

# Chief Psychiatrist

## ADVISORY NOTE

### Powers of entry and apprehension & search and seize

ISSUE	Powers of entry and apprehension (s. 263) or search and seize (s. 264) under the <i>Mental Health Act 2015</i> .
DEFINITIONS	<p><b>Authorised Ambulance Officer</b> is a member of the ambulance service who can undertake apprehensions and transport a person to an approved mental health facility for assessment and treatment.</p> <p><b>Doctor</b> is a person registered under the Health Practitioner Regulation National Law (ACT) to practice in the medical profession (other than as a student).</p> <p><b>Mental Health Officer</b> is an eligible nurse, nurse practitioner, psychologist, occupational therapist, or social worker who has been appointed or nominated by the Minister for Minister Health to occupy a position as a Mental Health Officer.</p> <p><b>Police Officer</b> is an officer of the Australian Federal Police.</p>
ADVICE	<p>A doctor, mental health officer, police or ambulance officer (authorised person) may have the power to enter a property, apprehend a person or search the person and seize items when undertaking following specific functions under the Act.</p> <ul style="list-style-type: none"><li>• Executing a removal order (s. 44)</li><li>• Apprehend (s. 80) and take to an approved facility</li><li>• Following a contravention - apprehend and take to an approved facility</li><li>• Following revocation of leave, or if escapes from a secure mental health facility - apprehend and take to an approved mental health facility</li><li>• An interstate patient in breach of interstate involuntary treatment order or an ACT patient in another state in breach of an ACT mental health order - apprehend and transfer to an interstate mental health facility, or an approved mental health facility</li></ul> <p>In carrying out the <b>power of entry and apprehension</b> (s. 263 of the Act), the authorised person may use necessary and reasonable assistance, and minimum force.</p> <p>In carrying out the <b>search and seize</b> (s. 264 of the Act) an authorised person may carry out a scanning search, frisk search or ordinary search of the person if there are reasonable grounds for believing that the person is carrying anything:</p>

	<ul style="list-style-type: none"> <li>• that would present a danger to the authorised person or another person, or</li> <li>• that could be used to assist the person to escape the authorised person's custody.</li> </ul>
IMPLEMENTATION	<p>This Advisory will be part of orientation for all staff involved in entry, apprehension, search and seize under the Act.</p> <p>Services may develop their own policies and procedures to implement this advice.</p>
RELEVANT LEGISLATION	<p><a href="#"><u>Mental Health Act 2015</u></a></p> <p><a href="#"><u>Mental Health (Secure Facilities) Act 2016</u></a></p>