

## **Extracts from** ***Mental Health Act 2014***

### **25. Criteria for involuntary treatment order**

- (1) A person is in need of an inpatient treatment order only if all of these criteria are satisfied —
  - (a) that the person has a mental illness for which the person is in need of treatment;
  - (b) that, because of the mental illness, there is —
    - (i) a significant risk to the health or safety of the person or to the safety of another person; or
    - (ii) a significant risk of serious harm to the person or to another person;
  - (c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;
  - (d) that treatment in the community cannot reasonably be provided to the person;
  - (e) that the person cannot be adequately provided with treatment in a way that would involve less restriction on the person's freedom of choice and movement than making an inpatient treatment order.
- (2) A person is in need of a community treatment order only if all of these criteria are satisfied —
  - (a) that the person has a mental illness for which the person is in need of treatment;
  - (b) that, because of the mental illness, there is —
    - (i) a significant risk to the health or safety of the person or to the safety of another person; or
    - (ii) a significant risk of serious harm to the person or to another person; or
    - (iii) a significant risk of the person suffering serious physical or mental deterioration;
  - (c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;
  - (d) that treatment in the community can reasonably be provided to the person;
  - (e) that the person cannot be adequately provided with treatment in a way that would involve less restriction on the person's freedom of choice and movement than making a community treatment order.
- (3) A decision whether or not a person is in need of an inpatient treatment order or a community treatment order must be made having regard to the guidelines published under section 547(1)(a) for that purpose.

**394. Things to which Tribunal must have regard**

- (1) In making a decision on a review under this Division in respect of an involuntary patient, the Tribunal must have regard to these things —
  - (a) if the involuntary patient is a child and the Tribunal is not constituted with a child and adolescent psychiatrist — the views of a medical practitioner or mental health practitioner specified in subsection (2);
  - (b) the involuntary patient's psychiatric condition;
  - (c) the involuntary patient's medical and psychiatric history;
  - (d) the involuntary patient's treatment, support and discharge plan;
  - (e) the involuntary patient's wishes, to the extent that it is practicable to ascertain those wishes;
  - (f) the views of any carer, close family member or other personal support person of the involuntary patient;
  - (g) any other things that the Tribunal considers relevant to making the decision.
- (2) For subsection (1)(a), a medical practitioner or mental health practitioner must —
  - (a) have qualifications, training or experience relevant to children who have a mental illness; and
  - (b) be authorised by the Chief Psychiatrist for this paragraph.