16 The parties acknowledge and agree that an interstate person absent without leave who is taken to a facility in NSW shall upon admission and thereafter be dealt with as if that person had been detained under Chapter 4, Part 2 of the NSW Act.
- 6.17 The parties acknowledge and agree that in respect of;
- (a) an interstate person absent without leave taken to a facility in Queensland, Chapter 4 of the Queensland Act applies as if an involuntary treatment order were made for the person by an authorised doctor who is not a psychiatrist,
 - (b) the civil interstate apprehension order authorising the person's apprehension is taken to be the involuntary treatment order.

PART 7: INTERSTATE APPLICATION OF ORDERS FOR TREATMENT IN THE COMMUNITY

- 7.1 This Part applies only to the interstate application of community treatment orders and the community category of involuntary treatment orders under a corresponding law.
- 7.2 The parties acknowledge that community treatment orders may be made under the NSW Act and that the community category of involuntary treatment orders may be made under the Queensland Act.
- 7.3 The parties agree that:
- (a) a community treatment order may be made in respect of a person who resides in Queensland, if the health care agency implementing the order is located in NSW; and
 - (b) for the purposes of providing assessment and treatment for a person who is subject to a community treatment order and who resides in Queensland, a person who is authorised to perform functions or exercise powers under a community treatment order may perform those functions or exercise those powers in Queensland.
- 7.4 The parties agree that:
- (a) the community category of an involuntary treatment order may be made in respect of a person who resides in NSW, if the treating mental health service implementing the order is located in Queensland and the service is a body prescribed to be an interstate health care agency for the purposes of the NSW Act; and
 - (b) for the purposes of providing assessment and treatment for a person who is subject to the community category of an involuntary treatment order and who resides in NSW, a person who is authorised to perform functions or exercise powers in relation to a person subject to an involuntary treatment order may perform those functions or exercise those powers in NSW.
- 7.5 Nothing in this Part or a corresponding law allows the enforcement of the community category of an involuntary treatment order in NSW, if that order involves the administration of electro convulsive therapy

PART 8: REVIEW OF AGREEMENT

8.1 The Interstate Guidelines may provide for periodic review of the Agreement and Interstate Guidelines by the Contact Officers or their nominees.

PART 9: AMENDMENT OR VARIATION OF AGREEMENT

9.1 Where a party considers that this Agreement should be amended, that party may request consultations with the other party to this end. A party so requested shall agree to consult and shall do so in the first instance through the Contact Officers of NSW and Queensland.

9.2 Amendments to this Agreement may only be made by the written agreement of the parties.

9.3 Any agreed amendments to the Agreement shall be contained in a document distributed to both parties and shall include a reference to the date on which the amendment shall come into force.

PART 10: CONFIDENTIALITY OF INFORMATION

10.1 The parties agree to treat all information acquired from the other party or otherwise acquired or created in the implementation of the Queensland Act, the NSW Act and the corresponding laws and this Agreement as confidential except to the extent that such information is in the public domain or as is otherwise permitted by law to be disclosed.

10.2 Any party who receives information from the other party or obtains or creates information in respect of a person from the other State agrees to treat that information in accordance with any policy directives or legislative obligations relating to privacy and the collection, keeping and disclosure of information that is in force in the receiving party's State.

10.3 The parties further agree that each State will take all reasonable steps to ensure that information obtained from the other State or obtained or created in respect of a person from the other State shall be dealt with so as not to cause the other State to offend any of that State's own privacy or confidentiality obligations.

PART 11: DISPUTE RESOLUTION

- 11.1 Disputes arising under this Agreement will be resolved in the manner, if any, provided for by the Interstate Guidelines. If the dispute cannot be resolved under the Interstate Guidelines, it shall be referred to the Contact Officers for resolution.
- 11.2 Pursuant to clause 11.1, the Contact Officers shall attempt in good faith to resolve any dispute arising under this Agreement within 7 business days.
- 11.3 In the event that the Contact Officers cannot resolve the dispute, the dispute will be referred to the Queensland Minister and the NSW Minister for resolution.
- 11.4 The parties acknowledge that failure to resolve a dispute arising under this Agreement will jeopardise the continued existence of the Agreement and acknowledge that they will cooperate and act in good faith to bring about a satisfactory resolution of any such dispute.

PART 12: TERMINATION OF AGREEMENT

- 12.1 The parties agree that either party may terminate the Agreement at any time by writing delivered to the other party provided that the first party has given the other party a minimum of three months written notice in advance of the first party's intention to terminate. The parties may agree to waive the requirement to give three months notice of an intention to terminate the Agreement.
- 12.2 The parties further agree that, as soon as possible after the Agreement has been terminated under clause 12.1, both parties will take all such other action within their power as is necessary to effect the termination of this Agreement, including the revocation and/or revision of any orders, regulations or other statutory instruments made under the Queensland Act or the NSW Act in support of this Agreement.

PART 13: INTERSTATE GUIDELINES

- 13.1 The parties agree to act cooperatively and in good faith to develop Interstate Guidelines, which will include:
- (a) any matter required or provided for under this Agreement;

- (b) any other matter considered necessary by the parties to support the administration and operation of this Agreement, and the corresponding laws and which will be recognised under the NSW Act or NSW Regulations.

13.2 Amendment to the Interstate Guidelines may only be by written agreement of the Director, Centre for Mental Health of the NSW Department of Health and the Queensland Director.

PART 14: CONTACT OFFICERS AND SERVICE OF DOCUMENTS

14.1 The Contact Officers for NSW and Queensland for the purposes of this Agreement are set out in Schedule 1.

14.2 All documents or notices that may be or are required to be delivered or served under this Agreement may be delivered or served as permitted by law. The address for service on the parties is as set out in Schedule 1.

PART 15: SEVERANCE

15.1 Any provision in this Agreement will be read down to the extent necessary to prevent that provision being invalid, voidable or unenforceable in the circumstances.

PART 16: COUNTERPARTS

16.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute the same instrument.

SIGNED SEALED AND DELIVERED)
 by the MINISTER FOR HEALTH for and on)
 behalf of the State of New South Wales).....
 [including the Department of Health] but) Morris Iemma
 not so as to incur personal liability) Minister for Health
 in the presence of:) for the State of NSW

.....
 Signature

.....
 Print Name

SIGNED SEALED AND DELIVERED)
 by the MINISTER FOR HEALTH for)
 and on behalf of the Queensland but).....
 not so as to incur personal liability) Wendy Edmond
 in the presence of:) Minister for Health
 for the State of Queensland

.....
 Signature

.....
 Print Name

AGREEMENT DETAILS**Contact Officer**

The Contact Officer for any issue arising out of the administration or application of the Agreement or the corresponding laws is:

For NSW: the person holding the position of Director of Mental Health (or his/her delegate)

Centre for Mental Health

NSW Department of Health

73 Miller Street, North Sydney

Tel: 02 9391 9299

Email: braph@doh.health.nsw.gov.au

Fax: 02 9391 9041

For Queensland: the person holding the position of Director of Mental Health (or his/her delegate)

Mental Health Unit

Queensland Health

147–163 Charlotte Street, Brisbane

Tel: 07 3225 2062

Email: arnold_waugh@health.qld.gov.au

Fax: 07 3234 1362