

The Irish Mental Health Act 2001

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- The Mental Health Act 2001 (Department of Health and Children, 2001) was formally enacted by the Irish Houses of Oireachtas (parliament) on July 8th 2001 and implemented in full on 1st November 2006.
- The Mental Health Act 2001 replaced the Mental Treatment Act 1945. The principal problems with the 1945 Act were the broad criteria for detention and the absence of a mechanism for the independent review of detention.
- For a person to be involuntarily admitted they must have a 'mental disorder'. This is defined in the Act as 'mental illness, severe dementia or significant intellectual disability where - 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 (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and (ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent.'
- Mental illness is defined in the Act as '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.'
- A person cannot be involuntarily admitted solely on the grounds that the person '(a) is suffering from a personality disorder, (b) is socially deviant, or (c) is addicted to drugs or intoxicants.'
- An application for involuntary admission must be made by a spouse, relative, 'authorised officer', member of the Garda Síochána, or failing those "any other person'. They must have seen the subject of the application within the past 48 hours.

- The application is made to a medical practitioner who must examine the person within 24 hours.
- Once a person arrives in an approved centre following a recommendation for involuntary admission they may be detained for up to 24 hours, pending an examination and decision to admit involuntarily or otherwise by a consultant psychiatrist.
- Once involuntarily admitted a three-person Mental Health Tribunal must review the detention within 21 days.
- The Act establishes a Mental Health Commission whose role is to oversee the administration of the Act and to set and monitor standards in the delivery of mental health services.
- The Act also replaces the Inspector of Mental Hospitals with an Inspectorate of Mental Health Services, which will have increased scope and powers of inspection.
- Finally the Act sets out criteria for the involuntary administration of psychosurgery, ECT and long-term medication.

Reflection questions

(1.4) Can you think of any International or European laws that have implications for national mental health law?

(2.3) How would you define the terms: 'mental illness', 'severe dementia' and 'significant intellectual disability'?

(2.10) Can you think of scenarios in which it might be difficult for a medical practitioner to carry out an examination as defined by the Irish Mental Health Act 2001?

(5.3) According to the Mental Health Act 2001, capacity to consent is defined as follows: 'the patient must be capable of understanding the nature, purpose and likely effects of the proposed treatment; and the consultant psychiatrist must 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.' In your view, does this definition cover all aspects of capacity?

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