6 Restraint in Australian and New Zealand Mental Health Acts

	ACT: **Mental Health Act 2015** ss65, 73, 80-83, 107, 144A, 263-4, 266; ACT Policy – Restraint of a Person – Adults Only CHHS16/025 2016	NSW: **Mental Health Act 2007** ss3, 68, 190; Health Policy Directive 2012/35	NT: **Mental Health and Related Services Act 1998** ss3, 61	QLD: **Mental Health Act 2016** ss5, 242-253, 268-270	SA: **Mental Health Act 2009** ss7, 34A; Chief Psychiatrist Guideline D0382	TAS: **Mental Health Act 2013** ss12, 57	VIC: **Mental Health Act 2014** ss10, 105-109, 113-116	WA: **Mental Health Act 2014** ss10, 226-240	NZ: **Mental Health Act 1992** s71, Regulation NZS 8134.2
Definition of 'restraint'	*Restraint* is the interference with, or restriction of, an individual's freedom of movement. *Physical restraint* involves physically holding a person to do this. *Mechanical restraint* refers to the use of mechanical restraint device for this purpose. *Restraint by threat* is the direct or implied threat to use restraint. *Forcible giving of medication* is medication given to a restrained person against their will.	*Mechanical restraint* includes items used to restrict a consumer's movement, but handcuffs are unacceptable. *Chemical restraint* is a pharmacological method used solely to restrict the movement of a patient; emergency sedation or rapid tranquillisation or medication used as part of a treatment plan does not count.	*Mechanical restraint* is the application of a device on a patient's body to restrict the patient's movement, but does not include the use of furniture that restricts the patient's capacity to get off the furniture.	*Mechanical restraint* is the restraint of a person by the application of a device to the person's body to restrict the person's movement. It does not include appropriate use of a medical or surgical appliance in the treatment of physical illness or injury. *Physical restraint* is the use by a person of his or her body to restrict the patient's movement.	*Restraint* is the restriction of an individual's freedom of movement by physical or mechanical means. *Physical restraint* is defined as the application by health care staff of hands-on immobilisation or the physical restriction of a person.	*Mechanical restraint* is a device that controls a person's freedom of movement. *Physical restraint* is bodily force that controls a person's freedom of movement. Chemical restraint is medication given primarily to control a person's behaviour, not as treatment.	*Bodily restraint* is a form of physical or mechanical restraint that prevents a person having free movement of his or her limbs, but does not include the use of furniture (including beds with cot sides and chairs with tables fitted on their arms) that restricts the person's ability to get off the furniture.	*Physical restraint* is restraint through the application of bodily force to the person's body to restrict their movement. *Mechanical restraint* is the restraint through the application of a device to a person's body to restrict their movement; this does not include the use of medical devices or furniture.	*Restraint* limits the freedom of movement of the patient. *Chemical restraint* is the use of various medicines to ensure compliance and to render the person incapable of resistance.
When may restraint be used?	If necessary and reasonable to safely apprehend the person, convey them to a mental health facility, ensure they remain in custody, or to prevent the person from causing harm to themselves or someone else. Also: to administer medication authorised by the Chief Psychiatrist (CP) or a Community Care Order.	To manage the risk of serious imminent harm only when appropriate, safe alternative options have been considered and trialled. Any restriction is to be kept to the minimum necessary in the circumstances.	If no less restrictive method is suitable and it is necessary to provide medical treatment, or to prevent harm to the patient or others, absconding or persistent destruction of property.	Mechanical restraint may be used if there is no other reasonably practical way to protect the patient or others from physical harm, the patient is continuously observed, and the restraint complies with any reduction and elimination plan.*	Only as a last resort for safety reasons, but it is available to ensure treatment and compliance with the Act, and to prevent absconding and nuisance.	If it is necessary to facilitate treatment or transfer, or ensure health or safety. Emergency short-term physical restraint of a patient is lawful to ensure attendance or prevent disputes, damage, or disorder.	If necessary to prevent imminent and serious harm to the person or others, or administer treatment, and after all reasonable and less restrictive options have been tried or considered and found unsuitable.	If necessary to provide treatment or prevent the patient physically injuring self/ others, or persistently causing damage to property, and there are no less restrictive means and no significant risk to physical health.	To ensure, maintain, or enhance the safety of the patient, or others. Restraint must be a last resort, with the least amount of force, with appropriate planning, after other interventions have been considered.
Is chemical restraint allowed?	Yes.	No.	Unclear.	Yes.	Yes.	Yes.	Unclear.	Unclear.	No.
Where can restraint be used?	Determined by the Chief Psychiatrist.	Mental health facility.	Approved treatment facility.	High-security authorised mental health service.	Treatment centre.	Approved hospital or assessment centre.	Designated mental health service.	Authorised hospital.	Area Designated by Director of Area MH Services.
Who may authorise the form and duration of the restraint?	Unless during apprehension, only the Chief Psychiatrist, Care Coordinator, person in charge of the mental health facility, or the Emergency Medicine Specialist.	Medical superintendent of a facility, or a medical officer authorised by one.	Authorised psychiatric practitioner; or (in an emergency) by the senior registered nurse on duty.	An authorised doctor may apply to the chief psychiatrist to approve the use of mechanical restraint on a patient.	Treatment centre staff.	For chemical or mechanical restraint, (or physical restraint of a child): only the CCP. Otherwise: a medical practitioner or an approved nurse also.	Psychiatrist, registered medical practitioner or the senior registered nurse on duty. A registered nurse may approve urgent *physical* restraint.	Medical practitioner or mental health practitioner at an authorised hospital or the person in charge of a ward.	Responsible clinician In an emergency, a nurse or other health professional having immediate responsibility for a patient.
Who else may vary/revoke authorisation?	N/A	Medical superintendent, operational nurse manager, senior nurse, or medical officer (preferably a psychiatrist).	If the senior registered nurse has authorised restraint, an authorised psychiatric practitioner may revoke or redetermine.	Chief psychiatrist, authorised doctor or health practitioner in charge of the unit.	N/A	Authorised psychiatrist or (if one is not reasonably available) a registered medical practitioner.	Psychiatrist or (if one is not reasonably available) a registered medical practitioner.	Medical practitioner or mental health practitioner or the person in charge of a ward.	Responsible clinician.
Who must be notified?	Public Advocate.	Primary carer or family member.	Person-in-charge, psychiatrist, guardian.	N/A	N/A	N/A	Chief Psychiatrist, nominated person, guardian, carer.	Medical practitioner and treating psychiatrist.	Inform/consult patient, family/whanau, as practical.
How long can restraint last?	Minimum period necessary. If restraint has a direct negative effect on the person, cease immediately.	Minimum period necessary. In prolonged cases, a comprehensive assessment must be carried out every 24–48 hours.	Minimum period necessary. If the patient is admitted as a voluntary patient: 6 hours.	Three hours, and no more than nine hours in a 24 hour period unless allowed for in a reduction and elimination plan.	Minimum period necessary.	Seven hours, but extensions may be authorised by the CCP if the patient has been examined by a medical practitioner.	Minimum period necessary.	Thirty minutes per order or extension of an order; there is no limit to the number of extensions that may be made.	Minimum time necessary, with monitoring and review that depends on the risks and restraint involved.

Disclaimer: These tables have been developed by the RANZCP as at 30 June 2017 in order to allow key provisions in the Mental Health Acts to be compared. They are intended for reference purposes only and are not intended to be a substitute for legal or clinical advice.

Comment: Several different forms of restraint are defined in the Acts and accompanying regulations. The ACT regulations contain the only reference to 'restraint by threat'. Definitions of 'chemical restraint' are highly inconsistent, making comparison difficult. Depending on the jurisdiction, the use of medication to reduce arousal and agitation may be seen as an acceptable alternative to seclusion and restraint, rather than a form of restraint in itself. The NSW Act has the narrowest grounds for authorising restraint: 'to manage the risk of serious imminent harm only when appropriate, safe alternative options have been considered and trialled.' Other Acts also authorise restraint on other grounds such as absconding, persistently destroying property and facilitating treatment. The SA Act has the widest grounds, although it is accompanied by a non-mandatory guideline that narrows them considerably. The Acts also vary substantially in respect to who may authorise restraint, who must be notified, and the length of time restraint can be applied. *The Qld Act regulates physical and mechanical restraint in different ways. Physical restraint may be authorised if it is the only practicable way to prevent harm (to patient or others), serious damage to property or absconding, or to provide treatment and care.

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