

The notes are for guidance only and do not constitute an exact statement of the provisions of the Mental Health Act 2001.

SECTIONS OF THE MENTAL HEALTH ACT 2001

- 4.— (1) In making a decision under this Act concerning the care or treatment of a person (including a decision to make an admission order in relation to a person), the best interests of the person shall be the principal consideration with due regard being given to the interests of other persons who may be at risk of serious harm if the decision is not made.
- (2) Where it is proposed to make a recommendation or an admission order in respect of a person, or to administer treatment to a person, under this Act, the person shall, so far as is reasonably practicable, be notified of the proposal and be entitled to make representations in relation to it and before deciding the matter due consideration shall be given to any representations duly made under this subsection.
- (3) In making a decision under this Act concerning the care or treatment of a person (including a decision to make an admission order in relation to a person) due regard shall be given to the need to respect the right of the person to dignity, bodily integrity, privacy and autonomy.

61.— Where medicine has been administered to a child in respect of whom an order under *section 25* is in force for the purposes of ameliorating his or her mental disorder for a continuous period of 3 months, the administration of that medicine shall not be continued unless either—

- (a) the continued administration of that medicine is approved by the consultant psychiatrist responsible for the care and treatment of the child, and
- (b) the continued administration of that medicine is authorised (in a form specified by the Commission) by another consultant psychiatrist, following referral of the matter to him or her by the first-mentioned psychiatrist,

and the consent, or as the case may be, approval and authorisation shall be valid for a period of 3 months and thereafter for periods of 3 months, if, in respect of each period, the like consent or, as the case may be, approval and authorisation is obtained.

25.— (1) Where it appears to a health board with respect to a child who resides or is found in its functional area that—

- (a) the child is suffering from a mental disorder, and
- (b) the child requires treatment which he or she is unlikely to receive unless an order is made under this section, then, the health board may make an application to the District Court (“the court”) for an order authorising the detention of the child in an approved centre.
- (2) Subject to *subsection (3)*, a health board shall not make an application under *subsection (1)* unless the child has been examined by a consultant psychiatrist who is not a relative of the child and a report of the results of the examination is furnished to the court by the health board.
- (3) Where—
- (a) the parents of the child, or either of them, or a person acting in *loco parentis* refuses to consent to the examination of the child, or
- (b) following the making of reasonable enquiries by the health board, the parents of the child or either of them or a person acting in *loco parentis* cannot be found by the health board, then, a health board may make an application under *subsection (1)* without any prior examination of the child by a consultant psychiatrist.
- (4) Where a health board makes an application under *subsection (1)* without any prior examination of the child the subject of the application by a consultant psychiatrist, the court may, if it is satisfied that there is reasonable cause to believe that the child the subject of the application is suffering from a mental disorder, direct that the health board arrange for the examination of the child by a consultant psychiatrist who is not a relative of the child and that a report of the results of the examination be furnished to the court within such time as may be specified by the court.
- (5) Where the court gives a direction under *subsection (4)*, the consultant psychiatrist who carries out an examination of the child the subject of the application shall report to the court on the results of the examination and shall indicate to the court whether he or she is satisfied that the child is suffering from a mental disorder.
- (6) Where the court is satisfied having considered the report of the consultant psychiatrist referred to in *subsection (1)* or the report of the consultant psychiatrist referred to in *subsection (5)*, as the case may be, and any other evidence that may be adduced before it that the child is suffering from a mental disorder, the court shall make an order that the child be admitted and detained for treatment in a specified approved centre for a period not exceeding 21 days.
- (7) An application under this section may, if the court is satisfied that the urgency of the matter so requires, be made *ex parte*.
- (8) Between the making of an application for an order under this section and its determination, the court, of its own motion or on the application of any person, may give such directions as it sees fit as to the care and custody of the child who is the subject of the application pending such determination, and any such direction shall cease to have effect on the determination of the application.
- (9) Where, while an order under *subsection (6)* is in force, an application is made to the court by the health board concerned for an extension of the period of detention of the child the subject of the application, the court may order that the child be detained for a further period not exceeding 3 months.
- (10) On or before the expiration of the period of detention referred to in *subsection (9)*, a further order of detention for a period not exceeding 6 months may be made by the court on the application of the health board and thereafter for periods not exceeding 6 months.

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- 25.— (11) A court shall not make an order extending the period of detention of a child under this section unless—
- (a) the child has been examined by a consultant psychiatrist who is not a relative of the child and a report of the results of the examination is furnished to the court by the health board concerned on the application of the board to the court under *subsection (9) or (10)*, as the case may be, and
 - (b) following consideration by the court of the report, it is satisfied that the child is still suffering from a mental disorder.
- (12) Psycho-surgery shall not be performed on a child detained under this section without the approval of the court.
- (13) A programme of electro-convulsive therapy shall not be administered to a child detained under this section without the approval of the court.
- (14) The provisions of *sections 21, 22, 24 to 35, 37 and 47* of the Child Care Act, 1991, shall apply to proceedings under this section as they apply to proceedings under those sections with the modification that references to proceedings or an order under *Part III, IV or VI* of that Act shall be construed as references to proceedings or an order under this section and with any other necessary modifications.
- (15) References in *sections 13(7), 18(3) and 19(4)* of the Child Care Act, 1991, to psychiatric examination, treatment or assessment do not include references to treatment under this Act.