



New South Wales

# Mental Health (Criminal Procedure) Regulation 2007

under the

Mental Health (Criminal Procedure) Act 1990

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Mental Health (Criminal Procedure) Act 1990*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe the Minister administering the *Mental Health Act 2007* (currently the Minister for Health), or, in the case of a person detained after being found not guilty by reason of mental illness, the Governor or the Governor-General, as the prescribed authority who may make orders as to the release of forensic patients, the detention, care or treatment of forensic patients, the transfer of forensic patients, the release on leave of forensic patients and the apprehension of forensic patients,
- (b) to require the Mental Health Review Tribunal to informally review the case of a person who is the subject of an order for transfer to a mental health facility from a correctional centre, if the transfer does not occur within 14 days of the order being made.

This Regulation is made under the *Mental Health (Criminal Procedure) Act 1990*, including sections 40 (the definition of **prescribed authority**), 54 (1) and 77 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definition	3
4 Prescribed authority	3
5 Transfer of prisoner to mental health facility	4

## Mental Health (Criminal Procedure) Regulation 2007

under the

Mental Health (Criminal Procedure) Act 1990

### 1 Name of Regulation

This Regulation is the *Mental Health (Criminal Procedure) Regulation 2007*.

### 2 Commencement

This Regulation commences on 16 November 2007.

### 3 Definition

In this Regulation:

*the Act* means the *Mental Health (Criminal Procedure) Act 1990*.

### 4 Prescribed authority

- (1) For the purposes of the exercise of a function under section 41 (3), 45, 47 (2), 48, 49 (2) or 57 of the Act in respect of a person, the prescribed authority is:
  - (a) the Governor, if the person is the subject of an order under section 25 or 39 of the Act, or
  - (b) the Governor-General, if the person was detained by order of the Governor-General and the Governor-General is to make an order for the conditional or unconditional release of the person, or
  - (c) in any other case, the Minister administering the *Mental Health Act 2007*.
- (2) For the purposes of the exercise of functions under section 58 of the Act, the prescribed authority is the Minister administering the *Mental Health Act 2007*.
- (3) Section 16A of the *Acts Interpretation Act 1901* of the Commonwealth applies to the references in this clause to the Governor-General in the same way as it applies to a reference to the Governor-General in an Act of the Commonwealth.

## **2007 No 554**

Clause 5            Mental Health (Criminal Procedure) Regulation 2007

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### **5    Transfer of prisoner to mental health facility**

For the purposes of section 54 (1) of the Act, the prescribed period is a period of 14 days from the making of the transfer order under Division 3 of Part 5 of the Act.

BY AUTHORITY

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