

**Mental Health and Wellbeing Act 2022  
Section 539 & 544**

**MHWA 157  
Discharge of security patient**

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Mental Health Statewide UR Number

Local Patient Identifier																			
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FAMILY NAME
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GIVEN NAMES
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DATE OF BIRTH	SEX	GENDER
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Place patient identification label above

**Instructions to complete this form**

- This form must be completed by an Authorised Psychiatrist or Delegate when discharging a security patient subject to a Secure Treatment Order or a Court Secure Treatment Order.
- The criteria in section 535(1)(b) of the **Mental Health and Wellbeing Act 2022** and section 94B(1)(c) of the **Sentencing Act 1991** are summarised over the page.
- You must notify the Justice Secretary of your intention to discharge the security patient.

GIVEN NAMES

FAMILY NAME (BLOCK LETTERS)

a security patient of:

who is subject to:

Designated Mental Health Service

- a Secure Treatment Order
  - a Court Secure Treatment Order
- (please cross  one option only)

1. I discharge the abovenamed person as a security patient.

2. I have discharged the person because:

- the person is subject to a **Secure Treatment Order** and I am not satisfied that all the criteria in section 535(1)(b) of the **Mental Health and Wellbeing Act 2022** apply to the person.
- The reasons for my decision are: \_\_\_\_\_

- or the person is subject to a **Court Secure Treatment Order** and I am not satisfied that all the criteria in section 94B(1)(c) of the **Sentencing Act 1991** apply to the person.
- The reasons for my decision are: \_\_\_\_\_

- the Mental Health Tribunal has ordered me to discharge the person as a security patient; or
  - the person's sentence of imprisonment or detention in a prison or other place of confinement has expired; or
  - the person is subject to a Court Secure Treatment Order and the Order has expired; or
  - the person has been granted bail; or
  - a court has released the person from custody; or
  - an order has been made under section 74 of the **Corrections Act 1986** that the person be released on parole and the time for release has occurred.
- (please cross  one option only)

Signature: \_\_\_\_\_

signature of Authorised Psychiatrist or Delegate

Date:

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Given Names: \_\_\_\_\_

Family Name: \_\_\_\_\_



MHWA 157

ROLLS AUSTRALIA 1300 600 192

**JULY  
2023**

## Next steps

1. You must notify the Justice Secretary that you intend to discharge the person as a security patient.
2. You must ensure that a copy of this **MHWA 157 – Discharge of security patient** is sent to the Mental Health Tribunal as soon as practicable after discharging a person unless the Tribunal ordered that the person be discharged as a security patient.
3. You must ensure that reasonable steps are taken to:
  - **tell** the person that they have been discharged as a security patient.
  - **explain** the purpose and effect of the discharge.
  - **discuss** ongoing treatment with the person.
  - **notify** the following persons (as applicable) that the person has been discharged as a security patient:
    - the person's nominated support person;
    - a parent if the person is under the age of 16 years;
    - a carer, if the discharge will directly affect the carer and the care relationship;
    - the primary non-legal mental health advocacy service;
    - the person's guardian;
    - the Secretary, Department of Families, Fairness, and Housing if that Secretary has a parental responsibility for the person under a Relevant Child Protection Order.

## Notes

1. A person who is discharged as a security patient ceases to be a security patient:
  - on entering the legal custody of the Justice Secretary; or
  - if an order has been made under section 74 of the **Corrections Act 1986** for the person to be released on parole and the time for release has occurred, on the release of that person; or
  - immediately, if the person's sentence of imprisonment or detention expires, the person is granted bail or a court releases the person from custody.
2. A reference to the Justice Secretary includes the Chief Commissioner of Police in relation to a person who is, or who immediately before being detained in a designated mental health service was, serving a sentence of imprisonment in a police gaol within the meaning of the **Corrections Act 1986** or being held in police custody on the order of a court.

## Summary of criteria

<b>Secure Treatment Order</b>	Section 535(1)(b) <i>Mental Health and Wellbeing Act 2022</i>	<ol style="list-style-type: none"><li>a. the person has mental illness; and</li><li>b. because the person has mental illness, the person needs immediate treatment to prevent:<ol style="list-style-type: none"><li>i. serious deterioration in the person's mental or physical health; or</li><li>ii. serious harm to the person or to another person; and</li></ol></li><li>c. the immediate treatment will be provided to the person if the person is made subject to a Secure Treatment Order; and</li><li>d. there is no less restrictive means reasonably available to enable the person to receive the immediate treatment.</li></ol>
<b>Court Secure Treatment Order</b>	Section 94B(1)(c) <i>Sentencing Act 1991</i>	<ol style="list-style-type: none"><li>a. the person has mental illness; and</li><li>b. because the person has mental illness, the person needs treatment to prevent:<ol style="list-style-type: none"><li>i. serious deterioration in the person's mental or physical health; or</li><li>ii. serious harm to the person or to another person; and</li></ol></li><li>c. the treatment will be provided to the person if the person is subject to a Court Secure Treatment Order; and</li><li>d. there is no less restrictive means reasonably available to enable the person to receive the treatment.</li></ol>