



New South Wales

# Mental Health Legislation Amendment Bill 2024

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are to—

- (a) amend the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* to provide for the composition of the Mental Health Review Tribunal (the **Tribunal**) when making certain orders for leave in relation to forensic patients, and
- (b) amend the *Mental Health Act 2007* to clarify the remuneration and other entitlements of—
  - (i) Magistrates appointed as the President of the Tribunal (the **President**) or a full-time Deputy President of the Tribunal (the **Deputy President**), and
  - (ii) Judges appointed as a full-time Deputy President of the Tribunal (also a **Deputy President**).

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1      **Amendment of Mental Health and Cognitive Impairment Forensic Provisions Act 2020 No 12**

**Schedule 1**[1] provides that the Tribunal may impose prohibitions or restrictions on the use of social media or other forms of online communication when making an order for the release of a forensic patient.

**Schedule 1[2]** provides that the Tribunal must not make an order for the release of a forensic patient or an order granting leave of absence to a forensic patient unless the Tribunal is constituted by at least 1 member, including the President or Deputy President who is the holder or former holder of a judicial office. This does not apply to an order granting leave of absence to a forensic patient only if escorted by a person employed at the mental health facility or place of detention. **Schedule 1[3]** inserts a definition for *judicial office*.

## **Schedule 2      Amendment of Mental Health Act 2007 No 8**

**Schedule 2[1]** provides that a person who holds or has held office as a Magistrate is eligible to be appointed as the President or Deputy President.

**Schedule 2[2]** provides for the calculation of remuneration for a President or full-time Deputy President who is the holder of a judicial office. **Schedule 2[3]** makes a consequential amendment.

**Schedule 2[4]–[7], [9] and [10]** provide that a Magistrate who is appointed as the President or full-time Deputy President retains the Magistrate’s judicial appointment and other entitlements. **Schedule 2[8]** makes it clear that amendments made by the proposed Act extend to a Magistrate who is appointed as the President or full-time Deputy President at the time of commencement of the proposed Act.