



## **Mental Health Commission**

### **Registration Process for Approved Centres**



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# Key Terms

## **Act**

The “Act” means the Mental Health Act 2001.

## **Approved Centre**

A “centre” means a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder. An “approved centre” is a centre that is registered pursuant to the Act. The Mental Health Commission establishes and maintains the Register of Approved Centres pursuant to the Act.

## **Consultant psychiatrist**

Consultant psychiatrist means a consultant psychiatrist who is employed by the Health Service Executive or by an approved centre or a person whose name is entered on the division of psychiatry or the division of child and adolescent psychiatry of the Register of Medical Specialists maintained by the Medical Council in Ireland.

## **Commission**

The Mental Health Commission.

## **Mental health services**

Services which provide care and treatment to persons suffering from a mental illness or a mental disorder under the clinical direction of a consultant psychiatrist.

## **Mental disorder**

Mental disorder means mental illness, severe dementia or significant intellectual disability where—

- (a) because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons, or
- (b) (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and
- (ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent.

**Mental illness**

A state of mind of a person which affects the person's thinking, perceiving, emotion or judgment and which seriously impairs the mental function of the person to the extent that he or she requires care or medical treatment in his or her own interest or in the interest of other person.

**Person**

"Person" shall be read as importing a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual, and the subsequent use of any pronoun in place of a further use of "person" shall be read accordingly

**Resident**

A resident is a person receiving care and treatment in a centre.

**Registered Proprietor**

The person whose name is entered on the Register as the person carrying on the centre.

**The Register**

The Commission shall establish and maintain a register which shall be known as "the Register of Approved Centres" and is referred to in Section 64(1) of the Act as "the Register".

**The 2006 Regulations**

Means the Mental Health Act 2001 (Approved Centres) Regulations, 2006.

# 1. Introduction

## 1.1 Aim of this Document

This document informs mental health service providers, staff working in approved centres and other mental health services and members of the general public of the process involved in the registration of a centre as approved centre.

A ‘centre’ means “*a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder*”. An “approved centre” is a centre that is registered pursuant to the Mental Health Act, 2001. The Mental Health Commission establishes and maintains the Register of Approved Centres pursuant to the Act.

This document should be read in conjunction with the Mental Health Act 2001 and the Mental Health Act 2001 (Approved Centres) Regulations 2006.

## 1.2 What is Registration?

Registration refers to the process by which a hospital or other in-patient facility for the care and treatment of persons with mental illness or mental disorder is registered by the Mental Health Commission.

Under Sections 63 and 64 of the Act, all in-patient mental health facilities in Ireland must be registered by the Commission as an “approved centre” in order to operate (See “Legislative Framework” on pages 8 to 11 for further details on relevant legislation). Section 67(1) of the Act further states that “*a person suffering from a mental disorder shall not be detained in any place other than an approved centre*”.

## 1.3 Purpose of Registration

Registration (licensing) is inextricably linked with the quality of mental health service provision. It acts as a safeguard for residents in in-patient mental health facilities by ensuring that centres registered as approved centres operate in a proper manner and that proper standards are met.

Registration is ongoing process in which the Commission adopts a responsive regulatory approach. By adopting this approach, the Commission is encouraging and valuing trust and transparency, while also pointing out that there are enforcement options under the legislation that may be used in appropriate circumstances.

## 1.4 How to Register

To register, facilities must submit an Application for Registration as an Approved Centre to the Commission. As part of this process, details of the facility must be provided including:

- Whether the facility is currently registered;
- Information about the service provided or intended to be provided, including whether the facility meets the definition of a 'centre', and
- Information relating to compliance with the Mental Health Act 2001 (Approved Centres) Regulations 2006 where the facility is not currently entered on the Register of Approved Centres

Details of the person applying to be the registered proprietor or the person with delegated responsibility for the running of the facility must also be provided.

## 2. Legislative Framework: Mental Health Act 2001

Registration is addressed under Part 5 of the Mental Health Act 2001. The main sections of the Act relating to registration are Sections 62, 63, 64 and 65.

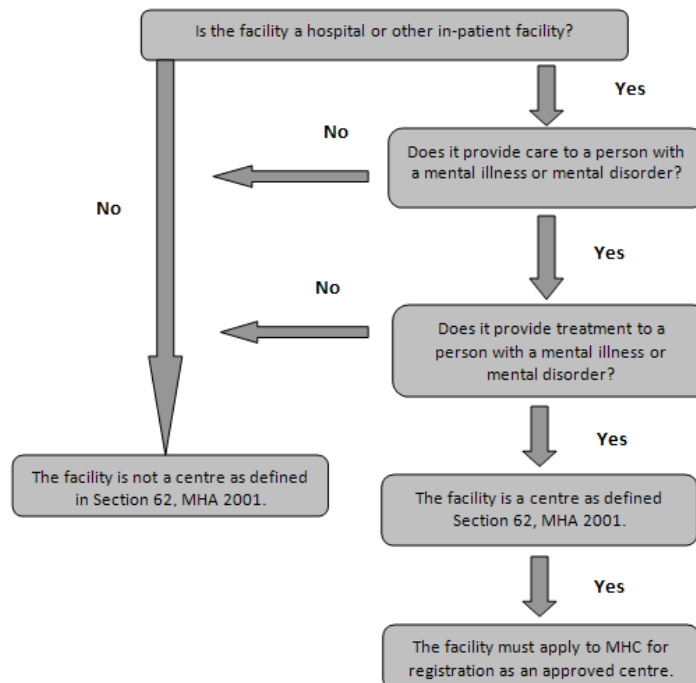
### 2.1 Determination of a 'centre' under the Mental Health Act 2001

In order to determine whether to apply for registration as an approved centre, it should firstly be established whether the facility meets the definition of a 'centre' as defined by Section 62 of the Act. Consideration should therefore be given to the following questions:

- a) Is the facility a hospital or other in-patient facility (e.g. unit)?
- b) Does the facility provide care to a person with a mental illness or a mental disorder?
- c) Does the facility provide treatment to a person with a mental illness or a mental disorder?
- d) Is the care and treatment provided under the clinical direction of a consultant psychiatrist?

If the facility meets all of the above criteria (i.e. the answer to all of the above questions is 'yes'), an application for registration as an approved centre must be submitted to the Commission.

Figure 1 – Defining a 'centre'



## 2.2 Registration of approved centres

Pursuant to Section 64(1) of the Act, the Commission is obliged to establish and maintain a “Register of Approved Centres” (“the Register”). Section 64(2)(a) contains, *inter alia*, provisions in relation to the type of information that must be entered in the Register in respect of each centre, namely:

- *The name of the person by whom it is carried on* (i.e. Registered Proprietor).
- *The address of the premises in which it is carried on.*
- *A statement of the number of patients who can be accommodated in the centre.*
- *The date on which the registration is to take effect.*
- *Such other (if any) particulars as may be prescribed* (i.e. prescribed by regulations made by the Minister.)

In addition to the above, pursuant to section 64(8)(a) of the Act, the Commission has the power to request an applicant for registration or the registered proprietor as the case may be, to furnish it with any information which it considers necessary for the purposes of its functions under Part 5 of the Act.

Section 64(8)(b) states that it is an offence to supply false or misleading information unless it can be shown that at the time the information was furnished to the Commission, the person was not aware it was false or misleading in a material particular.

Section 63 states that it is an offence to operate a centre that is not registered, or for a centre to be operated by a person other than the registered proprietor.

## 2.3 Carrying on of a Centre by a Person other than the Registered Proprietor

**Section 64(10) (a)** states that “*where an approved centre commences to be carried on by a person other than the registered proprietor –*

- the centre shall thereupon cease to be registered,*
- the person shall (if he or she has not done so before such commencement) apply not later than 4 weeks after it to the Commission for the registration of the centre, and, if the application is granted, the date of registration of the centre shall be that of the day following the day of the cesser aforesaid,*
- if the application aforesaid is duly made, and is not refused then, during the period from the commencement aforesaid until the centre is registered, it shall be deemed, for the purposes of section 63 to be registered and there shall be deemed to be attached to the registration any conditions attached to the previous registration.*

*(b) A person who contravenes paragraph (a) (ii) shall be guilty of an offence”.*

## 2.4 Regulations for Approved Centres

Section 66 of the Act obliged the Minister for Health and Children to prescribe regulations for approved centres. The Mental Health Act 2001 (Approved Centres) Regulations 2006, S.I. No 551 of 2006, came into effect on 1<sup>st</sup> November 2006.

The regulations set out minimum standards that must be met in order to be registered as an approved centre. These standards are necessary to provide quality and safety in the provision of in-patient mental health services and they provide service users with an understanding of the overall quality of care and treatment they can reasonably expect to receive while in an approved centre.

## 2.5 Conditions of Registration

Under Section 64(6) of the Act, the Mental Health Commission may attach conditions to registration “*in relation to the carrying on of the centre concerned and such other matters as it considers appropriate having regard to its functions under this Part*”. Such conditions may be attached at the time of registration or subsequent to registration.

Different conditions may be attached to different centres and such conditions may be amended or revoked by the Mental Health Commission. The Commission is obliged under the Act to notify the registered proprietor in writing of the proposal to attach, amend or revoke any conditions to registration. Without prejudice to the generality of the conditions that may be attached, such conditions may relate to:

- the carrying out of essential maintenance or refurbishment of a centre or of specified areas within a centre,
- the closure, temporarily or permanently, of a specified area or areas within a centre,
- the specification of the maximum number of residents which may be accommodated in a centre, or in a specified area or areas within a centre,
- the specification of the minimum number of staff required to be employed in a centre,
- the introduction or review, as the case may be, of specified policies, protocols and procedures relating to the care and welfare of patients and residents,
- the introduction or review, as the case may be, of specified policies, protocols and procedures relating to the ordering, prescribing, storing and administration of medicines,
- the specification of measures to be taken to ensure that patients and residents are informed of their rights under the Act.

Section 64(13) of the Act states that where there is a contravention of a condition of registration the registered proprietor shall be guilty of an offence.

## **3. Registration Procedure**

### **3.1 Submitting an Application for Registration**

Registration packs are available by directly contacting the Mental Health Commission or by visiting the Commission's website.

Applications for registration may be made in hard copy format or alternatively it is acceptable to complete the form electronically and submit it by email. Where an application has been submitted by e-mail, a hard copy of Section 6 of the application, with the original signature of the person applying to be the registered proprietor or the person with delegated responsibility for the running of the facility, must be submitted to the Commission.

Where a facility is not currently entered on the Register of Approved Centres, it is the responsibility of the person intending to be the registered proprietor, or the person with delegated responsibility for the running of the facility to ensure that a self-assessment of compliance with the Mental Health Act 2001 (Approved Centres) Regulations 2006 is carried out prior to submitting an application. Full details of this assessment are required in Section 5 of the application form, including how the facility demonstrates compliance or intention to comply with each subsection of the regulations and any action plan(s) drawn up to secure compliance with regulations not fully complied with.

The Standards and Quality Assurance Division has responsibility for managing the registration process for approved centres. Completed forms, including supporting documentation, should be returned to the designated member of staff within the Standards and Quality Assurance Division. Details of this person can be found on the Application for Registration as an Approved Centre.

### **3.2 Receipt of an Application for Registration**

All information received by the Commission, which includes the completed application form and supporting documentation, is checked for completeness by the designated member of staff within the Standards and Quality Assurance Division. An acknowledgement of receipt of a complete application is sent within five working days.

Where an incomplete application has been received, the applicant will be notified of same within five working days. The applicant will also be asked to submit all required information as specified in the application. Incomplete applications are not processed until such time as all the required information is received by the Commission. Failure to submit the outstanding information within the timeframe specified within the aforementioned notification will result in termination of the registration process for that application.

A copy of the completed application, the most recent Inspector's Report where the application relates to an approved centre currently entered on the Register of Approved

Centres, and all associated documentation is then forwarded to the Director of Standards and Quality Assurance for review.

### **3.3 Application Review**

The Chief Executive Officer, Inspector of Mental Health Services and Director of Standards and Quality Assurance meet to discuss the application.

The Chief Executive Officer and Director of Standards and Quality Assurance make a decision to:

- register the centre, or
- make a proposal to register the centre but attach conditions, or
- make a proposal to refuse to register the facility
- make a proposal to remove the centre from the register

### **3.4 Notification of Outcome**

The Director Standards and Quality Assurance informs the registered proprietor, the person intending to be registered proprietor, or the person with delegated responsibility for the running of the facility, in writing, of a decision to enter the facility on the register of approved centres, or of a proposal to attach conditions to registration and reasons for it, or of a proposal to refuse to register a facility and the reasons for it.

- Where registration is granted, the Commission shall pursuant to Section 64(3) *“issue a certificate of registration to the registered proprietor thereof”*.
- In accordance with Section 64(3) *“The period of a registration shall be 3 years from the date of registration”*.

Centres that are approved for registration by the Commission are furnished with a registration certificate, which must be publicly displayed in a prominent place in the approved centre

### **3.5 Conditions**

In reviewing an application for registration, the Mental Health Commission may attach conditions to registration, which it considers appropriate at the time of registration. The Commission may also attach conditions subsequent to registration (See Legislative Framework for further details). The Commission may additionally attach appropriate timeframes for achievement of such conditions.

Section 64(11) states where the Commission proposes to attach conditions to registration, *“it shall notify in writing the applicant or the registered proprietor, as the case may be, of its proposal and of the reasons for it”*.

Section 64(5) states the Commission can remove a centre from the register or refuse to register a centre if *“the registered proprietor has, not more than one year before the date from which the registration or removal from the register would take effect, contravened a condition”* under section 64(6).

The purpose of attaching conditions is to ensure that the safety and quality of care and treatment provided to the resident are maintained at all times.

### **3.6 Refusal to Register or Removal from the Register**

The Mental Health Commission also has the power to refuse to register a centre or it may subsequently remove a centre from the register pursuant to Section 64(5) of the Act if it determines that:

- the premises to which the application or, as the case may be, the registration relates do not comply with the regulations or
- the carrying on of the centre will not be or is not in compliance with the regulations or
- the registered proprietor has been convicted of an offence under Part 5 of the Act, or
- the registered proprietor has failed or refused to furnish the Commission with information requested by it pursuant to Section 64(8), or has furnished the Commission with information that is false or misleading in a material particular, or
- the registered proprietor has, not more than one year before the date from which the registration or removal from the register would take effect, contravened a condition imposed under Section 64(6).

Where the Commission proposes to refuse to register a centre or to remove a centre from the register, it will pursuant to Section 64(11) of the Act *“notify in writing the applicant or registered proprietor, as the case may be, of its proposal and the reasons for it”*.

## **3.7 Appeals**

### **3.7.1 Representations to the Mental Health Commission**

Where the notification referred to in Section 3.4 of this document is in relation to a proposal to attach conditions to registration, a proposal to refuse to register a centre or a proposal to remove a centre from the register, the person concerned is informed of his/her right to make representations in writing to the Chief Executive Officer of the Commission in relation to the proposal within 21 days of receipt of such notification.

The Chief Executive Officer shall before deciding the matter, take into consideration any representations duly made to the Commission in relation to its proposal. Thereafter the Commission shall make its decision and notify the applicant or the registered proprietor in writing of the decision.

### **3.7.2 Appeals to the District Court**

Where the Commission makes a decision to refuse to register a centre, to remove a centre from the register, or to attach a condition to, or amend or revoke a condition attached to a registration, the applicant or the registered proprietor, as the case may be, is also informed that he or she has the right under Section 65(1) of the Act to make an *“appeal to the District Court against a decision of the Commission to refuse to register the centre, to remove the centre from the register or to attach a condition, or to amend or revoke a condition attached, to the registration of the centre and such an appeal shall be brought within 21 days of the receipt by the person of the notification of the decision”*.

The District Court pursuant to Section 65(1) may then *“confirm the decision or direct the Commission, as may be appropriate, to register, or to restore the registration of, the centre, to withdraw the condition or the amendment to or revocation of a condition, to attach a specified condition to the registration or to make a specified amendment to a condition of the registration”*.

The District Court sits in the district in which the centre is situated and *“a decision of the District Court on question of fact shall be final.”*

## **3.8 Ongoing Review of Approved Centres**

The status of approved centres is reviewed on an ongoing basis. Following inspection, the Inspector forwards a copy of the Inspector’s Report to the Director of Standards and Quality Assurance. Where the Inspector’s Report indicates a breach in compliance with the 2006 Regulations, rules or codes of practice, the Director of Standards and Quality Assurance writes to the registered proprietor or the person with delegated responsibility for the running of the approved centre, and requests an implementation plan to detail the action(s) that will be undertaken to address the breach in compliance and the timeframe(s) for completion.

The Chief Executive Officer, Inspector of Mental Health Services and Director of Standards and Quality Assurance meet on regular basis to discuss the status of approved centres.

### **3.9 Expiration of Registration**

Before the 3 year registration period expires, it is necessary for the registered proprietor of an approved centre to apply for registration using a new application for registration. The process is stated in Section 64(9) of the Act as follows:

*“The registered proprietor of a centre who proposes to carry on the centre immediately after the expiration of the period of registration of the centre may apply under subsection (3) to the Commission concerned not less than 2 months before such expiration for the registration of the centre and, if the Commission does not notify him or her before such expiration that it proposes to refuse to register the centre, it shall register the centre and its date of registration shall be the day following the day of such expiration”.*

The registered proprietor of an approved centre is notified by the Commission 3 months before the approved centre’s registration is due to expire that he or she must apply to the Commission for entry on the Register of Approved Centres and that it is an offence to operate a centre that is not registered.

### **3.10 Access to Register**

The physical “*Register of Approved Centres*” is available for inspection free of charge by members of the public at all reasonable times. Requests to inspect the Register are notified to the Director of Standards & Quality Assurance or a person acting on his/her behalf.

A list of approved centres is also available on the Mental Health Commission website [www.mhcirl.ie](http://www.mhcirl.ie) and this list is updated as required.

### **3.11 Confidentiality**

The Commission respects the confidentiality of the information it has been given and maintains all documentation regarding application for registration as an approved centre in a secure manner. All required steps are taken not to release or disclose information outside the course of that necessary to fulfil the Commission’s legal and professional requirements. Data Protection and Freedom of Information legislation applies.

## **4. Further Information**

To obtain a registration pack, please contact Brian O’Sullivan, Divisional Support Officer, Standards and Quality Assurance Division, (01) 6362401 or [brian.osullivan@mhcirl.ie](mailto:brian.osullivan@mhcirl.ie).

Details are also available on our website at [www.mhcirl.ie](http://www.mhcirl.ie) , along with a copy of the Mental Health Act 2001 and a copy of the Mental Health Act (Approved Centres) Regulations 2006.

## Summary flowchart of Registration Process for Approved Centres

