

Consumer Information Sheet 1

An Overview of the detention, assessment, and treatment under the *Mental Health Act 2013*

The Mental Health Act provides the legislative basis for involuntary mental health treatment.

Detaining for the purposes of assessment

If a Police Officer or Mental Health Officer (including an Approved Ambulance Officer) believes that the person has a mental illness and has concerns about the person's safety or the safety of others they can initiate detention for the purposes of assessment.

If the detention process is initiated, the person can be detained for up to 4 hours at an approved hospital so that they can be seen by a medical practitioner to make a decision about the person's mental health needs.

Making of an Assessment Order

A medical practitioner, as part of an assessment of the detained person, makes reasonable attempts to have the person assessed with informed consent. If that is not possible, they consider whether the person meets what is known as 'assessment criteria,' which are as follows:

- a) the person has, or appears to have, a mental illness that requires or is likely to require treatment for –
 - i. the person's health or safety; or
 - ii. the safety of other persons; and
- b) the person cannot be properly assessed with regard to the mental illness or the making of a treatment order except under the authority of the assessment order; and
- c) the person does not have decision-making capacity.

If the assessment criteria are met, an Assessment Order can be made which lasts for up to 24 hours.

An Approved Medical Practitioner may decide to extend this Order's operation for up to an additional 72 hours.

Treatment Orders

Before the expiry of an Assessment Order, if an Approved Medical Practitioner is of the view that the 'treating criteria' are met and a Treatment Order is necessary for the person to be given specific treatment, without the person's informed consent, an application is made to the Tribunal (TASCAT Mental Health Stream).

Treatment criteria are as follows:

- a) the person has a mental illness; and
- b) without treatment, the mental illness will, or is likely to, seriously harm –
 - (i) the person's health or safety; or
 - (ii) the safety of other persons; and
- c) the treatment will be appropriate and effective in terms of the treatment outcomes; and
- d) the treatment cannot be adequately given except under a treatment order; and
- e) the person does not have decision-making capacity.

Following a hearing the Tribunal may make a Treatment Order, in most cases to last for a maximum of six (6) months, although an Interim Treatment Order lasting 10 days can be made by a single member of the Tribunal.

The Tribunal may renew a Treatment Order that has previously been renewed for up to 12 months.

The Tribunal reviews Treatment Orders that it has made within set timeframes (within 60 and 180 days of the Order being made and at regular intervals thereafter).