



Number 23 of 2018

Mental Health (Renewal Orders) Act 2018



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MENTAL HEALTH (RENEWAL ORDERS) ACT 2018

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[No. 23.]

Mental Health (Renewal Orders) Act 2018.

[2018.]

ACTS REFERRED TO

Mental Health (Amendment) Act 2018 (No. 10)

Mental Health Act 2001 (No. 25)

Mental Health Acts 2001 to 2009



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MENTAL HEALTH (RENEWAL ORDERS) ACT 2018

An Act to permit unexpired renewal orders to be replaced by new orders made under this Act; to provide that such new orders shall take effect as if they were renewal orders made under section 15(3) of the Mental Health Act 2001 as amended by this Act; to amend section 15 of the Mental Health Act 2001 to provide that the maximum period of detention for a patient which may be provided for in a renewal order made under that section is 6 months; to provide that the patient, or his or her legal representative, has a right, in the case of a renewal order made for a period exceeding 3 months and in addition to any other right of review under the Mental Health Act 2001, to apply, not earlier than 3 months from the date on which the renewal order was made, for such renewal order to be reviewed by a tribunal in order for the tribunal to satisfy itself whether or not such patient is suffering from a mental disorder; to make consequential amendments to certain other provisions of the Mental Health Act 2001; and to provide for related matters. [3rd October, 2018]

Be it enacted by the Oireachtas as follows:

Interpretation

1. (1) In this Act—

“Act of 2001” means the Mental Health Act 2001;

“Minister” means the Minister for Health;

“replacement renewal order”, in relation to an unexpired renewal order, means the order made under *section 3(1)(b)* that replaces the unexpired renewal order;

“unexpired renewal order” means an order purporting to be a renewal order made under section 15(3) of the Act of 2001 where the period for which it was made has not expired before the commencement of *section 3*.

(2) Section 2(1) of the Act of 2001 shall apply to the interpretation of this Act as it applies to the interpretation of that Act.

Expenses

2. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Replacement renewal orders

3. (1) Subject to *subsection (2)*, where a patient is the subject of an unexpired renewal order, the consultant psychiatrist responsible for the care and treatment of the patient, having carried out an examination of the patient as soon as possible after the commencement of this section but, in any case, not later than 5 working days (or, if the Minister permits thereto in writing, 8 working days) after such commencement, shall, where he or she is satisfied by virtue of that examination that the patient continues to suffer from a mental disorder—
- (a) certify in a form specified by the Commission that the patient continues to suffer from a mental disorder, and
 - (b) make an order replacing the unexpired renewal order in respect of the patient for a specified period not exceeding the maximum period specified in section 15(3) of the Act of 2001.
- (2) A replacement renewal order shall be in substitution for, and not in addition to, the unexpired renewal order and shall, for the purposes of the Act of 2001 and subject to the provisions of that Act, take effect as if it were a renewal order under section 15(3) of that Act and, accordingly, sections 16 to 18 of that Act shall apply to the replacement renewal order and cease to apply to the unexpired renewal order.
- (3) An unexpired renewal order continues in force until—
- (a) the period for which it was made expires,
 - (b) it is revoked pursuant to a provision of the Act of 2001,
 - (c) it is replaced by a replacement renewal order, or
 - (d) the 5 working days (or, if applicable, 8 working days) referred to in *subsection (1)* expires,
- whichever first occurs.

Amendment of section 15 of Act of 2001

4. Section 15 of the Act of 2001 is amended by the substitution of the following subsection for subsection (3):
- “(3) (a) The period referred to in subsection (1) may be further extended by order made by the consultant psychiatrist concerned for a period not exceeding 6 months beginning on the expiration of the renewal order made by the psychiatrist under subsection (2) and thereafter may be further extended by order made by the psychiatrist for periods each of which does not exceed 6 months (each of which orders is also referred to in this Act as ‘a renewal order’).
 - (b) Subject to paragraphs (c) and (d), a patient detained pursuant to any renewal order made under paragraph (a) for a period exceeding 3 months, or his or her legal representative, on the instructions of the patient or on the representative’s own initiative, may make one

application per renewal order period, in a form specified by the Commission for the purpose, in respect of that renewal order to the Commission to have his or her detention reviewed by a tribunal in accordance with the provisions of section 18.

- (c) An application referred to in paragraph (b) shall be made to the Commission not earlier than 3 months from the date on which the renewal order concerned was made under paragraph (a).
- (d) For the purposes of a review conducted pursuant to an application referred to in paragraph (b), subsection (1) of section 18 shall be read as if paragraph (a) of that subsection were deleted therefrom and the following paragraph were substituted therefor:

‘(a) if satisfied that the patient is suffering from a mental disorder, affirm the order, or’ ”.

Amendment of section 16 of Act of 2001

- 5. Section 16 of the Act of 2001 is amended, in subsection (2), by the insertion of the following paragraph after paragraph (e):

“(ee) subject to section 15(3)(c) and (d), is entitled, by virtue of section 15(3)(b), to apply (or have his or her legal representative apply on the instructions of the patient or on the representative’s own initiative) to the Commission to have the patient’s detention further reviewed by a tribunal in accordance with the provisions of section 18.”.

Amendment of section 17 of Act of 2001

- 6. Section 17 of the Act of 2001 is amended, in subsection (1), by the insertion of “or an application referred to in section 15(3)(b),” after “or a renewal order,”.

Amendment of section 18 of Act of 2001

- 7. Section 18 of the Act of 2001 is amended by the substitution of the following subsection for subsection (2):

“(2) Subject to subsection (4), a decision under subsection (1) shall be made as soon as may be, but—

- (a) in the case of an admission order or a renewal order, not later than 21 days after the making of such order, or
- (b) in the case of an application referred to in section 15(3)(b), not later than 21 days after the date on which the Commission received the application.”.

Exclusions

8. (1) Nothing in this Act shall prejudice any right or entitlement of a patient under or relating to section 28 of the Act of 2001.
- (2) Nothing in this Act shall affect any proceedings—
- (a) commenced in any court concerning the validity of a renewal order or an order purporting to be a renewal order where those proceedings were commenced before the commencement of this section, or
 - (b) under section 19 of the Act of 2001.

Short title, collective citation, construction and commencement

9. (1) This Act may be cited as the Mental Health (Renewal Orders) Act 2018.
- (2) The Mental Health Acts 2001 to 2009, the Mental Health (Amendment) Act 2018 and this Act may be cited together as the Mental Health Acts 2001 to 2018 and shall be construed together as one.
- (3) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.