

3 February 2016

## **Memorandum on the Mental Health (Amendment) Act 2015**

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This memorandum provides an introduction to the Mental Health (Amendment) Act 2015 and an overview of the practical changes to consider.

A full copy of the Mental Health (Amendment) Act 2015 can be found on the Mental Health Commission website: [www.mhcirl.ie/for\\_H\\_Prof/Mental\\_Health\\_Act\\_2001](http://www.mhcirl.ie/for_H_Prof/Mental_Health_Act_2001).

### ***What does the Mental Health (Amendment) Act 2015 change?***

The Mental Health (Amendment) Act 2015 (the “2015 Act”) comes into force on Monday, 15 February 2016. Following implementation of the 2015 Act, Electroconvulsive Therapy (ECT) and medication (administered for over three months) can only be administered to an involuntary patient without consent where it has been determined that the patient is unable to consent to the treatment.

All references to the administration of treatment, where a patient is ‘unwilling’ to consent, will be removed from Sections 59 and 60 of the Mental Health Act 2001.

### ***What else is changing?***

#### Rules

All references to the administration of treatment, where a patient is ‘unwilling’ to consent, will be removed from the *Rules Governing the Use of Electro-Convulsive Therapy*. The Rules will also be updated to align with best international practice.

#### Code of Practice

The *Code of Practice on the Use of Electro-Convulsive Therapy for Voluntary Patients* will be updated to reflect the changes in the Rules.

#### Forms

Form 16 and Form 17 will be updated to take into account the 2015 Act.

The only substantive change to the forms is a new requirement for the Responsible Consultant Psychiatrist and second Consultant Psychiatrist to give details of their assessment of the patient’s ability to consent to treatment.

Minor formatting changes have been made to the forms and the ‘notes’ section has been updated to remove redundant information. The form names have been changed as follows:

- *Form 16: Electroconvulsive Therapy Involuntary Patient (Adult) – Unable to Consent.*
- *Form 17: Administration of Medicine for more than 3 Months Involuntary Patient (Adult) – Unable to Consent.*

## ***What happens on 15 February 2016?***

### Approvals and authorisations

All approvals and authorisations made prior to 15 February 2016, in relation to a patient who is “unwilling” to consent to ECT, or to the continued administration of medicine (for more than 3 months), cease to have effect on 15 February 2016.

#### **Important note:**

All treatment being administered to involuntary patients pursuant to Section 59 or 60 (as amended), where the patient was noted to be “unwilling”, must be stopped. A new assessment must be done under Section 59 and 60 and if the patient remains “unwilling” then the treatment shall not be continued.

### New forms must be used

The new Form 16 and Form 17 must be used from 15 February 2016 for all approvals and authorisations for the administration of ECT, and continued administration of medication (for more than 3 months), for involuntary patients without consent.

### Revised Rules and Code of Practice come into effect

Version 3 of the Rules Governing the Use of Electro-Convulsive Therapy and Version 3 of the Code of Practice on the Use of Electro-Convulsive Therapy come into effect on the 15<sup>th</sup> of February 2016. The Inspector of Mental Health Services will begin assessing compliance with the revised Rules and Code from this date.

### Judgement Support Framework

The Judgement Support Framework will not be updated on the 15<sup>th</sup> of February 2016. The Judgement Support Framework is currently undergoing a wider review and the relevant sections will be updated in due course, as part of the review.

Until such time as the Judgment Support Framework has been updated, approved centres should refer directly to the Rules, Code and Mental Health Act 2001 (as amended) for guidance.

### Distribution of the forms, Rules and Code of Practice

Copies of the new forms, Rules and Code of Practice will be distributed to approved centres on, or before, **Monday 15 February 2016**.

PDF versions of the new forms, Rules and Code of Practice will be available on the Mental Health Commission website and emailed to approved centres on, or before, **Friday 12 February 2016**.