

LEGISLATIVE COUNCIL

Mental Health (Forensic Provisions) Amendment Bill 2013

First print

Proposed amendment

No. 1 Page 6, Schedule 1 [13], proposed Schedule 1. Insert after line 36:

7 Representation of forensic patient

- (1) If an application for an extension order is made in respect of a forensic patient:
 - (a) the Supreme Court is to appoint a guardian ad litem to represent the forensic patient in proceedings on the application, and
 - (b) the forensic patient is to be provided with legal or financial assistance in respect of the proceedings, and
 - (c) the forensic patient is entitled to be represented by an Australian legal practitioner in proceedings on the application.
- (2) The Supreme Court is to make such orders as are necessary to ensure that the forensic patient is provided with legal or financial assistance and is represented by an Australian legal practitioner.
- (3) The functions of a guardian ad litem of a forensic patient are:
 - (a) to safeguard and represent the interests of the forensic patient, and
 - (b) to instruct the Australian legal practitioner representing the forensic patient.
- (4) An Australian legal practitioner representing a forensic patient is to act on the instructions of the guardian ad litem appointed for the forensic patient.
- (5) Anything done or omitted to be done by a member of the Guardian Ad Litem Panel who is appointed by the Court as a guardian ad litem does not subject the member personally to any action, liability, claim or demand if the thing was done, or omitted to be done, in good faith for the purposes of exercising his or her functions as a guardian ad litem under this Act.
- (6) However, any such liability attaches instead to the Crown.
- (7) In this section:

Guardian Ad Litem Panel means the panel constituted as the Guardian Ad Litem Panel by the Director-General of the Department of Attorney General and Justice.