



Treatment Orders under the Mental Health Act 2013

Tasmania's *Mental Health Act 2013* establishes a substitute decision making framework for people with mental illness who, because of their illness, cannot make their own assessment and treatment decisions but who need treatment to prevent harm to their own health or safety, or to the safety of others.

The Act provides for Assessment Orders and Treatment Orders and establishes the statutory offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist. The Act also provides for an independent Mental Health Tribunal and for the appointment of Official Visitors.

What is a Treatment Order?

A Treatment Order is an Order enabling a person to be given treatment for mental illness, without the person's informed consent.

A Treatment Order may:

- Require a person to be given specified treatment
- Require a person to be treated at a particular place, such as a hospital or community mental health premises
- Require a person who is being treated to be admitted to and detained in an approved facility so that the person can be treated
- Provide for other incidental matters that the Mental Health Tribunal thinks are necessary or desirable in the circumstances.

How are Treatment Orders made?

Treatment Orders are made by the Mental Health Tribunal.

To make a Treatment Order the Mental Health Tribunal must be in receipt of an application from an approved medical practitioner and must be satisfied that the person meets the treatment criteria.

A Treatment Order may be applied for by any approved medical practitioner who has assessed the person and is satisfied from that assessment that the person meets the treatment criteria. In the case of a person who is not subject to an Assessment Order at the time of the application, one other approved medical practitioner must also have assessed the person and also be satisfied that the treatment criteria are met.

The Mental Health Tribunal is required to consider an application for a Treatment Order as soon as practicable after the application is received and must do so at a hearing before at least three Tribunal members.

What are interim Treatment Orders and how are they made?

An interim Treatment Order is a short term Treatment Order of up to 10 days duration, made by a single member of the Tribunal.

A single member of the Tribunal can make an interim Treatment Order if the member is in receipt of an application from an approved medical practitioner and is satisfied from the application that the person meets the treatment criteria, that the Mental Health Tribunal cannot immediately consider the application and that the delay that would be involved in waiting for the Tribunal to make a Treatment Order would, or is likely to, seriously harm the person's health or safety or the safety of others.

The single Tribunal member can make an interim Treatment Order on the basis of an application alone and without conducting a hearing.

What are the treatment criteria?

The treatment criteria in relation to a person are:

- The person has a mental illness, and
- Without treatment, the mental illness will, or is likely to, seriously harm the person's health or safety or the safety of other persons, and
- The treatment will be appropriate and effective, and
- The treatment cannot be adequately given except under a Treatment Order, and
- The person does not have decision making capacity.

What is a treatment plan?

A treatment plan is a document that accompanies a Treatment Order and that describes the treatment that the person is to receive.

A treatment plan is required to be completed for every person on a Treatment Order in consultation with the patient and others as relevant.

How long do Treatment Orders last for?

Treatment Orders that are made by the Mental Health Tribunal at a hearing involving at least three Tribunal members last for up to six months or until the Order is discharged, whichever occurs first.

Interim Treatment Orders last for up to 10 days, or until the original application is determined by the Mental Health Tribunal, or until the Order is discharged, whichever occurs first.

Can Treatment Orders be renewed?

Treatment Orders may be renewed by the Mental Health Tribunal.

The Mental Health Tribunal must be in receipt of an application from an approved medical practitioner and may only renew the Order if satisfied that the person meets the treatment criteria.

The Mental Health Tribunal is required to consider an application for the renewal of a Treatment Order as soon as practicable after the application is received, and at a hearing involving at least three Tribunal members.

The Mental Health Tribunal may renew a Treatment Order that has not previously been renewed for a period of up to six months. The Tribunal may renew a Treatment Order that has previously been renewed for up to 12 months.

What if a person fails to comply with the Order?

A person who fails to comply with a Treatment Order may be involuntarily admitted to, and detained in, an approved facility until the person is discharged, or until the Treatment Order is varied to provide for a different treatment setting, or until the Order ceases, whichever occurs first.

A person may be admitted to and detained in an approved facility in this way if reasonable steps have been taken to obtain the person's compliance and if the person's treating medical practitioner is satisfied that:

- The person has failed to comply despite the reasonable steps that have been taken to obtain the person's compliance, and
- The person's failure to comply has seriously harmed, or is likely to serious harm, the person's health or safety or the safety of others, and
- The person's admission and detention is necessary to address the harm to the person's health or safety or the safety of others.

How are Treatment Orders discharged?

A Treatment Order may be discharged at any time while the Order is in effect by any approved medical practitioner, or the Mental Health Tribunal.

A Treatment Order may be discharged for any reason; and must be discharged if an approved medical practitioner is satisfied, after assessing the person, that the person does not meet the treatment criteria.

Approved medical practitioner obligations

An approved medical practitioner who applies for a Treatment Order is required to complete a treatment plan and to give a copy of the application and plan, and a Statement of Rights, to the patient.

The approved medical practitioner is also required to place a copy of the application and accompanying documentation on the patient's clinical record.

An approved medical practitioner who applies for the renewal of a Treatment Order is required to give a copy of the application, an updated treatment plan and other accompanying documentation, and a Statement of Rights, to the person. The applicant is also required to give a copy of the application and other documentation to the person's treating medical practitioner, the Chief Civil Psychiatrist, and (if relevant) the controlling authority of the patient that the patient is in, or is expected to be in.

The approved medical practitioner is also required to place a copy of the application and other documentation on the patient's clinical record.

An approved medical practitioner who discharges a Treatment Order is required to give a copy of relevant documentation to the person, the person's treating medical practitioner, the Chief Civil Psychiatrist and the Mental Health Tribunal. The approved medical practitioner is also required to place a copy of relevant documentation on the patient's clinical record.

Mental Health Tribunal obligations

On making a Treatment Order, the Mental Health Tribunal is required to notify the person who the Order has been made for that the Order has been made, and to give the person a copy of the Order and a Statement of Rights.

The Tribunal is also required to notify the approved medical practitioner who applied for the Order, the person's treating medical practitioner, the controlling authority of the facility that the patient is expected to be in (if relevant), and the Chief Civil Psychiatrist that the Order has been made, and provide each of these people/bodies with a copy of the Order.

On renewing a Treatment Order, the Mental Health Tribunal is required to notify the patient that the Order has been renewed, and to give the patient a Statement of Rights.

The Tribunal is also required to notify the approved medical practitioner who applied for the renewal, the person's treating medical practitioner, the controlling authority of the facility that the patient is in or is expected to be in, and the Chief Civil Psychiatrist, of the renewal.

Patient rights

A person who is placed on a Treatment Order has the right to:

- Be provided with a copy of the Order and associated documentation
- Be notified of the renewal or discharge of a Treatment Order
- To be given a Statements of Rights at relevant points
- Be given information in a language and form that the person can understand
- Make a complaint to an Official Visitor
- Ask the Chief Civil Psychiatrist to exercise his or her power of direct intervention
- Ask the Mental Health Tribunal to review the Order

Other Resources:

Accompanying Fact Sheets

You can access a range of information and resources online by clicking on the Mental Health Act logo at www.dhhs.tas.gov.au/mentalhealth

Some of the Fact Sheets available for download include:

- *What do I need to Know? An Overview of the new Mental Health Act 2013*
- *Patient Statement of Rights*
- *What do I need to Know? Information for Consumers Currently Being Treated Under the Mental Health Act 1996*

This Fact Sheet also provides a list of questions which consumers may consider asking their Case Manager or Treating Practitioner, and which you may find useful to work through with the person you are caring for and/or supporting.

Other Organisations

Mental Health Carers Tasmania:

www.mentalhealthcarerstas.org.au

Mental Health Carers Tasmania (MHCTas) is a statewide leader in the provision of Mental Health carer support. MHCTas aims to improve the quality of life for the one in five Tasmanian families, friends, carers and people living with mental health issues and mental illness.

Phone:

South - 6228 7448

North - 6349 1121

North West - 6441 5280

Flourish Tasmania:

www.flourishtas.org.au

Flourish Mental Health Action in Our Hands Inc. is an independent Tasmanian not-for-profit organisation established to provide a strong voice for the state's mental health consumers. Flourish does not deliver individual services. It works with consumers, government, service providers and families to ensure that the delivery of mental health services is a quality process that meets the needs and expectations of all consumers.

Phone: 6223 1952

Advocacy Tasmania:

www.advocacytasmania.org.au

This service is for consumers and carers. Advocates can assist people to exercise their rights and responsibilities.

Phone:

Hobart - 1800 005 131

Devonport - 6441 0201

Launceston - 6331 0740

The Legal Aid Commission:

www.legalaid.tas.gov.au/

Legal Aid can provide lawyers to represent the rights of individuals with mental health issues, especially in cases where they may be detained and/or medically treated against their will.

Phone: 1300 366 611

The Mental Health Tribunal:

www.mentalhealthtribunal.tas.gov.au/

The Tribunal is an independent body established to protect the rights of people placed on involuntary orders for mental illness. It provides an independent review, and makes decisions about whether the involuntary order will continue or not. The Tribunal plays no role in relation to persons who voluntarily seek treatment for a mental illness.

Official Visitors:

officialvisitors.tas.gov.au/

Mental Health Official Visitors are members of the community who are appointed to visit approved hospitals and the secure mental health unit, the Wilfred Lopes Centre, to check on the way in which people with mental illness are being treated. They also investigate complaints made to them by people receiving care and treatment in these facilities for mental illness.

Phone: 1800 001 170