



REPUBLIC OF NAURU

# MENTALLY- DISORDERED PERSONS (AMENDMENT) NO. 2 BILL 2017

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No. of 2017

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A Bill for an Act to amend the Mentally-disordered Persons Act 1963

Certified: [ ]

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Enacted by the Parliament of Nauru as follows:

**1 Short title**

This Act may be cited as the *Mentally-disordered Persons (Amendment) No. 2 Act 2017*.

**2 Commencement**

This Act commences upon certification by the Speaker.

**3 Amendment of Mentally-disordered Persons Act 1963**

The Mentally-disordered Persons Act 1963 is amended by the provisions of this Act.

**4 Amendment of section 4C**

(1) Insert new 4C (3) as follows:

(3) The powers of an authorised officer include the authority to:

- (a) stop a person from harming himself or herself or others;
- (b) stop a person from damaging property;
- (c) seize any items according to section 4E;
- (d) restrain a person for the purpose of having treatment administered;
- (e) stop a person who is being involuntarily assessed or detained from leaving a designated mental health facility without authorisation;
- (f) return a person who is being involuntarily assessed or detained and who has left without proper authorisation to a designated mental health facility;
- (g) search persons according to section 4D.

(2) Section 4C (2) is amended by adding 'or a class of persons' after the word 'persons'.

**5 Insert new section 4D**

**4D Search of persons**

(1) This section applies in relation to the search of a person by an authorised officer under this Act.

- (2) Prior to the commencement of a search, the authorised officer must, if reasonably practicable:
  - (a) identify himself or herself to the person; and
  - (b) inform the person of the reason for the search; and
  - (c) request the person to consent to being searched.
- (3) The authorised officer must, if practicable be of the same gender as the person to be searched.
- (4) The authorised officer may do all or any of the following during the search:
  - (a) scan the person with an electronic or mechanical device, whether hand held or not;
  - (b) remove the person's headwear, footwear or outer clothing, but not the persons inner clothing or undergarments in order to facilitate a frisk search;
  - (c) frisk search the person by quickly and methodically running the hands over the outside of the person's clothing;
  - (d) search any article removed under subparagraph (b).
- (5) The authorised officer may also:
  - (a) search anything being carried by or under the immediate control of the person;
  - (b) order the person to remove anything that may injure the authorised officer while conducting the search.
- (6) The search must be conducted:
  - (a) as quickly as is reasonably practicable;
  - (b) in a way that is not any more intrusive than is reasonably necessary in the circumstances;
  - (c) in a manner that seeks to maintain the privacy and dignity of the person being searched;
  - (d) in way that the person being searched is given an explanation as to why articles of clothing worn must be removed during the search;

- (e) to allow the person being searched to dress as soon as the search is completed.

**6            Insert new section 4E**

**4E            Seizure of items**

During a search conducted under section 4D, any of the following items may be seized:

- (a) an intoxicant;
- (b) an item, including prescription drugs that may pose a serious risk to the health or safety of the person or another person;
- (c) an item that the authorised officer believes is likely to assist in determining any question in relation to the person that is likely to arise for determination under this Act.

**7            Insert new section 4F**

**4F            Record of search and seizure**

- (1) An authorised officer who conducts the search of a person under section 4D must:
  - (a) record the search including:
    - (i) the date and time of the search;
    - (ii) the name of the person being searched;
    - (iii) the reasons for the search;
    - (iv) any items seized;
    - (v) the name, position and signature of the person who conducted the search,
  - (b) give the record of the search to the person in charge of the designated mental health facility where the search was conducted.
- (2) Items seized and recorded under subsection (1) must, as soon as practicable, be returned to the person from whom it was seized as soon as practicable.
- (3) Despite subsection (2), a health practitioner may decide to retain items seized if the item will assist in determining