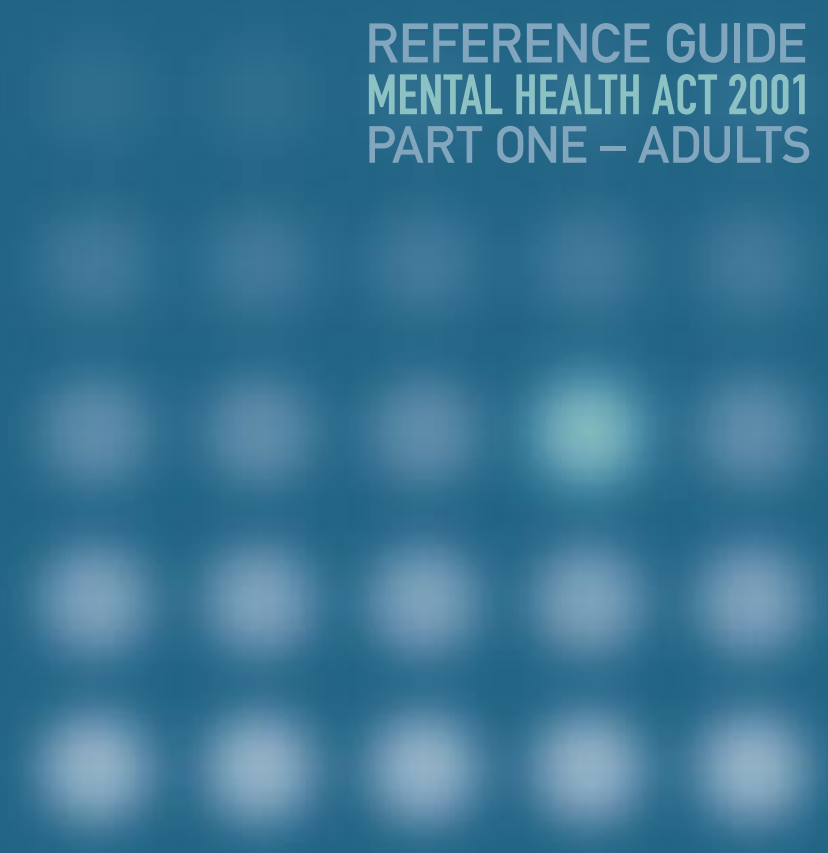
MHC
Coimisiún Meabhair-Shláinte
Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS



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GLOSSARY G

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PART ONE – ADULTS

"admission order"
means the order authorising the reception, detention and treatment of the patient concerned and shall remain in force for a period of 21 days from the date of the making of the order in accordance with Section 15;

"adult"
means any person who is not included in the definition of a 'child' in the Mental Health Act 2001;

"application"
means an application for a recommendation that a person be involuntarily admitted to an Approved Centre and ''applicant'' shall be construed accordingly;

"approved centre"
means a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder which is registered on the Register of Approved Centres in accordance with Section 63;

"child"
means a person under the age of 18 years other than a person who is or has been married;

"clinical director"
means a consultant psychiatrist appointed in writing by the governing body of each Approved Centre to be the clinical director of the centre under Section 71;

"Commission"
means the Mental Health Commission established under Section 32;

"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;

"establishment day"
means the day appointed by the Minister that the Mental Health Commission is established under Section 31;

"examination"
in relation to a recommendation, an admission order or a renewal order, means a personal examination carried out by a registered medical practitioner or a consultant psychiatrist of the process and content of thought, the mood and the behaviour of the person concerned;

"functional area"
means a functional area of the Health Service Executive as defined in the Health Board Regulations, 1970 (S.I. No. 170 of 1970) and in Section 7 of the Health (Eastern Regional Health Authority) Act, 1999; as amended by Section 67 of the Health Act 2004;

"functions"
includes powers and duties and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties;

"give"
includes send, whether by post or electronic or other means, and cognate words shall be construed accordingly;

"Health Service Executive"
means the body which has replaced the health boards and the Eastern Regional Health Authority as the overall national body for delivery of health services pursuant to the Health Act 2004;

"Inspector"
means a consultant psychiatrist appointed by the Commission holding the office of the Inspector of Mental Health Services in accordance with Section 50;

"legal representative"
means a barrister or a solicitor;

"mental health services"
mean 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 illness"
means a state of mind of a person which affects the person's thinking, perceiving, emotion or judgement 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 persons;

"Minister"
means the Minister for Health and Children;

"parents"
includes a surviving parent and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, whose adoption is recognized by virtue of the law for the time being in force in the State, means the adopter or adopters or the surviving adopter;

"patient"
means a person to whom an admission order relates in accordance with Section 14;

"prescribed"
means prescribed by regulations made by the Minister;

"recommendation"
means a recommendation made by a registered medical practitioner in a form specified by the Commission that a person be involuntarily admitted to a specified Approved Centre;

"register"
means the Register of Approved Centres established and maintained by the Mental Health Commission in accordance with Section 64;

"registered nurse"
means a person whose name is entered in the register of nurses maintained by An Bord Altranais under Section 27 of the Nurses Act, 1985;

"registered medical practitioner"
means a person whose name is entered in the General Register of Medical Practitioners;

"registered proprietor"
in relation to an Approved Centre, means the person whose name is entered in the register as the person carrying on the centre in accordance with Section 62;

"regulations"
mean the regulations that the Minister shall make, after consultation with the Commission, for the purpose of ensuring proper standards in relation to Approved Centres, including adequate and suitable accommodation, food and care for residents while being maintained in centres, and the proper conduct of centres, make such regulations as he or she thinks appropriate pursuant to Section 66 of the Mental Health Act 2001;

"relative"
in relation to a person, means a parent, grandparent, brother, sister, uncle, aunt, niece, nephew or child of the person or of the spouse of the person whether of the whole blood, of the half blood or by affinity;

"renewal order"
means an order made by a consultant psychiatrist responsible for the care and treatment of a patient extending the period of detention of that patient in accordance with Section 15;

"resident"
means a person receiving care and treatment in an Approved Centre in accordance with Section 62;

"severe dementia"
means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

"significant intellectual disability"
means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person;

"spouse"
means a husband or wife or a man or a woman who is cohabiting with a person of the opposite sex for a continuous period of not less than 3 years but is not married to that person; however for the purposes of Section 9 of the Mental Health Act 2001, "spouse" does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act, 1996;

"treatment"
in relation to a patient, includes the administration of physical, psychological and other remedies relating to the care and rehabilitation of a patient under medical supervision, intended for the purposes of ameliorating a mental disorder;

"tribunal"
means the tribunal(s) which the Commission shall from time to time appoint which or each of which shall be known as a Mental Health Tribunal to determine such a matter or matters as may be reffered to it by the Commission;

"voluntary patient"
means a person receiving care and treatment in an Approved Centre who is not the subject of an admission order or a renewal order.

PURPOSE OF THE GUIDE 1.1

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

1.1 PURPOSE OF THE GUIDE

The Mental Health Act 2001 addresses two main requirements in the provision of mental health care in a modern society. Firstly, the establishment of a legislative framework within which persons with a mental disorder may be admitted, detained and treated involuntarily in Approved Centres. Secondly, the promotion and maintenance of quality standards of care and treatment that are regularly inspected and properly regulated. Mental illness, severe dementia or significant intellectual disability may, in certain circumstances, amount to a mental disorder under the Mental Health Act 2001. The encompassing term '*mental disorder*', for the first time in Irish mental health law is comprehensively defined.

The Reference Guide will assist all those whose work may bring them into contact with persons suffering from a mental illness or a mental disorder to provide the best possible care and treatment in the best interests of the person or patient. It is available in two parts – Part One (Adults) and Part Two (Children).

This Reference Guide is written to provide mental health professionals, and all those whose work may bring them into contact with persons suffering from a mental illness or a mental disorder, with a clear and practical understanding of the major objectives and requirements of the Mental Health Act 2001.

The Reference Guide will also be of interest to service users, families, carers, advocates, the voluntary sector and members of the general public.

It is intended that this Reference Guide will be of particular interest to:

- Consultant Psychiatrists
- Clinical Psychologists
- General Medical Practitioners
- Mental Health Service Providers
- Psychiatric Nurses
- Social Workers
- Speech & Language Therapists
- Occupational Therapists
- Authorised Officers
- Health Care Managers
- Members of the Garda Síochána
- Independent Hospitals
- Emergency Medical Technicians

The Mental Health Act 2001 replaces the procedures for involuntary admission that were provided for by the Mental Treatment Act 1945. The majority of health professionals as identified, will have spent their working careers under these provisions and it is vital that they understand and know the new procedures that are in place.

Therefore, this Reference Guide (Part One) focuses on the procedures surrounding involuntary admission (Adult), the functions of the Mental Health Commission, the procedures and powers of Mental Health Tribunals and the role of the Inspector of Mental Health Services.

The Mental Health Act 2001 is guided by the principle that the interests of all people with mental disorders who are affected under the Mental Health Act 2001 is paramount. The Reference Guide sets out the requirements under the Mental Health Act 2001 in relation to the rights of mental health service users and the obligations placed on providers to ensure that such rights are promoted and upheld.

The glossary is placed at the front of the Reference Guide. It is recommended that the reader refers to the glossary in the first instance.

The Health Act 2004 constitutes one part of the re-organisation of structures for delivery of health services. A main element of this re-organisation is:

(a) the abolition of the health boards and the Eastern Regional Health Authority
(b) the establishment of the Health Service Executive as the overall national body for delivery of health services.

As such, reference to health boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

The Reference Guide contains sample copies of all the relevant forms that may be required from time to time under the Mental Health Act 2001.

This Reference Guide should not be relied on as a legal interpretation of the Mental Health Act 2001. It is not intended to be a complete or authoritative statement of the law and is not intended as legal advice or advice of any type. It is a Reference Guide only and must be read in conjunction with the provisions of the Mental Health Act 2001, any regulations made thereunder and any other relevant legislation.

The Mental Health Act 2001 and regulations made under it may be ordered from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2 or downloaded from the Government Information website at www.gov.ie or from the Mental Health Commission website at www.mhcirl.ie

BACKGROUND TO THE MENTAL HEALTH ACT 2001 1.2

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

1.2 BACKGROUND TO THE MENTAL HEALTH ACT 2001 (the "2001 ACT")

The reform of mental health legislation in Ireland was long overdue.

The 2001 Act replaces the majority of the provisions of the Mental Treatment Act 1945.[1]

The 2001 Act replaces the Mental Treatment Act 1953; the Mental Treatment (detention in Approved Institutions) Act 1961; the Mental Treatment Act 1961[2] and the Health (Mental Services) Act 1981.

The 2001 Act is the result of a long process of attempted legislative change and wide consultation in the area of mental health legislation. The Health (Mental Services) Act 1981 was never commenced by way of ministerial order.

The 2001 Act attracted much interest and debate during its passage through the Houses of the Oireachtas. As a result many amendments were debated and passed. The 2001 Act creates a modern legislative framework for the admission, detention and treatment of persons with a mental disorder in compliance with international standards and obligations. The best interests of the person requiring admission and treatment are enshrined as paramount.

However, it is only one step in a process of the reform and modernisation of mental health care in our society.

Thus the Mental Health Act 2001 is just one element of ongoing reform of the entire mental health services. Further, the 2001 Act obliges the Minister of Health and Children to review the operation of the Mental Health Act 2001, not later than five years after establishment day and present a report to the Houses of the Oireachtas on the findings and conclusions of the review.[3] This is an important feature of the 2001 Act as the formation of mental health legislation is an ongoing process rather than an event that occurs once every few decades. It should be amended in response to advances in treatment of mental disorders and to developments in service delivery systems.[4]

The 2001 Act creates a modern legislative framework for the admission, detention and treatment of persons with a mental disorder in compliance with international standards and obligations.

1 Part VIII (Superannuation of officers and servants of mental hospital authorities) and sections 241 and 276, 283 and 284 of the Mental Treatment Act 1945 are not replaced and are still in force.
2 Sections 39 and 41of the Mental Treatment Act 1961 are not replaced and are still in force.
3 Mental Health Act 2001 S75.
4 World Health Organisation – "Mental Health Policy And Service Guidance Package 2003".

PRINCIPLES OF THE MENTAL HEALTH ACT 2001 1.3

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Mental Health Commission

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MENTAL HEALTH ACT 2001
PART ONE – ADULTS

1.3 PRINCIPLES OF THE MENTAL HEALTH ACT 2001

1.3.1 RIGHTS OF PERSONS AFFECTED UNDER THE ACT

The Irish Constitution provides that no person shall be deprived of his or her liberty, save in accordance with law. There is an onerous responsibility on those who frame the law to ensure that the deprivation of a person's liberty is not only necessary, but also commensurate to the needs of society as a whole and to each individual that makes up that society. There is a responsibility on the drafters of such legislation to ensure that the provisions are clearly and unambiguously worded.

The rights of mental health service users are recognised and enshrined in the Mental Health Act 2001 in four main ways:

1. THE 'BEST INTERESTS' OF THE PERSON: THE PRINCIPAL CONSIDERATION

Human and civil rights are a fundamental tenet of our society. Such rights are enshrined in the Irish Constitution and in the European Convention on Human Rights.[1] For mental health service users they are paramount. The Mental Health Act 2001 states[2] that in making a decision under the Mental Health Act 2001 concerning the care or treatment of a person, including a decision to make an admission order,

"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." [3]

The Mental Health Act 2001 also states that in the making of such a decision

"due regard shall be given to the need to respect the right of the person to dignity, bodily integrity, privacy and autonomy." [4]

The principle of 'autonomy' has a particular resonance in the area of health care.

It is synonymous with the principle of personal choice or self-determination more commonly referred to in health care services as consent. Though a person's mental capacity may be diminished because of a mental disorder, respect for their autonomy should not be. A person's right to information is vital; where proposals in relation to recommendations, admission orders or treatment are made, the patient must, as far as is reasonably practicable, be notified of the proposal and allowed to make representations in relation to it, and due consideration to those representations must be made under the Mental Health Act 2001. It is only permissible to depart from these principles where, in the clinical judgment of a registered medical doctor, the withholding of information would be in the best interests of the patient;[5] professional discretion, guided by the principles of the Mental Health Act 2001, is the key.

Consent to treatment should always be informed, obtained without threats or

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.

Due regard shall be given to the need to respect the right of the person to dignity, bodily integrity, privacy and autonomy.

1 Incorporated into Irish law as of 1st January 2004.
2 Mental Health Act 2001, S4.
3 Mental Health Act 2001, S4(1).
4 In Re. a Ward [1995] ILRM 401 the Supreme Court of Ireland stated that "the loss by an individual of his or her mental capacity does not result in any diminution of his or her personal rights recognised by the Constitution… including self–determination, and the right to refuse medical treatment." This case involved a request by the family that feeding by artificial means be discontinued even though the result may be that the person's life would be no longer sustainable.
5 Mental Health Act 2001, S10(2) & S57.

Every decision regarding the care or treatment of a person which is contemplated, proposed and made under the Mental Health Act 2001 is guided by these fundamental and important principles; the best interests of the person are paramount with regard being given to other persons who may be at risk of serious harm if the decision is not made.

inducements and where the consultant psychiatrist is satisfied that the patient is capable of understanding the nature, purpose and likely effects of the proposed treatment – and has given the patient adequate information in relation to it – in a form he or she can understand. Where a patient is unable or unwilling to give consent the Mental Health Act 2001 provides for safeguards that will ensure that no treatment shall be given unless it is necessary[6] and in the best interests of the patient. In the case of certain treatments, such as psycho-surgery or electro-convulsive therapy or the administration of medicine, specific safeguards are provided.

2. THE RIGHT OF A PERSON ADMITTED AND TREATED INVOLUNTARILY TO INFORMATION ON THEIR RIGHTS UNDER THE ACT

In furtherance of these principles it is acknowledged that such a person is entitled, so far as is reasonably practicable, to be notified of the proposed recommendation that they be admitted involuntarily, of the admission itself and of any proposed treatment. Before any such decision may be made, due consideration must be given to any representations made by the person, or on his or her behalf. Any such decision made in relation to a person is subject to a review by an independent tribunal and an independent medical examination by a consultant psychiatrist. Any person the subject of a review is entitled to be legally represented.

Best practice dictates that the best interests of persons who may be subject to the making of a decision under the Mental Health Act 2001 should involve a consideration of whether or not there is a less restrictive or alternative method of obtaining the desired result. Therefore a provision exists whereby a person who is admitted involuntarily must be informed in writing that he or she may be admitted on a voluntary basis if he or she indicates such a wish.[7]

Every decision regarding the care or treatment of a person which is contemplated, proposed and made under the Mental Health Act 2001 is guided by these fundamental and important principles; the best interests of the person are paramount with regard being given to other persons who may be at risk of serious harm if the decision is not made.

3. THE RIGHT OF A PERSON ADMITTED INVOLUNTARILY TO A REVIEW OF THAT DECISION BY AN INDEPENDENT MENTAL HEALTH TRIBUNAL ESTABLISHED SOLELY FOR THAT PURPOSE.

Prior to the Mental Health Act 2001 there was no statutory provision for independent review of a decision to admit a person involuntarily for treatment. The only manner in which such a person could seek to review the decision was by way of a *habeas corpus* application under Article 40 of the Constitution, that is an application brought before the High Court to challenge the lawfulness of the deprivation of liberty.

Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) as incorporated into Irish law since 1st January 2004 by the European Convention on Human Rights Act 2003, states that everyone who is deprived of his or her liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of

6 Mental Health Act 2001, S57.
7 Mental Health Act 2001, S16 (2)(g).

his or her detention shall be decided speedily by a court and his or her release ordered if the detention is not lawful.

The European Court of Human Rights has stated[8] that all detained patients must have a right of access to a judicial body independent of the executive and with the powers of a court including the power to order discharge. The Court stated that the judicial body does not have to be a traditional court so long as it is independent and the person has a right to be heard and a right to be legally represented.

The United Nations Principles for the Protection of Persons with a Mental Illness and for the Improvement of Mental Health Care (1991) states that any decision relating to a person with mental illness who lacks legal capacity shall only be made after a fair hearing by an independent and impartial tribunal before which such a person has been legally represented.

In fulfillment of civil liberty requirements the Mental Health Act 2001 provides for the establishment of Mental Health Tribunals. These are independent tribunals established by the Mental Health Commission to review and affirm or revoke decisions made under the Mental Health Act 2001. A patient affected by such a decision under the Mental Health Act 2001 (which include, for example, decisions to involuntarily admit a patient, to transfer a patient to the Central Mental Hospital, or to carry out certain methods of treatment) is entitled to be informed of their rights before such a tribunal and to be heard and to be legally represented. The important safeguards recognised and enshrined in international protocols are now provided for in Irish law.

4. THE ESTABLISHMENT AND MAINTENANCE OF HIGH STANDARDS AND GOOD PRACTICES IN THE DELIVERY OF MENTAL HEALTH SERVICES

The Mental Health Commission is an independent statutory body established under the Mental Health Act 2001. It has a dual mandate to protect the interests of any person admitted involuntarily in an Approved Centre, and to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services.[9]

The work of the Mental Health Commission is underpinned by the core values of equity, accountability, dignity, respect and empowerment. It is committed to promoting and regulating quality mental health services for all.

The Mental Health Commission is responsible for maintaining a Register of Approved Centres. The in-patient care and treatment of persons suffering from a mental illness or mental disorder may only be carried out in Approved Centres.

The Inspector of Mental Health Services, appointed by the Commission, monitors the standard of care provided in Approved Centres and in any other premises where mental health services are being provided as he or she thinks appropriate. Mental health services means 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.

In the carrying out of its functions the Mental Health Commission is committed to respecting and upholding the best interests of any person

8 X v United Kingdom (1981) 4 EHRR 188.
9 Mental Health Act 2001, S33 (1).

Mental illness, severe dementia, or severe intellectual disability are crucial to but not sufficient in themselves for a person to have a mental disorder and thereby admitted involuntarily.

who may be affected by the provisions of the Mental Health Act 2001.

1.3.2 DEFINITION OF MENTAL DISORDER[10]

The term '*mental disorder*', as defined in the Mental Health Act 2001, means mental illness, severe dementia or significant intellectual disability where either:

- because of the illness, dementia or intellectual disability there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons

or

- because of the severity of the illness, dementia or disability, the judgement 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 an admission **and that** the reception, detention and treatment of the person in an Approved Centre would be likely to benefit or alleviate the condition of the person to a material extent.

For the first time in Irish mental health law a definition is provided of mental disorder for which a person may be involuntarily admitted, detained and treated. In some respects, the definition is clinical in nature in that it is defined as being mental illness, severe dementia or significant intellectual disability. *Mental illness, severe dementia, or severe intellectual disability are crucial to but not sufficient in themselves for a person to have a mental disorder and thereby admitted involuntarily.*

The clinical condition may be such that there is a serious likelihood of the person causing serious and immediate harm to self or others. In such cases, a person may be involuntarily admitted for his or her own safety or for the safety of others. This is not a new concept. However, where such potential harm to self or others is not an issue, a person may nonetheless be involuntarily admitted on the other grounds of mental disorder.

Such an admission may occur where the severity of the illness, dementia or intellectual disability is such that the judgment of the person is so impaired that failure to admit the person would be likely to cause a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission. In such circumstances involuntary admission may be warranted, but only where such admission would be likely to benefit or alleviate the condition of that person to a material extent.

HOW IS MENTAL ILLNESS DEFINED?

The 2001 Act defines mental illness as:

"… a state of mind of a person which affects the person's thinking, perceiving, emotion or judgement 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 persons." [11]

10 Mental Health Act 2001, S3.
11 Mental Health Act 2001, S3.

WHAT IS A MENTAL DISORDER IN THE CONTEXT OF MENTAL ILLNESS?

In addition to the clinical presentation of mental illness as described above, to fulfil the criteria for involuntary admission one of the following two criteria must also be met, namely:

- because of the mental illness there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons

or

- because of the severity of mental illness, the judgement 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 only be given by such admission, **and that** 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.

HOW IS SEVERE DEMENTIA DEFINED?

The 2001 Act defines severe dementia as:
"…a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression." [12]

The definition in the 2001 Act, therefore, places the emphasis on the presence of severe psychiatric or behavioural symptoms in addition to the severity of the cognitive impairment as clinically defined in accordance with ICD-10 and DSM-IV-TR.[13] *Thus a person may present with varying levels of cognitive impairment within a diagnosis of dementia but, to fulfil the criteria for involuntary admission, the person must also present with severe psychiatric or behavioural symptoms such as aggressive behaviour. The symptoms could also include delusions or hallucinations – the 2001 Act does not limit the symptoms to aggressive behaviour.*

WHAT IS A MENTAL DISORDER IN THE CONTEXT OF SEVERE DEMENTIA?

In addition to the clinical presentation of severe dementia as described above, to fulfil the criteria for involuntary admission one of the following two criteria must also be met:

- because of the dementia there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons

or

- because of the severity of dementia, the judgement 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 only be given by such admission **and that** the reception, detention and treatment

12 Mental Health Act 2001, S3.
13 World Health Organisation (1992), "The ICD-10 Classification Of Mental And Behavioural Disorders"; American Psychiatric Association (1996), "Diagnostic and Statistical Manual of Mental Disorder" – Text Revision (1994).

of the person concerned in an Approved Centre would be likely to benefit or alleviate the condition of that person to a material extent.

HOW IS SIGNIFICANT INTELLECTUAL DISABILITY DEFINED?

The Mental Health Act 2001 defines significant intellectual disability as:

"…a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person." [14]

In order to establish a mental disorder through a finding of significant intellectual disability, in accordance with the 2001 Act, a state of arrested or incomplete development of the mind includes:

- significant impairment of intelligence

and

- significant impairment of social functioning

and

- abnormally aggressive **or** seriously irresponsible conduct.

All of the above criteria must be established separately.

WHAT DO THE TERMS OF THE DEFINITION MEAN AND HOW CAN THEY BE ESTABLISHED?

The Mental Health Commission provides the following guidance in relation to significant intellectual disability, and shall, from time to time, furnish additional guidance.

SIGNIFICANT IMPAIRMENT OF INTELLIGENCE

The principal method for determining levels of intellectual functioning is psychometric assessment. Assessment of intellectual functioning should be obtained by using an individually administered standardised test which is recognised as reliable and valid. The Assessor should have training and experience in the administration of standardised psychological instruments. An Intelligence Quotient (IQ) level of under 69 is an indication of significant intellectual disability rather than conclusive evidence and the test employed in any given case must be appropriate for the person's age, cultural, linguistic and social background (The British Psychological Society, 2001). It is acknowledged that formalised assessment may not always be possible due to the individual's level of functioning. Best practice also advises that allowance should be made for the possibility of measurement error and IQ figures should only be quoted with explicit confidence limits based on the standard error of measurement.

Assessment findings should be interpreted in the light of knowledge of the uses and limitations of such assessment findings. It is advised that the psychometric assessment would have been completed within the past five years (or as best practice dictates).

14 Mental Health Act 2001, S3.

SIGNIFICANT IMPAIRMENT OF SOCIAL FUNCTIONING

An assessment of impairment of social functioning is related to a person's performance in coping on a day-to-day basis with the demands of his or her environment. It is related to a person's age and the socio-cultural expectancies associated with his or her environment at any given time. It is concerned with what a person does (i.e. actual behaviour/performance).

Impairment of adaptive/social functioning may range from occasional to pervasive, that is needing support intermittently to continuously in such areas as self-care, communication, home living, self-direction, occupational, social and interpersonal skills.

The British Psychological Society (2001) notes that impairment of social functioning is usually measured by direct observation and/or in conjunction with at least one informant who knows the person well (e.g. a parent, carer or friend). While standardised assessments of adaptive and social functioning may be helpful, the British Psychological Society (2001) is of the opinion that there is not, as yet, sufficient consensus within the area for one single assessment to be recommended.[15]

ABNORMALLY AGGRESSIVE OR SERIOUSLY IRRESPONSIBLE CONDUCT

The criterion of abnormally aggressive or seriously irresponsible conduct is behaviour which must be associated with 'a state of arrested or incomplete development of mind'. Any assessment of *abnormally aggressive* conduct should be based on observations of behaviour which lead to a conclusion that the actions are outside the usual range of aggressive behaviour – unpredictability or unreasonableness under the circumstances will be factors which may establish the criterion. *Irresponsible conduct* is that which shows a lack of responsibility and/or a disregard of the consequences of the action – it does not necessarily require the person to be capable of judging these consequences. In certain circumstances failure to act can also be evidence of irresponsibility.

The assessment of '*abnormally aggressive or seriously irresponsible conduct*' can be seen to have both observational (i.e. the actual behaviour) and judgement (i.e. the abnormality and/or seriousness) components. To meet the criteria for each, abnormally aggressive and seriously irresponsible conduct should result in actual damage and/or real distress (in some cases to the self), and should occur either recently or persistently or with excessive severity.

HOW DOES ONE DECIDE WHEN ABNORMALLY AGGRESSIVE OR SERIOUS IRRESPONSIBLE CONDUCT HAS CEASED?

In order to act in the best interest of the person, it would not be appropriate to continue to regard a person as having '*significant intellectual disability*' under the terms of the Mental Health Act 2001, if remission or treatment has eliminated their abnormally aggressive or serious irresponsible conduct. In arriving at such a decision, account should be taken of the extent to which the current environment and social context may reduce the possibility of such conduct occurring. Observation is the recommended tool of assessment and judgement is likely to be most readily optimised by drawing upon **clinical experience** of similar profiles.

15 The British Psychological Society (2001). "Learning disabilities: Definitions and Contents".

The Mental Health Act 2001 outlines three exclusions from the definition of mental disorder.

WHAT IS A MENTAL DISORDER IN THE CONTEXT OF SIGNIFICANT INTELLECTUAL DISABILITY?

In addition to the clinical presentation of significant intellectual disability as described above, to fulfil the criteria for mental disorder (involuntary admission) one of the following two criteria must also be met:

- because of the significant intellectual disability there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons

or

- because of the significant intellectual disability, the judgement 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 only be given by such admission **and that** 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.

ARE THERE ANY EXCLUSION CRITERIA FOR MENTAL DISORDER?[16]

Yes.

The Mental Health Act 2001 outlines three exclusions from the definition of mental disorder. These exclusions are behaviour, conditions or circumstances that **cannot on their own** be considered mental disorder.

Section 8(2) of the 2001 Act states that it is not lawful to admit a person involuntarily in an Approved Centre solely because that person is

(a) suffering from a personality disorder
(b) is socially deviant, or
(c) is addicted to drugs or intoxicants.

The 2001 Act does not define personality disorder, socially deviant or addiction to drugs or intoxicants. The Mental Health Commission provides the following guidance for general practitioners, the Garda Síochána and staff in Approved Centres, to assist them in relation to the provisions of this section.

WHAT IS A PERSONALITY DISORDER?

Personality disorders are described in the *International Classification of Mental and Behavioural Disorders* (ICD-10)[17] as 'deeply ingrained and enduring behaviour patterns, manifesting themselves as inflexible responses to a broad range of personal and social situations'; they represent either extreme or significant deviations from the way an average individual in a given culture perceives, thinks, feels and particularly relates to others and are '*developmental conditions, which appear in childhood or adolescence and continue into adulthood*'.[18]

16 Mental Health Act 2001, S8.
17 World Health Organisation (1992), "International Classification of Mental and Behavioural Disorders (ICD-10)".
18 World Health Organisation (1992).

WHAT IS SOCIALLY DEVIANT?

Socially deviant is a term that refers to any behaviour that does not conform to social norms.[19] What is perceived as deviant behaviour is subject to change as it is culturally determined and depends on the values and beliefs of society. Different cultures have different perceptions of social order, therefore making what may be perceived as deviant behaviour in one culture wholly acceptable in another.

Difficulty in adapting to
- moral,
- social,
- political, or
- other values

in itself, should not be considered a mental disorder.[20]

Non conformity with
- moral,
- social,
- cultural,
- political values, or
- religious beliefs prevailing in a person's community

shall never be a determining factor in diagnosing mental illness.[21]

The explicit exclusion of a person who is socially deviant from the definition of mental disorder brings Irish mental health law into conformity with international standards.

WHAT IS ADDICTION TO DRUGS OR INTOXICANTS?

Addiction to drugs or intoxicants is clinically defined as '*dependence syndrome*' in the ICD-10 Classification of Mental and Behavioural Disorders or '*substance dependence*' in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR).

The Mental Health Act 2001 prohibits the involuntary admission and detention of a person soley because that person is addicted to drugs or intoxicants.

It should be noted that a person who is suffering from a personality disorder, who is socially deviant or is addicted to drugs or intoxicants may nonetheless require involuntary admission from time to time if he/she develops a mental disorder as defined in the 2001 Act.

WHY ARE THERE EXCLUSION CRITERIA?

These exclusions bring Irish mental health law into conformity with the United Nations *Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care* (1991)[22] and are an essential protection to ensure that a person's moral, social, cultural, religious or political values shall never be the sole determining factor in diagnosing mental disorder. They bring Irish legislation in line with most other countries in respect of substance abuse and addictions. The rationale generally behind having exclusion criteria is to protect against political abuse and to encourage the idea of individual responsibility.

19 Giddens A. (2001). "Sociology", 4th Edition.
20 Council of Europe Recommendation No. R(83)2 of the Committee of Ministers to Member States concerning the legal protection of persons suffering from mental disorders placed as involuntary patients (1983).
21 The "UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care", Principle 4.3(1991).
22 The "UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care", Principle 4.3(1991).

These exclusions ensure that the application of the legislation is confined to persons with a mental disorder as defined in the 2001 Act. In the absence of mental disorder as defined in the 2001 Act, a person cannot be involuntarily admitted solely in order to prevent criminal behaviour. Even if admission to an Approved Centre is likely to be of benefit, in the absence of mental disorder as defined in the 2001 Act, a person cannot be involuntarily admitted. Similarly, in the absence of mental disorder as defined in the 2001 Act, a person cannot be involuntarily admitted if a failure to admit would be likely to lead to a serious deterioration in his or her condition.

OVERVIEW OF THE MENTAL HEALTH ACT 2001 1.4

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MENTAL HEALTH ACT 2001
PART ONE – ADULTS

1.4 OVERVIEW OF THE MENTAL HEALTH ACT 2001

The 2001 Act is described as *"an act to provide for the involuntary admission to Approved Centres of persons suffering from mental disorders, to provide for the independent review of the involuntary admission of such persons and, for those purposes, to provide for the establishment of a Mental Health Commission and the appointment of Mental Health Commission Tribunals and an Inspector of Mental Health Services, to repeal in part the Mental Treatment Act 1945 and to provide for related matters."* [1]

The 2001 Act is divided into six parts.

Part 1 – includes the short title, commencement provisions, interpretations and definitions and the principles relating to the 2001 Act.

Part 2 – outlines the procedures for involuntary admission to Approved Centres and the rights available to patients following admission, including right of review and right of appeal. Procedures regarding the transfer of patients and the discharge of patients are also outlined. It includes certain provisions in relation to voluntary patients and children. The powers of the Garda Síochána are outlined in this part.

Part 3 – outlines the functions and powers of the Mental Health Commission and Mental Health Tribunals. The establishment of the Inspector of Mental Health Services and related functions are outlined.

Part 4 – outlines specific requirements for consent to treatment and the circumstances where second opinions are required.

Part 5 – outlines various rules and regulations in relation to the registration, operation and monitoring of Approved Centres.

Part 6 – outlines various miscellaneous provisions including restriction on bodily restraint and seclusion, participation in clinical trials, restriction on civil proceedings, provisions in relation to offences and the review of the 2001 Act.

1 Mental Health Act 2001 – long title.

THE MENTAL HEALTH COMMISSION 1.5

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1.5 THE MENTAL HEALTH COMMISSION

The Mental Health Commission was established in April 2002.[1]

1.5.1 MEMBERSHIP OF THE MENTAL HEALTH COMMISSION[2]

There are 13 members of the Mental Health Commission. The members are appointed by the Minister for Health and Children. The membership reflects the experience of both those providing and those using mental health services.

The 13 members must include:

- A practising barrister or solicitor of 10 or more years' experience
- Three registered medical practitioners (of which two shall be consultant psychiatrists) with a special interest in or expertise in the provision of mental health services
- Two registered nurses whose names are entered in the division applicable to psychiatric nurses in the register of nurses maintained by An Bord Altranais under Section 27 of the Nurses Act 1985
- A social worker with a special interest in or expertise in the provision of mental health services
- A psychologist with a special interest in or expertise in the provision of mental health services
- A representative of the interest of the general public
- Three representatives of voluntary bodies that promote the interests of persons with mental illness (of which two will be persons who are suffering from or have suffered from a mental illness)
- A representative of the Chief Executive of the Health Service Executive

Representatives of the registered medical practitioners, registered nurses, social workers and psychologists are nominated for appointment by such organisations as the Minister considers to be representative of those professions.

Representatives of voluntary bodies that promote the interests of persons' with mental illness are nominated for appointment by such organisations as the Minister considers representative of such voluntary bodies.

The Minister for Health and Children appoints one of the members of the Commission to act as chairperson.[3]

The membership must comprise of at least four women and at least four men.

Members are appointed for a term not exceeding five years after which time they may be eligible for reappointment. A member may resign at any stage within the five years or be removed by the Minister for Health and Children in certain specified circumstances.[4]

A member of the Mental Health Commission may not also be a member of either House of the Oireachtas or of the European Parliament.[5]

1 Mental Health Act 2001, S32.
2 Mental Health Act 2001, S35.
3 Mental Health Act 2001, S37.
4 Mental Health Act 2001, S36.
5 Mental Health Act 2001, S43(1).

1.5.2 CHIEF EXECUTIVE AND STAFF[6]

The Chief Executive is appointed by the Mental Health Commission to carry on, manage and control the administration and business of the Mental Health Commission. He or she cannot be a member of the Commission.

The Commission acts through, and its functions are performed in the name of the Commission by, the Chief Executive Officer.

The Mental Health Commission has appointed a number of additional persons to executive positions to help fulfil its mandate. These persons include:

- Director Corporate Services
- Director Mental Health Tribunals
- Director Standards and Quality Assurance
- Inspector of Mental Health Services

1.5.3 FUNCTIONS OF THE MENTAL HEALTH COMMISSION

The Mental Health Commission is an independent statutory body established under the Mental Health Act 2001. It has a dual mandate to:

1. Protect the interests of any person admitted involuntarily in an Approved Centre, and

2. Promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services.[7]

In the carrying out of its functions the Mental Health Commission is committed to respecting and upholding the best interests of any person who may be affected by the provisions of the Mental Health Act 2001.

THE MENTAL HEALTH COMMISSION IS CHARGED WITH THE FOLLOWING FUNCTIONS:[8]

- Establishing Mental Health Tribunals, which includes the appointment of members of the Mental Health Tribunals and the provision of staff and facilities

- Establishing a panel of consultant psychiatrists who will carry out independent medical examinations of any person admitted involuntarily (either by way of an admission order or a renewal order) and who will prepare a report for a mental health tribunal

- Establishing a legal aid scheme for patients wishing to be represented before a mental health tribunal

- Advising the Minister for Health and Children on matters or functions related to the work of the Mental Health Commission

- Preparing codes of practice for the guidance of persons working in the mental health services. Such codes of practice will be prepared after consultation with appropriate bodies and shall be reviewed periodically by the Mental Health Commission

- Carrying out any additional functions that may be specified by the Minister for Health and Children[9]

6 Mental Health Act 2001, S38 & S39.
7 Mental Health Act 2001, S33(1).
8 Mental Health Act 2001, S33(3).
9 Mental Health Act 2001, S34.

The Mental Health Commission's remit incorporates the broad spectrum of mental health services. This includes mental health services for children and adolescents, adults, persons with an intellectual disability and a mental illness and a range of additional specialist areas including forensic services. The Mental Health Commission actively promotes services research through the establishment of regional and national networks and infrastructure in the mental health services in Ireland. It has an active role in the dissemination of information to persons with an interest in mental health.

1.5.4 THE PUBLISHING OF REPORTS

The Mental Health Commission must submit an annual report on its activities to the Minister for Health and Children. The report includes the annual report of the Inspector of Mental Health Services. The Minister must lay the report before the Houses of the Oireachtas within one month of its submission.

The Mental Health Commission also has an important function in overseeing the effective implementation of Part 2 of the Mental Health Act 2001 in relation to the involuntary admission of persons to Approved Centres. Within 18 months of the commencement of this section the Mental Health Commission must prepare a report on the operation of this part of the Mental Health Act 2001 together with any findings, conclusions or recommendations in relation to its operation. This report is submitted to the Minster for Health and Children.

The Mental Health Commission may also publish any other reports it considers relevant and appropriate.

1.5.5 FUNDING OF THE MENTAL HEALTH COMMISSION[10]

The Minister for Health and Children may make grants to the Commission in relation to expenditure incurred in the carrying out of its functions. Any such grants must be sanctioned by the Minster for Finance.

The Mental Health Commission may accept gifts of money or land and property. Such gifts may be invested by the Commission in accordance with any trusts and conditions that may be specified by the donor provided they are not inconsistent with the functions of the Commission.

1.5.6 ACCOUNTS AND AUDITS OF THE COMMISSION[11]

The Chief Executive is the accountable person in relation to the accounts of the Commission. Estimates of accounts and expenditure shall be submitted to the Minister for Health and Children on request.

1.5.7 FREEDOM OF INFORMATION ACTS 1997 AND 2003[12]

The Freedom of Information Acts 1997 and 2003 apply to the Commission. Certain records kept by the Commission may therefore be accessible to the public on request. The Commission is required pursuant to this legislation to comply with any request by an individual for access to personal information held by the Commission in respect of that individual. However, the Commission will refuse to disclose any personal information about an individual to any other individual or entity.

10 Mental Health Act 2001, S44 & S45.
11 Mental Health Act 2001, S47.
12 Mental Health Act 2001, S47(8).

INSPECTOR OF MENTAL HEALTH SERVICES 1.6

MHC
Coimisiún Meabhair-Shláinte
Mental Health Commission

REFERENCE GUIDE
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1.6 INSPECTOR OF MENTAL HEALTH SERVICES[1]

The Mental Health Act 2001 establishes the Office of the Inspector of Mental Health Services. The Mental Health Commission has appointed a consultant psychiatrist to be the Inspector of Mental Health Services. This post replaces the Inspector of Mental Hospitals who was appointed by the Minister for Health and Children.

The Mental Health Commission has appointed Assistant Inspectors of Mental Health Services to assist the Inspector in the carrying out of his or her functions. Subject to any directions given by the Commission, Assistant Inspectors shall have the same duties and powers as the Inspector.

The Mental Health Commission has appointed Assistant Inspectors drawn from consultant psychiatry, psychiatric nursing, clinical psychology, occupational therapy and social work.

Mental health services are defined in the Mental Health Act 2001 as services that provide care and treatment to persons suffering from a mental illness or a mental disorder under the clinical direction of a consultant psychiatrist.[2]

1.6.1 FUNCTIONS OF THE INSPECTOR OF MENTAL HEALTH SERVICES

- **Visits and Inspections** – the Inspector is required to visit and inspect every Approved Centre at least once a year, and, where and when he or she thinks appropriate, any other premises where mental health services are provided.

- **Review of Mental Health Services** – the Inspector carries out a review of mental health services and furnishes a written report to the Mental Health Commission at least once a year.

- **Report on Mental Health Services** – the written report to the Mental Health Commission includes the following:

    - The quality of care and treatment given to persons in receipt of mental health services

    - Any information the Inspector has ascertained following visits and inspections to Approved Centres or other premises where mental health services are being provided

    - The degree and extent of compliance by Approved Centres with any code of practice prepared by the Commission, and

    - Arising out of the review, any other matters that the Inspector considers appropriate to report on.

1.6.2 DUTIES OF THE INSPECTOR WHEN MAKING AN INSPECTION[3]

When making an inspection the Inspector is obliged to perform the following duties:

- **Duty to residents** – the Inspector must see any individual at the request of that resident or at the request of another

1 Mental Health Act 2001, S50 – S54.
2 Mental Health Act 2001, S2.
3 Mental Health Act 2001, S52.

person. A resident is defined as any person receiving care and treatment in a hospital, or other in-patient facility, for the care and treatment of persons with mental illness or mental disorder.[4] Therefore a resident may be a person voluntarily admitted or a person who is the subject of an admission order or a renewal order and is admitted involuntarily.[5]

- **Duty to patients** – the Inspector must see every patient the propriety of whose detention he or she has reason to doubt. A patient is defined by the 2001 Act as a person to whom an admission order relates[6] and is therefore a person who is admitted involuntarily to an Approved Centre.

- **Duty to ensure compliance with the Mental Health Act 2001** – and in particular compliance with:

    - Regulations in relation to Approved Centres.
    - Rules in relation to the provision of electro-convulsive therapy.
    - Rules in relation to the use of bodily restraint and seclusion, and
    - Provisions relating to consent to treatment generally.

A report shall be made to the Commission in relation to the findings as appropriate.

1.6.3 POWERS OF THE INSPECTOR OF MENTAL HEALTH SERVICES

The Mental Health Act 2001 provides that the Inspector has all such powers as are necessary or expedient for the performance of his or her functions. In particular the Inspector is empowered to:

- Visit and inspect at any time any Approved Centre, or other premises where mental health services are being provided, and to be accompanied by any consultants or advisors as he or she thinks appropriate.

- Require the production of any information, records or documents needed for the carrying out of his or her functions. The Inspector may examine and take copies of any record or document and may remove any record or document from the premises for a reasonable period of time.

- Require a person to attend before him or her who may have information or documents relevant to an inspection, and it shall be an offence for such a person not to do so.

- Where necessary the Inspector may take evidence on oath. The Inspector is empowered to administer an oath in this regard.

- No person may claim that a document is privileged or immune from production to the Inspector.

Any person to whom the Inspector directs to produce documents or attend before the Inspector, is entitled to the same privileges or immunities that would apply in respect of court proceedings.

4 Mental Health Act 2001, S62.
5 Or a person who was originally involuntarily admitted under the Mental Treatment Act 1945.
6 Mental Health Act 2001, S2 & S14.

1.6.4 PENALTY FOR OBSTRUCTION OF THE INSPECTOR

It is an offence[7] for any person to obstruct or interfere with the functions of the Inspector. This includes the failure by any person to give any information that is within his or her knowledge that may be reasonably required by the Inspector.

1.6.5 INQUIRIES[8]

The Mental Health Commission may, at its own discretion, or shall if so requested by the Minister for Health and Children, cause the Inspector to make inquiries into:

- The operation of any Approved Centre or other premises where mental health services are provided. Mental health services are defined as services that provide care and treatment to persons suffering from a mental illness or a mental disorder under the clinical direction of a consultant psychiatrist.[9]

- The care and treatment provided to a specified patient or a specified person admitted voluntary.

- Any other matter which may be appropriate having regard to the provisions of the Mental Health Act 2001 or having regard to any rules or regulations which are made under the Mental Health Act 2001, or to any other enactment.

Such inquiries may be carried out by the Inspector of Mental Health Services or by any other person specified by the Commission. The person carrying out the inquiry must submit a written report of the results of the inquiry to the Commission. Absolute privilege attaches to any such report, that is the content of the report and its author is absolutely immune from any liability that may be claimed in respect of the report.

Further, the President of the High Court[10] may order the Inspector to visit and examine a person admitted involuntarily (as a person of unsound mind) and to report to the President on the condition of such a person. The President of the High Court may also appoint a barrister-at-law who has been in practice for at least six years to assist in any visit or investigation by the Inspector, or any person appointed to make such a visit or investigation, where the President is of the opinion that such assistance is necessary.[11] The Minister for Health and Children shall remunerate the barrister in respect of his or her costs.[12]

As stated in section 1.2 of this Reference Guide, the Mental Health Act 2001 replaces the majority of the provisions of the Mental Treatment Act 1945. However, the above – mentioned power of the President of the High Court in relation to visiting and examining a person of unsound mind is one of the unrepealed sections of that Mental Treatment Act 1945.

7 A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1875 or to imprisonment for up to 12 months or both – Mental Health Act 2001 S53.
8 Mental Health Act 2001, S55.
9 Mental Health Act 2001, S2.
10 Mental Treatment Act 1945, S241.
11 Mental Treatment Act 1945, S276.
12 Mental Treatment Act 1945, S276.

APPROVED CENTRES 1.7

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

1.7 APPROVED CENTRES[1]

1.7.1 WHAT IS AN APPROVED CENTRE?

The Mental Health Commission has a statutory responsibility to establish and maintain a *Register of Approved Centres* (*the Register*).[2] Such centres are defined as hospitals or other in-patient facilities for the care and treatment of persons suffering from a mental illness or mental disorder.[3] The name of the person who carries on the Approved Centre is entered on the Register of Approved Centres and he or she is known as the "registered proprietor".[4]

1.7.2 CAN CENTRES THAT ARE NOT APPROVED OPERATE IN THE STATE?

No. It is an offence for any person to operate a hospital or other in-patient facility for the care and treatment of persons suffering from a mental illness or a mental disorder (as defined in the Mental Health Act 2001) if it is not entered on the Register of Approved Centres.[5]

1.7.3 HOW MAY A CENTRE BE ENTERED IN THE REGISTER?

A person proposing to operate a centre applies by way of application on the relevant form to the Mental Health Commission to have the centre entered on the Register. The Mental Health Commission may register or refuse to register the centre.[6] Where a centre is already registered the Mental Health Commission may attach such conditions to the registration as may be appropriate.

The Commission may request an applicant for registration, (or the existing registered proprietor, as the case may be) to provide information the Commission considers necessary. It is an offence to knowingly furnish information that is false or misleading in any material respect.[7]

Where the centre is registered it becomes an Approved Centre and the Mental Health Commission issues a certificate of registration to the registered proprietor.[8]

Where the Commission proposes to refuse the application, or to attach, revoke or amend conditions it must notify the applicant in writing of its intention and of the reasons for it. The applicant must also be notified in writing of his or her right to make representations in writing to the Commission, within 21 days of the receipt of such notification. The Commission is obliged to take these matters into consideration before making its final decision whereupon it shall notify the applicant in writing of its decision and of the reasons for it, together with a statement that he or she may appeal this decision to the District Court within 21 days of receipt of the notification of the decision.[9]

Approved Centres are defined as hospitals or other in-patient facilities for the care and treatment of persons suffering from a mental illness or mental disorder.

1 Mental Health Act 2001, Part 5.
2 Mental Health Act 2001, S64.
3 Mental Health Act 2001, S62.
4 Mental Health Act 2001, S62.
5 A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1,875 or to imprisonment not exceeding 12 months or to both. A person guilty of such an offence shall be liable following conviction on indictment to a fine not exceeding €62,500 or to imprisonment not exceeding 2 years or to both – Mental Health Act 2001 S68.
6 Mental Health Act 2001, S64(3)(a) & S64(6)(a).
7 Mental Health Act 2001, S64(8) – A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1875 or to imprisonment not exceeding 12 months or to both. A person guilty of such an offence shall be liable following conviction on indictment to a fine not exceeding €62,500 or to imprisonment not exceeding 2 years or to both.
8 Mental Health Act 2001, S64(3)(c).
9 Mental Health Act 2001, S64(11)(a) & (b) & S64(12).

In fulfillment of the Mental Health Commission's statutory obligation to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in Approved Centres, the Commission may attach any conditions it considers appropriate to the registration of Approved Centres.

1.7.4 WHAT DETAILS APPEAR IN THE REGISTER?[10]

The following details are entered in the Register in respect of every Approved Centre:

- The name of the registered proprietor, that is, the name of the person carrying on the business of the centre
- The address of the premises
- A statement of the number of patients who can be accommodated in the centre
- The date of registration, that is, the date on which the registration is to take effect
- Any other particulars that may be prescribed by the Minister in regulations.

1.7.5 CAN THE MENTAL HEALTH COMMISSION ATTACH CONDITIONS TO THE REGISTRATION OF AN APPROVED CENTRE?

Yes. The Mental Health Commission has a statutory obligation to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in Approved Centres. In fulfilment of this obligation the Commission may attach any conditions it considers appropriate to the registration of Approved Centres.[11] Different conditions may attach to different centres. For example the Commission may:

- Specify measures to be taken to ensure that patients and residents[12] are informed of their rights under the Mental Health Act 2001.

- Require the carrying out of essential maintenance or refurbishment of a centre or specified areas within a centre.

- Require the closure, temporarily or permanently, of a specified area or areas within a centre.

- Specify the maximum number of residents which may be accommodated in a centre, or in a specified area or areas within a centre.

- Specify the minimum number of staff required to be employed in a centre.

- Require the introduction or review of specified policies, protocols and procedures relating to the care and welfare of patients and residents.

- Require the introduction or review of specified policies, protocols and procedures relating to the ordering, prescribing, storing and administration of medicines.

Where the Commission proposes *to attach any conditions, or that conditions previously imposed* be varied or revoked, the registered proprietor of the Approved Centre shall be notified in writing of such intention and the reasons for it. The registered proprietor must also be notified in writing of his or her right to make representations in writing to the Commission within 21 days of the receipt of such notification. The Commission is obliged to take these matters into consideration before making its final decision whereupon it shall notify the registered proprietor in writing of its decision and of the reasons for it together with a statement that he or she may appeal this decision to the District Court within 21 days of receipt of its notification.[13]

10 Mental Health Act 2001, S64(2)(a).
11 Mental Health Act 2001, S64(6).
12 Residents are any persons receiving care and treatment in an Approved Centre, be it in a voluntary or involuntarily capacity – Mental Health Act 2001, S62.
13 Mental Health Act 2001, S64(11)(a) & (b) & S64(12).

If any of the conditions attached to registration are contravened the registered proprietor shall be guilty of an offence.[14]

1.7.6 MAY ANY PERSON OTHER THAN THE REGISTERED PROPRIETOR CARRY ON THE OPERATION OF THE CENTRE?[15]

No. Where someone, other than the registered proprietor, operates the centre, the centre will automatically cease to be registered. The person purporting to operate the centre must apply to the Commission for registration within four weeks from the date on which the centre ceased to be registered. Failure to apply for registration of the centre is an offence, as the person will be operating a centre that is not approved. If the Commission registers the centre, it will be considered to have been operating as an Approved Centre from the date on which it ceased to be registered and all conditions attached to the previous registration will apply.

1.7.7 MAY A CENTRE BE REMOVED FROM THE REGISTER?

Yes. The Mental Health Commission may remove a centre from the register.[16] The Commission must notify the registered proprietor in writing of the proposal to remove the centre from the register and of the reasons for it. The registered proprietor must also be notified in writing of his or her right to make representations in writing to the Commission within 21 days of the receipt of such notification. The Commission is obliged to take these matters into consideration before making its final decision whereupon it shall notify the registered proprietor in writing of its decision and of the reasons for it together with a statement that he or she may appeal this decision to the District Court within 21 days of receipt of its notification.[17]

1.7.8 IN WHAT CIRCUMSTANCES MAY THE MENTAL HEALTH COMMISSION REFUSE TO REGISTER A CENTRE OR REMOVE A CENTRE FROM THE REGISTER?[18]

The Mental Health Commission may not refuse to register a centre or remove a centre from the register unless it is of the opinion that:

- The premises will not or do not, as the case may be, comply with the regulations
- The manner in which the centre is operated is not or will not be in compliance with the regulations
- The registered proprietor has, in the previous 12 months, contravened any conditions of registration
- The registered proprietor has failed or refused to furnish the Mental Health Commission with information requested by it which the Commission considers necessary for the carrying out of its functions
- The registered proprietor has furnished the Commission with information that is false or misleading in a material respect

14 Mental Health Act 2001, S64 (13) – A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1,875 or to imprisonment not exceeding 12 months or to both. A person guilty of such an offence shall be liable following conviction on indictment to a fine not exceeding €62,500 or to imprisonment not exceeding 2 years or to both – Mental Health Act 2001, S68.
15 Mental Health Act 2001, S64(10).
16 Mental Health Act 2001, S64(4).
17 Mental Health Act 2001, S64(11)(a) & (b) & S64(12).
18 Mental Health Act 2001, S64(5).

- The registered proprietor has within one year from the date of the purported refusal or removal contravened any condition that the Commission may have attached to the carrying on of the centre

- The registered proprietor has been convicted of an offence under Part V of the Mental Health Act 2001.

1.7.9 FOR HOW LONG IS REGISTRATION VALID?[19]

Registration shall be valid for three years from the date of registration provided the centre has not been removed from the register in the meantime.

1.7.10 HOW MAY A CENTRE BE RE-REGISTERED?

The registered proprietor of the centre must, two months prior to the expiry of registration, apply by way of the relevant form to the Commission to have the centre re-registered. If the Commission proposes to refuse to re-register the centre but does not inform the registered proprietor of this before the expiration of the registration then the Commission is obliged to register the centre.

1.7.11 CAN ANY PERSON INSPECT THE REGISTER?[20]

Yes. Any person may inspect the Register, free of charge, at any reasonable time.

1.7.12 APPEALS TO THE DISTRICT COURT AGAINST DECISIONS OF THE COMMISSION[21]

A decision of the Commission to refuse to register a centre, to remove a centre from the Register or to attach, amend or revoke a condition of registration may be appealed to the District Court by the registered proprietor or the person intending to be the registered proprietor, as the case may be.

On appeal the District Court may:

- confirm the decision
  or
- direct the Commission, as appropriate, to:
  - register the centre, or
  - restore the registration of the centre, or
  - withdraw the condition or the amendment or revocation of a condition of registration, or
  - attach a specified condition to the registration or make a specified amendment to the condition of the registration.

The appeal must be brought within 21 days of receipt of notification of the Commission's decision before the District Court in which the centre is situated. The decision of the District Court on issues of fact is final. The Commission must be notified of the appeal and shall be entitled to be heard and give evidence before the District Court. Where the centre concerned was, prior to the decision, an Approved Centre, the centre shall not be removed from the Register until the appeal has been determined in full or until such time as the District Court considers reasonable. Furthermore any conditions to the

19 Mental Health Act 2001, S64(3)(b).
20 Mental Health Act 2001, S64(2)(b).
21 Mental Health Act 2001, S65.

registration of the centre imposed or varied by the Commission in a decision shall not take effect until the appeal has been determined in full or until such time as the District Court considers reasonable.

1.7.13 REGULATIONS IN RELATION TO APPROVED CENTRES[22]

The Minister is required to make appropriate regulations in relation to Approved Centres. Such regulations may only be made following consultation with the Commission. The purpose of any such regulations is to ensure proper standards and conduct in relation to Approved Centres.

Regulations made by the Minister may include requirements in relation to:

- Drawing up and carrying out by centres, so far as is practicable in consultation with each resident, of an individual care plan for that resident, including the setting of appropriate goals
- Maintenance, care and welfare of residents
- Staffing requirements and requirements as to the suitability of members of staff of centres
- Design, maintenance, repair, cleaning and cleanliness, ventilation, heating and lighting of centres
- Accommodation
- Establishment and maintenance of a register of residents
- Record keeping
- Information to be provided to the Inspector of Mental Health Services
- Record keeping in relation to the examination and copying of records and extracts by the Inspector of Mental Health Services
- Enforcement and execution by the Commission of any regulations.

The regulations are not limited to the above areas. It is an offence for any person to refuse to comply with a provision of the regulations. Further the registered proprietor of an Approved Centre shall be guilty of an offence if there is a failure or refusal to comply with a provision of the regulations in his or her centre.[23] Where a person or registered proprietor is convicted, the Commission may bring an application before the Circuit Court to have the person concerned disqualified from operating the centre concerned or any centre for a specified period of time. The application must be brought within six months of the conviction, before the Circuit Court in which the premises concerned are situated or, in circumstances where that conviction is appealed, within six months of either the withdrawal of that appeal or the final confirmation by the court of conviction. Notice of any such application must be given to the person concerned who shall be entitled to be heard and give evidence before the Circuit Court.

22 Mental Health Act 2001, S66.

23 A person or registered proprietor guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1,875 or to imprisonment not exceeding 12 months or to both or, following conviction on indictment, to a fine not exceeding €62,500 or to imprisonment not exceeding two years or to both – Mental Health Act 2001, S68(a) & (b).

MENTAL HEALTH TRIBUNALS 1.8

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

1.8 MENTAL HEALTH TRIBUNALS

1.8.1 WHAT IS A MENTAL HEALTH TRIBUNAL?[1]

A Mental Health Tribunal is an independent legal entity appointed by the Mental Health Commission under the Mental Health Act 2001. A tribunal shall hold sittings for the purpose of a review by it under the Mental Health Act 2001. Its primary function is to ensure the protection of the rights of patients.

1.8.2 WHAT DOES A MENTAL HEALTH TRIBUNAL REVIEW?

- Admission orders
- Renewal orders
- Proposal for the transfer of a patient to the Central Mental Hospital
- Proposal for the treatment orders for psycho–surgery
- The detention of any person who, immediately before the commencement of Part 2 of the Mental Health Act 2001, stood detained under Sections 171 (Chargeable Patient Reception Order) or 178 (making of Private Patient Order) of the Mental Treatment Act 1945. Such a review must be referred to the tribunal within six months of the commencement of Section 72 of the 2001 Act
- The detention of any person who, immediately before the commencement of Part 2 of the Mental Health Act 2001, stood detained under Sections 184 (application for and making of Temporary Chargeable Patient Reception Order) or 185 (application for and making of Temporary Private Patient Reception Order) of the Mental Treatment Act 1945. Such a review must be referred to a tribunal within the remaining period of detention authorised for that person under either Section 184 or 185 as may be appropriate.

1.8.3 WHO SITS ON A MENTAL HEALTH TRIBUNAL?

The Mental Health Commission appoints 3 members to sit on a Mental Health Tribunal. The members will consist of:

- A practising barrister or solicitor, who has been in practice for not less than seven years immediately prior to appointment, who will act as Chairperson,
- A consultant psychiatrist (retired consultant psychiatrists are eligible for appointment within seven years of their retirement), and
- A person other than a barrister, solicitor, consultant psychiatrist, registered medical practitioner or registered nurse.

A member of the Mental Health Commission may not also be a member of a tribunal. Membership of a tribunal is for a maximum term of three years on the expiration of which a member may be re-appointed. The Commission, for specified reasons, may remove members from a tribunal.

1.8.4 PROCEDURAL ASPECTS OF A MENTAL HEALTH TRIBUNAL HEARING[2]

Section 49 sets out the powers of tribunals. Tribunal hearings are heard in private and tribunals shall hold sittings for the purpose of a review. The principles of fair procedures and natural and constitutional justice must be adhered to at all times. The Mental Health Commission pursuant to Section 33 (4) of

1 Mental Health Act 2001, S48.
2 Mental Health Act 2001, S49.

the 2001 Act – is given "such powers as are necessary or expedient for the purposes of its functions". While the Mental Health Commission under Section 33 (4) may issue guidelines or recommendations in relation to the tribunals, the tribunals themselves, under Section 49 (6) of the Mental Health Act 2001, are given the power to create their own procedures.

PRIOR TO THE TRIBUNAL HEARING:

The Mental Health Act 2001 sets out in Section 49(2)(e) that the tribunals can give any directions for the purpose of proceedings concerned that appear to the tribunal to be just and reasonable. As such the tribunals can be distinguished from a court setting in that they will be less formal and rigid, and are designed to be more accessible to those without a legal background. Therefore the Mental Health Act 2001 sets out that the tribunal may:

- Direct that the consultant psychiatrist responsible for the care and treatment of the patient arrange for the attendance of the patient before the tribunal. However a patient is not required to attend if to do so would, in the opinion of the tribunal, prejudice his or her mental health, well-being or emotional condition.

- Give to the patient or his or her legal representative copies of any reports before the tribunal and an indication in writing of the nature and source of any information that has arisen during the review.

- Direct in writing any person whose evidence is required to attend before the tribunal at a specified date, time and place to give evidence to the tribunal. Such person may also be directed to produce specified documents.

- Direct in writing any person to send to the tribunal any document or thing in his or her possession that the tribunal specifies as being relevant to the hearing.

PROCEDURES OF A MENTAL HEALTH TRIBUNAL:

As stated the tribunals are entitled to establish their own procedures and are expected to make the procedures simple and non-legalistic in order to make the process accessible to all persons who are involved. The Mental Health Act 2001 sets out the following provisions however, for the carrying out of the hearing itself which must be complied with and cannot be departed from. These are set out below:

- The tribunal must make provision to notify the consultant psychiatrist responsible for the care and treatment of the patient who is the subject of the review and the patient or his legal representative of the date, time and place of the sitting of the tribunal[3] and enable the patient to be present and to present his or her case in person or through a legal representative.[4]
  (This provision is designed to ensure that the patient attends the sitting of the tribunal where he or she wishes to do so and decisions are not made regarding his or her care and treatment in his/her absence.)

- Each member of the tribunal has a vote and decisions are determined by a majority of votes. (This means that the decision of the tribunal

3 Mental Health Act 2001S49(6)(a).
4 Mental Health Act 2001S49(6)(a).

operates on a majority basis rather than one person having a decisive vote.)

- The tribunal must make provision for giving the patient who is the subject of the review or his/her legal representative a copy of the report prepared for it by the relevant consultant psychiatrist appointed by the Mental Health Commission to carry out an independent medical examination and any other reports, documents, statements and evidence that are deemed appropriate. The tribunal is also required to have regard to this report before making its decision.[5]
  (This provision is designed to ensure that the tribunal examines and takes into account the independent report by a separate consultant psychiatrist other than the psychiatrist normally responsible for the care and treatment of the patient, and any other reports or evidence that are appropriate. Thus the tribunal, in coming to its decision is not impeded by rules of evidence as the District, Circuit or High Courts could be.)

- The tribunal will hear submissions and any evidence it requires in order to make its decision. The tribunal shall make provision for determining whether evidence at the tribunal should be given on oath and also the administration of the oath to witnesses before the tribunal.
  (This point reiterates the last point in that the tribunal is not restricted by usual procedural rules that apply to courts and can take into account any information it feels is relevant.)

- If the patient is in attendance at the tribunal he or she must be afforded the right to present his or her case to the tribunal either in person or through the legal representative.
  (This provision sets out the basic principle that the patient has a right to be heard.)

- Any witnesses called by either the patient or the tribunal may be cross-examined by the patient or his or her legal representative or by the tribunal.
  (What this provision sets out is that witnesses can be questioned by both the tribunal and the patient or his or her legal representative.)

- Written statements may be admissible as evidence before the tribunal but only with the consent of the patient or the patient's legal representative.
  (This means that, if the patient agrees, rather than have the tribunal call witnesses and question them during the sitting of the tribunal, those witnesses can set out the information in writing and submit it to the tribunal.)

- Failure to cooperate with any of the requirements of a tribunal is an offence[6].
  (This means that witnesses in the tribunal, as well as the patient him or herself, is obliged to follow the procedure of the tribunal, as it is set out, including the provisions above.)

- Where false evidence is given before a tribunal the person giving such false evidence shall be guilty of perjury as if the evidence were given before a court.
  (This means that any person appearing before the tribunal who says something he or she does not believe to be true is guilty of an offence, as if he or she had done so in front of a formal court.)

5 Mental Health Act 2001 S18(3)

6 A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1875 or to imprisonment for up to 12 months or both – Mental Health Act 2001, S49(4).

- All witnesses, and the patient's legal representative, shall have the same privileges and immunities as if they were appearing in a court.
  (This provision provides the same protection from being sued as those witnesses or legal representatives who appear in the formal courts, i.e. the District, Circuit or High Court.)

- The tribunal must ensure that a sufficient record of the tribunal proceedings is kept.[7]

- The tribunal will take any signature on a document to be that of the person it purports to be, in the absence of evidence to the contrary.[8]
  (This means that the tribunal does not have to go through the usual procedural rules to establish that a person's signature was in fact signed by that person.)

- The Mental Health Commission will pay for reasonable witness expenses.

- Absolute privilege attaches to all tribunal documents, statements and reports made at sittings or meetings of the tribunal by tribunal officials or members wherever published.
  (That is, the content of any document or statement and its author is absolutely immune from any liability that may be claimed.)

1.8.5 HOW LONG DOES IT TAKE FOR A MENTAL HEALTH TRIBUNAL TO MAKE A DECISION?

A mental health tribunal is obliged to make a decision in relation to admission and renewal orders as soon as possible after the date of the order under review, and in any event no later than 21 days from the date of that order. However, if the mental health tribunal wishes, or if the patient requests, this time period may be extended for a further 14 days. The patient is entitled to apply for a further extension of 14 days for the making of the decision and such further extension will be granted by the mental health tribunal if it is satisfied that it is in the best interest of the patient so to do. While an extension is granted the order under review will remain in force until the expiration of that time period unless the responsible consultant psychiatrist revokes the order.

When dealing with a proposal to transfer a patient to the Central Mental Hospital, the tribunal must review that proposal as soon as may be, but in any event not more than 14 days from the date of referral from the Mental Health Commission to a tribunal.[9]

1.8.6 WHAT HAPPENS WHEN A MENTAL HEALTH TRIBUNAL MAKES A DECISION?

As soon as the decision is made the mental health tribunal will write to the following persons stating its decision to affirm or revoke the order under review and stating the reasons for the decision:-

- The patient
- The patient's legal representative
- The consultant psychiatrist responsible for the care and treatment of the patient concerned
- The Mental Health Commission
- Any other person who should, in the opinion of the mental health tribunal, be notified.

7 Mental Health Act 2001 S49(6)(j).
8 Mental Health Act 2001 S49(6)(e).
9 Mental Health Act 2001, S21(2)(b).

A patient, dissatisfied with a decision of a Mental Health Tribunal to affirm an Admission Order, a Renewal Order, or a proposal referred to it, may appeal to the Circuit Court.[10]

1.8.7 GROUNDS OF APPEAL

If a patient is not satisfied with a decision by a mental health tribunal to affirm an order in respect of him or her, he or she may appeal to the Circuit Court *on the grounds that he or she is not a person suffering from a mental disorder* as previously described. The onus is on the patient to satisfy the Circuit Court that he or she is not such a person.

1.8.8 WHAT MAY A CIRCUIT COURT ORDER DO?

The Circuit Court may affirm or revoke the order and attach such consequential or supplementary provisions it considers appropriate.

1.8.9 WHERE WILL THE APPEAL BE HEARD?

The appeal may be heard by either the judge of the Circuit in which the relevant Approved Centre is situated or, if the patient so chooses, the judge of the Circuit where the patient ordinarily resides.

1.8.10 PROCEDURES FOR AN APPEAL TO THE CIRCUIT COURT

The appeal must be lodged within **14 days of the receipt by the patient**, or by his or her legal representative, of the notification of the decision to affirm the order.

Notice of the appeal must be served by the patient, or by his or her legal representative on:

- The consultant psychiatrist concerned
- The mental health tribunal concerned
- The clinical director of the Approved Centre concerned
- Any other person specified by the Circuit Court

Before making any order the Circuit Court shall have regard to any submission made by or on behalf of the above persons, or any submissions made by any other person with an interest in the proceedings.

The appeal hearings shall be *in camera*, in that the public will be excluded, and extensive restrictions placed on the reporting or publication of the proceedings, the breach of which constitutes an offence.[11] In particular no matter which is likely to lead the public to identify the patient in question may be published in a written publication available to the public or broadcast.

1.8.11 IS THERE A RIGHT OF APPEAL FROM A DECISION OF THE CIRCUIT COURT?

The only appeal that lies against an order of the Circuit Court is an appeal on a point of law to the High Court.

10 Mental Health Act 2001, S19(1).

11 A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1875 or to imprisonment for up to 12 months or both – Mental Health Act 2001, S30.

VOLUNTARY ADMISSIONS 2.1

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

2.1 VOLUNTARY ADMISSIONS

2.1.1 DOES A VOLUNTARY PATIENT NEED TO COMPLETE AN ADMISSION FORM?

No.

The Mental Health Act 2001 does not impose any obligations or restrictions on persons wishing to be admitted voluntarily to an Approved Centre. Such persons may be admitted without the need for any formal application, recommendation or admission order under the 2001 Act.[1] Therefore, unlike the Mental Treatment Act 1945, a person admitted voluntarily to an Approved Centre does not need to complete an admission form. Approved Centres may have administrative admission procedures. In certain circumstances a person admitted voluntarily who wishes to leave the Approved Centre may be detained against their wishes. If any such decision is made it must be in the best interest of the person to be detained.

2.1.2 CAN A VOLUNTARY PERSON EVER BE DETAINED IN AN APPROVED CENTRE?[2]

Yes.

Adults admitted and treated voluntarily

An adult who is admitted to an Approved Centre in a voluntary capacity (or having been admitted involuntarily opts to become voluntary) may not necessarily be allowed to leave the centre as they so wish. If a consultant psychiatrist, registered medical practitioner or registered nurse on the staff of the Approved Centre is of the opinion that a person wishing to leave is a person with a mental disorder[3], they may detain him or her in the Approved Centre for a prescribed period of time up to a maximum of 24 hours. The Mental Health Commission provides the following guidance to assist clinicians in relation to the manner in which such detention should be conducted and shall, from time to time, furnish additional guidance.

GUIDELINE NOTES FOR IMPLEMENTING SECTION 23 MENTAL HEALTH ACT 2001.

- Risk must be assessed during the period and appropriate risk management strategies must be in place to reduce the likelihood of harm and deterioration in the voluntary patient's mental well being.
- The Commission recommends that an examination by a consultant psychiatrist to determine if the voluntary patient be discharged or if an admission order is required, should take place with the least possible delay. In any event, such examination must take place within 24 hours of taking charge of the person concerned.
- There is no right under Section 23 to give any treatment to the patient without his or her consent. In the absence of the patient's consent, treatment can only be given under the common law.

1 Mental Health Act 2001, S29.
2 Mental Health Act 2001, S23(1).
3 For a definition of "mental disorder" see Section 1.3.2.

- The best interests of the voluntary patient 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. In making a decision in accordance with Section 23 due regard shall be given to the need to respect the right of the voluntary patient to dignity, bodily integrity, privacy and autonomy. The principle to be adhered to is that the degree of medicine or physical intervention used must be the minimum necessary to preserve safety for all concerned.

WHAT HAPPENS TO A VOLUNTARY PERSON SO DETAINED?[4]

Where a person is detained in this manner the consultant psychiatrist responsible for the care and treatment of the person prior to this detention (or a consultant psychiatrist acting on his or her behalf) must within the time prescribed decide to either:

- **discharge the person**

or

- **arrange for an independent examination by another consultant psychiatrist** provided he or she is not a spouse or relative of the person. The consultant psychiatrist, to whom the detained person is referred, must carry out a personal examination of the process and content of thought, the mood and the behaviour of the person concerned to establish whether he or she is a person with a mental disorder that warrants detention in an Approved Centre. This examination must be carried out within 24 hours from the time of detention and the appropriate certificate, form 13, is completed.

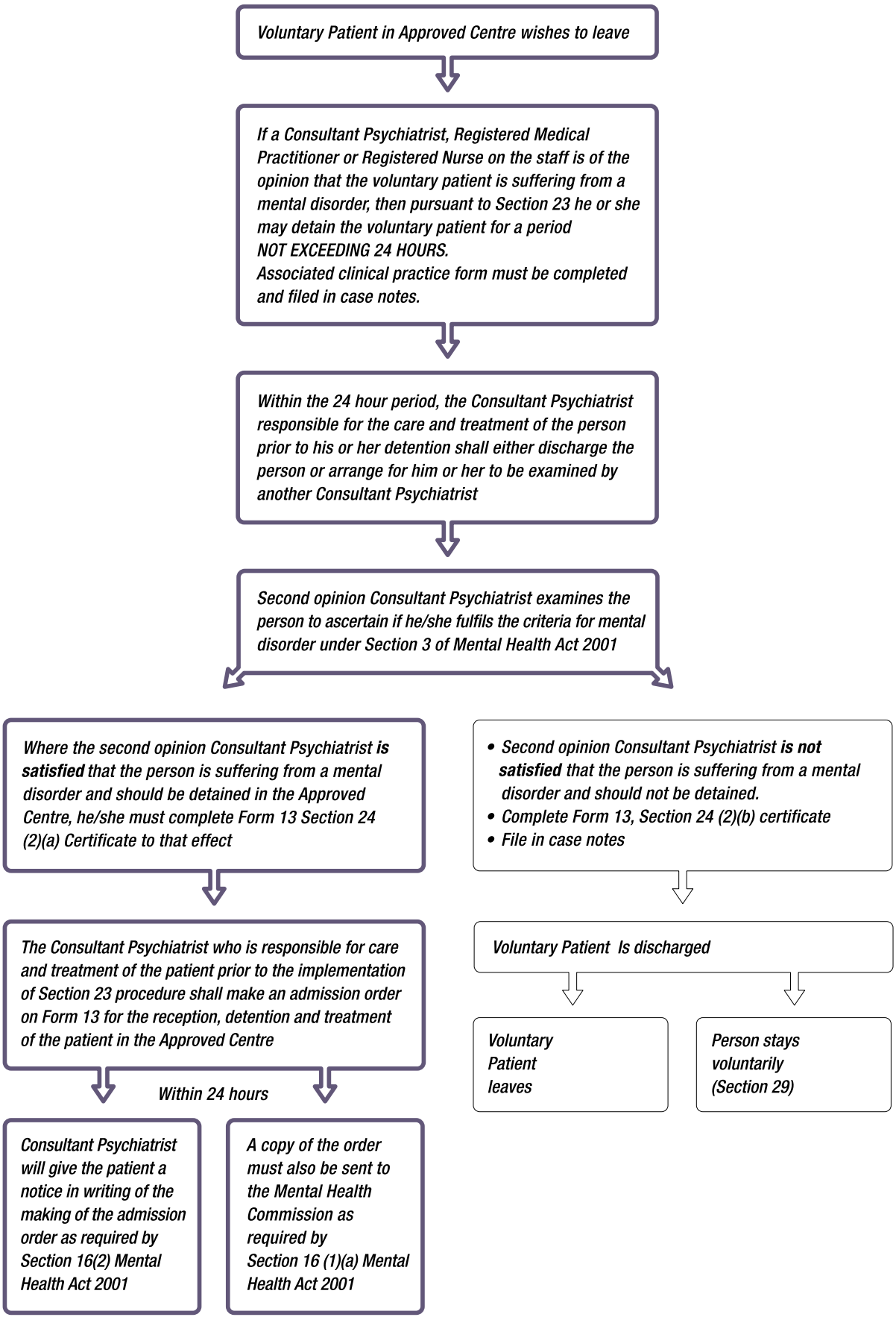
1. WHERE THE PERSON IS TO BE DETAINED IN THE APPROVED CENTRE

If a person is to be so detained the consultant psychiatrist previously responsible for the care and treatment of the person in a voluntary capacity must make an admission order FORM 13 (Certificate and Admission Order to detain a Voluntary Patient (Adult)) (Section 23 or 24) for the reception, detention and treatment of the person in the Approved Centre whereupon the person becomes a patient admitted involuntarily. The rights, provisions and procedures applying to persons admitted involuntarily to an Approved Centre must now be afforded to the patient and in particular the admission order admitting the patient involuntarily will be subject to review by a mental health tribunal. A copy of the order must be sent to the Mental Health Commission within 24 hours.

2. WHERE THE PERSON IS NOT TO BE DETAINED IN THE APPROVED CENTRE

If the person is not deemed to be suffering from a mental disorder the person should not be detained and should be discharged immediately. However, the patient may remain in the Approved Centre as a voluntary patient if he/she wishes. Form 13 is completed as appropriate and filed in case notes.

4 Mental Health Act 2001, S24.



Section 23 & 24 Guidelines

INVOLUNTARY ADMISSION PROCEDURE FOR ADULTS 2.2

MHC
Coimisiún Meabhair-Shláinte
Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

2.2 INVOLUNTARY ADMISSION PROCEDURE FOR ADULTS

2.2.1. TO WHOM MAY INVOLUNTARY ADMISSION APPLY?

Certain conditions must be present in order for a person to be considered suitable for involuntary admission to an Approved Centre:-[1]

The presence of a *mental disorder* must be established. Mental disorder, as defined in the Mental Health Act 2001, means the presence of:

- Mental illness,
- Severe dementia, or
- Significant intellectual disability

where

- because of the illness, dementia or intellectual disability there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons,

or

- because of the severity of the illness, dementia or intellectual disability the judgement 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 only be given by such an admission **and that** the reception, detention and treatment of the person concerned would be likely to benefit or alleviate the condition of that person to a material extent.

Therefore, the fact that a person may have a clinical condition associated with mental disorder is not sufficient grounds for an involuntary admission. Such an admission may only be considered where either of the criteria above are established. It is important to note that where a person with a mental disorder is being admitted on the grounds of impaired judgement likely to lead to a serious deterioration in their condition, or for treatment that otherwise would not be administered, that the admission can only be made where it would be likely to benefit or alleviate the condition to a **material extent**.

If a person is admitted as an involuntary patient, he or she must be informed of and given the option to become a voluntary patient if he or she indicates a wish to be so admitted.[2]

The definition of mental disorder and the criteria upon which such a person may be involuntarily admitted must be strictly adhered to. It is not lawful to detain a person involuntarily in an Approved Centre solely because that person has a personality disorder, is socially deviant or has an addiction to drugs or intoxicants.[3] There is no definition of 'personality disorder' or 'socially deviant' in the Mental Health Act 2001. It is instead a matter of clinical judgement based on the diagnosis at the time. **The Mental Health Commission has issued guidance to assist in this regard.**[4]

It is not lawful to detain a person involuntarily in an Approved Centre solely because that person has a personality disorder, is socially deviant or has an addiction to drugs or intoxicants.

1 Mental Health Act 2001, S3. This section is in marked contrast to the provisions of the Mental Treatment Act 1945 where persons were involuntarily admitted because of unsoundness of mind or on the basis of being a temporary patient.
2 Mental Health Act 2001, S16(2)(g).
3 Mental Health Act 2001, S8(2).
4 See Section 1.3.2 for a more detailed discussion on mental disorder.

2.2.2 WHERE MAY AN INVOLUNTARY PATIENT BE ADMITTED?

An involuntary patient may only be admitted to an "Approved Centre". An Approved Centre is a hospital or other in-patient facility for the care and treatment of persons suffering from a mental illness or a mental disorder appearing on the Register of Approved Centres. Such Approved Centres will generally be hospitals specialising solely in the administration of mental health services or units within general hospitals established for that purpose. The Mental Health Commission maintains a Register of Approved Centres which are subject to rules and guidelines set out by the Mental Health Commission,[5] and any conditions on registration that are imposed by the Mental Health Commission.

2.2.3 WHO MAY APPLY FOR A RECOMMENDATION FOR INVOLUNTARY ADMISSION?[6]

The following persons may make such applications within 48 hours of observing the person who is the subject of the application:

- The spouse or relative of the person – a spouse for this purpose does not include a spouse who is living separately and apart from the person, or a spouse in respect of whom an application or order has been made under the Domestic Violence Act, 1996.

  This would include such applications or orders as barring orders, interim barring orders, protection orders or safety orders. Under the Mental Health Act 2001 the term spouse is extended to include a man or woman who are not married to each other but are living together for a continuous period of not less than three years at the time of the application.[7]

- An authorised officer – an officer of the Health Service Executive who is of a prescribed rank or grade and who is authorised by the Health Service Executive to exercise this power.

- A member of the Garda Síochána.

- Any other person – provided they are not a person disqualified by law.

Certain categories of person are disqualified from making an application to have a person admitted involuntarily to an Approved Centre:-

- A person under 18 years of age.

- An authorised officer or member of the Garda Síochána who is a relative of the person or a spouse of the person.

- A member of the governing body[8], or the staff, or the person in charge, of the Approved Centre concerned.

- Any person with an interest in any payments to be made in respect of the admission and detention of the person in the Approved Centre concerned.

- Any registered medical practitioner who provides a regular medical service at the Approved Centre concerned.

5 Mental Health Act 2001, Part 5.
6 Mental Health Act 2001, S9.
7 Mental Health Act 2001, S2. This definition does not extend to same sex partners. However such a person would be entitled to bring an application, provided they are not a disqualified person, under the definition of "any other person".
8 This does not include a member of the Health Service Executive – Mental Health Act 2001, S9(7).

- Further, the spouse, parent, grandparent, brother, sister, uncle or aunt of any of the disqualified persons are also deemed to be disqualified. Such relationships may be whole blood relationships, half blood relationships or relationships based on affinity, that is relationships arising by virtue of marriage.

2.2.4 HOW IS AN APPLICATION TO HAVE A PERSON INVOLUNTARILY ADMITTED MADE?

Persons entitled to make such applications *may apply for a recommendation to a registered medical practitioner*[9] that a person be admitted involuntarily to an Approved Centre.

The relevant application form must be completed. If the applicant is:-

- The spouse or relative of the person – FORM 1 (Application (to a Registered Medical Practitioner) by Spouse or Relative for a recommendation for involuntary admission of an adult (to an approved centre)) (Section 9) must be completed.

- An authorised officer (meaning an officer of the Health Service Executive who is of prescribed rank or grade and who is authorised by the Health Service Executive to exercise the powers conferred on authorised officers) – FORM 2 (Application (to a Registered Medical Practitioner) by Authorised Officer for a recommendation for involuntary admission of an adult (to an approved centre)) (Section 9) must be completed.

- A member of the Garda Síochána – FORM 3 (Application (to a Registered Medical Practitioner) by a member of the Garda Síochána for a recommendation for involuntary admission of an adult (to an approved centre)) (Section 9 or Section 12) must be completed.

- Any other person – FORM 4 (Application (to a Registered Medical Practitioner) by a member of the public for a recommendation for involuntary admission of an adult (to an approved centre)) (Section 9) must be completed.

A person shall not make an application unless he/she has observed the person the subject of the application not more than 48 hours before the making of the application.

If the person making the application is neither a spouse nor relative of the person, an authorised officer or a member of the Garda Síochána, he or she must state in the application FORM 4 (Application (to a Registered Medical Practitioner) by a member of the public for a recommendation for involuntary admission of an adult (to an approved centre)) the reasons for making the application, his or her connection to the person the subject of the application and the circumstances in which the application is made.

It is an offence to knowingly make any false or misleading statement in relation to an application which may affect the substance of that application.[10]

An applicant may seek a second opinion where a registered medical practitioner refuses to make a recommendation to admit a patient involuntarily to an Approved Centre.

9 A person whose name is entered in the General Register of Medical Practitioners – Mental Health Act 2001, S2.

10 A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1875 or to imprisonment for up to 12 months or both – Mental Health Act 2001, S30.

It is vital to note that any applicant, whether making an initial application or applying for a second opinion, is obliged by law to inform the registered medical practitioner from whom he seeks the recommendation or second opinion of the facts relating to the previous application and its refusal in so far as they are aware of them, as well as the facts relating to any other application and its refusal made previously in relation to that person, as far as they are aware of them. Failure to do this is an offence.

2.2.5 POWERS OF THE GARDA SÍOCHÁNA TO TAKE PEOPLE INTO CUSTODY[11]

Members of the Garda Síochána may take a person into custody if they have reasonable grounds for believing:-

1. that person is suffering from a mental disorder

   and

2. that because of the mental disorder there is a serious likelihood of the person causing immediate and serious harm to self or to other persons.

Unlike a registered medical practitioner, members of the Garda Síochána cannot rely on clinical judgement to assess whether or not someone is suffering from a mental disorder. However, they are entitled to form a belief, based on their training, experience and judgement that a person is suffering from a mental disorder so long as that belief is reasonable. The taking of a person into custody is a serious matter for the Garda Síochána but where that member has a reasonable belief that because of the mental disorder there is a serious likelihood of the person causing harm to self or others such a step may be taken. The following procedures must then be followed:

- The Gardaí are entitled to enter any premises or place, by force if necessary, where they have reasonable grounds for believing that the person to be taken into custody may be found there.

- The member of the Garda Síochána who took the person into custody, or any other member of the Garda Síochána must immediately make an application for a recommendation by a registered medical practitioner to have the person admitted involuntarily to an Approved Centre by completing FORM 3 (Application (to a Registered Medical Practitioner) by a member of the Garda Síochána for a recommendation for involuntary admission of an adult (to an approved centre)) (Section 9 or 12).

- If the registered medical practitioner refuses to make a recommendation the person shall be immediately released from custody.

- If the person is taken into custody on a subsequent occasion and a recommendation sought, the member of the Garda Síochána applying for such recommendation must inform the subsequent registered medical practitioner of the facts relating to the previous application and its refusal in so far as he or she is aware of them. Failure to do this is an offence.

- If a recommendation is made for involuntary admission to an Approved Centre a member of the Garda Síochána is responsible for transporting the person to the Approved Centre specified in the recommendation.

11 Mental Health Act 2001, S12.

The Garda Síochána may also be involved in assisting the removal of a person to an Approved Centre in situations where they are not the applicant. Ordinarily the person making the application to have a person admitted involuntarily is responsible for securing his or her removal to the relevant Approved Centre. However, the assistance of the Garda Síochána may be required in circumstances where the clinical director of the Approved Centre concerned (or a consultant psychiatrist acting on his or her behalf) **and** the registered medical practitioner who made the recommendation are of the opinion that there is a serious likelihood of the person concerned causing immediate and serious harm to self or others. In such circumstances the Garda Síochána are obliged to assist members of staff of the Approved Centre in the removal of the person to the centre concerned. Members of the Garda Síochána are empowered to enter, by force if necessary, any premises where they think the person concerned may be and may, if necessary, detain or restrain the person concerned in ensuring their removal to the Approved Centre.[12]

2.2.6 HOW IS A RECOMMENDATION FOR INVOLUNTARY ADMISSION MADE?[13]

A recommendation may be made by a registered medical practitioner who has received an application as set out above.

A registered medical practitioner is disqualified from making such a recommendation if he or she:-

- has an interest in any payments to be made in respect of the care of the person in the Approved Centre concerned;
- is a member of staff of the Approved Centre concerned;
- is a spouse[14] or a relative of the person the subject of the application, or
- is the applicant.

EXAMINATION

The registered medical practitioner must carry out an examination of the person who is the subject of the application. The registered medical practitioner must, in particular, examine the process and content of thought, the mood and the behaviour of the person concerned.[15] The examination should be carried out as soon as is practicable and, in any event, must be carried out within 24 hours of the application being made. At the outset, the registered medical practitioner is obliged to inform the person of the purpose of the examination unless to do so would, in the opinion of the registered medical practitioner, be prejudicial to the person's mental health, well-being or emotional condition. That the person was so informed must be confirmed by the registered medical practitioner on FORM 5 (Recommendation (by a Registered Medical Practitioner) for involuntary admission of an adult to an approved centre) (Section 10).

The registered medical practitioner must be satisfied that:-

- the person has a mental disorder. This means that in their clinical judgment the person

12 Mental Health Act 2001, S13.
13 Mental Health Act 2001, S10.
14 For the purposes of Section 10 "spouse" is defined as a husband or wife or a man or a woman who is cohabiting with a person of the opposite sex for a continuous period of not less than 3 years but is not married to that person.
15 Mental Health Act 2001, S2.

must have a mental illness, severe dementia or a significant intellectual disability,

and

- that because of the illness, dementia or intellectual disability the person is seriously likely to cause immediate and serious harm to self or others, or that the severity of the illness, dementia or intellectual disability is such as to impair the person's judgement to such an extent that failure to admit the person would either be likely to lead to a serious deterioration of his or her condition or prevent the administration of appropriate treatment in circumstances where such reception, detention and treatment would be likely to benefit or alleviate the condition to a material extent.

RECOMMENDATION

Where these conditions are satisfied the registered medical practitioner is obliged to make "a recommendation" that the person be involuntarily admitted to an Approved Centre. Such a recommendation is completed by the registered medical practitioner filling in and signing FORM 5 (Recommendation (by a Registered Medical Practitioner) for involuntary admission of an adult to an approved centre) (Section 10). It is important to note that the Approved Centre to which the person is to be admitted must be specified.[16]

The registered medical practitioner must then send the recommendation to the clinical director of the relevant Approved Centre. A copy of the recommendation must be given to the applicant.

A recommendation of this nature remains in force for seven days after which time it expires.

2.2.7 HOW IS A PERSON BROUGHT OR REMOVED TO AN APPROVED CENTRE?[17]

The applicant is responsible for arranging for the removal of the person the subject of the recommendation to the Approved Centre specified in the recommendation.

Where the applicant is unable to make such arrangements, the registered medical practitioner who made the recommendation must request the clinical director of the Approved Centre specified in the recommendation (or a consultant psychiatrist[18] acting on his or her behalf) to arrange for members of staff of the Approved Centre concerned to remove the person to that centre.

The assistance of the Garda Síochána may be requested if the clinical director of the centre (or a consultant psychiatrist acting on his or her behalf) **and** the relevant registered medical practitioner are of the opinion that there is a serious likelihood of the person concerned causing immediate and serious harm to self or others. The Garda Síochána are obliged to assist members of staff of the Approved Centre in the removal of the person

16 It is not permissible for a registered medical practitioner to recommend that a person be admitted involuntarily to the Central Mental Hospital – Mental Health Act 2001, S10(1).

17 Mental Health Act 2001, S13. There is special provision relating to the manner in which applicants who are members of the Garda Síochána must convey a person the subject of a recommendation to an Approved Centre – Mental Health Act 2001, S12.

18 Defined as 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 Mental Health Act 2001, S2.

to the centre concerned. Members of the Garda Síochána are empowered to enter, by force if necessary, any premises where they think the person concerned may be and may, if necessary, detain or restrain the person concerned in ensuring their removal to the Approved Centre.

2.2.8 HOW IS A PERSON ADMITTED TO AN APPROVED CENTRE?[19]

Detention pending admission

Where a recommendation order in relation to a person is received by the clinical director of the Approved Centre concerned, the person may be detained for a period not exceeding 24 hours. During this time the person must be under the care of a consultant psychiatrist, a medical practitioner or a registered nurse[20] on the staff of the Approved Centre. The person is detained so that an examination may be carried out.

The Mental Health Commission provides the following guidance to assist clinicians in relation to the manner in which such detention should be conducted and from time to time shall furnish additional guidance – the Mental Health Commission will require completion of the associated clinical practice form.

GUIDELINE NOTES FOR IMPLEMENTING SECTION 14(2) MENTAL HEALTH ACT 2001

Section 14(2) of the Mental Health Act 2001 states that –

"A consultant psychiatrist, a medical practitioner or a registered nurse on the staff of the Approved Centre shall be entitled to take charge of the person concerned and detain him or her for a period not exceeding 24 hours (or such shorter period as may be prescribed after consultation with the Commission) for the purpose of carrying out an examination under subsection (1) or, if an admission order is made or refused in relation to the person during that period, until it is granted or refused."

- Risk must be assessed during a possible involuntary admission procedure and appropriate risk management strategies must be in place to reduce the likelihood of harm and deterioration in the person's mental well being.

- Before taking charge of the person all efforts should be made to encourage the person to remain voluntarily at the Approved Centre for examination by the Consultant Psychiatrist.

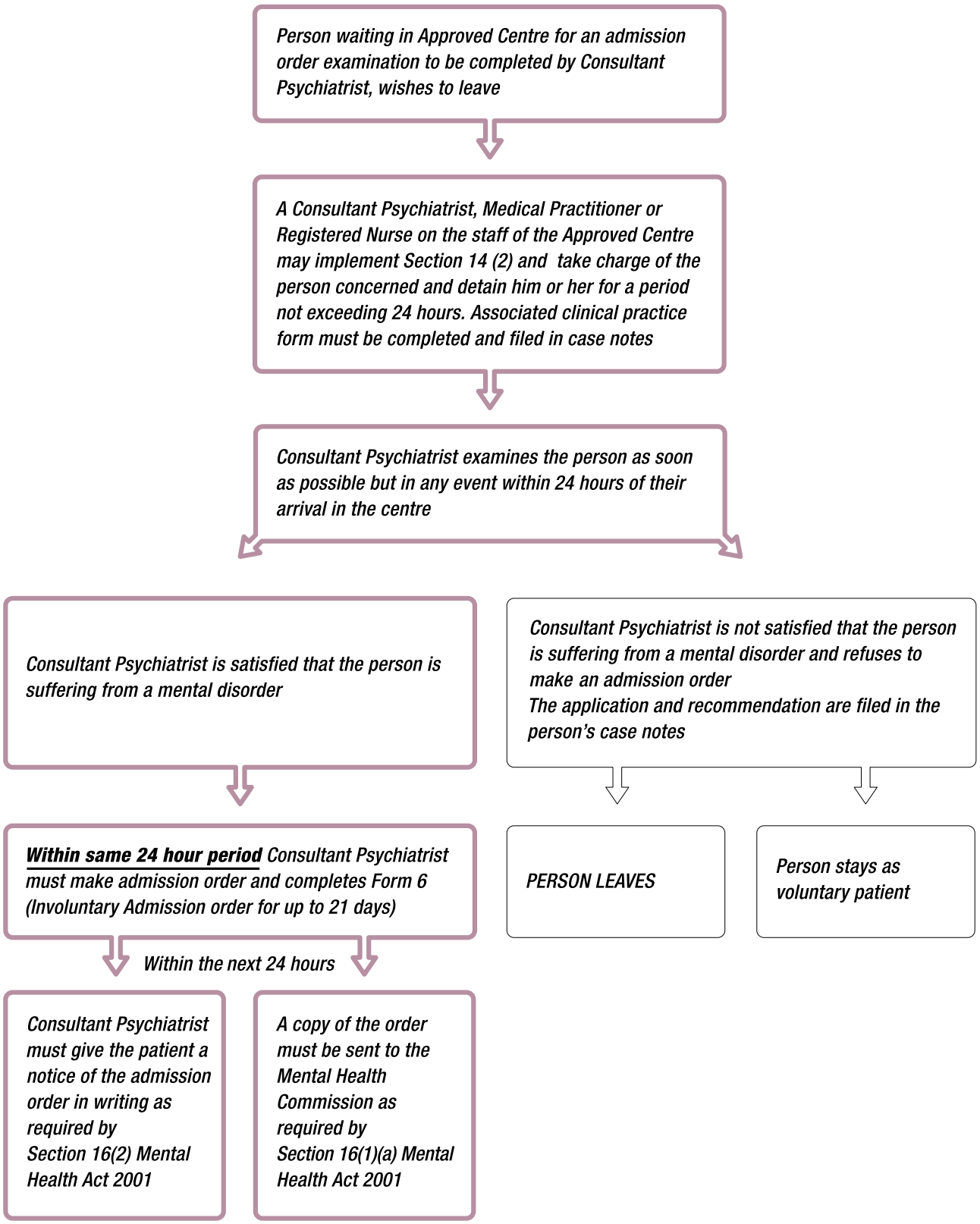
- The Commission recommends that an examination by a consultant psychiatrist to determine if an admission order is required or not, should take place with the least possible delay, once the person the subject of a recommendation arrives in the Approved Centre. In any event, such examination must take place within 24 hours of taking charge of the person concerned.

- There is no right under Section 14(2) to give any treatment to the patient without his or her consent. In the absence of the patient's consent, treatment can only be given under the common law.

19 Mental Health Act 2001, S14.

20 A person whose name is entered in the register of nurses maintained by An Bord Altranais under section 27 of the Nurses Act, 1985 – Mental Health Act 2001, S2.

- 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. In making a decision in accordance with Section 14(2) due regard shall be given to the need to respect the right of the person to dignity, bodily integrity, privacy and autonomy. The principle to be adhered to is that the degree of medicine or physical intervention used must be the minimum necessary to preserve safety for all concerned.



Section 14(2) Admission order

EXAMINATION

A consultant psychiatrist on the staff of the Approved Centre (provided he or she is neither a spouse nor a relative of the person nor the applicant) shall as soon as possible, and at any event within the 24 hour period permitted for that person's detention, carry out an examination of the person. The consultant psychiatrist must, in particular, examine the process and content of thought, the mood and the behaviour of the person concerned. The person may only be admitted involuntarily if the consultant psychiatrist on the staff of the Approved Centre is satisfied that the person has a mental disorder. This means that in their clinical judgment the person must have:

1. a mental illness, severe dementia or a significant intellectual disability,

   and

2. that because of his or her illness, dementia or intellectual disability there is a serious likelihood of the person concerned causing immediate and serious harm to self or others, **or that** because of the severity of the illness, dementia or intellectual disability the judgment of the person concerned is so impaired that failure to admit the person would either be likely to lead to a serious deterioration of his or her condition or prevent the administration of appropriate treatment in circumstances where such reception, detention and treatment would be likely to benefit or alleviate the condition to a material extent.

The person may not be admitted involuntarily if the consultant psychiatrist is satisfied that the person is not suffering from a mental disorder.

THE MAKING OF AN ADMISSION ORDER

To admit a person involuntarily an admission order is made by the relevant consultant psychiatrist on the staff of the Approved Centre completing FORM 6 (Involuntary Admission Order for up to 21 Days) (Sections 14, 15). Within 24 hours of the making of an admission order, the consultant psychiatrist is obliged to send a copy of the order to the Mental Health Commission.

A person in respect of whom an admission order has been made is referred to as a "patient". An admission order only applies to persons admitted involuntarily.

THE EFFECT OF AN ADMISSION ORDER

An admission order authorises the reception, detention and treatment of the patient.

DURATION OF AN ADMISSION ORDER

An admission order is valid for up to 21 days from the date of its making.

2.2.9 THE MAKING OF RENEWAL ORDERS, WHERE WARRANTED

A '*renewal order*' may be made by the consultant psychiatrist responsible for the care and treatment of the patient if the mental disorder persists. The consultant psychiatrist concerned must examine the patient not more than a week before the making of such an order and certify that the patient continues to be a person with a mental disorder. Renewal orders may extend the patient's involuntary

admission for the following periods and are made by way of FORM 7 (Renewal Order by Responsible Consultant Psychiatrist) (Section 15):-

- **First renewal order** – a period not exceeding three months from the expiration of the 21 day period provided for in the admission order – FORM 7 (Renewal Order by Responsible Consultant Psychiatrist) (Section 15) to be completed.

- **Second renewal order** – a period not exceeding six months from the expiration of the three month period provided for in the first renewal order – FORM 7 (Renewal Order by Responsible Consultant Psychiatrist) (Section 15) to be completed.

- **Subsequent renewal orders** – for any periods not exceeding 12 months in any one subsequent renewal – FORM 7 (Renewal Order by Responsible Consultant Psychiatrist) (Section 15) to be completed.

THE RIGHT OF A PATIENT TO INFORMATION CONCERNING AN ADMISSION OR RENEWAL ORDER[21]

Within 24 hours of the making of an admission order or a renewal order, the consultant psychiatrist concerned is obliged to:-

1. send a copy of the order to the Mental Health Commission

   and

2. notify the patient in writing of the fact that such an order has been made. This must be done by way of a written statement to the patient stating that:-

   i. he or she is being detained under an admission order **or** under a renewal order,
   ii. he or she is entitled to legal representation,
   iii. he or she will be given a general description of the proposed treatment to be administered during the period of detention,
   iv. he or she is entitled to communicate with the Inspector of Mental Health Services,
   v. he or she will have his or her detention reviewed by a mental health tribunal,
   vi. there is a right of appeal to the Circuit Court against the decision of that tribunal,
   vii. he or she may be admitted as a voluntary patient if he or she indicates such a wish.

The Mental Health Commission is preparing a standardised notice for this purpose. Further the consultant psychiatrist concerned should furnish the patient with an information leaflet on patient's rights as issued from time to time by the Commission.

2.2.10 WHAT HAPPENS WHEN A COPY OF AN ADMISSION ORDER OR RENEWAL ORDER IS SENT TO THE MENTAL HEALTH COMMISSION?[22]

On receipt of a copy of an admission order or a renewal order the Mental Health Commission must, as soon as possible, do the following:-

21 Mental Health Act 2001, S16.
22 Mental Health Act 2001, S17.

1. Refer the matter to a mental health tribunal.

2. Assign a legal representative to the patient concerned unless he or she proposes to engage one.

3. Direct in writing that a consultant psychiatrist (chosen from a panel of consultant psychiatrists established by the Mental Health Commission for the purposes of carrying out the following independent medical examination[23]) determine whether the patient is a person with a mental disorder. Such a determination must be made in the interest of the patient. It shall be determined by:-

   i. examining the patient,
   ii. interviewing the consultant psychiatrist responsible for the care and treatment of the patient, and
   iii. reviewing the records relating to the patient.

Within 14 days of the making of an admission order a written report on the results of the examination, interview of the patient and review of the records will be sent to the relevant mental health tribunal and a copy provided to the legal representative of the patient. The Approved Centre concerned is obliged to facilitate this examination of the patient, interview of the treating psychiatrist and review of the records; obstruction, interference or failure to co-operate is an offence.[24]

2.2.11 WHAT HAPPENS WHEN THE MATTER IS REFERRED TO A MENTAL HEALTH TRIBUNAL?[25]

A mental health tribunal may either:-

- AFFIRM the admission or renewal order or
- REVOKE the admission or renewal order and direct that the patient be discharged from the Approved Centre concerned.

A mental health tribunal shall issue its decision in writing by way of FORM 8 (Decisions of the mental health tribunal) (Sections 18, 21, 58).

HOW IS A DECISION TO AFFIRM AN ORDER MADE?

To AFFIRM an order, the mental health tribunal must be satisfied that:-

1. The patient concerned is a person with a mental disorder

   and

2. The procedural requirements leading to the admission and detention of the patient have been complied with. Such procedural requirements include:

- an application for a recommendation for involuntary admission in a form specified by the Commission, (Mental Health Act 2001, Section 9)

- a recommendation for involuntary admission in a form specified by the Commission, (Mental Health Act 2001, Section 10)

23 Mental Health Act 2001, S33(3)(b). If the consultant psychiatrist to whom a direction has been given is unable to examine the patient concerned another member of the panel will be so directed – Mental Health Act 2001, S17(3).

24 A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €1875 or to imprisonment for up to 12 months or both – Mental Health Act 2001, S30.

25 Mental Health Act 2001, S18 & S48 & S49. For more information on Mental Health Tribunals see chapter Section 1.8.

- the taking into custody of a person by a member of the Garda Síochána (where applicable), (Mental Health Act 2001, Section 12)

- the admission order (Mental Health Act 2001, Section 14)

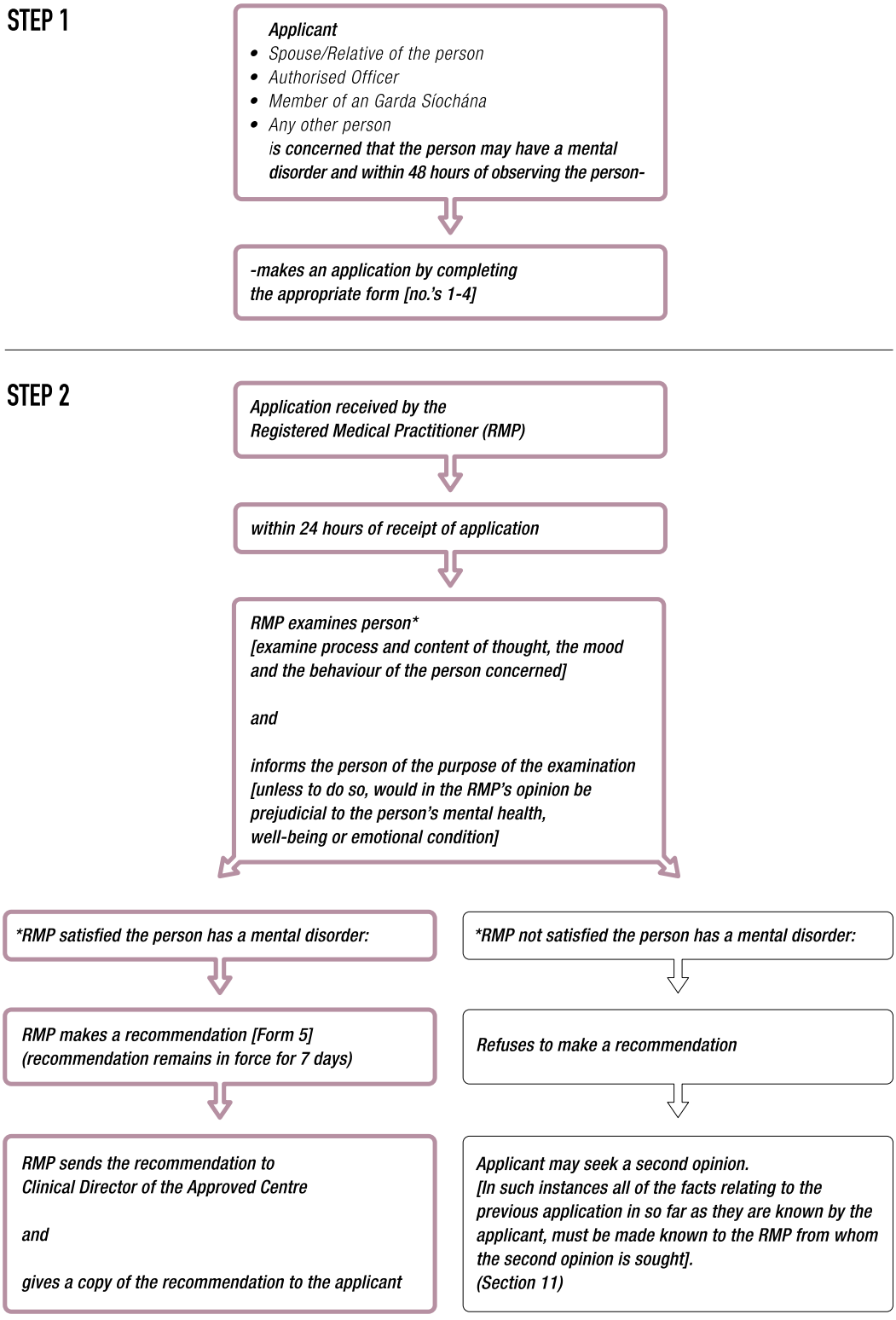
- the renewal order (where applicable) (Mental Health Act 2001, Section 15), and

- the provision of information to the patient (Mental Health Act 2001, Section 16).

A mental health tribunal may still affirm an order even if there has been a failure to comply with all the procedural requirements, provided such failure does not affect the substance of the order or give rise to an injustice.[26]

The provisions of the Mental Health Act 2001 in relation to time limits for the tribunals' decision, provisions relating to notification of the decision and appeal provisions are dealt with in this Reference Guide sections 1.8.4 – 1.8.11.

26 The Mental Health Act 2001, S18(1)(a)(ii).



STEP 1: Application for a Recommendation to a Registered General Practitioner (Section 9)
STEP 2: Recommendation for Involuntary Admission (Section 10)

STEP 3

Applicant is responsible for securing the removal of the person to the relevant Approved Centre

Where the applicant is unable to arrange such removal

- *The RMP and the Clinical Director (or a Consultant acting on his/her behalf) are of the opinion that there is a serious likelihood of the person concerned causing immediate and serious harm to self or others*
- *Request on Garda Síochána to assist members of staff of the Approved Centre in removal of the person to the centre concerned*
- *An Garda Síochána are obliged to assist (Section 13)*

STEP 4

Section 14(2)
- *A Consultant Psychiatrist*
- *Medical Practitioner*
- *Registered Nurse*

is entitled to take charge of the person

*ADMISSION ORDER (SECTION 14)**
AS SOON AS PRACTICABLE AND WITHIN 24 HOURS OF THE PERSONS' ARRIVAL AT THE APPROVED CENTRE

Consultant Psychiatrist examines person

Consultant Psychiatrist satisfied that the person has a mental disorder

Complete Admission Order (Form 6)
Admission order valid for up to 21 days
(Section 15)(1)

The person who is the subject of an admission order is referred to as a patient
Within 24 hours of making the Admission Order
(Section 16)

Consultant Psychiatrist not satisfied that the person has a mental disorder

DISCHARGE PERSON

The person may remain in the Approved Centre as a voluntary patient if he/she so wishes

(a) notifies patient in writing of the following:
- *he/she may be admitted as a voluntary patient if he/she indicates such a wish*
- *he/she is being detained under an admission order*
- *he/she is entitled to legal representation*
- *he/she will be given a general description of the proposed treatment to be administered during the period of detention*
- *he/she is entitled to communicate with the Inspector of Mental Health Services*
- *he/she will have his/her detention reviewed by a mental health tribunal*
- *there is a right of appeal to the Circuit Court against a decision of that tribunal*

(b) sends a copy of the Admission Order to the Mental Health Commission

STEP 3: Removal of person to the Approved Centre
STEP 4: Admission Order (Section 14)*

TRANSFER OF PATIENTS 2.3

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REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

2.3 TRANSFER OF PATIENTS

2.3.1 MAY A PATIENT BE TRANSFERRED FROM ONE APPROVED CENTRE TO ANOTHER?[1]

Yes.

A patient has the right to request a transfer from one Approved Centre to another in appropriate circumstances. Where such a transfer is made, for the purposes of the 2001 Act, that patient is treated as if he had remained with the Approved Centre to which the patient was originally admitted.[2] Further, the patient may only be detained in the Approved Centre to which they have been transferred for the duration of the admission or renewal order. If it is appropriate to detain the patient for a longer period, then the proper procedure for renewal and extension of detention must be complied with.

2.3.2 WHO MAY REQUEST A TRANSFER?

- The patient **or**
- The person who applied for a recommendation to have the person admitted.

2.3.3 HOW IS A TRANSFER REQUESTED?

A request is made to the clinical director[3] of the Approved Centre where the patient is currently detained. Alternatively the clinical director of the Approved Centre, may if he or she feels that it would be of benefit to the patient, or is necessary for the purpose of obtaining special treatment, arrange a transfer *without* such a request being made.

2.3.4 HOW IS A TRANSFER MADE?

If the clinical director sees fit to approve a request for a transfer under Section 20 of the 2001 Act, or is of the opinion that it would be for the benefit of the patient, or that it is necessary for the purpose of obtaining special treatment pursuant to Section 21 of the 2001 Act, he or she may arrange for the transfer of the patient to another Approved Centre. He or she must first:-

- seek the consent of the clinical director of the Approved Centre where it is proposed to transfer the patient to,
- where such consent is obtained, arrange for the transfer of the patient, and
- notify the Mental Health Commission of the transfer – FORM 10 (Notice of Patient transfer to another approved centre (other than the Central Mental Hospital)) (Section 21(1), (3) and (4)) must be completed in this regard.

2.3.5 MAY A PATIENT BE TRANSFERRED TO A GENERAL HOSPITAL OR OTHER PLACE FOR THE PURPOSES OF OBTAINING MEDICAL OR NON-PSYCHIATRIC TREATMENT?[4]

Yes.

Where a patient requires treatment in a general hospital or other place the clinical director of the Approved Centre may arrange for a patient to be transferred to that general hospital. Once the treatment is complete the patient will be returned to the Approved Centre. While in the hospital the conditions of the admission order or renewal order will apply.

1 Mental Health Act 2001, S20 & S21. This does not include transfer to the Central Mental Hospital.
2 Mental Health Act 2001, S20(4).
3 A consultant psychiatrist appointed by the governing body of an Approved Centre. A consultant psychiatrist may be the clinical director of more than one Approved Centre - Mental Health Act 2001, S71.
4 Mental Health Act 2001, S22.

2.3.6 MAY A PATIENT BE TRANSFERRED TO THE CENTRAL MENTAL HOSPITAL?[5]

Yes.

A patient may be transferred to the Central Mental Hospital.

This may occur in circumstances where the clinical director of the Approved Centre where the patient currently is detained proposes that the transfer would be:-

- for the benefit of the patient
  or
- that it is necessary for the purpose of obtaining special treatment.

The clinical director of the Approved Centre must then notify the Mental Health Commission of the proposal to transfer the patient to the Central Mental Hospital – FORM 11 (Proposal by the Clinical Director to transfer Patient to the Central Mental Hospital) (Section 21(2)) must be completed in this regard. The Mental Health Commission shall refer the matter to a mental health tribunal. The mental health tribunal will review the proposal to transfer within 14 days of the referral. If the mental health tribunal is satisfied that the proposed transfer is in the best interest of the health of the patient it shall authorise the transfer. If it is not satisfied that it is in the best interest of the health of the patient it shall refuse to authorise the transfer. The best interest of the health of the patient is the principal consideration. If the transfer is authorised by the mental health tribunal FORM 12 – (Notice of transfer of a Patient to the Central Mental Hospital) (Section 21(3)) must be completed.

Where such a transfer is made the patient may only be detained in the Central Mental Hospital for the duration of the admission order or renewal order. If it is appropriate to detain the patient for a longer period the proper procedure for renewal of extension of detention must be complied with.

2.3.7 MAY A PATIENT APPEAL AGAINST A DECISION TO TRANSFER HIM OR HER TO THE CENTRAL MENTAL HOSPITAL?

Yes.

A patient may appeal the decision of the mental health tribunal to the Circuit Court. Such an appeal must be brought within 14 days of receipt by the patient or their legal representative of the decision of the mental health tribunal.

Where an authorisation is made to transfer the patient to the Central Mental Hospital, the patient shall not actually be transferred until the 14 day period in which the patient is entitled to appeal against this decision to the Circuit Court has run its course.[6] If within this time the patient does appeal the decision to transfer then the transfer must not take place until the Circuit Court has heard the matter fully and issued its decision.

5 Mental Health Act 2001, S21(2).
6 Mental Health Act 2001, S21(2)(d).

TREATMENT OF INVOLUNTARY PATIENTS 2.4

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

2.4 TREATMENT OF INVOLUNTARY PATIENTS[1]

2.4.1 REQUIREMENT FOR CONSENT

The Mental Health Act 2001 enshrines the general principle that the consent of a patient is required for treatment. Simply because a person is an involuntary patient does not necessarily mean that consent to treatment is not required.

Sections 56-61 of the Mental Health Act 2001 provide definitions and guidance in regard to:

- consent;
- treatment without consent;
- psychosurgery;
- electro-convulsive therapy;
- consent where medication has been given for a continuous period of three months.

2.4.2 DEFINITION OF CONSENT[2]

Consent in relation to a patient means consent obtained freely without threats or inducements where:

- the consultant psychiatrist responsible for the care and treatment of the patient is satisfied that the patient is *capable of understanding* the nature, purpose and likely effects of the proposed treatment;

and

- the consultant psychiatrist has given the patient *adequate information*, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment.

CORE COMPONENTS OF CONSENT

The Mental Health Commission provides the following guidance in relation to consent, and shall, from time to time, furnish additional guidance. There are three key components of consent – provision of adequate information, decisional capacity and voluntarism. All three components are an integral part of the definition of consent as specified in the Mental Health Act 2001.

PROVISION OF ADEQUATE INFORMATION

What constitutes adequate information in order for the consent to be valid?

In relation to the provision of information there is an obligation on the treating consultant psychiatrist to ensure that the patient fully understands the issues surrounding the treatment. Such an obligation could require having such facilities as language translation, or the use of appropriate third parties, or whatever may be necessary to impart fully the information in "a form and language" that the patient can understand. The Mental Health Act 2001 states that in order to consent to treatment the patient must be capable of understanding the nature, purpose, and likely effects of the proposed treatment.

1 Mental Health Act 2001, Part 4.
2 Mental Health Act 2001, S56.

A number of factors should be taken into consideration as follows:

(a) *Capacity to comprehend and decide*
The greater the patient's capacity to comprehend the issues involved and make a decision in relation to them, the greater will be the extent of duty to disclose the relevant information. In assessing whether or not the consultant psychiatrist has provided adequate information two questions should be addressed.

1. Has the consultant psychiatrist considered the likely effect of disclosing the information on the particular person?

2. What is accepted medical practice?

(b) *Risks involved*
A consultant psychiatrist must warn about likely or probable effects. The greater the risks to the person which the doctor knows (or ought to know), the greater will be the duty to disclose the information about the risks.

(c) *Patients' wishes to be informed*
The general rule of thumb is, the more the patient asks, the more the consultant psychiatrist should tell. It is taken that such questioning is indicative of a need to be fully informed. The Medical Council stresses that a request for information from a patient always requires a positive response.[3]

(d) *Best Practice*
Practitioners should be aware of best practice in relation to disclosure of relevant information and be aware that the nature of the procedure may affect the level of information which must be disclosed.

(e) *Effect of information on the patient*
The final factor to be taken into consideration as to what constitutes adequate information prior to treatment is the effect of such information on the patient. There may be rare cases, where prior to surgical or medical intervention, the giving of information is likely to have a direct detrimental effect on the patient's health.

It is less clear whether a doctor is legally permitted to withhold information from patients where it would not have direct detrimental effects, but where it would cause anxiety. Each case would have to be assessed on its own merits as to whether anxiety or worry of the patient would justify non-disclosure. In such instances the onus would be placed on the doctor to justify the non disclosure.

Consent should be perceived as a continuing process and not a single event. In this context, it is important that there is a continuing discussion to reflect the evolving nature of treatment. This ensures that the patient is provided with continuing opportunities to ask further questions and to review the decision. The provision of good quality information leaflets for patients is a useful tool to aid in improving information provision. The provision of information leaflets should not be seen as an alternative to discussion.

3 "A Guide to Ethical Conduct and Behaviour" (2004) Sixth Edition, The Medical Council, Ireland.

DECISIONAL CAPACITY

What are the factors that should be considered when assessing decisional capacity?

The assessment of decisional capacity is a matter of clinical judgment guided by professional practice. To demonstrate capacity the patient should be able to:

- understand in simple language what the proposed treatment is, its purpose and nature and why it is being proposed;
- understand the main benefits, risks and possible alternatives, and the consequences of not receiving the proposed treatment;
- retain the information for a sufficient period of time in order to consider it and arrive at a decision;
- communicate the decision.

VOLUNTARISM

What is meant by the term voluntarism?

The third core component of consent is voluntarism[4] which may be defined as authentic choice in the absence of coercion. The patient's decision should be made freely.

2.4.3 DEFINITION OF TREATMENT[5]

Treatment in relation to a patient includes the administration of physical, psychological and other remedies relating to the care and rehabilitation of a patient under medical supervision, intended for the purposes of ameliorating a mental disorder.

2.4.4 CAN TREATMENT EVER BE GIVEN IN THE ABSENCE OF THE CONSENT OF THE PATIENT?[6]

Yes. The Mental Health Act 2001 acknowledges and provides for circumstances in which consent to treatment may be dispensed with. This may only occur in circumstances where, in the opinion of the consultant psychiatrist responsible for the care and treatment of the patient:

1. the patient, by reason of his or her mental disorder, is incapable of giving consent

   and

2. the treatment is necessary to safeguard the life of the patient, to restore his or her health, to alleviate his or her condition, or to relieve his or her suffering.

The capacity of a patient to give informed consent is left to the discretion of the treating consultant psychiatrist in the light of his or her clinical opinion. However consent on the grounds of incapacity may never be dispensed with in relation to the performance of psycho-surgery. Performance of psycho-surgery must also be approved by a mental health tribunal.

Specific rules are laid down by the Mental Health Act 2001 in relation to the consent required for certain forms of treatment. For example, where a patient is unwilling or unable to consent to either electro-convulsive therapy, or the continued administration of medicine past an initial period of three months, in the absence of such consent the approval of the consultant psychiatrist responsible for the care and treatment of the patient, and further

4 Weiss Roberts. L. (2003) "Mental Illness and Informed Consent: Seeking an Empirically Derived Understanding of Voluntarism", Current Opinion in Psychiatry.
5 Mental Health Act 2001, S2.
6 Mental Health Act 2001, S57.

authorisation granted by a second consultant psychiatrist on referral must be obtained before either electro-convulsive therapy or the continued administration of medicine past three months can be carried out.

2.4.5 PSYCHO-SURGERY[7]

Psycho-surgery is defined as any surgical operation that destroys brain tissue or the functioning of brain tissue and which is performed for the purposes of ameliorating a mental disorder. The consultant psychiatrist must be of the opinion that the performance of psycho-surgery would be in the best interest of the patient concerned.

Psycho-surgery can never be performed on a patient unless:

1. the patient gives his or her consent in writing

   and

2. the psycho-surgery is authorised by a mental health tribunal.

If both the consent of the patient and authorisation from the mental health tribunal are not obtained then psycho-surgery cannot be performed.

Where consent to psycho-surgery is obtained it must be in writing. The consultant psychiatrist responsible for the care and treatment of the patient must then notify the Mental Health Commission in writing of the consent of the patient and the proposal to perform psycho-surgery. This may be done by way of FORM 15 (Proposal to perform psychosurgery – involuntary patient (adult)) (Section 58). The Commission must then refer the matter to a mental health tribunal.

- The mental health tribunal reviews the proposal and may either authorise the performance of psycho-surgery or refuse to authorise it. The decision must be made in the best interests of the health of the patient concerned.

A patient, dissatisfied with a decision of a mental health tribunal in relation to the performance of psycho-surgery may appeal to the Circuit Court under the procedure set out in Section 19 of the Mental Health Act 2001, dealing with appeals from decisions of the mental health tribunals relating to admission or renewal orders[8] *(See section 1.8 of this Reference Guide)*.

- Psycho-surgery will not be performed on the patient concerned until the expiration of the 14 days allowed for the bringing of an appeal to the Circuit Court. Where an appeal is brought psycho-surgery will not be performed on the patient concerned until the Circuit Court has issued its decision.

2.4.6 ELECTRO-CONVULSIVE THERAPY[9]

A programme of electro-convulsive therapy must not be administered to a patient unless the patient gives his or her consent in writing.

If the patient is either unable or unwilling to give such consent the therapy may only be performed where the consultant psychiatrist

7 Mental Health Act 2001, S58.
8 Mental Health Act 2001, S58(4).
9 Mental Health Act 2001, S59.

responsible for the care and treatment of the patient approves the programme of therapy **and** refers the matter to a second consultant psychiatrist who authorises it.

Section 4 of the 2001 Act provides that in making a decision under the 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.

Both consultant psychiatrists must complete FORM 16 (Treatment without consent – electroconvulsive therapy involuntary Patient (adult)) (Section 59) stating that they approve or authorise the therapy as appropriate. This form will confirm that they have examined the patient, and are of the opinion that the administration of electro-convulsive therapy would be of benefit to the patient and give reasons for their opinion.

The Mental Health Act 2001 obliges the Mental Health Commission to make rules providing for the use of electro-convulsive therapy. These rules must be strictly adhered to in the administration of any programme of electro-convulsive therapy to a patient.

2.4.7 ADMINISTRATION OF MEDICINE[10]

A patient admitted involuntarily may have been administered medicine with or without his or her consent for the purposes of ameliorating his or her mental disorder. Where, after a continuous period of three months, it is proposed to continue to administer that medicine, the consent of the patient is required. Such consent must be given in writing.

If the patient is either unable or unwilling to give such consent the administration of that medicine may only be continued where the consultant psychiatrist responsible for the care and treatment of the patient approves the administration **and** refers the matter to a second consultant psychiatrist who authorises it.

Both consultant psychiatrists must complete FORM 17 (Treatment without consent administration of medicine for more than 3 months involuntary Patient (adult)) (Section 60) stating that they approve or authorise the therapy as appropriate. This form will confirm that they have examined the patient, and the consultant psychiatrists should state on the Form 17 that the administration of medicine would be of benefit to the patient and give reasons for their opinion.

The consent of the patient or the approval and authorisation by the consultant psychiatrists for the continuation of the administration of medicine will be valid for a period of three months. If it is considered appropriate and necessary to administer the medicine for a further period after the expiration of the three months the consent of the patient must be sought again. Where the patient is unable or unwilling to give such consent the above procedure must be followed once more and a new Form 17 must be completed.

10 Mental Health Act 2001, S60.

LEAVE AND DISCHARGE PROCEDURES 2.5

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

2.5 LEAVE AND DISCHARGE PROCEDURES

2.5.1 MAY AN INVOLUNTARY PATIENT LEAVE THE APPROVED CENTRE FOR ANY PERIOD OF TIME?

Yes.

ABSENCE WITH LEAVE[1]

The consultant psychiatrist responsible for the care and treatment of the patient may grant permission in writing to the patient to be absent from the Approved Centre concerned for a specified period of time. However the specified period of time must be less than the unexpired period of time on the relevant admission order or renewal order. So, for example, if the admission order is still valid for 10 days, the consultant psychiatrist may only grant permission for the patient to be absent for a period of less than 10 days.

The consultant psychiatrist may attach any conditions that he or she considers appropriate and these must be specified in writing to the patient.

If the consultant psychiatrist is of the opinion that it is in the interest of the patient to return to the Approved Centre he or she may withdraw the permission granted and direct the patient to return. Such a direction must be made in writing to the patient.

ABSENCE WITHOUT LEAVE[2]

A patient will be considered to be absent without permission if he or she:-

i. leaves an Approved Centre without permission,
ii. was absent from the Approved Centre with permission and fails to return within the specified time permitted,
iii. was absent from the Approved Centre with permission and fails to return to the centre in compliance with a written direction from the consultant psychiatrist (responsible for the care and treatment of the patient) that he or she should so return, or
iv. fails, in the opinion of the consultant psychiatrist (responsible for the care and treatment of the patient), to comply with any condition specified in writing to the patient when he or she was granted leave to be absent.

In any of the above circumstances the clinical director[3] of the Approved Centre may arrange for members of the staff of the centre to bring the patient back to the Approved Centre. If the staff are unable to bring the patient back, the assistance of the Garda Síochána may be requested, if the clinical director (or a consultant psychiatrist acting on his or her behalf) is of the opinion that there is a serious likelihood of the patient causing serious and immediate harm to self or others. In such circumstances the Garda Síochána are obliged to assist members of staff of the Approved Centre in the removal of the person to the centre concerned. Members of the Garda Síochána are empowered to use any reasonable

1 Mental Health Act 2001, S26.
2 Mental Health Act 2001, S27.
3 A consultant psychiatrist appointed in writing by the governing body of an Approved Centre. A consultant psychiatrist may be the clinical director of more than one Approved Centre – Mental Health Act 2001, S71.

force, if necessary, to enter any premises where they reasonably believe the patient may be. Further, they are empowered to take all reasonable measures necessary for the return of the patient to the Approved Centre including, where necessary, the detention or restraint of the patient.[4]

2.5.2 HOW MAY A PATIENT BE DISCHARGED FROM AN APPROVED CENTRE?[5]

A patient may be discharged from an Approved Centre where the consultant psychiatrist responsible for the care and treatment of the patient forms the view that the patient is no longer a person with a mental disorder.[6] Therefore he or she must be of the opinion that the circumstances warranting the patient's admission and subsequent detention no longer exist. In forming this opinion he or she must ensure that the discharge is appropriate. He or she must also have regard to the principle that no patient may be detained under an admission order or a renewal order for longer than is reasonably necessary for his or her proper care and treatment. However, a person may remain in an Approved Centre as a voluntary patient after he or she has ceased to be detained as an involuntary patient (Section 29).

PROCEDURE FOR DISCHARGE

Revocation of an Involuntary Admission

An admission order or a renewal order may be revoked by the consultant psychiatrist responsible for the care and treatment of the patient. FORM 14 (Revocation of an Involuntary Admission or Renewal Order) (Section 28) must be completed in this regard.

The Discharge Notice

A copy of FORM 14 (Revocation of an Involuntary Admission or Renewal Order) (Section 28) is given to the patient concerned and his or her legal representative by the consultant psychiatrist to notify the patient that he or she is being discharged pursuant to Section 28 of the Mental Health Act 2001. The patient, and his or her legal representative, must also be notified that he or she is entitled to have his or her detention reviewed by a mental health tribunal or if such a review has commenced that it may be continued if he or she indicates to the Mental Health Commission a wish, within 14 days of the date of the discharge, that it be completed. If the patient does not indicate as such, no review will be held, or if the review has commenced, it shall be discontinued.

Upon discharge the consultant psychiatrist responsible for the care and treatment of the patient must ensure that a copy of FORM 14 (Revocation of an Involuntary Admission or Renewal Order) (Section 28) is sent to the Mental Health Commission and, where appropriate, the Health Service Executive and relevant housing authority. It is good practice to send a copy of FORM 14 (Revocation of an Involuntary Admission or Renewal Order) (Section 28) to the person's registered medical practitioner.

4 Mental Health Act 2001, S27(1).
5 Mental Health Act 2001, S28.
6 For a definition of "mental disorder" see Section 1.3.2.

SECLUSION 3.1

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

MISCELLANEOUS PROVISIONS

3.1 SECLUSION[1]

As a general rule a person being treated for a mental disorder in an Approved Centre should not be placed in seclusion. However if it is determined to be necessary for the purposes of treatment or to prevent the person from injuring him or herself or others then seclusion may be permitted. This applies to a person admitted involuntarily or a person admitted in a voluntary capacity. The Mental Health Commission is required to make rules providing for the use of seclusion and these must be fully complied with. It is an offence to place a person in seclusion otherwise than in accordance with the rules.[2]

1 Mental Health Act 2001, S69.

2 Mental Health Act 2001 S69(3) – a person who contravenes this section or a rule made under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1875.

BODILY RESTRAINT 3.2

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REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

3.2 BODILY RESTRAINT[1]

As a general rule no form of bodily restraint should be applied to a person being treated in an Approved Centre. However, if it is determined to be necessary for the purposes of treatment or to prevent the person from injuring him or herself or others then mechanical means of bodily restraint may be applied. This applies to a person admitted involuntarily or a person admitted in a voluntary capacity. The Mental Health Commission is required to make rules providing for the use of bodily restraint and these must be fully complied with. It is an offence to place a person under bodily restraint otherwise than in accordance with the rules.[2]

1 Mental Health Act 2001, S69.
2 Mental Health Act 2001, S69(3).

PARTICIPATION IN CLINICAL TRIALS 3.3

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

3.3 PARTICIPATION IN CLINICAL TRIALS[1]

Notwithstanding Section 9(7) of the control of Clinical Trials Act 1987, persons who suffer from a mental disorder and who are admitted to an Approved Centre under the Mental Health Act 2001 shall not be a participant in a clinical trial.

1 Mental Health Act 2001, S70.

RESTRICTION ON THE INSTITUTING OF CIVIL PROCEEDINGS 3.4

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

3.4 RESTRICTION ON THE INSTITUTING OF CIVIL PROCEEDINGS[1]

Permission of the High Court is required before any civil proceedings may be instituted in respect of any act done in carrying out the functions of the Mental Health Act 2001.

The High Court must **not refuse** leave to bring such proceedings unless it is satisfied that the proceedings are either frivolous or vexatious or that there are no reasonable grounds for contending that the person against whom the proceedings are brought acted in bad faith or without reasonable care. A further limitation is placed on the outcome of the proceedings by Section 73(3) of the Mental Health Act 2001 in that the court is not permitted under that section to determine the proceedings in favour of the patient unless it is satisfied that the person against whom the proceedings are brought acted in bad faith or without reasonable care.

1 Mental Health Act 2001, S73.

TRANSITIONAL PROVISIONS 3.5

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

3.5 TRANSITIONAL PROVISIONS[1]

3.5.1 WHAT HAPPENS TO PERSONS DETAINED UNDER THE MENTAL TREATMENT ACT 1945 ON THE COMING INTO FORCE OF THE MENTAL HEALTH ACT 2001?

Such persons will remain detained as if they had been detained under the 2001 Act.

The clinical director of a centre must furnish the Mental Health Commission with all details of persons detained in his or her centre under the provisions of the 1945 Act. In this regard FORM 24 (Transitional Provisions for Adults detained under the Mental Treatment Act 1945) (Section 72) must be completed.

- Temporary Patients: – a person previously detained as a temporary patient[2] will be regarded as detained under the Mental Health Act 2001 for the unexpired period of his or her detention.

- Persons of unsound mind – a person detained under the person of unsound mind provision[3] will be regarded as detained under the 2001 Act for a period not exceeding six months.

It is important to note that both categories of person must be referred by the Commission to a mental health tribunal, and the mental health tribunal will review the detention of such persons as if they were detained under renewal orders under Section 15(2).

3.5.2 WHAT HAPPENS IN RELATION TO A PSYCHIATRIC UNIT/HOSPITAL REGISTERED IN ACCORDANCE WITH THE MENTAL TREATMENT ACT 1945 ON THE COMING INTO FORCE OF THE MENTAL HEALTH ACT 2001?

For three years from the commencement of Part 2 of the 2001 Act coming into force (or such shorter period as may be prescribed) hospitals or other inpatient facilities providing care and treatment for those with a mental disorder will be deemed to be Approved Centres. Private institutions (as defined in the Mental Treatment Act 1945) which prior to commencement were registered under Part X of the Mental Treatment Act 1945 will continue to be subject to the provisions of Part X of the Mental Treatment Act 1945.

Similarly, private charitable institutions (as defined in the Mental Treatment Act 1945) which prior to commencement of Part 2 of the 2001 Act were registered under Part XI of the Mental Treatment Act 1945 will continue to be subject to the provisions of Part XI of the Mental Treatment Act 1945.

The provision of Part XII of the Mental Treatment Act 1945 shall apply to a hospital or other in-patient facility in which the care and treatment of a person with a mental disorder or mental illness is begun during the period of three years (or as prescribed) from commencement of Part 2 of the 2001 Act.

1 Mental Health Act 2001, S72.
2 Mental Treatment Act 1945 S184 or 185.
3 Mental Treatment Act 1945 S171 or 178.

3.5.3 OFFENCES UNDER THE ACT[4]

The Mental Health Commission may bring and prosecute proceedings for summary offences under the 2001 Act. Proceedings must be instituted within 12 months of the date of the offence. If an offence is attributable to a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of any person, officer or member carrying out its affairs, then that person as well as the body corporate shall also be guilty of an offence.

Indictable offences must be brought and prosecuted by the Director of Public Prosecutions.

4 Mental Health Act 2001, S74.

REFERENCE NUMBER	NUMBER & YEAR	SHORT TITLE	EXTENT OF REPEAL
(1)	(2)	(3)	(4)
1	1945, No.19	Mental Treatment Act, 1945	The whole Act other than Part VIII and Sections 241, 276, 283 & 284
2	1953, No.35	Mental Treatment Act, 1953	The whole Act
3	1961, No.4	Mental Treatment (Detention in Approved Institutions) Act 1961	The whole Act
4	1961, N0.7	Mental Treatment Act 1961	The whole Act other than Sections 39 & 41
5	1981, No.17	Health (Mental Services) Act 1981	The whole Act

FORMS F

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Mental Health Commission

REFERENCE GUIDE
MENTAL HEALTH ACT 2001
PART ONE – ADULTS

NOTIFICATION TO THE MENTAL HEALTH COMMISSION
One fax cover to relate to forms for one person only

CONFIDENTIAL

FAX COVER SHEET

FAX

MENTAL HEALTH COMMISSION

To:	**Mental Health Commission**			**From:**	
Fax:	xx xxxxxxx	**Tel:**	xx xxxxxxx	**Date:**	

NOTIFICATION RE THE INVOLUNTARY ADMISSION OF:

Name of Patient:	

TO

Name and Address of Approved Centre	

ON

Date of Involuntary Admission ☐☐/☐☐/☐☐☐☐

The following forms are included with this fax:

☐ Form **1**	☐ Form **7**	☐ Form **13**
☐ Form **2**	☐ Form **8**	☐ Form **14**
☐ Form **3**	☐ Form **9**	☐ Form **15**
☐ Form **4**	☐ Form **10**	☐ Form **16**
☐ Form **5**	☐ Form **11**	☐ Form **17**
☐ Form **6**	☐ Form **12**	☐ Form **18**

Total Number of pages, including cover sheet: ☐

Should you require further information in relation to these Forms please contact:–

(To be completed by a member of staff at the Approved Centre who has access to the original copies of the above forms should it be necessary to confirm information or re-send the fax).

BLOCK CAPITALS

Name: _____

Position: _____

Telephone: _____

Fax: _____

Signature: _____

Date: ☐☐/☐☐/☐☐☐☐ **Time:** (24 hr clock e.g. 14.21) ☐☐:☐☐

SAMPLE

Note to recipient: The Information in this fax is confidential and may be privileged. It is intended solely for the addressee. If you are not the intended addressee please notify the sender immediately by telephone. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful.

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APPLICATION (TO A REGISTERED MEDICAL PRACTITIONER) BY **SPOUSE OR RELATIVE** FOR A RECOMMENDATION FOR INVOLUNTARY ADMISSION OF AN ADULT (TO AN APPROVED CENTRE)

FORM 1
MENTAL HEALTH ACT 2001
SECTION 9

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

1. Full Name and Home Address of PERSON to be admitted to an Approved Centre

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

2. Date of Birth or Age ☐☐/☐☐/☐☐☐☐ **Age:** _____

3. APPLICANT'S Full Name and Address

First Name: Surname:

4. Telephone number

Tel:

I hereby apply for a recommendation for the involuntary admission of the above named PERSON to

5. Name and Address of Approved Centre

I am the person's

6. State Relationship

I am applying for a recommendation for the involuntary admission of the above named person because

STATE:

7. Reason for making an application

8. Circumstances in which the application is made

A person shall not make an application unless he or she has observed the person who is the subject of the application not more than 48 hours before the date of the making of the application.

I last observed the person on

9. Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

If any previous application was refused, state if known

10. Name of doctor who refused application

11. Date of refusal ☐☐/☐☐/☐☐☐☐

12. Circumstances pertaining to the refusal

- It is an offence not to disclose all information that you are aware of that relates to any previous applications for involuntary admission and their refusal.
- To the best of my knowledge and belief I am not disqualified from making this application for reasons set out in Section 9(2) of the Mental Health Act 2001. (Section 9(2) is replicated in the notes overleaf).

Signed: _____

Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

"Spouse" refers to a husband or wife or a man or a woman who is cohabiting with a person of the opposite sex for a continuous period of not less than 3 years but is not married to that person. It does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act 1996.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

2. - "relative", in relation to a person, means a parent, grandparent, brother, sister, uncle, aunt, niece, nephew or child of the person or of the spouse of the person whether of the whole blood, of the half blood or by affinity;

3. - (1) In this Act "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.

(2) In *subsection* (1) - "mental illness" means 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 persons;

"severe dementia" means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

'significant intellectual disability" means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.

8. - (1) A person may be involuntarily admitted to an approved centre pursuant to an application under section 9 or 12 and detained there on the grounds that he or she is suffering from a mental disorder.

(2) Nothing in *subsection (1)* shall be construed as authorising the involuntary admission of a person to an approved centre by reason only of the fact that the person -
(a) is suffering from a personality disorder,
(b) is socially deviant, or
(c) is addicted to drugs or intoxicants.

(3) The Commission shall, from time to time, issue guidelines for staff in approved centres in relation to the provisions of this section.

9. - (1) Subject to *subsections (4) and (6)* and section 12, where it is proposed to have a person (other than a child) involuntarily admitted to an approved centre, an application for a recommendation that the person be so admitted may be made to a registered medical practitioner by any of the following:

(a) the spouse or a relative of the person,
(b) an authorised officer,
(c) a member of the Garda Síochána, or
(d) subject to the provisions of *subsection (2)*, any other person.

(2) The following persons shall be disqualified for making an application in respect of a person -

(a) a person under the age of 18 years,
(b) an authorised officer or a member of the Garda Síochána who is a relative of the person or of the spouse of the person,
(c) a member of the governing body, or the staff, or the person in charge, of the approved centre concerned,
(d) any person with an interest in the payments (if any) to be made in respect of the taking care of the person concerned in the approved centre concerned,
(e) any registered medical practitioner who provides a regular medical service at the approved centre concerned,
(f) the spouse, parent, grandparent, brother, sister, uncle or aunt of any of the persons mentioned in the foregoing paragraphs =(b) to (e), whether of the whole blood, of the half blood or by affinity.

(3) An application shall be made in a form specified by the Commission.

(4) A person shall not make an application unless he or she has observed the person the subject of the application not more than 48 hours before the date of the making of the application.

(5) Where an application is made under *subsection (1)*(d), the application shall contain a statement of the reasons why it is so made, of the connection of the applicant with the person to whom the application relates, and of the circumstances in which the application is made.

(6) A person who, for the purposes of or in relation to an application, makes any statement which is to his or her knowledge false or misleading in any material particular, shall be guilty of an offence.

(7) In paragraph (c) of *subsection (2),* the reference to a member of the governing body of the approved centre concerned does not include a reference to a member of a health board.

(8) In this section -
"authorised officer" means an officer of a health board who is of a prescribed rank or grade and who is authorised by the chief executive officer to exercise the powers conferred on authorised officers bythis section;
"spouse", in relation to a person, does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act, 1996.

11.- (1) Where following the refusal of an application any further such application is made in respect of the same person, the applicant, so far as he or she is aware of the facts relating to the previous application and its refusal, shall state those facts to the registered medical practitioner to whom the further application is made.

(2) A person who contravenes *subsection* (1) shall be guilty of an offence.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

APPLICATION (TO A REGISTERED MEDICAL PRACTITIONER) BY **AUTHORISED OFFICER** FOR A RECOMMENDATION FOR INVOLUNTARY ADMISSION OF AN ADULT (TO AN APPROVED CENTRE)

FORM 2
MENTAL HEALTH ACT 2001
SECTION 9

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

1. Full Name and Home Address of PERSON to be admitted to an Approved Centre

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

2. Date of Birth or Age ☐☐/☐☐/☐☐☐☐ **Age:** _____

3. APPLICANT'S Full Name and Address

First Name: Surname:

4. Telephone number

Tel:

I hereby apply for a recommendation for the involuntary admission of the above named PERSON to

5. Name and Address of Approved Centre

I am applying for a recommendation for the involuntary admission of the above named person because

STATE:
6. Reason for making an application

7. Any connection of applicant with person

8. Circumstances in which the application is made

I am an Authorised Officer of

9. Name of Authorised Officer's Region

A person shall not make an application unless he or she has observed the person who is the subject of the application not more than 48 hours before the date of the making of the application.

I last observed the person on

10. Date: ☐☐/☐☐/☐☐☐☐ **Time:** (24 hr clock e.g. 14.21) ☐☐:☐☐

If any previous application was refused, state if known

11. Name of doctor who refused application

12. Date of refusal ☐☐/☐☐/☐☐☐☐

13. Circumstances pertaining to the refusal

- It is an offence not to disclose all information that you are aware of that relates to any previous applications for involuntary admission and their refusal.
- To the best of my knowledge and belief I am not disqualified from making this application for reasons set out in Section 9(2) of the Mental Health Act 2001. (Section 9(2) is replicated in the notes overleaf).

Signed: _____

Date: ☐☐/☐☐/☐☐☐☐ **Time:** (24 hr clock e.g. 14.21) ☐☐:☐☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

3. - (1) In this Act "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.

(2) In *subsection* (1) - "mental illness" means 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 persons;

"severe dementia" means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

"significant intellectual disability" means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.

8. - (1) A person may be involuntarily admitted to an approved centre pursuant to an application under section 9 or 12 and detained there on the grounds that he or she is suffering from a mental disorder.

(2) Nothing in *subsection (1)* shall be construed as authorising the involuntary admission of a person to an approved centre by reason only of the fact that the person -
(a) is suffering from a personality disorder,
(b) is socially deviant, or
(c) is addicted to drugs or intoxicants.

(3) The Commission shall, from time to time, issue guidelines for staff in approved centres in relation to the provisions of this section.

9. - (1) Subject to *subsections (4) and (6)* and section 12, where it is proposed to have a person (other than a child) involuntarily admitted to an approved centre, an application for a recommendation that the person be so admitted may be made to a registered medical practitioner by any of the following:

(a) the spouse or a relative of the person,
(b) an authorised officer,
(c) a member of the Garda Síochána, or
(d) subject to the provisions of *subsection (2)*, any other person.

(2) The following persons shall be disqualified for making an application in respect of a person -

(a) a person under the age of 18 years,
(b) an authorised officer or a member of the Garda Síochána who is a relative of the person or of the spouse of the person,
(c) a member of the governing body, or the staff, or the person in charge, of the approved centre concerned,
(d) any person with an interest in the payments (if any) to be made in respect of the taking care of the person concerned in the approved centre concerned,
(e) any registered medical practitioner who provides a regular medical service at the approved centre concerned,
(f) the spouse, parent, grandparent, brother, sister, uncle or aunt of any of the persons mentioned in the foregoing paragraphs =(b) to (e), whether of the whole blood, of the half blood or by affinity.

(3) An application shall be made in a form specified by the Commission.

(4) A person shall not make an application unless he or she has observed the person the subject of the application not more than 48 hours before the date of the making of the application.

(5) Where an application is made under *subsection (1)*(d), the application shall contain a statement of the reasons why it is so made, of the connection of the applicant with the person to whom the application relates, and of the circumstances in which the application is made.

(6) A person who, for the purposes of or in relation to an application, makes any statement which is to his or her knowledge false or misleading in any material particular, shall be guilty of an offence.

(7) In paragraph (c) of *subsection (2)*, the reference to a member of the governing body of the approved centre concerned does not include a reference to a member of a health board.

(8) In this section -
'authorised officer" means an officer of a health board who is of a prescribed rank or grade and who is authorised by the chief executive officer to exercise the powers conferred on authorised officers bythis section;
"spouse", in relation to a person, does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act, 1996.

11.- (1) Where following the refusal of an application any further such application is made in respect of the same person, the applicant, so far as he or she is aware of the facts relating to the previous application and its refusal, shall state those facts to the registered medical practitioner to whom the further application is made.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

APPLICATION (TO A REGISTERED MEDICAL PRACTITIONER) BY A MEMBER OF THE GARDA SÍOCHÁNA FOR A RECOMMENDATION FOR INVOLUNTARY ADMISSION OF AN ADULT (TO AN APPROVED CENTRE)

FORM 3
MENTAL HEALTH ACT 2001
SECTION 9 OR SECTION 12

This application is made pursuant to: Section 9 ☐ Section 12 ☐ (Tick as appropriate)

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

1. Full Name and Home Address of PERSON to be admitted to an Approved Centre

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

2. Date of Birth or Age ☐☐ / ☐☐ / ☐☐☐☐ Age: _____

3. APPLICANT'S Full Name and Address

First Name: Surname:

4. Telephone number

Tel:

I hereby apply for a recommendation for the involuntary admission of the above named PERSON to

5. Name and Address of Approved Centre

I am applying for a recommendation for the involuntary admission of the above named person because

STATE:

6. Reason for making an application

7. Any connection of applicant with person

8. Circumstances in which the application is made

I am a member of the Garda Síochána based at

9. Name and Address of Garda Station

A person shall not make an application unless he or she has observed the person who is the subject of the application not more than 48 hours before the date of the making of the application.

I last observed the person on

10. Date: ☐☐ / ☐☐ / ☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐ : ☐☐

If any previous application was refused, state if known

11. Name of doctor who refused application

12. Date of refusal ☐☐ / ☐☐ / ☐☐☐☐

13. Circumstances pertaining to the refusal

- It is an offence not to disclose all information that you are aware of that relates to any previous applications for involuntary admission and their refusal.
- To the best of my knowledge and belief I am not disqualified from making this application for reasons set out in Section 9(2) of the Mental Health Act 2001. (Section 9(2) is replicated in the notes overleaf).

Signed: _____ **Garda Number:** _____

Date: ☐☐ / ☐☐ / ☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐ : ☐☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

3. - (1) In this Act "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.

(2) In *subsection* (1) - "mental illness" means 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 persons;

"severe dementia" means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

"significant intellectual disability" means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.

8. - (1) A person may be involuntarily admitted to an approved centre pursuant to an application under section 9 or 12 and detained there on the grounds that he or she is suffering from a mental disorder.

(2) Nothing in *subsection (1)* shall be construed as authorising the involuntary admission of a person to an approved centre by reason only of the fact that the person -

(a) is suffering from a personality disorder,
(b) is socially deviant, or
(c) is addicted to drugs or intoxicants.

(3) The Commission shall, from time to time, issue guidelines for staff in approved centres in relation to the provisions of this section.

9. - (1) Subject to *subsections (4) and (6)* and section 12, where it is proposed to have a person (other than a child) involuntarily admitted to an approved centre, an application for a recommendation that the person be so admitted may be made to a registered medical practitioner by any of the following:

(a) the spouse or a relative of the person,
(b) an authorised officer,
(c) a member of the Garda Síochána, or
(d) subject to the provisions of *subsection (2)*, any other person.

(2) The following persons shall be disqualified for making an application in respect of a person -

(a) a person under the age of 18 years,
(b) an authorised officer or a member of the Garda Síochána who is a relative of the person or of the spouse of the person,
(c) a member of the governing body, or the staff, or the person in charge, of the approved centre concerned,
(d) any person with an interest in the payments (if any) to be made in respect of the taking care of the person concerned in the approved centre concerned,
(e) any registered medical practitioner who provides a regular medical service at the approved centre concerned,
(f) the spouse, parent, grandparent, brother, sister, uncle or aunt of any of the persons mentioned in the foregoing paragraphs =(b) to (e), whether of the whole blood, of the half blood or by affinity.

(3) An application shall be made in a form specified by the Commission.

(4) A person shall not make an application unless he or she has observed the person the subject of the application not more than 48 hours before the date of the making of the application.

(5) Where an application is made under subsection (1)(d), the application shall contain a statement of the reasons why it is so made, of the connection of the applicant with the person to whom the application relates, and of the circumstances in which the application is made.

(6) A person who, for the purposes of or in relation to an application, makes any statement which is to his or her knowledge false or misleading in any material particular, shall be guilty of an offence.

(7) In paragraph (c) of subsection (2), the reference to a member of the governing body of the approved centre concerned does not include a reference to a member of a health board.

SAMPLE

(8) In this section -

"authorised officer" means an officer of a health board who is of a prescribed rank or grade and who is authorised by the chief executive officer to exercise the powers conferred on authorised officers by this section;

"spouse", in relation to a person, does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act, 1996.

11.- (1) Where following the refusal of an application any further such application is made in respect of the same person, the applicant, so far as he or she is aware of the facts relating to the previous application and its refusal, shall state those facts to the registered medical practitioner to whom the further application is made.

(2) A person who contravenes *subsection* (1) shall be guilty of an offence.

12.—(1) Where a member of the Garda Síochána has reasonable grounds for believing that a person is suffering from a mental disorder and that because of the mental disorder there is a serious likelihood of the person causing immediate and serious harm to himself or herself or to other persons, the member may either alone or with any other members of the Garda Síochána—
(a) take the person into custody, and
(b) enter if need be by force any dwelling or other premises or any place if he or she has reasonable grounds for believing that the person is to be found there.
(2) Where a member of the Garda Síochána takes a person into custody under subsection (1), he or she or any other member of the Garda Síochána shall make an application forthwith in a form specified by the Commission to a registered medical practitioner for a recommendation.
(3) The provisions of sections 10 and 11 shall apply to an application under this section as they apply to an application under section 9 with any necessary modifications.
(4) If an application under this section is refused by the registered medical practitioner pursuant to the provisions of section 10, the person the subject of the application shall be released from custody immediately.
(5) Where, following an application under this section, a recommendation is made in relation to a person, a member of the Garda Síochána shall remove the person to the approved centre specified in the recommendation.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

APPLICATION (TO A REGISTERED MEDICAL PRACTITIONER) **BY A MEMBER OF THE PUBLIC** FOR A RECOMMENDATION FOR INVOLUNTARY ADMISSION OF AN ADULT (TO AN APPROVED CENTRE)

FORM 4
MENTAL HEALTH ACT 2001
SECTION 9

BLOCK CAPITALS **(Before completing this form please read the notes overleaf)**

1. Full Name and Home Address of PERSON to be admitted to an Approved Centre

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

2. Date of Birth or Age ☐☐/☐☐/☐☐☐☐ **Age:** _____

3. APPLICANT'S Full Name and Address

First Name: Surname:

4. Telephone number

Tel:

I hereby apply for a recommendation for the involuntary admission of the above named PERSON to

5. Name and Address of Approved Centre

I am applying for a recommendation for the involuntary admission of the above named person because

STATE:

6. Reason for making an application

7. Any connection of applicant with person

8. Circumstances in which the application is made

A person shall not make an application unless he or she has observed the person who is the subject of the application not more than 48 hours before the date of the making of the application.

I last observed the person on

9. Date: ☐☐/☐☐/☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

If any previous application was refused, state if known

10. Name of doctor who refused application

11. Date of refusal ☐☐/☐☐/☐☐☐☐

12. Circumstances pertaining to the refusal

- It is an offence not to disclose all information that you are aware of that relates to any previous applications for involuntary admission and their refusal.
- To the best of my knowledge and belief I am not disqualified from making this application for reasons set out in Section 9(2) of the Mental Health Act 2001. (Section 9(2) is replicated in the notes overleaf).

Signed: _____

Date: ☐☐/☐☐/☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

3. - (1) In this Act "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.

(2) In *subsection* (1) - "mental illness" means 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 persons;

"severe dementia" means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

"significant intellectual disability" means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.

8. - (1) A person may be involuntarily admitted to an approved centre pursuant to an application under section 9 or 12 and detained there on the grounds that he or she is suffering from a mental disorder.

(2) Nothing in subsection (1) shall be construed as authorising the involuntary admission of a person to an approved centre by reason only of the fact that the person -
(a) is suffering from a personality disorder,
(b) is socially deviant, or
(c) is addicted to drugs or intoxicants.

(3) The Commission shall, from time to time, issue guidelines for staff in approved centres in relation to the provisions of this section.

9. - (1) Subject to *subsections (4) and (6*) and section 12, where it is proposed to have a person (other than a child) involuntarily admitted to an approved centre, an application for a recommendation that the person be so admitted may be made to a registered medical practitioner by any of the following:

(a) the spouse or a relative of the person,
(b) an authorised officer,
(c) a member of the Garda Síochána, or
(d) subject to the provisions of *subsection (2)*, any other person.

(2) The following persons shall be disqualified for making an application in respect of a person -

(a) a person under the age of 18 years,
(b) an authorised officer or a member of the Garda Síochána who is a relative of the person or of the spouse of the person,
(c) a member of the governing body, or the staff, or the person in charge, of the approved centre concerned,
(d) any person with an interest in the payments (if any) to be made in respect of the taking care of the person concerned in the approved centre concerned,
(e) any registered medical practitioner who provides a regular medical service at the approved centre concerned,
(f) the spouse, parent, grandparent, brother, sister, uncle or aunt of any of the persons mentioned in the foregoing paragraphs = (b) to (e), whether of the whole blood, of the half blood or by affinity.

(3) An application shall be made in a form specified by the Commission.

(4) A person shall not make an application unless he or she has observed the person the subject of the application not more than 48 hours before the date of the making of the application.

(5) Where an application is made under *subsection (1)*(d), the application shall contain a statement of the reasons why it is so made, of the connection of the applicant with the person to whom the application relates, and of the circumstances in which the application is made.

(6) A person who, for the purposes of or in relation to an application, makes any statement which is to his or her knowledge false or misleading in any material particular, shall be guilty of an offence.

(7) In paragraph (c) of subsection (2), the reference to a member of the governing body of the approved centre concerned does not include a reference to a member of a health board.

(8) In this section -

"authorised officer" means an officer of a health board who is of a prescribed rank or grade and who is authorised by the chief executive officer to exercise the powers conferred on authorised officers by this section;

"spouse", in relation to a person, does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act, 1996.

11.- (1) Where following the refusal of an application any further such application is made in respect of the same person, the applicant, so far as he or she is aware of the facts relating to the previous application and its refusal, shall state those facts to the registered medical practitioner to whom the further application is made.

(2) A person who contravenes *subsection* (1) shall be guilty of an offence.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

RECOMMENDATION
(BY A REGISTERED MEDICAL PRACTITIONER)
FOR INVOLUNTARY ADMISSION OF AN ADULT
(TO AN APPROVED CENTRE)

FORM 5
MENTAL HEALTH ACT 2001
SECTION 10

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

I, _____ (Full Name of Registered Medical Practitioner)

1. Professional Address of Registered Medical Practitioner

2. Medical Practitioner Registration Number _____

recommend that

3. Full Name and Home Address of PERSON the subject of the recommendation

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

4. Date of Birth or Age ☐☐/☐☐/☐☐☐☐ Age: _____

be admitted to

5. Name and address of Approved Centre

I last examined the person on

6. Date & Time: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

Which was within 24 hours of receipt of the application for involuntary admission which was made on ☐☐/☐☐/☐☐☐☐ (please insert date) by;

_____ (Name of Applicant)

* Tick as applicable * I am the person's medical practitioner Yes ☐ No ☐

The above named person is suffering from a mental disorder as defined in Section 3 of the Mental Health Act (replicated overleaf), **AND** ☐
because of the mental disorder there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons,
OR
(a) 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** ☐
(b) 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.

My opinion is based on the following grounds

7. Give clinical description of the person's mental condition

I am not a person disqualified for making a recommendation (see section 10 (3) replicated overleaf)
I have informed the above named person of the purpose of the examination*;

* Tick as applicable

Yes ☐ No ☐

Where "No" is indicated I _____ (name) confirm that such information has been withheld because the provision of such information would be prejudicial to the person's mental health or well-being or emotional condition.

Signed: _____
(Registered Medical Practitioner)

Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

3. - (1) In this Act "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.

(2) In *subsection* (1) - "mental illness" means 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 persons;

"severe dementia" means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

"significant intellectual disability" means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.

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.

8. - (1) A person may be involuntarily admitted to an approved centre pursuant to an application under section 9 or 12 and detained there on the grounds that he or she is suffering from a mental disorder.

(2) Nothing in subsection (1) shall be construed as authorising the involuntary admission of a person to an approved centre by reason only of the fact that the person -

(a) is suffering from a personality disorder,
(b) is socially deviant, or
(c) is addicted to drugs or intoxicants.

(3) The Commission shall, from time to time, issue guidelines for staff in approved centres in relation to the provisions of this section.

10. - (1) Where a registered medical practitioner is satisfied following an examination of the person the subject of the application that the person is suffering from a mental disorder, he or she shall make a recommendation (in this Act referred to as "a recommendation") in a form specified by the Commission that the person be involuntarily admitted to an approved centre (other than the Central Mental Hospital) specified by him or her in the recommendation.

(2) An examination of the person the subject of an application shall be carried out within 24 hours of the receipt of the application and the registered medical practitioner concerned shall inform the person of the purpose of the examination unless in his or her view the provision of such information might be prejudicial to the person's mental health, well-being or emotional condition.

(3) A registered medical practitioner shall, for the purposes of this section, be disqualified for making a recommendation in relation to a person the subject of an application—

(a) if he or she has an interest in the payments (if any) to be made in respect of the care of the person in the approved centre concerned,

(b) if he or she is a member of the staff of the approved centre to which the person is to be admitted,

(c) if he or she is a spouse or a relative of the person, or

(d) if he or she is the applicant.

(4) A recommendation under subsection (1) shall be sent by the registered medical practitioner concerned to the clinical director of the approved centre concerned and a copy of the recommendation shall be given to the applicant concerned.

(5) A recommendation under this section shall remain in force for a period of 7 days from the date of its making and shall then expire.

SAMPLE

MHC Coimisiún Meabhair-Shláinte | Mental Health Commission

INVOLUNTARY ADMISSION ORDER FOR UP TO 21 DAYS

FORM 6
MENTAL HEALTH ACT 2001
SECTIONS 14, 15

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name and Home Address of PERSON

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

2. Date of Birth ☐☐/☐☐/☐☐☐☐

was involuntarily admitted to

3. Name and address of Approved Centre

Ward: | Centre Record No:

on

4. Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

5. Was Section 14(2) used to take charge of the person Yes ☐ No ☐ If yes state date and time initiated Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

I, _____ (Full Name of Consultant Psychiatrist)

examined this person on

6. Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

7. Professional Address of Consultant Psychiatrist

In my opinion:– **(* complete as applicable)**
(a) this person is suffering from a mental disorder where–
(i) 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.

My opinion at (a) or (b) above is based on the following grounds:–

Give clinical description of the person's mental condition

- I am not a person disqualified from making an admission order (see Section 14(3) replicated overleaf) ☐ **and**

I shall within 24 hours of making this order;

- Give to the Patient a notice in writing as required by Section 16 (2) of the Mental Health Act 2001; ☐ **and**
- Send to the Commission a copy of the Order as required by Section 16(1)(a) ☐

Signed: _____ **(Consultant Psychiatrist)**

Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

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.

14.—(1) Where a recommendation in relation to a person the subject of an application is received by the clinical director of an approved centre, a consultant psychiatrist on the staff of the approved centre shall, as soon as may be, carry out an examination of the person and shall thereupon either—

(a) if he or she is satisfied that the person is suffering from a mental disorder, make an order to be known as an involuntary admission order and referred to in this Act as "an admission order" in a form specified by the Commission for the reception, detention and treatment of the person and a person to whom an admission order relates is referred to in this Act as "a patient", or

(b) if he or she is not so satisfied, refuse to make such order.

(2) A consultant psychiatrist, a medical practitioner or a registered nurse on the staff of the approved centre shall be entitled to take charge of the person concerned and detain him or her for a period not exceeding 24 hours (or such shorter period as may be prescribed after consultation with the Commission) for the purpose of carrying out an examination under subsection (1) or, if an admission order is made or refused in relation to the person during that period, until it is granted or refused.

(3) A consultant psychiatrist shall, for the purposes of this section, be disqualified for making an admission order in relation to a person the subject of an application—

(a) if he or she is a spouse or a relative of the person, or

(b) if he or she is the applicant.

15.—(1) An admission order shall authorise the reception, detention and treatment of the patient concerned and shall remain in force for a period of 21 days from the date of the making of the order and, subject to subsection (2) and section 18(4), shall then expire.

(2) The period referred to in subsection (1) may be extended by order (to be known as and in this Act referred to as "a renewal order") made by the consultant psychiatrist responsible for the care and treatment of the patient concerned for a further period not exceeding 3 months.

(3) The period referred to in subsection (1) may be further extended by order made by the consultant psychiatrist concerned for a period not exceeding 6 months beginning on the expiration of the renewal order made by the psychiatrist under subsection (2) and thereafter may be further extended by order made by the psychiatrist for periods each of which does not exceed 12 months (each of which orders is also referred to in this Act as "a renewal order").

(4) The period referred to in subsection (1) shall not be extended under subsection (2) or (3) unless the consultant psychiatrist concerned has not more than one week before the making of the order concerned examined the patient concerned and certified in a form specified by the Commission that the patient continues to suffer from a mental disorder.

16.—(1) Where a consultant psychiatrist makes an admission order or a renewal order, he or she shall, not later than 24 hours thereafter—

(a) send a copy of the order to the Commission, and

(b) give notice in writing of the making of the order to the patient.

(2) A notice under this section shall include a statement in writing to the effect that the patient—

(a) is being detained pursuant to section 14 or 15, as the case may be,

(b) is entitled to legal representation,

(c) will be given a general description of the proposed treatment to be administered to him or her during the period of his or her detention,

(d) is entitled to communicate with the Inspector,

(e) will have his or her detention reviewed by a tribunal in accordance with the provisions of section 18,

(f) is entitled to appeal to the Circuit Court against a decision of a tribunal under section 18 if he or she is the subject of a renewal order, and

(g) may be admitted to the approved centre concerned as a voluntary patient if he or she indicates a wish to be so admitted.

(3) In this section references to an admission order shall include references to the relevant recommendation and the relevant application.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

RENEWAL ORDER BY RESPONSIBLE CONSULTANT PSYCHIATRIST

FORM 7
MENTAL HEALTH ACT 2001
SECTION 15

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name and Home Address of of Patient

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

2. Date of Birth or Age ☐☐ / ☐☐ / ☐☐☐☐

was involuntarily admitted to

3. Name and address of Approved Centre

Ward: | Centre Record No:

on

4. Date of Involuntary Admission ☐☐ / ☐☐ / ☐☐☐☐

I, _____ **(Full Name of Responsible Consultant Psychiatrist)**

examined this person on

5. Date: ☐☐ / ☐☐ / ☐☐☐☐ **Time:** ☐☐ : ☐☐ **(24 hr clock e.g. 14.21)**

6. Professional Address of Consultant Psychiatrist

In my opinion the patient should continue to be detained for a period not exceeding;

(* tick as applicable)

3 months* ☐ *(on the first renewal order)*
6 months* ☐ *(on the second renewal order)*
12 months* ☐ *(on any subsequent renewal order)*

***because*:– (* tick as applicable)**

(a) this patient is suffering from a mental disorder where– ☐
(i) 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.

My opinion at (a) or (b) above is based on the following reasons:–

Give clinical description of the person's mental condition

I, _____ the Responsible Consultant Psychiatrist have examined the above named patient not more than one week before the making of this renewal order and I (for the reasons stated above) certify that the patient continues to suffer from a mental disorder

I shall within 24 hours of making this order;
- Give to the Patient a notice in writing as required by Section 16 (2) of the Mental Health Act 2001; ☐
- Send to the Commission a copy of the Order as required by Section 16(1)(a) ☐

Signed: _____ **(Consultant Psychiatrist)**
Date: ☐☐ / ☐☐ / ☐☐☐☐ **Time:** ☐☐ : ☐☐ **(24 hr clock e.g. 14.21)**

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

15.—(1) An admission order shall authorise the reception, detention and treatment of the patient concerned and shall remain in force for a period of 21 days from the date of the making of the order and, subject to subsection (2) and section 18(4), shall then expire.

(2) The period referred to in *subsection (1)* may be extended by order (to be known as and in this Act referred to as "a renewal order") made by the consultant psychiatrist responsible for the care and treatment of the patient concerned for a further period not exceeding 3 months.

(3) The period referred to in *subsection (1)* may be further extended by order made by the consultant psychiatrist concerned for a period not exceeding 6 months beginning on the expiration of the renewal order made by the psychiatrist under subsection (2) and thereafter may be further extended by order made by the psychiatrist for periods each of which does not exceed 12 months (each of which orders is also referred to in this Act as "a renewal order").

(4) The period referred to in *subsection (1)* shall not be extended under subsection (2) or (3) unless the consultant psychiatrist concerned has not more than one week before the making of the order concerned examined the patient concerned and certified in a form specified by the Commission that the patient continues to suffer from a mental disorder.

16.—(1) Where a consultant psychiatrist makes an admission order or a renewal order, he or she shall, not later than 24 hours thereafter—

(a) send a copy of the order to the Commission, and

(b) give notice in writing of the making of the order to the patient.

(2) A notice under this section shall include a statement in writing to the effect that the patient—

(a) is being detained pursuant to section 14 or 15, as the case may be

(b) is entitled to legal representation,

(c) will be given a general description of the proposed treatment to be administered to him or her during the period of his or her detention,

(d) is entitled to communicate with the Inspector,

(e) will have his or her detention reviewed by a tribunal in accordance with the provisions of section 18,

(f) is entitled to appeal to the Circuit Court against a decision of a tribunal under section 18 if he or she is the subject of a renewal order, and

(g) may be admitted to the approved centre concerned as a voluntary patient if he or she indicates a wish to be so admitted.

(3) In this section references to an admission order shall include references to the relevant recommendation and the relevant application.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

DECISIONS OF THE MENTAL HEALTH TRIBUNAL

FORM 8
MENTAL HEALTH ACT 2001
SECTIONS 18, 21, 58

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

1. Name and Home Address of Patient

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

This patient was admitted on an involuntary basis to

2. Full Name and Address of Approved Centre

on

3. Date of Admission ☐☐/☐☐/☐☐☐☐

The Mental Health Tribunal has reviewed this patient on:

4. Date of Mental Health Tribunal ☐☐/☐☐/☐☐☐☐

The members of this Tribunal have considered the report presented to us in accordance with Section 17(1)(c) prior to the making of any decision under Section 18 of the Mental Health Act. ☐

The Mental Health Tribunal has reviewed the detention of the patient concerned and has concluded that:

- It is satisfied that the patient is suffering from a mental disorder, **and** ☐
- The provisions of Section 9,10,12,14,15 and 16 where applicable have been complied with, **or** ☐
- If there has been a failure to comply with any such provisions, that the failure does not affect the substance of the order and does not cause an injustice, **affirm the order**, **or** ☐
- If not so satisfied, **revoke the order** and direct that the patient be discharged from the approved centre concerned. ☐

The decision of the Mental Health Tribunal is as follows:

The Tribunal will inform the following persons by notice in writing of its decision in compliance with Section 18(5).

The Commission	☐
The Responsible Consultant	☐
The Patient and his/her Legal Representative	☐
Any other person (who in the opinion of the Tribunal should be given notice). Name(s) _____	☐

Signed:

Tribunal Chair: _____ **Date:** ☐☐/☐☐/☐☐

Tribunal Consultant Psychiatrist: _____ **Date:** ☐☐/☐☐/☐☐

Tribunal Lay Member: _____ **Date:** ☐☐/☐☐/☐☐

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

18.— (1)Where an admission order or a renewal order has been referred to a tribunal under section 17, the tribunal shall review the detention of the patient concerned and shall either—

(a) if satisfied that the patient is suffering from a mental disorder, and

(i) that the provisions of *sections 9, 10, 12, 14, 15 and 16*, where applicable, have been complied with, or

(ii) if there has been a failure to comply with any such provision, that the failure does not affect the substance of the order and does not cause an injustice, affirm the order, or

(b) if not so satisfied, revoke the order and direct that the patient be discharged from the approved centre concerned.

(2) A decision under *subsection (1)* shall be made as soon as may be but not later than 21 days after the making of the admission order concerned or, as the case may be, the renewal order concerned.

(3) Before making a decision under *subsection (1)*, a tribunal shall have regard to the relevant report under *section 17(1)(c).*

(4) The period referred to in *subsection (2)* may be extended by order by the tribunal concerned (either of its own motion or at the request of the patient concerned) for a further period of 14 days and thereafter may be further extended by it by order for a period of 14 days on the application of the patient if the tribunal is satisfied that it is in the interest of the patient and the relevant admission order, or as the case may be, renewal order shall continue in force until the date of the expiration of the order made under this subsection.

(5) Notice in writing of a decision under *subsection (1)* and the reasons therefor shall be given to—

(a) the Commission,

(b) the consultant psychiatrist responsible for the care and treatment of the patient concerned,

(c) the patient and his or her legal representative, and

(d) any other person to whom, in the opinion of the tribunal, such notice should be given.

(6) The notice referred to in subsection (5) shall be given as soon as may be after the decision and within the period specified in subsection (2) or, if it be the case that period is extended by order under *subsection (4)*, within the period specified in that order.

(7) In this section references to an admission order shall include references to the relevant recommendation and the relevant application.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

DECISION OF THE MENTAL HEALTH TRIBUNAL TO EXTEND THE PERIOD OF AN ADMISSION OR RENEWAL ORDER BY UP TO 14 DAYS

FORM 9
MENTAL HEALTH ACT 2001
SECTION 18 (4)

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

1. Name and Home Address of Patient

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

This patient was admitted on an involuntary basis to

2. Full Name and Address of Approved Centre

on

3. Date of Admission ☐☐ / ☐☐ / ☐☐☐☐

The Mental Health Tribunal has reviewed this patient on:

4. Date of Mental Health Tribunal ☐☐ / ☐☐ / ☐☐☐☐

The members of this Tribunal have considered the report presented to us in accordance with Section 17(1)(c) prior to the making of any decision under Section 18 of the Mental Health Act. ☐

The Mental Health Tribunal has reviewed the detention of the patient concerned and has concluded that:

- It is satisfied that the patient is suffering from a mental disorder, **and** ☐
- The provisions of Section 9,10,12,14,15 and 16 where applicable have been complied with, **or** ☐
- If there has been a failure to comply with any such provisions, that the failure does not affect the substance of the order and does not cause an injustice, **affirm the order**, **or** ☐
- If not so satisfied, **revoke the order** and direct that the patient be discharged from the approved centre concerned. ☐

The Mental Health Tribunal hereby directs that

5. Details of the reasons for the decision to extend the period of the admission* / renewal* order by 14 days.
***delete as appropriate**

The Tribunal will inform the following persons by notice in writing of its decision in compliance with Section 18(5).

The Commission	☐
The Responsible Consultant	☐
The Patient and his/her Legal Representative	☐
Any other person (who in the opinion of the Tribunal should be given notice). Name(s) _____	☐

Signed:

Tribunal Chair: _____ **Date:** ☐☐ / ☐☐ / ☐☐

Tribunal Consultant Psychiatrist: _____ **Date:** ☐☐ / ☐☐ / ☐☐

Tribunal Lay Member: _____ **Date:** ☐☐ / ☐☐ / ☐☐

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

18.—(1) Where an admission order or a renewal order has been referred to a tribunal under section 17, the tribunal shall review the detention of the patient concerned and shall either—

(a) if satisfied that the patient is suffering from a mental disorder, and

(i) that the provisions of *sections 9, 10, 12, 14, 15 and 16*, where applicable, have been complied with, or

(ii) if there has been a failure to comply with any such provision, that the failure does not affect the substance of the order and does not cause an injustice, affirm the order, or

(b) if not so satisfied, revoke the order and direct that the patient be discharged from the approved centre concerned.

(2) A decision under *subsection (1)* shall be made as soon as may be but not later than 21 days after the making of the admission order concerned or, as the case may be, the renewal order concerned.

(3) Before making a decision under *subsection (1)*, a tribunal shall have regard to the relevant report under *section 17(1)(c)*.

(4) The period referred to in *subsection (2)* may be extended by order by the tribunal concerned (either of its own motion or at the request of the patient concerned) for a further period of 14 days and thereafter may be further extended by it by order for a period of 14 days on the application of the patient if the tribunal is satisfied that it is in the interest of the patient and the relevant admission order, or as the case may be, renewal order shall continue in force until the date of the expiration of the order made under this subsection.

(5) Notice in writing of a decision under *subsection (1)* and the reasons therefor shall be given to—

(a) the Commission,

(b) the consultant psychiatrist responsible for the care and treatment of the patient concerned,

(c) the patient and his or her legal representative, and

(d) any other person to whom, in the opinion of the tribunal, such notice should be given.

(6) The notice referred to in *subsection (5*) shall be given as soon as may be after the decision and within the period specified in *subsection (2)* or, if it be the case that period is extended by order under *subsection (4)*, within the period specified in that order.

(7) In this section references to an admission order shall include references to the relevant recommendation and the relevant application.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

NOTICE OF PATIENT TRANSFER TO ANOTHER APPROVED CENTRE
(OTHER THAN THE CENTRAL MENTAL HOSPITAL)

FORM 10
MENTAL HEALTH ACT 2001
SECTION 20, 21(1) (3)&(4)

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name of patient being transferred

2. Date of Birth ☐☐/☐☐/☐☐☐☐

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

was involuntarily admitted to

3. Name and Address of Approved Centre to which patient was first admitted

Ward: | Centre Record No:

on

4. Date of Admission ☐☐/☐☐/☐☐☐☐

TRANSFER DETAILS

This patient is being transferred from

5. Approved Centre from which the patient is being transferred

to

6. Approved Centre to which the patient is being transferred

7. Date of transfer ☐☐/☐☐/☐☐☐☐

I am of the opinion that it would benefit the above named patient to be transferred for the following reasons

8. Give details of how this transfer will benefit the patient

Authorised by:

9. Full Name and Professional Address of Clinical Director

The Clinical Director of the approved centre to where the patient is being transferred has agreed to this transfer. I have given notice of this transfer to the patient and I will give notice to the Commission.

Signed: _____

(Clinical Director)

Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

20.—(1) Where a patient or the person who applied for a recommendation under which a patient is detained in an approved centre applies to the clinical director of the centre for a transfer of the patient to another approved centre, the clinical director may, if he or she so thinks fit, arrange for the transfer of the patient to the centre with the consent of the clinical director of the second-mentioned approved centre.

(2) Where a patient is transferred to an approved centre under *subsection (1)*, the clinical director of the centre from which he or she has been transferred shall, as soon as may be, give notice in writing of the transfer to the Commission.

(3) A patient may be detained in an approved centre to which he or she has been transferred under *subsection (1)* until the date of the expiration of the admission order pursuant to which he or she was detained in the centre from which he or she was transferred.

(4) The detention of a patient in another approved centre under this section shall be deemed for the purposes of this Act to be detention in the centre from which he or she was transferred.

(5) In this section references to an admission order include references to a renewal order.

21.—(1) Where the clinical director of an approved centre is of opinion that it would be for the benefit of a patient detained in that centre, or that it is necessary for the purpose of obtaining special treatment for such patient, that he or she should be transferred to another approved centre (other than the Central Mental Hospital), the clinical director may arrange for the transfer of the patient to the other centre with the consent of the clinical director of that centre.

(2) (a) Where the clinical director of an approved centre—

(i) is of opinion that it would be for the benefit of a patient detained in that centre, or that it is necessary for the purpose of obtaining special treatment for such a patient, to transfer him or her to the Central Mental Hospital, and

(ii) proposes to do so,he or she shall notify the Commission in writing of the proposal and the Commission shall refer the proposal to a tribunal.

(b) Where a proposal is referred to a tribunal under this section, the tribunal shall review the proposal as soon as may be but not later than 14 days thereafter and shall either—

(i) if it is satisfied that it is in the best interest of the health of the patient concerned, authorise the transfer of the patient concerned, or
(ii) if it is not so satisfied, refuse to authorise it.

(c) The provisions of *sections 19* and *49* shall apply to the referral of a proposal to a tribunal under this section as they apply to the referral of an admission order to a tribunal under *section 17* with any necessary modifications.

(d) Effect shall not be given to a decision to which *paragraph (b)* applies before—

(i) the expiration of the time for the bringing of an appeal to the Circuit Court, or

(ii) if such an appeal is brought, the determination or withdrawal thereof.

(3) Where a patient is transferred to an approved centre under this section, the clinical director of the centre from which he or she has been transferred shall, as soon as may be, give notice in writing of the transfer to the Commission.

(4) The detention of a patient in another approved centre under this section shall be deemed for the purposes of this Act to be detention in the centre from which he or she was transferred.

(5) In this section references to an admission order include references to a renewal order.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

PROPOSAL BY THE CLINICAL DIRECTOR TO TRANSFER PATIENT TO THE CENTRAL MENTAL HOSPITAL

FORM 11
MENTAL HEALTH ACT 2001
SECTION 21(2)

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

In accordance with Part 2 of the Mental Health Act 2001

1. Full Name of patient being proposed for transfer

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

was involuntarily admitted to

2. Name and Address of Approved Centre to which patient was admitted

Ward: | Centre Record No:

3. Date of Admission

on ☐☐/☐☐/☐☐☐☐

PROPOSAL TO TRANSFER

Proposed by:

4. Full Name and Professional Address of Clinical Director

I am of the opinion that it would be to the benefit of the above named patient to be transferred to the Central Mental Hospital for the following reasons

5. Give details of how this transfer will benefit the patient and/or that it is necessary for the purpose of obtaining special treatment for such patient

I request that the Mental Health Commission refer this proposal to a Mental Health Tribunal.

I have given notice in writing of the making of this proposal to the patient.

Signed: _____

(Clinical Director)

Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

21.—(1) Where the clinical director of an approved centre is of opinion that it would be for the benefit of a patient detained in that centre, or that it is necessary for the purpose of obtaining special treatment for such patient, that he or she should be transferred to another approved centre (other than the Central Mental Hospital), the clinical director may arrange for the transfer of the patient to the other centre with the consent of the clinical director of that centre.

(2) (a) Where the clinical director of an approved centre—

(i) is of opinion that it would be for the benefit of a patient detained in that centre, or that it is necessary for the purpose of obtaining special treatment for such a patient, to transfer him or her to the Central Mental Hospital, and

(ii) proposes to do so, he or she shall notify the Commission in writing of the proposal and the Commission shall refer the proposal to a tribunal.

(b) Where a proposal is referred to a tribunal under this section, the tribunal shall review the proposal as soon as may be but not later than 14 days thereafter and shall either—

(i) if it is satisfied that it is in the best interest of the health of the patient concerned, authorise the transfer of the patient concerned, or
(ii) if it is not so satisfied, refuse to authorise it.

(c) The provisions of *sections 19* and *49* shall apply to the referral of a proposal to a tribunal under this section as they apply to the referral of an admission order to a tribunal under *section 17* with any necessary modifications.

(d) Effect shall not be given to a decision to which *paragraph (b)* applies before—

(i) the expiration of the time for the bringing of an appeal to the Circuit Court, or

(ii) if such an appeal is brought, the determination or withdrawal thereof.

(3) Where a patient is transferred to an approved centre under this section, the clinical director of the centre from which he or she has been transferred shall, as soon as may be, give notice in writing of the transfer to the Commission.

(4) The detention of a patient in another approved centre under this section shall be deemed for the purposes of this Act to be detention in the centre from which he or she was transferred.

(5) In this section references to an admission order include references to a renewal order.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

NOTICE OF TRANSFER OF A PATIENT TO THE CENTRAL MENTAL HOSPITAL

FORM 12
MENTAL HEALTH ACT 2001
SECTION 21(3)

BLOCK CAPITALS **(Before completing this form please read the notes overleaf)**

Following authorisation from the tribunal in accordance with Section 21(2)(b)(i), I the Clinical Director have arranged for the transfer of

1. **Full Name of patient being transferred**

in accordance with Part 2 of the Mental Health Act 2001

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

was involuntarily admitted to

2. **Name and Address of Approved Centre to which patient was admitted**

Ward: | Centre Record No:

on

3. **Date of Admission** ☐☐/☐☐/☐☐☐☐

NOTICE OF TRANSFER

4. **Full Name and Professional Address of Clinical Director**

I have arranged that the above named patient be transferred to the Central Mental Hospital on

5. **Date :** ☐☐/☐☐/☐☐☐☐

I have given notice in writing of this transfer to the patient. Notice in writing of this transfer, as soon as may be, shall be given to the Commission.

Signed: _____

(Clinical Director)

Date: ☐☐/☐☐/☐☐☐☐ **Time:** **(24 hr clock e.g. 14.21)** ☐☐:☐☐

SAMPLE

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

21.—(1) Where the clinical director of an approved centre is of opinion that it would be for the benefit of a patient detained in that centre, or that it is necessary for the purpose of obtaining special treatment for such patient, that he or she should be transferred to another approved centre (other than the Central Mental Hospital), the clinical director may arrange for the transfer of the patient to the other centre with the consent of the clinical director of that centre.

(2) (a) Where the clinical director of an approved centre—

(i) is of opinion that it would be for the benefit of a patient detained in that centre, or that it is necessary for the purpose of obtaining special treatment for such a patient, to transfer him or her to the Central Mental Hospital, and

(ii) proposes to do so,

he or she shall notify the Commission in writing of the proposal and the Commission shall refer the proposal to a tribunal.

(b) Where a proposal is referred to a tribunal under this section, the tribunal shall review the proposal as soon as may be but not later than 14 days thereafter and shall either—

(i) if it is satisfied that it is in the best interest of the health of the patient concerned, authorise the transfer of the patient concerned, or

(ii) if it is not so satisfied, refuse to authorise it.

(c) The provisions of *sections 19* and *49* shall apply to the referral of a proposal to a tribunal under this section as they apply to the referral of an admission order to a tribunal under *section 17* with any necessary modifications.

(d) Effect shall not be given to a decision to which *paragraph (b)* applies before—

(i) the expiration of the time for the bringing of an appeal to the Circuit Court, or

(ii) if such an appeal is brought, the determination or withdrawal thereof.

(3) Where a patient is transferred to an approved centre under this section, the clinical director of the centre from which he or she has been transferred shall, as soon as may be, give notice in writing of the transfer to the Commission.

(4) The detention of a patient in another approved centre under this section shall be deemed for the purposes of this Act to be detention in the centre from which he or she was transferred.

(5) In this section references to an admission order include references to a renewal order.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

CERTIFICATE & ADMISSION ORDER TO DETAIN A VOLUNTARY PATIENT (ADULT)

FORM 13
MENTAL HEALTH ACT 2001
SECTION (23) & (24)

BLOCK CAPITALS (Before completing this form please read the notes overleaf)

1. Full Name and Home Address of Person who is currently a Voluntary Patient

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

2. Date of Birth ☐☐/☐☐/☐☐☐☐

was voluntarily admitted to

3. Name and Address of Approved Centre to which patient was admitted

Ward: | Centre Record No:

on

4. Date: ☐☐/☐☐/☐☐☐☐

5. Full Name and Professional Address of Responsible Consultant Psychiatrist

In accordance with Part 2 of the Mental Health Act 2001

I last examined this patient on

6. Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

*In my opinion:– **(* delete if not applicable)**

(a) this person is suffering from a mental disorder where– ☐

(i) 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.

My opinion at (a) or (b) above is based on the following grounds:–
(Give a clinical description of the patient's mental condition)

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

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.

14.—(1) Where a recommendation in relation to a person the subject of an application is received by the clinical director of an approved centre, a consultant psychiatrist on the staff of the approved centre shall, as soon as may be, carry out an examination of the person and shall thereupon either—

(a) if he or she is satisfied that the person is suffering from a mental disorder, make an order to be known as an involuntary admission order and referred to in this Act as "an admission order" in a form specified by the Commission for the reception, detention and treatment of the person and a person to whom an admission order relates is referred to in this Act as "a patient", or

(b) if he or she is not so satisfied, refuse to make such order.

(2) A consultant psychiatrist, a medical practitioner or a registered nurse on the staff of the approved centre shall be entitled to take charge of the person concerned and detain him or her for a period not exceeding 24 hours (or such shorter period as may be prescribed after consultation with the Commission) for the purpose of carrying out an examination under *subsection (1)* or, if an admission order is made or refused in relation to the person during that period, until it is granted or refused.

(3) A consultant psychiatrist shall, for the purposes of this section, be disqualified for making an admission order in relation to a person the subject of an application—

(a) if he or she is a spouse or a relative of the person, or

(b) if he or she is the applicant.

23.—(1) Where a person (other than a child) who is being treated in an approved centre as a voluntary patient indicates at any time that he or she wishes to leave the approved centre, then, if a consultant psychiatrist, registered medical practitioner or registered nurse on the staff of the approved centre is of opinion that the person is suffering from a mental disorder, he or she may detain the person for a period not exceeding 24 hours or such shorter period as may be prescribed, beginning at the time aforesaid.

24.—(1) Where a person (other than a child) is detained pursuant to section 23, the consultant psychiatrist responsible for the care and treatment of the person prior to his or her detention shall either discharge the person or arrange for him or her to be examined by another consultant psychiatrist who is not a spouse or relative of the person.

(2) If, following such an examination, the second-mentioned consultant psychiatrist—

(a) is satisfied that the person is suffering from a mental disorder, he or she shall issue a certificate in writing in a form specified by the Commission stating that he or she is of opinion that because of such mental disorder the person should be detained in the approved centre, or

(b) is not so satisfied, he or she shall issue a certificate in writing in a form specified by the Commission stating that he or she is of opinion that the person should not be detained and the person shall thereupon be discharged.

(3) Where a certificate is issued under *subsection (2)(a)*, the consultant psychiatrist responsible for the care and treatment of the person immediately before his or her detention under *section 23* shall make an admission order in a form specified by the Commission for the reception, detention and treatment of the person in the approved centre.

(4) The provisions of *sections 15* to *22* shall apply to a person detained under this section as they apply to a person detained under *section 14* with any necessary modifications.

(5) For the purpose of carrying out an examination under *subsection (2)*, the consultant psychiatrist concerned shall be entitled to take charge of the person concerned for the period of 24 hours referred to in *section 23*.

(6) References in this section to the consultant psychiatrist responsible for the care and treatment of the person include references to a consultant psychiatrist acting

SAMPLE

MHC Coimisiún Meabhair-Shláinte | Mental Health Commission

CERTIFICATE & ADMISSION ORDER TO DETAIN A VOLUNTARY PATIENT (ADULT)

FORM 13
MENTAL HEALTH ACT 2001
SECTION (23) & (24)

Was Section 23(1) used to detain the person? ☐ Yes ☐ No

If yes state date and time initiated

Date: ☐☐/☐☐/☐☐☐☐ **Time:** ☐☐:☐☐ **(24 hr clock e.g. 14.21)**

As a result of my examination of this person I am satisfied that because of such mental disorder the person should be detained in an approved centre.

Signed: _____ **(Consultant Psychiatrist)**

Date: ☐☐/☐☐/☐☐☐☐ **Time:** ☐☐:☐☐ **(24 hr clock e.g. 14.21)**

SECTION 24(2)(a) CERTIFICATE

This certificate to be completed by another consultant psychiatrist following referral by the first-mentioned psychiatrist

In accordance with Part 2 of the Mental Health Act 2001

Full Name and Professional Address of Consultant Psychiatrist

I,

Have examined the above named person and; **(*complete as appropriate)**

*I am satisfied that the person is suffering from a mental disorder, and because of such mental disorder the person **should be detained** in the above named approved centre. I am of this opinion for the following reasons

Give details of how the person meets the criteria for involuntary admission.

or (*complete as appropriate)

*I am of the opinion that the person should **not be detained**.
I am of this opinion for the following reasons

Give details of why the person does not meet the criteria for involuntary admission.

Signed: _____ **(Consultant Psychiatrist)**

Date: ☐☐/☐☐/☐☐☐☐ **Time:** ☐☐:☐☐ **(24 hr clock e.g. 14.21)**

ADMISSION ORDER

(To be completed when a voluntary patient is detained by a Section 24 (2) (a) certificate)

A Certificate confirming the need for involuntary admission has been issued under *Subsection 24 (2)(a)* by a second consultant psychiatrist. **I hereby make an admission order for the reception, detention and treatment of the person for up to 21 days in the above named approved centre.**

- I am not a person disqualified from making an admission order (see Section 14(3) replicated overleaf) ☐

and

- **I shall within 24 hours of making this order;**
- Give to the Patient a notice in writing as required by Section 16 (2) of the Mental Health Act 2001; ☐

and

- Send to the Commission a copy of the Order as required by Section 16(1)(a) ☐

Signed: _____ **(Consultant Psychiatrist)**

Date: ☐☐/☐☐/☐☐☐☐ **Time:** ☐☐:☐☐ **(24 hr clock e.g. 14.21)**

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

REVOCATION OF AN INVOLUNTARY ADMISSION OR RENEWAL ORDER

FORM 14
MENTAL HEALTH ACT 2001
SECTION 28

Responsible consultant psychiatrist to complete and forward to the Mental Health Commission upon discharge or re-grading to voluntary status of all patients who have been subject to an in involuntary admission order.

BLOCK CAPITALS **(Before completing this form please read the notes overleaf)**
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name of Patient

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ **Gender** M ☐ F ☐

2. Date of Birth ☐☐ / ☐☐ / ☐☐☐☐

was involuntarily admitted to

3. Name and Address of Approved Centre to which patient was admitted

Ward: | Centre Record No:

on

4. Date: ☐☐ / ☐☐ / ☐☐☐☐

5. Full Name and Professional Address of Responsible Consultant Psychiatrist

I last examined this patient on

6. Date: ☐☐ / ☐☐ / ☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐ : ☐☐

7. Name of Approved Centre where patient was examined

SAMPLE

SECTION A

This patients admission/renewal order was revoked by a mental health tribunal ☐

SECTION B

In my opinion this patient is no longer suffering from a mental disorder as defined in the Mental Health Act (2001)

I have given to the patient concerned and his or her legal representative a copy of this form, as specified by the Mental Health Commission, to the effect that he or she—
***(tick as appropriate)**

(a) *is being discharged pursuant to Section 28 of the Mental Health Act 2001, ☐

OR

(b) *has chosen to remain in the approved centre on a voluntary basis ☐

AND

(c) *is entitled to have his or her detention reviewed by a tribunal in accordance with the provisions of section 18 or, where such review has commenced, completed in accordance with that section if he or she so indicates by notice in writing addressed to the Mental Health Commission within 14 days of the date of his or her discharge. ☐

For use only in accordance with the Mental Health Act 2001. Penalties apply for giving false or misleading information.

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

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

SECTIONS OF THE MENTAL HEALTH ACT 2001

28.—(1) Where the consultant psychiatrist responsible for the care and treatment of a patient becomes of opinion that the patient is no longer suffering from a mental disorder, he or she shall by order in a form specified by the Commission revoke the relevant admission order or renewal order, as the case may be, and discharge the patient.

(2) In deciding whether and when to discharge a patient under this section, the consultant psychiatrist responsible for his or her care and treatment shall have regard to the need to ensure:

(a) that the patient is not inappropriately discharged, and

(b) that the patient is detained pursuant to an admission order or a renewal order only for so long as is reasonably necessary for his or her proper care and treatment.

(3) Where a consultant psychiatrist discharges a patient under this section, he or she shall give to the patient concerned and his or her legal representative a notice in a form specified by the Commission to the effect that he or she—

(a) is being discharged pursuant to this section,

(b) is entitled to have his or her detention reviewed by a tribunal in accordance with the provisions of *section 18* or, where such review has commenced, completed in accordance with that section if he or she so indicates by notice in writing addressed to the Commission within 14 days of the date of his or her discharge.

(4) Where a consultant psychiatrist discharges a patient under this section, he or she shall cause copies of the order made under *subsection (1)* and the notice referred to in *subsection (3)* to be given to the Commission and, where appropriate, the relevant health board and housing authority.

(5) Where a patient is discharged under this section—

(a) if a review under *section 18* has then commenced, it shall be discontinued unless the patient requests by notice in writing addressed to the Commission within 14 days of his or her discharge that it be completed, or

(b) if such a review has not then commenced, it shall not be held unless the patient indicates by notice in writing addressed to the Commission within 14 days of his or her discharge that he or she wishes such a review to be held, and, if he or she requests that a review under *section 18* be completed or held, as the case may be, the provisions of *sections 17* to *19* shall apply in relation to the review with any necessary modifications.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

REVOCATION OF AN INVOLUNTARY ADMISSION OR RENEWAL ORDER

FORM 14
MENTAL HEALTH ACT 2001
SECTION 28

I hereby revoke the relevant admission / renewal order from

8. Date of revocation: ☐☐/☐☐/☐☐☐☐

9. Time of revocation: **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

Please provide details of the patient's mental disorder using the latest ICD system,

F ☐/☐☐/☐☐

Signed: _____

(Responsible Consultant Psychiatrist)

Date: ☐☐/☐☐/☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

A copy of this form must be sent to the Mental Health Commission within 24 hours of its completion.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

PROPOSAL TO PERFORM PSYCHOSURGERY INVOLUNTARY PATIENT (ADULT)

FORM 15
MENTAL HEALTH ACT 2001
SECTION 58

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name of Patient being proposed for psychosurgery

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

2. Date of Birth ☐☐/☐☐/☐☐☐☐

was involuntarily admitted to

3. Name and Address of Approved Centre to which patient was admitted

Ward: | Centre Record No:

on

4. Date of Admission ☐☐/☐☐/☐☐☐☐

This patient is the subject of:

An Admission Order ☐ 2nd Renewal Order ☐

1st Renewal Order ☐ Subsequent Renewal Order ☐

PROPOSAL TO PERFORM PSYCHOSURGERY

Proposed by:

5. Full Name and Professional Address of Responsible Consultant Psychiatrist

I am of the opinion that it would be to the benefit of the above named patient to have psychosurgery for the following reasons:

6. Give details of how this treatment will benefit the patient

I have given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment and as the Consultant Psychiatrist responsible for the care and treatment of the patient I am satisfied that the patient is capable of understanding this information and the above named patient has consented in writing to undergo psychosurgery. ☐

I request that the Mental Health Commission refer this proposal to a Mental Health Tribunal.

Signed: _____

(Responsible Consultant Psychiatrist)

Date: ☐☐/☐☐/☐☐☐☐ Time: (24 hr clock e.g. 14.21) ☐☐:☐☐

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

"Consent", in relation to a patient, means consent obtained freely without threats or inducements, where—

(a) the consultant psychiatrist responsible for the care and treatment of the patient is satisfied that the patient is capable of understanding the nature, purpose and likely effects of the proposed treatment; and

(b) the consultant psychiatrist has given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

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.

57.—(1) The consent of a patient shall be required for treatment except where, in the opinion of the consultant psychiatrist responsible for the care and treatment of the patient, the treatment is necessary to safeguard the life of the patient, to restore his or her health, to alleviate his or her condition, or to relieve his or her suffering, and by reason of his or her mental disorder the patient concerned is incapable of giving such consent.

(2) This section shall not apply to the treatment specified in *section 58*, *59* or *60*.

58.—(1) Psycho-surgery shall not be performed on a patient unless—

(a) the patient gives his or her consent in writing to the psychosurgery, and

(b) the psycho-surgery is authorised by a tribunal.

(2) Where it is proposed to perform psycho-surgery on a patient and the consent of the patient has been obtained, the consultant psychiatrist responsible for the care and treatment of the patient shall notify in writing the Commission of the proposal and the Commission shall refer the matter to a tribunal.

(3) Where such a proposal is referred to a tribunal under this section, the tribunal shall review the proposal and shall either—

(a) if it is satisfied that it is in the best interests of the health of the patient concerned, authorise the performance of the psycho-surgery,

or

(b) if it is not so satisfied, refuse to authorise it.

(4) The provisions of *sections 19* and *49* shall apply to the referral of a matter to a tribunal under this section as they apply to the referral of an admission order or a renewal order to a tribunal under *section 17* with any necessary modifications.

(5) Effect shall not be given to a decision to which this section applies before—

(a) the expiration of the time for the bringing of an appeal to the Circuit Court, or

(b) if such an appeal is brought, the determination or withdrawal thereof.

(6) In this section "psycho-surgery" means any surgical operation that destroys brain tissue or the functioning of brain tissue and which is performed

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

TREATMENT WITHOUT CONSENT ELECTROCONVULSIVE THERAPY INVOLUNTARY PATIENT (ADULT)

FORM 16
MENTAL HEALTH ACT 2001
SECTION 59

To be completed by the consultant psychiatrist responsible for the care and treatment of the patient:

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name of patient being administered electroconvulsive therapy without consent

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

2. Date of Birth ☐☐ / ☐☐ / ☐☐☐☐

was involuntarily admitted to

3. Name and Address of Approved Centre to which patient was admitted

Ward: | Centre Record No:

on

4. Date: ☐☐ / ☐☐ / ☐☐☐☐

5. Full Name and Professional Address of Responsible Consultant Psychiatrist

I have examined the above named patient on (date) ☐☐ / ☐☐ / ☐☐☐☐
and I am of the opinion that it would be to the benefit of the patient to be administered electroconvulsive therapy without consent for the following reasons

6. Give details of how this treatment will benefit the patient

This patient is; (***tick as appropriate**)

*unable ☐ **or** *unwilling ☐ to give consent to this treatment.

I approve this programme of electroconvulsive therapy. ☐

I have given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment. **Yes** ☐ **No** ☐

Signed: _____

(Responsible Consultant Psychiatrist)

Date: ☐☐ / ☐☐ / ☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐ : ☐☐

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

"Consent", in relation to a patient, means consent obtained freely without threats or inducements, where—

(a) the consultant psychiatrist responsible for the care and treatment of the patient is satisfied that the patient is capable of understanding the nature, purpose and likely effects of the proposed treatment; and

(b) the consultant psychiatrist has given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

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.

57.—(1) The consent of a patient shall be required for treatment except where, in the opinion of the consultant psychiatrist responsible for the care and treatment of the patient, the treatment is necessary to safeguard the life of the patient, to restore his or her health, to alleviate his or her condition, or to relieve his or her suffering, and by reason of his or her mental disorder the patient concerned is incapable of giving such consent.

(2) This section shall not apply to the treatment specified in *section 58*, *59* or *60*.

59.—(1) A programme of electro-convulsive therapy shall not be administered to a patient unless either—

(a) the patient gives his or her consent in writing to the administration of the programme of therapy, or

(b) where the patient is unable or unwilling to give such consent—

(i) the programme of therapy is approved (in a form specified by the Commission) by the consultant psychiatrist responsible for the care and treatment of the patient, and

(ii) the programme of therapy is also 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.

SAMPLE

TREATMENT WITHOUT CONSENT ELECTROCONVULSIVE THERAPY INVOLUNTARY PATIENT (ADULT)

This part to be completed by another consultant psychiatrist following referral by the first-mentioned psychiatrist.

7. Full Name and Professional Address of Consultant Psychiatrist

I have examined the above named patient on (date) ☐☐/☐☐/☐☐☐☐
and I am of the opinion that it would be to the benefit of the patient to be administered electroconvulsive therapy without consent for the following reasons

8. Give details of how this treatment will benefit the patient

This patient is; (***tick as appropriate**)

*unable ☐ **or** *unwilling ☐ to give consent to this treatment.

I authorise this programme of electroconvulsive therapy. ☐

Signed: _____

(Consultant Psychiatrist)

Date: ☐☐/☐☐/☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

TREATMENT WITHOUT CONSENT ADMINISTRATION OF MEDICINE FOR MORE THAN 3 MONTHS INVOLUNTARY PATIENT (ADULT)

FORM 17
MENTAL HEALTH ACT 2001
SECTION 60

BLOCK CAPITALS (Before completing this form please read the notes overleaf)
In accordance with Part 2 of the Mental Health Act 2001

1. Full Name of patient being administered medication without consent

Title Mr ☐ Mrs ☐ Ms ☐ Dr ☐ Other ☐ Gender M ☐ F ☐

was involuntarily admitted to

2. Name and Address of Approved Centre to which patient was admitted

Ward: | Centre Record No:

on

3. Date: ☐☐/☐☐/☐☐☐☐

This part to be completed by the consultant psychiatrist responsible for the care and treatment of the above patient:

4. Full Name and Professional Address of Responsible Consultant Psychiatrist

I have examined the above named patient on (date) ☐☐/☐☐/☐☐☐☐
and I am of the opinion that it would be to the benefit of the patient to be administered medication without consent for the following reasons

5. Give details of medication and how it will benefit the patient

This patient is; (***tick as appropriate**)

*unable ☐ **or** *unwilling ☐ to give consent to this treatment.

I approve the continued administration of medication without consent. ☐

I have given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment. **Yes** ☐ **No** ☐

Signed: _____

(Responsible Consultant Psychiatrist)

Date: ☐☐/☐☐/☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

SAMPLE

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

The Mental Health Act (2001) does not define "Adult". "Child" means a person under the age of 18 years other than a person who is or has been married. Adult means any person who is not included in the definition of a "Child" in the Act.

"Consent", in relation to a patient, means consent obtained freely without threats or inducements, where—

(a) the consultant psychiatrist responsible for the care and treatment of the patient is satisfied that the patient is capable of understanding the nature, purpose and likely effects of the proposed treatment; and

(b) the consultant psychiatrist has given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment.

The Health Act 2004 dissolves Health Boards. References to Health Boards in the Mental Health Act 2001 are to be read as references to the Health Service Executive.

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.

57.—(1) The consent of a patient shall be required for treatment except where, in the opinion of the consultant psychiatrist responsible for the care and treatment of the patient, the treatment is necessary to safeguard the life of the patient, to restore his or her health, to alleviate his or her condition, or relieve his or her suffering, and by reason of his or her mental disorder the patient concerned is incapable of giving such consent.

(2) This section shall not apply to the treatment specified in *section 58*, *59* or *60*.

60.— Where medicine has been administered to a patient 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 patient gives his or her consent in writing to the continued administration of that medicine, or

(b) where the patient is unable or unwilling to give such consent—

(i) the continued administration of that medicine is approved by the consultant psychiatrist responsible for the care and treatment of the patient, and

(ii) 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.

SAMPLE

MHC
Coimisiún Meabhair-Shláinte | Mental Health Commission

TREATMENT WITHOUT CONSENT ADMINISTRATION OF MEDICINE FOR MORE THAN 3 MONTHS INVOLUNTARY PATIENT (ADULT)

FORM 17
MENTAL HEALTH ACT 2001
SECTION 60

This part to be completed by another consultant psychiatrist following referral by the first-mentioned psychiatrist.

6. Full Name and Professional Address of Consultant Psychiatrist

I have examined the above named patient on date: ☐☐/☐☐/☐☐☐☐

and I am of the opinion that it would be to the benefit of the patient to be administered medication without consent for the following reasons

7. Give details of how this treatment will benefit the patient

This patient is; (***tick as appropriate**)

*unable ☐ **or** *unwilling ☐

to give consent to this treatment. I authorise the continued administration of medication without consent.

Signed: _____

(Consultant Psychiatrist)

Date: ☐☐/☐☐/☐☐☐☐ **Time: (24 hr clock e.g. 14.21)** ☐☐:☐☐

This approval and authorisation shall be valid for a period of 3 months.

SAMPLE