

Schedule 6: Mental Health¹

| Subject Matter | Brief summary of the privilege or duty | Legislative Provision |
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| Compulsory admission to hospital and guardianship | <p>The following mental health applications must be founded on written recommendations from two Registered Medical Practitioners (one approved by the Secretary of State as having experience in the diagnosis or treatment of mental disorder, and unless that practitioner has personal acquaintance with the patient, a practitioner with such previous acquaintance):</p> <ul style="list-style-type: none"> • Application for an individual to be admitted to hospital and detained for assessment; • An application for an individual to be detained for treatment; • Application for guardianship. | Mental Health Act 1983 (Sections 2, 3 and 5) |
| Remand in hospital | If satisfied on the written or oral evidence of a Registered Medical Practitioner the court may remand a person in hospital for a report on his mental condition or treatment. | Mental Health Act (Section 35) |
| Power of the court to order compulsory admission to hospital or guardianship | A court may make an interim hospital order or a substantive hospital admission order or guardianship order if satisfied on the evidence of two Registered Medical Practitioners that detention in hospital for medical treatment is appropriate. If one of the Registered Medical Practitioners (one of whom is approved pursuant to Section 12) gives oral evidence the higher courts may make a restriction order, restricting discharge from hospital. | Mental Health Act (Sections 36 to 38) |

¹ Version 1 – 1 April 2009

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| Transfer from prison to hospital | Upon the evidence of two Registered Medical Practitioners (one of whom is approved pursuant to Section 12), the Secretary of State may direct that a person serving a prison sentence, or detained for other purposes, be removed to and detained in hospital for treatment. | Mental Health Act (Sections 47 and 48) |
| Treatment for a mental disorder requiring a second opinion and consent | A specially appointed Registered Medical Practitioner is required to certify that a person who consents to certain treatment (including surgery which will result in the destruction of brain tissue or brain tissue function) is able to do so and that the treatment is appropriate. Further, two specially appointed persons who are not Registered Medical Practitioners must also certify that consent has been given. | Mental Health Act (Sections 57) |
| Treatment for a medical disorder requiring a second opinion or consent | Other forms of treatment may require either: a) The patient to consent and for that consent to be duly certified by the approved clinician in charge of the treatment or certification by a Registered Medical Practitioner; or b) A certificate from a Registered Medical Practitioner (who is not the clinician responsible for the treatment) that the treatment is appropriate. | Mental Health Act (Sections 58) |
| Electro-convulsive treatment | Electro-convulsive treatment is conditional upon, amongst other things, a Registered Medical Practitioner or the approved clinician in charge of the treatment certifying that the patient understands the nature, purpose and likely effect of the treatment and he duly consents. | Mental Health Act (Sections 58A) |
| Duty to inform a community patient about independent mental health advocates | The Registered Medical Practitioner or approved clinician who first discusses the potential for an individual receiving treatment as a community patient is under a duty to take such steps as are practicable to ensure that the patient understands that help is available to him from an independent mental health advocate and how such help can be obtained. | Mental Health Act 1983 (Section 130D) |

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| Warrant to search and remove patients | A constable exercising a warrant granted for the search and removal, with a view to making an application for a hospital order, of a patient suffering from a mental disorder where there is reasonable cause to suspect the patient is being ill-treated/neglected or is unable to care for himself and lives alone, must be accompanied by an approved mental health professional and a Registered Medical Practitioner. In other circumstances, either an approved mental health professional or a Registered Medical Practitioner may be present. | Mental Health Act 1983 (Section 135) |
| Mentally disordered person found in a public place | If a constable finds a mentally disordered person who is in immediate need of care or control in a public place and he considers it to be necessary, he may remove the person to a place of safety and detain him for a period not exceeding 72 hours for the purpose of enabling him to be examined by a Registered Medical Practitioner and interviewed by an approved mental health professional. | Mental Health Act 1983 (Section 141) |
| Research involving individuals lacking consent | A researcher conducting an approved research project who has the agreement of a Registered Medical Practitioner who is not involved in the research may take action in relation to a person lacking capacity to consent. | Mental Capacity Act 2005 (Section 32) |