The Mental Health Act 2001 represents the most important reform of Ireland’s mental health laws in over half a century. It replaces and updates a number of older pieces of legislation, most notably the Mental Treatment Act 1945 (Department of Health, 1945). The Act has profound implications for patients, carers, mental health professionals and the public.

The purpose of this module was to outline the central provisions of the Mental Health Act 2001 as they relate to psychiatric practice in Ireland. This module offers guidance on: the background to the development of the Mental Health Act 2001, definitions of mental illness and other terms according to the Act, involuntary admission of persons to approved centres, independent review of detention, consent to treatment, approved centres and miscellaneous other matters.

Background

The Mental Health Act 2001 was formally enacted by the Irish Houses of Oireachtas (parliament) in July 2001. It was designed to update and improve the legislative framework for psychiatric practice in Ireland and was implemented on a phased basis, starting with the establishment of the Mental Health Commission in 2002 and followed by full implementation in 2006.

The Mental Health Act 2001 replaced the Mental Treatment Act 1945. The principal problems with the 1945 Act were the broad criteria for detention and the absence of a mechanism for the independent review of detention.

Preliminary and general

The preliminary section of the Act defines mental disorder, mental illness, severe dementia, significant intellectual disability, mental health services, the examination, and treatment.

Mental illness is defined in the Act as ‘a state of mind of a person which affects the person’s thinking, perceiving, emotion or judgment and which seriously impairs the mental function of the person to the extent that he or she requires care or medical treatment in his or her own interest or in the interest of other persons.’

Involuntary admission of persons to approved centres

For a person to be involuntarily admitted they must have a ‘mental disorder’. This is defined in the Act as ‘mental illness, severe dementia or significant intellectual disability where - because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons, or (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and (ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent.’

A person cannot be involuntarily admitted solely on the grounds that the person ‘(a) is suffering from a personality disorder, (b) is socially deviant, or (c) is addicted to drugs or intoxicants.’

An application for involuntary admission must be made by a spouse, relative, ‘authorised officer’, member of the Garda Síochána, or failing those “any other person’. They must have seen the subject of the application within the past 48 hours.

The application is made to a medical practitioner who must examine the person within 24 hours.

Once a person arrives in an approved centre following a recommendation for involuntary admission they may be detained for up to 24 hours, pending an examination and decision to admit involuntarily or otherwise by a consultant psychiatrist.

Once involuntarily admitted a three-person Mental Health Tribunal must review the detention within 21 days.
Independent review of detention

The Act establishes a Mental Health Commission whose role is to oversee the administration of the Act and to set and monitor standards in the delivery of mental health services.

The Act also replaces the Inspector of Mental Hospitals with an Inspectorate of Mental Health Services, which has increased scope and powers of inspection.

Consent to treatment, approved centres and miscellaneous

Part 4 of the Act addresses consent specifically in relation to psychosurgery, electro-convulsive therapy and administration of medication.

Part 5 of the Act provides detailed guidelines in relation to ‘approved centres’ (hospitals or other in-patient facilities ‘for the care and treatment of persons suffering from mental illness or mental disorder’).

The final part (Part 6) of the Act addresses a range of remaining miscellaneous issues, including: the use of bodily restraint and seclusion, participation in clinical trials, the appointment of clinical directors, provisions for the transition to the new legislation and the instigation of civil proceedings.

Implementation

In general, it was broadly accepted that there was a need to update existing legislation in order to provide better protection of patient rights and to increase compliance with the United Nation’s Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.

Concern was expressed prior to implementation about several aspects of the Act, including: the resource implications for Irish mental health services; difficulties arranging for ‘removal of persons to approved centres’; the timing of mental health tribunals, which may not occur until just before a patient is discharged; the ongoing need for children to be admitted to adult units due to the unavailability of dedicated beds for children.

It is interesting to note that Ireland’s new legislation: does not address in detail the process of voluntary admission to approved psychiatric centres; does not clearly establish a minimum standard of care to which patients are entitled; does not contain provision for involuntary treatment as an out-patient; and does not allow for shorter periods of detention explicitly for assessment purposes.

Further reading

The full text of the Mental Health Act 2001 can be downloaded from the website of the Irish Houses of Oireachtas (Parliament): [PDF]
