

Section of Mental Health Act and other Orders

England and Wales

The Mental Health Act of 1983 provides special legal provision for those people with a mental disorder who are a danger to themselves or others, and who refuse to accept treatment that they require. This is because that they have little or no insight into their psychiatric condition. The decision to section a person with a severe mental health disorder involves an expert psychiatric assessment. The psychiatrist works in conjunction with social workers, general practitioners, mental healthcare professionals and the person's relatives in order to meet the legislative requirements of the Mental Act Health. A decision to section an individual is not undertaken lightly and indicates an illness of some severity. There are a number of different sections of the Mental Health Act. A number of these will be described:

Compulsory admission to hospital can be achieved through **sections 2, 3 and 4**.

- **Section 2** allows compulsory admission for assessment or assessment followed by treatment. It can last up to 28 days. It is the most common way for people to be detained,
- **Section 3** allows compulsory admission for treatment. It can be for up to 6 months, and may be renewed for a further 6 months, and after that 12 monthly,
- **Section 4** allows admission in an emergency and lasts up to 72 hours. It can be converted to another section (usually section 2) if circumstances require.

After discharge from compulsory hospital admission (section 3) some people with severe mental illness will be on **section 117 aftercare**. This means that the local authority and the social services are placed under a duty to provide the person with any aftercare services that the person is assessed as needing.

Guardianship order Some people with severe mental illnesses can be received into guardianship. This is used in the interests of the welfare of the person or for the protection of others. The guardian can specify where a person lives and the place where someone attends for medical treatment, work or education. In addition the guardian can specify that a doctor, social worker or other specified person should have access to the person. Guardians can be either a named individual or a social services authority.

Supervised Discharge Supervised discharge is also used for people with severe mental illnesses who have been detained in hospital under a treatment section (usually section 3). It is similar to a guardianship order and applies to those who are a risk to themselves or others. It requires the person to attend a particular place for the purpose of medical treatment, although the person cannot be compelled to accept treatment.

There are other powers in the Act, which relate to the assessment and treatment of people with mental disorder who are the subject of criminal justice proceedings.

Scotland

In Scotland, the Mental Health (Care and Treatment) (Scotland) Act 2003 applies. Within the Act there are three main kinds of compulsory powers:

Emergency detention (Part 5) This allows for someone to be detained in hospital for up to 72 hours where hospital admission is required urgently to allow the person's condition to be assessed. It can only take place if recommended by a doctor. Wherever possible, the agreement of a mental health officer (a social worker specially trained in mental health) should also be obtained.

Short-term detention (Part 6) This allows for someone to be detained in hospital for up to 28 days. It can only take place where it is recommended by a psychiatrist and agreed by a mental health officer.

Compulsory Treatment Order (CTO) (Part 7) This has to be approved by a Tribunal. A mental health officer has to apply to the Tribunal. The application has to include two medical recommendations and a plan of care detailing the care and treatment proposed for the patient. The patient, the patient's named person and the patient's primary carer is entitled to have any objections that they have heard by the Tribunal. The patient and the named person are entitled to free legal representation for the Tribunal hearing. A CTO lasts for 6 months initially but can then be extended for a further 6 months, and after that can be extended for 12 months at a time. It can be based in the hospital or in the community. If it is based in the community, then it can include various requirements, e.g. that the patient live at a certain address, attend certain services at particular times, or attend a particular place for treatment. There are rules in the Act about when patients can ask the Tribunal to review decisions or try to have requirements in a CTO changed.

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