

# House of Representatives

# Supplementary Order Paper

**Tuesday, 23 November 2021**

## **Rights for Victims of Insane Offenders Bill**

### *Proposed amendments*

Hon Louise Upston, in Committee, to move the following amendments:

*Clause 7A: new section 33C*

In *clause 7A, new section 33C(2)*, delete “, or giving information relevant to,” (page 8, line 31).

*Clause 8B: new section 50*

In *clause 8B, new section 50(c)*, replace “section 45” (page 11, line 8) with “an order made under section 45”.

*Clause 8B: new section 50C*

In *clause 8B, new section 50C(2)*, delete “, or giving information relevant to,” (page 12, lines 10 and 11).

*Clause 8B: new section 50F*

In *clause 8B, new section 50F(1)*, replace “**50B**” (page 13, line 24) with “**50A**”.

*Clause 8D: new section 52C*

In *clause 8D, new section 52C(2)*, delete “, or giving information relevant to,” (page 15, lines 1 and 2).

*Clause 8D: new section 52F*

In *clause 8D, new section 52F(1)*, replace “**sections 52B to 52E**” (page 16, line 11) with “**sections 52 and 52B to 52E**”.

*Clause 11: new section 3AAA*

In *clause 11, new section 3AAA*, delete “, or giving information relevant to,” (page 17, lines 8 and 9).

*Clause 11A*

In *clause 11A*, replace “**Part 1 of the Schedule**” (page 17, line 17) with “**Part 1 of Schedule 5**”.

*Clause 12AA: new section 9A*

In *clause 12AA, new section 9A*, replace “**Schedule 1AA**” (page 18, line 2) with “**Schedule 1**”.

*Clause 12B: new section 65B*

In *clause 12B, new section 65B(2)*, delete “, or giving information relevant to,” (page 18, lines 22 and 23).

*Clause 15A*

In *clause 15A*, replace “**Part 2 of the Schedule**” (page 27, line 9) with “**Part 2 of Schedule 5**”.

*Clause 16*

In *clause 16*, replace “**Part 3 of the Schedule**” (page 27, line 13) with “**Part 3 of Schedule 5**”.

*Schedule 2*

In *Schedule 2, new Schedule 1AA, clause 1(2)*, replace “Schedule” (page 30, line 14) with “Schedule 1”.

In *Schedule 2, new Schedule 1AA*, replace *clause 1(3)* (page 30, lines 18 to 25) with:

- (3) In this clause, **matter** includes any—
  - (a) action undertaken:
  - (b) decision taken:
  - (c) notice given:
  - (d) proceeding commenced:
  - (e) application made:
  - (f) agreement entered into:
  - (g) requirement imposed.

In *Schedule 2, new Schedule 1AA*, after *clause 1* (page 30, after line 25), insert:

- 2 Transitional provision if leave decision and resulting leave of absence fall either side of commencement date**
  - (1) This clause applies if—

- (a) a leave decision has been made; and
  - (b) as a consequence of the leave decision, a special patient is due to take, or is taking, leave of absence when this clause commences.
- (2) The Director may, to the extent that the Director considers appropriate in the circumstances, advise a victim of the leave decision as specified in **sections 50E(2) and 52E(2)**.
- (3) In this clause, **leave decision** means a decision made before the commencement of this clause by—
- (a) the Minister to—
    - (i) grant a special patient leave of absence under section 50(1); or
    - (ii) cancel a special patient’s leave of absence under section 50(3); or
  - (b) the Director to—
    - (i) grant a special patient leave of absence under section 52(1); or
    - (ii) cancel a special patient’s leave of absence under section 52(3).

*Schedule 3*

In *Schedule 3*, new *Schedule 1*, replace *clause 1(3)* (page 31, lines 18 to 25) with:

- (3) In this clause, **matter** includes any—
- (a) action undertaken:
  - (b) decision taken:
  - (c) notice given:
  - (d) proceeding commenced:
  - (e) application made:
  - (f) agreement entered into:
  - (g) requirement imposed.

In *Schedule 3*, new *Schedule 1*, after *clause 1* (page 31, after line 25), insert:

- 2 Transitional provision if leave decision and resulting leave fall either side of commencement date**
- (1) This clause applies if—
- (a) a leave decision has been made; and
  - (b) as a consequence of the leave decision, a care recipient or a special care recipient is due to take, or is taking, leave when this clause commences.

- (2) The Director-General of Health may, to the extent that the Director-General considers appropriate in the circumstances, advise a victim of the leave decision as specified in **sections 65D(2) and 67F(2)**.
- (3) In this clause, **leave decision** means a decision made before the commencement of this clause by—
- (a) a care manager to—
    - (i) authorise a care recipient to be on leave under section 65(1); or
    - (ii) extend a care recipient’s leave under section 65(2); or
    - (iii) cancel a care recipient’s leave under section 65(3); or
  - (b) the Minister to—
    - (i) authorise a special care recipient to be on leave under section 66(1); or
    - (ii) cancel a special care recipient’s leave under section 66(4); or
  - (c) the Director-General of Health to—
    - (i) authorise a special care recipient to be on leave under section 67(1); or
    - (ii) cancel a special care recipient’s leave under section 67(3).

#### *Schedule 4*

In *Schedule 4*, new *Schedule 1AA*, in the *Part 1 heading*, replace “**Provisions**” (page 32, line 8) with “**Provision**”.

In *Schedule 4*, new *Schedule 1AA*, replace *clause 1(3)* (page 32, lines 17 to 24) with:

- (3) In this clause, **matter** includes any—
- (a) action undertaken:
  - (b) decision taken:
  - (c) notice given:
  - (d) proceeding commenced:
  - (e) application made:
  - (f) agreement entered into:
  - (g) requirement imposed.

### **Explanatory note**

This Supplementary Order Paper (SOP) amends the Rights for Victims of Insane Offenders Bill. It makes minor technical amendments to the Bill.

---

The SOP makes an identical amendment to *clauses 7A (new section 33C(2)), 8B (new section 50C(2)), 8D (new section 52C(2)), 11 (new clause 3AAA), and 12B (new section 65B(2))* to simplify the drafting. References to “making submissions on, or giving information relevant to,” a decision are amended to refer to “making submissions on” a decision.

The SOP amends *clause 8B (new section 50)* to reinstate the existing wording of section 50(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992, in order to maintain consistency with existing law.

The SOP inserts 2 equivalent transitional provisions in *Schedule 2 (Part 1 of new Schedule 1AA)* of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and *Schedule 3 (Part 1 of new Schedule 1)* of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003). Those provisions apply if a decision to grant leave is made before the commencement date of the Bill but the resulting leave is being taken at or after the commencement date. In this circumstance, the Director of Mental Health (in the case of a decision made under the Mental Health (Compulsory Assessment and Treatment) Act 1992) or the Director-General of Health (in the case of a decision made under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003) may advise a victim of the leave decision to the extent that the Director or Director-General considers appropriate in the circumstances.

The SOP also adjusts references and punctuation in *clauses 8B (new section 50F(1)), 8D (new section 52F(1)), 11A, 12AA (new section 9A), 15A, and 16, and in clause 1(3) of each of Schedules 2, 3, and 4).*