

## Overview of Bill

The objects of this Bill are:

- (a) to establish the Mental Health Commission of New South Wales (the **Commission**) as an independent statutory body and to provide for its functions, and
- (b) to provide for the appointment of a Mental Health Commissioner and one or more Deputy Mental Health Commissioners, and
- (c) to establish the Mental Health Community Advisory Council to advise the Commission on mental health issues, and
- (d) to make consequential amendments to the *Public Finance and Audit Act 1983* and the *Statutory and Other Offices Remuneration Act 1975*.

## Outline of provisions

### Part 1 Preliminary

**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 on a day or days to be appointed by proclamation.

**Clause 3** sets out the object of the proposed Act.

**Clause 4** defines certain words and expressions used in the proposed Act.

### Part 2 Mental Health Commission

**Clause 5** constitutes the Commission as a statutory body that is not and does not represent the Crown.

**Clause 6** provides for the Governor to appoint a Mental Health Commissioner (the **Commissioner**) who will exercise the functions of the Commission.

**Clause 7** provides for the Governor to appoint one or more Deputy Mental Health Commissioners (a **Deputy Commissioner**).

**Clause 8** requires the Commissioner or at least one Deputy Commissioner to be a person who has or has had a mental illness.

**Clause 9** provides that the Commission is subject to the direction and control of the Minister, except in relation to the preparation and contents of a draft strategic plan for the mental health system in New South Wales or any other report prepared by the Commission.

**Clause 10** establishes the Mental Health Community Advisory Council to advise the Commission on any mental health issue it considers appropriate or that is referred to it by the Commission.

### Part 3 Functions of Commission

**Clause 11** sets out the principles that are to govern the work of the Commission, which are as follows:

- (a) people who have a mental illness, wherever they live, should have access to the best possible mental health care and support,
- (b) people who have a mental illness and their families and carers should be treated with respect and dignity,
- (c) the primary objective of the mental health system should be to support people who have a mental illness to participate fully in community life and lead meaningful lives,
- (d) the promotion of good mental health and the effective provision of mental health services are the shared responsibility of the government and non-government sectors,
- (e) an effective mental health system requires:
  - (i) a co-ordinated and integrated approach across all levels of government and the non-government sector, including in the areas of health, housing, employment, education and justice, and
  - (ii) communication and collaboration between people who have a mental illness and their families and carers, providers of mental health services and the whole community.

**Clause 12** sets out the functions of the Commission, which are as follows:

- (a) to prepare, in consultation with providers of mental health and related services

and government agencies, a draft strategic plan for the mental health system in New South Wales for submission to the Minister for approval,

- (b) to monitor and report on the implementation of the strategic plan,
- (c) to review and evaluate, and report and advise on, mental health services and other services and programs provided to people who have a mental illness, and other issues affecting people who have a mental illness,
- (d) to promote and facilitate the sharing of knowledge and ideas about mental health issues,
- (e) to undertake and commission research, innovation and policy development in relation to mental health issues,
- (f) to advocate for and promote the prevention of mental illness and early intervention strategies for mental health,
- (g) to advocate for and promote the general health and well-being of people who have a mental illness and their families and carers,
- (h) to educate the community about mental health issues, including for the purpose of reducing the stigma associated with mental illness and discrimination against people who have a mental illness,
- (i) such other functions relating to mental health as may be prescribed by the regulations.

**Clause 13** enables the Minister to direct the Commission to prepare a special report on any significant systemic issue affecting people who have a mental illness (not being an issue that relates only to a particular specialist mental health service). The Minister may table a special report in Parliament.

**Clause 14** provides that the Commission may, at any time, prepare a report on the implementation of the strategic plan or a systemic issue relating to the mental health system or affecting people who have a mental illness. Such a report will be tabled in Parliament.

**Clause 15** enables the Commission to delegate any of its functions to a Deputy Commissioner or a member of staff of the Commission.

#### **Part 4 Miscellaneous**

**Clause 16** requires the Commission and public sector agencies that provide mental health services or are involved in dealing with people who have a mental illness to work co-operatively in the exercise of their respective functions. Public sector agencies should have regard to the principles governing the Commission's work in exercising their functions. The Commission may request a public sector agency to provide the Commission with any information held by the agency that is reasonably required by the Commission for the exercise of its functions and the agency must comply with such a request if it is reasonable to do so.

**Clause 17** provides for the tabling in Parliament of reports prepared by the Commission.

**Clause 18** protects the Commissioner, Deputy Commissioners, members of the Mental Health Community Advisory Council or persons acting under the direction of the Commission or a Council member from personal liability for acts done or omitted to be done in good faith.

**Clause 19** enables the Governor to make regulations for the purposes of the proposed Act.

**Clause 20** provides for the review of the proposed Act in 5 years. The Minister is also required to review the work of the Commission every 5 years.

#### **Schedule 1 Provisions relating to Commissioner and Deputy Commissioners**

**Schedule 1** contains provisions relating to the office of the Mental Health Commissioner and Deputy Mental Health Commissioners.

#### **Schedule 2 Savings, transitional and other provisions**

**Schedule 2** provides for the making of regulations of a savings and transitional nature consequent on the enactment of the proposed Act.

**Schedule 3 Amendment of other legislation**

**Schedule 3.1** amends the *Public Finance and Audit Act 1983* to provide for financial auditing and annual reporting by the Mental Health Commission.

**Schedule 3.2** amends the *Statutory and Other Offices Remuneration Act 1975* to provide that the remuneration and allowances payable to the Mental Health Commissioner and any full-time Deputy Mental Health Commissioner will be determined by the Statutory and Other Offices Remuneration Tribunal.