IN Voluntary Admission Procedure for Adults

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

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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, S56(2).
⁴ See Section 1.3.2 for a more detailed discussion on mental disorder.
2.2 INVOLUNTARY ADMISSION PROCEDURE FOR ADULTS

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, 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?

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, 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.

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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 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

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.

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**Note:** 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.\(^\text{12}\)

2.2.6 HOW IS A RECOMMENDATION FOR INVOLUNTARY ADMISSION MADE?\(^\text{13}\)

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\(^\text{14}\) 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.\(^\text{15}\) 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


\(^\text{13}\) Mental Health Act 2001, S10.

\(^\text{14}\) 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.

\(^\text{15}\) 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.\(^\text{16}\)

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?**\(^\text{17}\)

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\(^\text{18}\) 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.

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\(^{16}\) 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?

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 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.

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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.
Person waiting in Approved Centre for an admission order examination to be completed by Consultant Psychiatrist, wishes to leave

A Consultant Psychiatrist, Medical Practitioner or Registered Nurse on the staff of the Approved Centre may implement Section 14 (2) and take charge of the person concerned and detain him or her for a period not exceeding 24 hours. Associated clinical practice form must be completed and filed in case notes

Consultant Psychiatrist examines the person as soon as possible but in any event within 24 hours of their arrival in the centre

Consultant Psychiatrist is satisfied that the person is suffering from a mental disorder

Consultant Psychiatrist is not satisfied that the person is suffering from a mental disorder and refuses to make an admission order

The application and recommendation are filed in the person’s case notes

Within same 24 hour period Consultant Psychiatrist must make admission order and completes Form 6 (Involuntary Admission order for up to 21 days)

Within the next 24 hours

Consultant Psychiatrist must give the patient a notice of the admission order in writing as required by Section 16(2) Mental Health Act 2001

A copy of the order must be sent to the Mental Health Commission as required by Section 16(1)(a) Mental Health Act 2001

PERSON LEAVES

Person stays as voluntary patient

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, or

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

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?**

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:-

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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)

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\(^{23}\) 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
  - Spouse/Relative of the person
  - Authorised Officer
  - Member of an Garda Síochána
  - Any other person
  - who is concerned that the person may have a mental disorder and within 48 hours of observing the person,

- makes an application by completing the appropriate form [no’s 1-4]

STEP 2

Application received by the Registered Medical Practitioner (RMP)

within 24 hours of receipt of application

RMP examines person*
- [examine process and content of thought, the mood and the behaviour of the person concerned]
- and
- informs the person of the purpose of the examination [unless to do so, would in the RMP’s opinion be prejudicial to the person’s mental health, well-being or emotional condition]

*RMP satisfied the person has a mental disorder:
- RMP makes a recommendation [Form 5] (recommendation remains in force for 7 days)
- RMP sends the recommendation to Clinical Director of the Approved Centre
  - and
  - gives a copy of the recommendation to the applicant

*RMP not satisfied the person has a mental disorder:
- Refuses to make a recommendation
- Applicant may seek a second opinion. [In such instances all of the facts relating to the previous application in so far as they are known by the applicant, must be made known to the RMP from whom the second opinion is sought]. (Section 11)
STEP 3: Removal of person to the Approved Centre

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: Admission Order (Section 14)*

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
  
- Consultant Psychiatrist not satisfied that the person has a mental disorder

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

DISCHARGE PERSON

- 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)

(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)*