

**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

FAMILY NAME

GIVEN NAMES

DATE OF BIRTH

SEX

GENDER

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

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