MENTAL HEALTH REVIEW TRIBUNAL FOR WALES (MEMBERSHIP) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Mental Health Review Tribunal for Wales (Membership) Act 2026 ("the Act"), which was introduced into Senedd Cymru on 13 January 2026 and received Royal Assent on 21 January 2026. They have been prepared by the First Minister's Group of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

SUMMARY AND POLICY BACKGROUND

2. The Act addresses a technical issue which has been identified with regard to the appointment criterion for medical members of the Mental Health Review Tribunal for Wales.

3. The medical members of this tribunal are required by paragraph 1 of Schedule 2 to the Mental Health Act 1983 to be "registered medical practitioners". This expression is not defined in the Mental Health Act 1983. However, it is defined in Schedule 1 to the Interpretation Act 1978 as meaning "a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act". Section 5 of the Interpretation Act 1978 requires that definition to be applied in the Mental Health Act 1983 unless a contrary intention appears.

4. The policy intention is that medical members should be required to be registered within the meaning of the Medical Act 1983 but with no requirement to hold a licence to practise under that Act.

5. The Welsh Government therefore introduced the Mental Health Review Tribunal for Wales (Membership) Bill to the Senedd to enable persons who are fully registered within the meaning of the Medical Act 1983 to be appointed as medical members of the Mental Health Review Tribunal for Wales, whether or not those persons hold licences to practise.

6. The Act also provides that where persons were appointed in the past as medical members but did not hold a licence to practice or allowed their licence to lapse, those appointments and those persons' membership of the tribunal are valid.

7. Section 60(5)(a) of the Wales Act 2017 provides that the President of Welsh Tribunals is responsible for the maintenance of appropriate arrangements for, among other matters, the training of members of the Welsh tribunals within the resources made available by the Welsh Ministers. The Mental Health Review Tribunal for Wales (Membership) Act 2026 places a duty on the Welsh Ministers to carry out a review of the training arrangements which are maintained by the President of Welsh Tribunals under section 60(5)(a) of the Wales Act 2017 for medical members of the Mental Health Review Tribunal for Wales who do not hold licences to practise under the Medical Act 1983.

8. The Act then places a further duty on Welsh Ministers to publish a report of the review no later than 12 months after the day on which it comes into force (the Act came into force on 22 January 2026).

9. The policy intention is to ensure that adequate training arrangements are in place so that even though these medical members do not have a licence to practise, their professional knowledge is kept sufficiently up to date.

10. The effect of the Act will be to change the qualification requirements for medical members to enable individuals who are fully registered persons within the meaning of the Medical Act 1983 but who do not hold a current licence to practise under that Act to sit as medical members of the Mental Health Review Tribunal for Wales. By placing a duty on the Welsh Ministers to review the training arranged by the President of Welsh Tribunals for medical members without a licence to practise and to publish a report on that review, it aims to ensure that the provision is adequate to keep the professional knowledge of non-practising medical members up to date.

GENERAL OVERVIEW OF THE ACT

11. The Act comprises four short sections.

COMMENTARY ON SECTIONS

Section 1 - Membership of the Mental Health Review Tribunal for Wales

12. Section 1 amends Schedule 2 to the Mental Health Act 1983, which makes provision about the Mental Health Review Tribunal for Wales.

13. Paragraph 1(b) of Schedule 2 to the Mental Health Act 1983 provides that the Mental Health Review Tribunal for Wales must include members, referred to as "medical members", who are registered medical practitioners.

14. Section 1(3) of the Act inserts a definition of the term "registered medical practitioner" into paragraph 1 of Schedule 2 to the Mental Health Act 1983. The term is defined as meaning a fully registered person within the meaning of the Medical Act 1983 (regardless of whether that person holds a licence to practise under that Act).

15. Section 1(3) of the Act further amends paragraph 1 of Schedule 2 to the Mental Health Act 1983 to provide that if, before the coming into force of this new definition of "registered medical practitioner", a person who was appointed as a medical member did not hold a licence to practise under the Medical Act 1983 (whether at the time of appointment or at any other time since), the validity of the person's appointment to the Mental Health Review Tribunal for Wales and their membership of that tribunal during that period is not affected.

Section 2 – Training for non-practising medical members

16. Section 2(1) of the Act places a duty on the Welsh Ministers to carry out a review of the training arrangements which are maintained by the President of Welsh Tribunals under section 60(5)(a) of the Wales Act 2017 for medical members of the Mental Health Review Tribunal for Wales, who do not hold licences to practise under the Medical Act 1983. Section 60(5)(a) of Wales Act 2017 makes the President of Welsh Tribunals responsible for maintaining appropriate arrangements, within the resources made available by the Welsh Ministers, for a number of matters including the training of members of the Welsh tribunals.

17. Section 2(2) of the Act places a duty on the Welsh Ministers to publish a report of the review they have carried out under section 2(1) of the Act no later than 12 months after the day on which the Act comes into force.

Section 3 - Coming into force

18. Section 3 provides that the provisions set out in the Act come into force on the day after the day on which it receives Royal Assent. Royal Assent was received on 21 January 2026.

Section 4 - Short title

19. Section 4 sets out the Act may be referred to as the Mental Health Review Tribunal for Wales (Membership) Act 2026.

RECORD OF PROCEEDINGS IN SENEDD CYMRU

20. The following table sets out the dates for each stage of the Act's passage through the Senedd. The Record of Proceedings and further information on the passage of this Act can be found on the Senedd website at:
Mental Health Review Tribunal for Wales (Membership) Act 2026

Stage	Date
Introduced	13 January 2026
Stage 1 - Debate	13 January 2026
Stage 2 - Scrutiny Committee – consideration of amendments	14 January 2026
Stage 3 - Plenary - consideration of amendments	14 January 2026
Stage 4 - Approved by the Senedd	14 January 2026
Royal Assent	21 January 2026