



New South Wales

Mental Health Amendment Regulation 2022

under the

Mental Health Act 2007

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Mental Health Act 2007*.

BRONWYN TAYLOR, MLC
Minister for Mental Health

Explanatory note

The object of this Regulation is to update the form of a report about the mental state of a detained person that must be completed after the examination of a detained person under the Act, section 27 or 27A. The update to the form reflects a change to the *Mental Health Act 2007* that the examination may now be undertaken by an accredited person using an audio visual link, as well as in person, where it is not reasonably practicable for an authorised medical officer of a mental health facility, or another medical practitioner, to personally examine the person.

This Regulation is made under the *Mental Health Act 2007*, including sections 27(2) and 196, the general regulation-making power.

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1 Name of Regulation

This Regulation is the *Mental Health Amendment Regulation 2022*.

2 Commencement

This Regulation commences on 30 June 2022.

Schedule 1 Amendment of the Mental Health Regulation 2019

Schedule 1 Forms

Omit Form 1. Insert instead—

Form 1

clause 5

(Mental Health Act 2007, section 27 or 27A)

Clinical report as to mental state of a detained person

This report is made as—

(tick whichever is appropriate)

- a certificate of the opinion of an authorised medical officer after examination of a person under the Act, section 27(1)(a) (initial examination),
- advice by a medical practitioner to an authorised medical officer under the Act, section 27(1)(b) or (c) (further examination).

OR, if it is not reasonably practicable for an authorised medical officer of a mental health facility or other medical practitioner to personally examine a person or observe the person's condition for the purpose of determining under the Act, section 27, whether the person is a mentally ill person or a mentally disordered person—

This report is made as—

(tick whichever is appropriate)

- a certificate of the opinion of a medical practitioner after examination of a person using an audio visual link in accordance with the Act, section 27A(1)(a),
- a certificate of the opinion of an accredited person authorised by the medical superintendent of [*name of mental health facility*] to personally examine a person in accordance with the Act, section 27A(1)(b)(i),
- a certificate of the opinion of an accredited person authorised by the medical superintendent of [*name of mental health facility*] to examine a person using an audio visual link in accordance with the Act, section 27A(1)(b)(ii).

Note 1. For examinations under the Act, section 27A, an accredited person and a medical practitioner who is not a psychiatrist must, if it is reasonably practicable to do so, seek the advice of a psychiatrist before making a determination as to whether the person is a mentally ill person or a mentally disordered person. See the Act, section 27A(4).

Note 2. A medical practitioner or accredited person must not carry out an examination or observation using an audio visual link unless the medical practitioner or accredited person is satisfied that the examination or observation can be carried out in those circumstances with sufficient skill and care so as to form the required opinion about the person. See the Act, section 27A(3).

Note 3. Under the Act, section 72B, an authorised medical officer or other medical practitioner or accredited person who examines a person under the Act, sections 27 and 27A, must consider any information provided by the following persons, if it is reasonably practicable to do so—

- (a) any designated carer, principal care provider, relative or friend of the patient or person,
- (b) any medical practitioner or other health professional who has treated the patient or person in relation to a relevant matter,
- (c) any person who brought the patient or person to the mental health facility.

I, the undersigned, a registered medical practitioner/an accredited person, on [*date*] examined by audio visual link/personally examined [*patient's name*], a person detained at [*name of mental health facility*].

In my opinion, [*patient's name*]—

(tick the one box that is appropriate)

- is not a mentally ill or mentally disordered person,
- is a mentally ill person,
- is a mentally disordered person.

The basis for my opinion is as follows—

(Reported behaviour of the patient)

[list behaviour(s)]

(This report may be continued on a separate page, if necessary)

(Observations I made of the patient)

[list observations]

(Conclusion)

[insert conclusion]

Name of the registered medical practitioner/accredited person—

Qualifications as a psychiatrist (if applicable)—

[Signature]

[Date]

Note. This report is for the use of a legal tribunal. Therefore, it should not be written in technical medical language.