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**An Bille Meabhair-Shláinte  
(Orduithe Athnuachana), 2018  
Mental Health (Renewal Orders) Bill 2018**

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*Meabhrán Míitheach agus Airgeadais  
Explanatory and Financial Memorandum*

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**AN BILLE MEABHAIR-SHLÁINTE  
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MENTAL HEALTH (RENEWAL ORDERS) BILL 2018**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Background to and purpose of the Bill**

The purpose of this Bill is to provide a lawful basis for the reception, detention and treatment of persons who are detained involuntarily on renewal orders under section 15(3) of the Mental Health Act 2001.

The Bill provides for an amendment to the Mental Health Act 2001. This amendment is consequent on a Court of Appeal judgment of 3rd May 2018 finding section 15(3) of the 2001 Act to be unconstitutional. Section 15(3) of the 2001 Act allows for renewal orders for the involuntary detention of patients for periods not exceeding 6 months and not exceeding 12 months. The finding of unconstitutionality was on the basis that there was no means for a patient detained for such periods to access a review of their detention in a timely way.

This amendment provides for the removal of the provision for renewal orders of up to 12 months, for repeat renewal orders of a maximum period of 6 months each, and for a new right for the patient to apply for a review of their detention at or after 3 months from the date the renewal order was made. This review will be carried out by a mental health tribunal, which will satisfy itself whether or not the patient is suffering from a mental disorder.

**Provisions of the Bill**

**Section 1: Interpretation**

This is a standard interpretation provision.

**Section 2: Expenses**

This is a standard provision dealing with any expenses incurred by the Minister in the administration of the Bill.

**Section 3: Replacement renewal orders**

*Section 3* provides for replacing the section 15(3) renewal orders under which patients are currently detained with new orders made under an amended section 15(3).

**Section 4: Amendment of section 15 of Act of 2001**

*Section 4* amends section 15(3) of the Mental Health Act 2001 to:

- (a) provide for repeat renewal orders of a maximum duration of 6 months (previously the provision was for a single renewal order of up to 6 months, followed by repeat renewal orders of a maximum duration of up to 12 months).

- (b) provide for a new right for the patient or their legal representative to request a review of their detention by a mental health tribunal.
- (c) provide that the review by a mental health tribunal referred to above can be accessed at or after 3 months from the date the renewal order was made under section 15(3).
- (d) provide that the review to be carried out by a mental health tribunal is limited to whether or not the patient is suffering from a mental disorder, and does not include a review of the procedural aspects of making the order as this review was already reviewed by a tribunal within 21 days of the making of the order.

**Section 5: Amendment of section 16 of Act of 2001**

*Section 5* is a consequential amendment of section 16 of the Mental Health Act 2001 to provide for the review as set out in section 4.

**Section 6: Amendment of section 17 of Act of 2001**

*Section 6* is a consequential amendment of section 17 of the Mental Health Act 2001 to provide for the review as set out in section 4.

**Section 7: Amendment of section 18 of Act of 2001**

*Section 7* is a consequential amendment of section 18 of the Mental Health Act 2001 to provide for the review as set out in section 4.

**Section 8: Exclusions**

*Section 8* confirms that several existing rights of the patient under the Mental Health Act 2001 are unaffected by the changes in the Bill:

- (a) provisions for discharge under section 28 of the Mental Health Act 2001;
- (b) any court proceedings which were already in train before the commencement of the legislation; and
- (c) the right of appeal to a Circuit Court under section 19 of the Mental Health Act 2001.

**Section 9: Short title, collective citation, construction and commencement**

*Section 9* is a standard provision, dealing with short title, collective citation of the Mental Health Acts 2001-2018, construction and commencement arrangements.

**Financial Implications**

A certain level of direct cost will arise for the Exchequer. Shortly after the commencement of the legislation, there is a requirement to run extra mental health tribunals for replacement renewal orders. It is envisaged that this expenditure will be of the order of €350,000 in 2018.

There will be an additional annual cost thereafter, due firstly to the increased frequency with which tribunals will be run resulting from the reduction of the maximum duration of renewal orders from 12 months to 6 months, and secondly to the additional tribunals required to provide for the new right of review of the patient. These costs, which have yet to be fully quantified, will be minimised by the use of existing tribunal structures. Incremental staffing costs will also arise from the increased administration involved in running extra tribunals.

These costs will be met from within existing agreed Ministerial expenditure ceilings.

*An Roinn Sláinte,  
Meán Fómhair, 2018.*