



New South Wales

Mental Health Amendment (Tribunal) Regulation 2010

under the

Mental Health Act 2007

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mental Health Act 2007*.

CARMEL TEBBUTT, MP
Minister for Health

Explanatory note

The object of this Regulation is to make amendments to the *Mental Health Regulation 2007* as a consequence of amendments to the *Mental Health Act 2007* (**the Act**) contained in Schedule 16 to the *Courts and Crimes Legislation Further Amendment Act 2008*.

The amendments to the Act provide that mental health inquiries are to be conducted by the Mental Health Review Tribunal instead of Magistrates.

This Regulation is made under the *Mental Health Act 2007*, including section 196 (the general regulation-making power).

2010 No 226

Clause 1 Mental Health Amendment (Tribunal) Regulation 2010

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Mental Health Act 2007

1 Name of Regulation

This Regulation is the *Mental Health Amendment (Tribunal) Regulation 2010*.

2 Commencement

This Regulation, which is required to be published on the NSW legislation website, commences:

- (a) if Schedule 16 to the *Courts and Crimes Legislation Further Amendment Act 2008* commences on or before the day on which this Regulation is published on the website—on the day on which this Regulation is published, or
- (b) if that Schedule commences after the day on which this Regulation is published—on the day on which that Schedule commences.

**Schedule 1 Amendment of Mental Health Regulation
2007**

[1] Clause 6 Appearance before Tribunal

Omit “a Magistrate or”.

[2] Clause 7 Form of summons (inquiry by Magistrate)

Omit the clause.

[3] Clause 8 Compliance with summons (inquiry by Magistrate)

Omit the clause.

[4] Clause 49 Mental health inquiries to be reported to Tribunal

Omit the clause.

[5] Clause 50

Omit the clause. Insert instead:

50 Order or direction of Tribunal

- (1) An order or direction of the Tribunal pursuant to a mental health inquiry is:
 - (a) to be recorded in writing, and
 - (b) to include the reasons for the order or direction, and
 - (c) to be in a form approved by the President.
- (2) Nothing in this clause prevents the Tribunal from giving an order or direction orally.
- (3) An order or direction given orally by the Tribunal is to be recorded in accordance with this clause.

[6] Schedule 1 Forms

Omit “before Magistrate” from Form 2. Insert instead “before Mental Health Review Tribunal”.

[7] Schedule 1, Form 2

Omit “a visiting Magistrate”. Insert instead “the Mental Health Review Tribunal”.

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Mental Health Amendment (Tribunal) Regulation 2010

Schedule 1 Amendment of Mental Health Regulation 2007

[8] Schedule 1, Form 2

Omit “the Magistrate” wherever occurring.

Insert instead “the Tribunal”.

[9] Schedule 1

Omit Forms 3, 11 and 12.