



SEANAD ÉIREANN

AN BILLE MEABHAIR-SHLÁINTE, 2024 MENTAL HEALTH BILL 2024

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

SEANAD ÉIREANN

AN BILLE MEABHAIR-SHLÁINTE, 2024 —AN TUARASCÁIL

MENTAL HEALTH BILL 2024 —REPORT

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

- *1. In page 15, line 24, to delete “District Court” and substitute “Family District Court or the District Court, as the case may be”.
- *2. In page 17, line 14, to delete “parent or guardian” and substitute “relevant consulted carers, if any,”.
- *3. In page 17, to delete line 19 and substitute the following:

“ “child” means a person who has not attained the age of 18 years;”.
- *4. In page 18, between lines 7 and 8, to insert the following:

“ “direct application for a recommendation for involuntary admission” has the meaning assigned to it in *section 15*;”.
- *5. In page 18, between lines 7 and 8, to insert the following:

“ “emergency care order” has the meaning assigned to it in section 13 of the Act of 1991;”.
- *6. In page 18, between lines 23 and 24, to insert the following:

“ “interim care order” has the meaning assigned to it in section 17 of the Act of 1991;”.
- *7. In page 18, to delete lines 24 to 26.
- *8. In page 18, lines 27 and 28, to delete “detention in *section 66*” and substitute “involuntary admission of a child”.
- *9. In page 18, lines 28 and 29, to delete “made under *section 67* or *68*”.

***10.** In page 18, between lines 32 and 33, to insert the following:

“ “involuntary admission order” has the meaning assigned to it—

- (a) in relation to an adult, in *sections 22 and 38*, and
- (b) in relation to a child, in *section 67*”.

11. In page 19, to delete lines 2 to 5 and substitute the following:

“ “mental health difficulty” and/or “Psychosocial disability” mean, in relation to a person, any mental illness, condition or disability, whether of a continuous or intermittent nature, which affects the person’s thinking, perception, emotion, or mood and impairs the mental function of the person;”.

—*Senators Laura Harmon, Nessa Cosgrove, Patricia Stephenson, Malcolm Noonan,*
Victor Boyhan.

***12.** In page 19, line 29, to insert “both” before “within”.

***13.** In page 19, to delete lines 35 and 36 and substitute the following:

“ “parents or guardian or the Agency” means—

- (a) in relation to a child the subject of a care order, the Agency, and
- (b) in all other circumstances, the child’s parents, or either of them, or guardian;”.

***14.** In page 19, between lines 36 and 37, to insert the following:

“ “permitted absence” has the meaning assigned to it—

- (a) in relation to an adult, in *section 39*, and
- (b) in relation to a child, in *section 84*”.

***15.** In page 20, between lines 17 and 18, to insert the following:

“ “register” means—

- (a) in relation to a registered acute mental health centre, the Register of acute mental health centres,
- (b) in relation to a registered community mental health centre, the Register of community mental health centres, and
- (c) in relation to a registered community mental health service, the Register of community mental health services;

“Register of acute mental health centres” has the meaning assigned to it in *section 148*;

“Register of community mental health centres” has the meaning assigned to it in *section 149*;

“Register of community mental health services” has the meaning assigned to in *section 150;*”.

***16.** In page 21, between lines 2 and 3, to insert the following:

“ “relevant advocacy service” means a service which assists or supports a person in expressing his or her will and preferences, or otherwise in making his or her views known, in relation to mental health services being provided to the person;”.

***17.** In page 21, between lines 2 and 3, to insert the following:

“ “relevant carer” means—

- (a) in relation to a child the subject of a care order, a voluntary care arrangement, an emergency care order or an interim care order, the Agency, and
- (b) in all other circumstances, the child’s parents, or either of them, or guardian;

“relevant consulted carers” means—

- (a) in relation to a child the subject of a care order, the Agency,
- (b) in relation to a child the subject of a voluntary care arrangement, an emergency care order or an interim care order—

- (i) where the child concerned is a voluntarily admitted child under 16 years of age or a child aged 16 years or older lacking necessary capacity admitted with parental consent—

- (I) the Agency, and
 - (II) his or her parents, or either of them, or guardian,

- (ii) where the child concerned is a voluntarily admitted child aged 16 years or older, at the child’s request—

- (I) the Agency,
 - (II) his or her parents, or either of them, or guardian, or
 - (III) the persons in *clauses (I) and (II)*,

- (iii) where the child concerned is an involuntarily admitted child under 16 years of age or is under 16 years of age and the subject of an application for involuntary admission under *section 67*—

- (I) the Agency, and
 - (II) his or her parents, or either of them, or guardian,
- and

- (iv) where the child concerned is an involuntarily admitted child aged 16 years or older or is aged 16 years or older and the subject of an application for involuntary admission under *section 67*, at the child’s request or where, in the opinion of the responsible consultant psychiatrist, it is in the child’s best

interests—

- (I) the Agency,
- (II) his or her parents, or either of them, or guardian, or
- (III) the persons in *clauses (I) and (II)*,

and

(c) where *paragraph (a) or (b)* does not apply—

- (i) where the child concerned is a voluntarily admitted child under 16 years of age or a child aged 16 years or older lacking necessary capacity admitted with parental consent, his or her parents, or either of them, or guardian,
- (ii) where the child concerned is a voluntarily admitted child aged 16 years or older, at the child's request, his or her parents, or either of them, or guardian,
- (iii) where the child concerned is an involuntarily admitted child under 16 years of age or is under 16 years of age and the subject of an application for involuntary admission under *section 67*, his or her parents, or either of them, or guardian, and
- (iv) where the child concerned is an involuntarily admitted child aged 16 years or older or is aged 16 years or older and the subject of an application for involuntary admission under *section 67*, at the child's request or where, in the opinion of the responsible consultant psychiatrist, it is in the child's best interests, his or her parents, or either of them, or guardian;".

***18.** In page 21, line 4, to delete "practitioner," and substitute "practitioner, or".

***19.** In page 21, line 6, to delete "or".

***20.** In page 21, to delete lines 7 and 8.

***21.** In page 21, line 9, to delete "the application, initiate the application of, or apply," and substitute "or initiate the application of, or apply,".

***22.** In page 21, between lines 10 and 11, to insert the following:

“ “relevant notified carers” means—

- (a) in relation to a child the subject of a care order, the Agency,
- (b) in relation to a child the subject of a voluntary care arrangement, an emergency care order, an interim care order or a supervision order, his or her parents, or either of them, or guardian and the Agency, and
- (c) where *paragraph (a) or (b)* does not apply, the child's parents, or either of them, or guardian;".

- *23. In page 21, line 18, after “mechanical restraint” to insert “, pharmacological restraint”.
- *24. In page 21, between lines 34 and 35, to insert the following:
“ “supervision order” has the meaning assigned to it in section 19 of the Act of 1991;”.
- *25. In page 21, line 35, to delete “*sections 37 and 85*” and substitute “*sections 37 and 81*”.
- *26. In page 22, line 12, to delete “order.” and substitute “order;”.
- *27. In page 22, between lines 12 and 13, to insert the following:
“ “voluntary care arrangement” means a care arrangement under section 4 of the Act of 1991.”.
- *28. In page 22, between lines 12 and 13, to insert the following:
“(2) In this Act, until such time as *section 234* comes into operation, the following modifications shall apply:
- (a) a reference to the Family High Court shall be construed as a reference to the High Court with any necessary modifications;
 - (b) a reference to the Family Circuit Court shall be construed as a reference to the Circuit Court;
 - (c) a reference to—
 - (i) the Family District Court, or
 - (ii) the Family District Court or the District Court,shall be construed as a reference to the District Court with any necessary modifications;
 - (d) a reference to—
 - (i) the Family District Court district, or
 - (ii) the Family District Court district or District Court district,shall be construed as a reference to the District Court district with any necessary modifications;
 - (e) in *section 72(5)*—
 - (i) *paragraph (a)(ii)* shall not apply, and
 - (ii) in *paragraph (d)*, the words “a sitting of the Family District Court or” are deleted;
 - (f) in *section 90(3)*—
 - (i) *paragraph (a)(ii)* shall not apply, and

(ii) in *paragraph (d)*, the words “a sitting of the Family District Court or” are deleted.”.

***29.** In page 23, to delete lines 6 to 19.

***30.** In page 23, line 25, to delete “Act, shall” and substitute “Act shall,”.

31. In page 23, after line 33, to insert the following:

“(9) This Act shall be compliant with the United Nations Convention on Rights of the Child (UNCRC).”.

—*Senators Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.*

32. In page 23, after line 33, to insert the following:

“(9) This Act shall be compliant with the United Nations Convention Rights of Persons with Disabilities (UNCRPD).”.

—*Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.*

***33.** In page 25, line 25, to delete “detention,” and substitute “detention and”.

34. In page 26, line 11, to delete “in so far as is practicable,”.

—*Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.*

35. In page 26, line 11, to delete “in so far as is practicable, that” and substitute the following:

“that children are entitled to age-appropriate care and should only be in age-appropriate units except in emergency circumstances, and”.

—*Senators Laura Harmon, Nessa Cosgrove, Patricia Stephenson, Malcolm Noonan, Victor Boyhan.*

36. In page 26, to delete lines 11 and substitute the following:

“(e) children are entitled to age-appropriate care and should only be in age-appropriate units except in emergency circumstances. Under no circumstances should a child be placed in an adult unit for longer than 72 hours. Following this emergency 72-hour timeframe, that care and treatment must be provided—”.

—*Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.*

37. In page 26, between lines 26 and 27, to insert the following:

“Advocacy Services

11. (1) Every person accessing mental health services shall have the right to access independent advocacy services to support them in understanding and exercising their rights. This right shall apply regardless of their legal status, and shall include, but not be limited to—
- (a) persons receiving services on a voluntary basis, and
 - (b) persons who are involuntarily detained.
- (2) All persons accessing mental health services, and where appropriate their families or representatives, shall be informed in a timely and accessible manner of the availability of independent advocacy services and how to access them. Advocacy services shall be made available:
- (a) upon request by the person concerned;
 - (b) automatically for individuals who are involuntarily detained under this Act;
 - (c) automatically for children admitted to approved centres.
- (3) Advocates shall operate independently of mental health service providers and shall:
- (a) act in accordance with the will and preferences of the person concerned;
 - (b) assist the person in understanding their rights and options;
 - (c) support the person in participating in decisions about their care and treatment.
- (4) The organisation providing independent advocacy should be structurally and financially independent.”.

—*Senators Laura Harmon, Nessa Cosgrove, Patricia Stephenson, Malcolm Noonan,*

Victor Boyhan.

38. In page 26, between lines 26 and 27, to insert the following:

“Review of independent advocacy services

11. (1) The Minister shall, within 6 months of the passing of this Act, conduct a review of the provision of independent advocacy services to persons in receipt of mental health services, and shall cause a report on the review to be published and laid before both Houses of the Oireachtas.
- (2) The review conducted under *subsection (1)* shall examine—
- (a) the merits of providing for a statutory right for every person receiving mental health services to obtain independent advocacy services in order to support the person in understanding and exercising his or her rights,
 - (b) the effectiveness of the current arrangements by which a person receiving mental

health services can obtain independent advocacy services, and any improvements to the timeliness and accessibility of those arrangements, and

- (c) whether an appropriate operational, structural and financial independence in relation to the provision of such advocacy services is achieved under the current arrangements.”.

—*Senators Laura Harmon, Nessa Cosgrove, Patricia Stephenson, Malcolm Noonan, Victor Boyhan.*

***39.** In page 27, between lines 1 and 2, to insert the following:

“ “designated healthcare representative” has the same meaning as it has in section 2 of the Act of 2015;”.

***40.** In page 27, to delete lines 3 and 4.

41. In page 28, between lines 27 and 28, to insert the following:

“Report on right to independent advocacy

- 13.** Within nine months of the passing of this Act the Minister shall lay before the Houses of the Oireachtas a report outlining how a right to independent advocacy can be guaranteed to all patients and their caregivers.”.

—*Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.*

***42.** In page 29, line 16, to delete “particular,” and substitute “particular”.

43. In page 29, between lines 20 and 21, to insert the following:

“Capacity assessment and safeguards for treatment without consent

- 14.** (1) A person cannot be given treatment without their consent unless a formal capacity assessment has been carried out and they have been found to lack capacity to consent to that specific treatment, in line with the Assisted Decision-Making (Capacity) Act 2015.
- (2) An exception to *subsection (1)* will only apply in emergency circumstances where such treatment is—
 - (a) immediately needed to protect the life of the person or someone else, or
 - (b) needed to prevent an immediate and serious threat to the health of the person or someone else,and no safe and effective alternative is available.
- (3) The Mental Health Commission will set up independent auditing and review

procedures for all cases where treatment is given without consent before a capacity assessment is completed. The review must look at—

- (a) whether time limits were followed,
- (b) whether the reasons for treatment were properly recorded,
- (c) whether independent advocacy was involved where relevant, and
- (d) what steps were taken to support the person’s participation.”.

—*Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson,
Frances Black, Laura Harmon, Nessa Cosgrove.*

- *44. In page 29, line 28, to delete “purpose” and substitute “purpose,”.
- *45. In page 31, line 4, to delete “particular,” and substitute “particular”.
- *46. In page 31, line 19, to delete “Part” and substitute “Act”.
- *47. In page 32, line 1, to delete “particular,” and substitute “particular”.
- *48. In page 32, line 36, to delete “Part” and substitute “Act”.
- *49. In page 34, line 5, to delete “insofar” and substitute “in so far”.
- *50. In page 34, line 9, to delete “concerned” and substitute “concerned,”.
- *51. In page 34, line 33, to delete “Inspector” and substitute “inspector”.
- *52. In page 34, lines 34 and 35, to delete “*subsections (3) to (7) may be carried out*” and substitute the following:

“subsections (3) and (5) may be carried out, subject to and in accordance with subsections (6) and (7), as applicable”.
- *53. In page 35, line 21, to delete “application for involuntary admission” and substitute “an application for a recommendation for involuntary admission”.
- *54. In page 36, line 20, to delete “74,” and substitute “74#, 76,”.

[#This is a reference to a section proposed to be inserted by amendment No. 162.]

55. In page 36, between lines 28 and 29, to insert the following:

“Transfer from prison where person appears to fulfil criteria for involuntary admission

19. (1) Where a person detained in a prison appears to a registered medical practitioner, the Governor of the prison, or the Director General of the Irish Prison Service, to fulfil the criteria for involuntary admission under section 12, the matter shall be referred without delay to an authorised officer for assessment.
- (2) An authorised officer who receives a referral under *subsection (1)* shall, as soon as practicable, assess whether to make an application for a recommendation for involuntary admission in accordance with *section 14*.
- (3) Where a recommendation for involuntary admission is made under *section 16* in respect of a person detained in a prison, arrangements shall be made without delay for the transfer of that person to the registered acute mental health centre specified in the recommendation.
- (4) A person shall not remain detained in a prison solely by reason of the absence of an available bed in a registered acute mental health centre where the criteria for involuntary admission are fulfilled.
- (5) The Minister shall, in consultation with the Minister for Justice, Home Affairs and Migration, make regulations providing for procedures to give effect to this section, including time limits for assessment and transfer.
- (6) The Mental Health Commission shall include in its annual report data relating to referrals and transfers under this section.”

—*Senators Nicole Ryan, Victor Boyhan.*

*56. In page 38, line 13, after “40” to insert “, 76, 80”.

*57. In page 40, line 5, to delete “detention,” and substitute “detention and”.

*58. In page 40, line 7, to delete “*subsection (2)*, or *section 32*,” and substitute “*subsections (2) and (3)* and *section 32*”.

*59. In page 40, line 13, after “The” to insert “further”.

*60. In page 40, line 17, to delete “this section” and substitute “*subsection (2) or (3)*”.

*61. In page 41, line 13, to delete “him or her” and substitute “the involuntarily admitted person concerned”.

*62. In page 41, lines 13 and 14, to delete “the involuntarily admitted person” and substitute “he or she”.

*63. In page 41, between lines 26 and 27, to insert the following:

“(g) is informed of any relevant advocacy services,”.

*64. In page 42, line 11, to delete “of Part 7”.

65. In page 42, between lines 25 and 26, to insert the following:

“Report on maximising autonomy

27. In advance of the five-year review of the Act, the Mental Health Commission shall prepare and submit a report reviewing strategies to maximise patient autonomy within mental health services. This report shall be developed in consultation with a broad range of stakeholders, including but not limited to:

- (a) people with lived experience;
- (b) family members and advocates;
- (c) mental health professionals;
- (d) mental health advocacy organisations;
- (e) relevant statutory bodies,

and shall include evidence-based recommendations aimed at strengthening rights-based, person-centred approaches to care and enhancing supported decision-making in line with national and international human rights standards.”.

—*Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.*

*66. In page 45, line 40, to delete “*paragraph (b)*” and substitute “*paragraph (a)*”.

*67. In page 49, line 10, to delete “reviews” and substitute “review”.

*68. In page 49, line 36, to delete “*sections 9 to 24 and 38*” and substitute “*sections 9, 12 to 26 and 38*”.

*69. In page 50, to delete line 4, and substitute the following:

“(3) Subject to *subsection (4)*, the review board”.

*70. In page 50, line 7, to delete “which period shall not be less than 14 days”.

*71. In page 51, line 17, to delete “*sections 9 to 24 and 38*” and substitute “*sections 9, 12 to 26 and 38*”.

- *72. In page 54, line 6, to delete “or other designated centre”.
- *73. In page 55, line 16, to delete “hearing in accordance with” and substitute “review to be heard in accordance with”.
- *74. In page 55, line 40, to delete “a” and substitute “the”.
- *75. In page 56, line 11, to delete “*sections 9, 13, 14, 15, 16, 18, 19, 20, 22, 23, 25, 31, 32, 33 and 38*” and substitute “*sections 29, 30, 31 and 33*”.
- *76. In page 56, lines 25 to 31, to delete all words from and including “until” in line 25 down to and including line 31 and substitute the following:
- “until—
- (a) the expiry of the order detaining the person, or
- (b) the expiry of any subsequent renewal order where, in advance of the making of the renewal order concerned—
- (i) the clinical director of the registered acute mental health centre from which the person was transferred approves a further period of detention, and
- (ii) the clinical director of the Central Mental Hospital has consented in writing to the further detention.”.
- *77. In page 56, lines 32 and 33, to delete “*paragraph (a) of subsection (14) and a consent under paragraph (b)*” and substitute “*subparagraph (i) of subsection (14)(b) and a consent under subparagraph (ii)*”.
- *78. In page 57, line 34, to delete “detention” and substitute “admission”.
- *79. In page 57, line 36, to delete “decision,” and substitute “decision and”.
- *80. In page 57, line 38, after “decision” to insert “shall be”.
- *81. In page 58, line 10, to delete “certify in writing” and substitute “issue a certificate in writing”.
- *82. In page 58, line 33, to delete “*Sections 23 to 37*” and substitute “*Sections 22(4), 23 to 37, 39, 40 and 41*”.
- *83. In page 58, line 40, to delete “Part” and substitute “Act”.

- *84. In page 61, line 2, after “her” to insert “responsible”.
- *85. In page 61, line 3, before “is” to insert “subject to *subsections (9) to (12) and (14)*,”.
- *86. In page 61, line 8, before “consultant psychiatrist” to insert “responsible”.
- *87. In page 61, line 35, to delete “*section 32(1)*” and substitute “*section 32(2)*”.
- *88. In page 61, line 37, after “*subsection (9)*” to insert “or *(10)*”.
- *89. In page 61, line 39, to delete “*sections 9 to 24 and 38*” and substitute “*sections 9, 12 to 26 and 38*”.
- *90. In page 62, between lines 25 and 26, to insert the following:
“(f) is informed of any relevant advocacy services,”.
- *91. In page 64, line 18, to delete “to refuse” and substitute “refuse”.
- *92. In page 64, line 31, after “second capacity assessment” to insert “of a person”.
- *93. In page 65, lines 22 and 23, to delete “*section 48, 49 or 50*” and substitute “*section 48, 50 or 51*”.
- *94. In page 65, line 28, to delete “*subsections (2), (4), (5), (6) and (9)*” and substitute “*subsections (2) to (6) and (9)*”.
- *95. In page 66, line 13, to delete “to refuse” and substitute “refuse”.
- *96. In page 66, line 36, after “or” to insert “, where extended under *subsection (4)*, the”.
- *97. In page 67, line 3, after “or” to insert “, where extended under *subsection (4)*, the”.
- *98. In page 67, line 4, to delete “and a person” and substitute “in respect of an involuntarily admitted person and that person”.
- *99. In page 67, line 6, after “or” to insert “, where extended under *subsection (4)*, the”.
- *100. In page 67, line 9, to delete “or any” and substitute “or, where extended under *subsection (4)*, the”.

***101.** In page 67, line 10, to delete “*section 45, 47, 50 or 51*” and substitute “*section 44, 45, 47, 50 or 51*,”.

***102.** In page 67, line 35, to delete “the involuntarily admitted person concerned” and substitute “an involuntarily admitted person”.

***103.** In page 67, line 36, to delete “an involuntarily” and substitute “the involuntarily”.

***104.** In page 68, line 1, to delete “or any” and substitute “or, where extended under *section 48(4)*, the”.

***105.** In page 68, line 21, to delete “to refuse” and substitute “refuse”.

***106.** In page 70, lines 11 and 12, to delete “found to lack capacity to give consent to a proposed treatment under *section 46*, then” and substitute the following:

“found under *section 46* to lack the necessary capacity to give consent to a proposed treatment of electro-convulsive therapy, then”.

107. In page 70, to delete lines 11 and 12 and substitute the following:

“(2) Where the person has been found to lack capacity to give consent to electro-convulsive therapy, this treatment will not be involuntarily administered unless the person has—

(a) a relevant decision-making representative,

(b) a valid and relevant advance healthcare directive,

(c) a relevant designated healthcare representative appointed under an advance healthcare directive relevant to the treatment concerned,

and that representative consents to electro-convulsive therapy, or the advance healthcare directive specifies that there is consent to electro-convulsive therapy.”.

—*Senators Alice-Mary Higgins, Frances Black, Patricia Stephenson.*

***108.** In page 71, line 26, to delete “is, to” and substitute “is to”.

***109.** In page 73, lines 7 and 8, to delete “which in the opinion of the consultant psychiatrist or relevant health professional expects will” and substitute “which, in the opinion of the consultant psychiatrist or relevant health professional, will”.

***110.** In page 73, between lines 9 and 10, to insert the following:

“(3) The consultant psychiatrist or the relevant health professional who orders, initiates or applies a restrictive practice in respect of a person shall have due regard to—

- (a) the will and preferences of the person regarding the application of the restrictive practice, and
 - (b) the view of any nominated person in relation to such will and preferences,
- and such will and preferences and views shall be recorded in writing in the person's medical record and care plan.”.

***111.** In page 74, lines 34 to 36, and in page 75, lines 1 to 4, to delete all words from and including “(1) In” in line 34 down to and including line 36, and in page 75, to delete lines 1 to 4.

***112.** In page 75, to delete line 34 and substitute “respectively, and”.

***113.** In page 76, line 2, to delete “*section 67;*” and substitute “*section 67, and*”.

***114.** In page 76, line 8, before “to a subsequent” to insert “of that section”.

***115.** In page 76, line 12, to delete “of the District Court;” and substitute “or the District Court, and”.

***116.** In page 76, to delete lines 25 to 27 and substitute the following:

“(3) References in sections 18(3) and 43A of the Act of 1991 to a person having authority to consent to psychiatric examination, treatment or assessment shall, in respect of admission, detention, care and treatment under this Part, be subject to the provisions of this Act.

(4) References in sections 13(7) and 19(4) of the Act of 1991 to psychiatric examination, treatment or assessment do not include references to treatment under this Act.”.

***117.** In page 76, line 31, to delete “Part” and substitute “Act”.

***118.** In page 76, line 34, to delete “71 or 72” and substitute “71, 72 or 82”.

***119.** In page 77, line 8, to delete “considers” and substitute “consider”.

***120.** In page 78, line 3, to delete “parents or guardian or the Agency” and substitute “relevant consulted carers”.

***121.** In page 78, lines 29 and 30, to delete “her parents or guardian or the Agency, with the consent of his or her parents or guardian or the Agency” and substitute “her relevant carer, with the consent of his or her parents or guardian or the Agency”.

***122.** In page 78, to delete lines 31 to 34 and substitute the following:

“(5) The Executive shall, as soon as may be, notify the Agency where a child the subject of

a supervision order leaves a registered acute mental health centre under *subsection (4)*.

- (6) Where a child under 16 years of age admitted to a registered acute mental health centre under this section may continue to require care and treatment in the registered acute mental health centre after attaining the age of 16, his or her responsible consultant psychiatrist shall, in consultation with the child, his or her parents or guardian or the Agency and the Executive, as appropriate, arrange for the child to be admitted under *section 64, 65 or 67* or discharged under this section, as the case may be, immediately upon the child attaining the age of 16.”.

***123.** In page 79, line 4, to delete “who is the subject of a care order” and substitute “referred to in *subsection (4)*”.

***124.** In page 79, to delete lines 8 and 9.

***125.** In page 79, between lines 13 and 14, to insert the following:

“(6) The Executive shall, as soon as may be, notify the Agency where a child the subject of a supervision order leaves a registered acute mental health centre under this section.”.

***126.** In page 79, line 35, to delete “*subsections (6) and (7)*” and substitute “*subsection (7)*”.

***127.** In page 79, lines 37 and 38, to delete all words from and including “into” in line 37 down to and including line 38 and substitute the following:

“into the care of his or her relevant carer, with the consent of his or her parents or guardian or the Agency, as the case may be.”.

***128.** In page 79, to delete lines 39 to 42 and substitute the following:

“(5) The Executive shall, as soon as may be, notify the Agency where a child the subject of a supervision order is discharged from a registered acute mental health centre under this section.”.

***129.** In page 81, between lines 23 and 24, to insert the following:

“(2) In carrying out an examination under *subsection (1)*, a responsible consultant psychiatrist shall consider, in consultation with the child’s relevant consulted carers, if any—

(a) whether the child may, in the first instance, be admitted—

(i) as a voluntarily admitted child under *section 63 or 64*, or

(ii) as a child aged 16 years or older lacking necessary capacity admitted with parental consent under *section 65*,

and

- (b) if so, whether it would be in the best interests of the child to be admitted pursuant to *section 63, 64 or 65*, as the case may be, rather than being admitted on an involuntary basis under this section.”.

***130.** In page 81, lines 26 to 39, and in page 82, line 1, to delete all words from and including “and” in line 26 down to and including line 39 and in page 82, line 1, to delete “the Executive shall” and substitute “the Executive may”.

***131.** In page 82, to delete lines 17 to 24 and substitute the following:

- “(a) the child is aged 16 years or older and refuses or does not consent to the examination,
- (b) in the case of a child under 16 years of age or a child aged 16 years or older who lacks the necessary capacity to consent to or refuse voluntary admission, the parents or guardian or the Agency refuse or do not consent to the examination of the child, or
- (c) in the case of a child referred to in *paragraph (b)* who is not the subject of a care order, following the making of reasonable enquiries by the Executive, the parents, or either of them, or guardian, cannot be found by the Executive.”.

***132.** In page 82, line 38, to delete “*subsection (1) or (6)*” and substitute “*subsection (1) or (5)*”.

***133.** In page 83, to delete lines 12 to 16 and substitute the following:

- “(a) the child’s relevant notified carers, and
- (b) any other person specified by the Family District Court or the District Court, as the case may be.”.

***134.** In page 83, line 34, to delete “*subsection (2)*” and substitute “*subsections (2) and (3)*”.

***135.** In page 84, line 21, to delete “*subsection (2)*” and substitute “*subsection (2) or (3)*”.

***136.** In page 84, to delete lines 23 to 26 and substitute the following:

- “(a) the child’s relevant notified carers, and
- (b) any other person specified by the Family District Court or the District Court, as the case may be.”.

***137.** In page 85, line 7, to delete “*sections 10, 20, 67, 68, 72, 75 and 78*” and substitute “*sections 10, 67, 68, 72, 74#, 76, 78 and 82*”.

[#This is a reference to a section proposed to be inserted by amendment No. 162.]

- *138.** In page 85, line 13, to delete “*section 77(2)*” and substitute “*section 78(2)*”.
- *139.** In page 86, to delete lines 1 to 6 and substitute the following:
- “(c) the child’s relevant notified carers,
 - (d) the registered proprietor of the registered acute mental health centre concerned,
 - (e) the responsible consultant psychiatrist in respect of the child the subject of the appeal, and
 - (f) any other person specified by the Family Circuit Court.”.
- *140.** In page 87, to delete lines 8 to 16 and substitute the following:
- “(a) the child’s relevant consulted carers, if any, and
 - (b) any nominated person.”.
- *141.** In page 87, line 17, after “Where” to insert “, following a meeting under *subsection (1)*,”.
- *142.** In page 87, line 18, to delete “*subsection (1)*” and substitute “that subsection”.
- *143.** In page 87, to delete lines 22 to 25 and substitute the following:
- “(ii) the child’s guardian *ad litem*,
 - (iii) the child’s relevant consulted carers, if any, and
 - (iv) in relation to a child who is the subject of a voluntary care arrangement, an emergency care order, an interim care order or a supervision order, if not already notified under *subparagraph (iii)*, the Agency,”.
- *144.** In page 87, line 27, after “admission” to insert “of a child”.
- *145.** In page 88, line 7, to delete “admission for” and substitute “admission of”.
- *146.** In page 88, to delete lines 12 to 14 and substitute the following:
- “(a) the child’s relevant notified carers, and”.
- *147.** In page 88, to delete lines 28 to 30 and substitute the following:
- “(11) Where a child discharged under this section is—
 - (a) the subject of a care order, a voluntary care arrangement, an emergency care order or an interim care order, or
 - (b) where *paragraph (a)* does not apply, under 16 years of age or aged 16 years or older and assessed as lacking capacity to consent under *section 62*,

he or she shall be released into the care of his or her relevant carer.”.

***148.** In page 89, line 6, to delete “the involuntary admission shall” and substitute “the detention shall”.

***149.** In page 89, lines 7 and 8, to delete “parents or guardian or the Agency, as the case may be,” and substitute “relevant notified carers”.

***150.** In page 89, line 11, after “accordance” to insert “with that section”.

***151.** In page 89, to delete lines 18 and 19 and substitute the following:

“(4) Where a child discharged under this section is—

(a) the subject of a care order, a voluntary care arrangement, an emergency care order or an interim care order, or

(b) where *paragraph (a)* does not apply, under 16 years of age or aged 16 years or older and assessed as lacking capacity to consent under *section 62*,

he or she shall be released into the care of his or her relevant carer.”.

***152.** In page 89, line 29, to delete “district court” and substitute “District Court”.

***153.** In page 89, line 31, to delete “3 days” and substitute “3 working days”.

***154.** In page 89, line 34, to delete “3 days” and substitute “3 working days”.

***155.** In page 89, lines 35 and 36, to delete “district court district” and substitute “District Court district”.

***156.** In page 90, line 6, to delete “*section 67(1)*” and substitute “*section 67(2)*”.

***157.** In page 90, line 7, to delete “retain” and substitute “continue the”.

***158.** In page 90, line 14, to delete “*paragraph (a) or (b)*” and substitute “*paragraph (a), (b) or (c)*”.

[#This is a reference to a paragraph proposed to be inserted by amendment No. 131.]

***159.** In page 90, lines 17 and 18, to delete “of the decision to involuntarily admit or the decision not to involuntarily admit a child under this section” and substitute “of a decision under this section to make an application for involuntary admission under *section 67* or to not make such an application”.

*160. In page 90, lines 20 to 31, to delete all words from and including “(1) The” in line 20 down to and including line 31.

*161. In page 90, between lines 36 and 37, to insert the following:

“(a) is the subject of a renewal order under *section 68*.”.

*162. In page 91, to delete lines 1 to 43, and in page 92, to delete lines 1 to 3 and substitute the following:

“Powers of Garda Síochána to take child into custody in certain circumstances

74. (1) Where a member of An Garda Síochána has reasonable grounds for believing that a child has a mental disorder that fulfils *paragraph (a)* of the criteria for involuntary admission of a child, the member may either alone or with any other member or members of An Garda Síochána—

(a) take all reasonable measures necessary to take the child into custody and arrange for the matters specified in *subsections (3), (4), (6), (8), (10), (13), (15) and (16)*, as applicable, to be carried out as soon as practicable, but no later than 6 hours after the time that the child is taken into custody, and

(b) enter, if needs be by force, any dwelling or other premises or any place if he or she has reasonable grounds for believing that the child is to be found there.

(2) The period referred to in *subsection (1)(a)* may be extended by one additional period of 6 hours under the authorisation of a member of An Garda Síochána not below the rank of inspector if he or she has reasonable grounds for believing that the additional period is necessary in order that the matters specified in *subsections (3), (4), (6), (8), (10), (13), (15) and (16)*, as applicable, may be carried out.

(3) Where a member of An Garda Síochána takes a child into custody under *subsection (1)*, he or she or any other member or members of An Garda Síochána shall contact—

(a) in relation to a child the subject of a care order, the Agency,

(b) in relation to a child the subject of a voluntary care arrangement, an emergency care order, an interim care order or a supervision order, the Agency and the child’s parents, or either of them, or guardian, and

(c) in all other circumstances, the child’s parents, or either of them, or guardian,

as soon as practicable, but no later than 3 hours from the time that the child is taken into custody.

(4) Where a member of An Garda Síochána takes a child into custody under *subsection (1)*, he or she or any other member or members of An Garda Síochána may request—

(a) a registered medical practitioner to carry out an examination of the child, or

(b) the Executive to arrange for a consultant psychiatrist to carry out an examination of the child,

to assess whether the child has a mental disorder that fulfils the criteria for involuntary admission of a child requiring an application for involuntary admission of a child under *section 67*.

- (5) In so far as possible, an examination under *subsection (4)* shall also be attended by the persons specified in *paragraphs (a), (b) or (c) of subsection (3)*, as the case may be.
- (6) Where, following an examination of a child under *subsection (4)*—
 - (a) a registered medical practitioner is of the opinion that the child concerned has a mental disorder that fulfils the criteria for involuntary admission of a child, a member or members of An Garda Síochána—
 - (i) shall, subject to *subsection (7)*—
 - (I) release the child into the care of his or her relevant carer for the purpose of that person or persons engaging with the Executive to assess whether an application for involuntary admission under *section 67* is required in respect of the child, and
 - (II) notify the Executive that the child has been released into the care of his or her relevant carer,
 - and
 - (ii) may request the Executive to assess whether an application for involuntary admission under *section 67* is required in respect of the child,
 - or
 - (b) a consultant psychiatrist is of the opinion that the child has a mental disorder that fulfils the criteria for involuntary admission of a child—
 - (i) subject to *subsection (7)*, a member or members of An Garda Síochána shall release the child into the care of his or her relevant carer, and
 - (ii) the Executive may make an application for involuntary admission under *section 67* in respect of the child.
- (7) A member or members of An Garda Síochána shall not release a child under *paragraph (a)(i) or (b)(i) of subsection (6)* where—
 - (a) in the opinion of the member or members of An Garda Síochána responsible for the child, there is an immediate and serious risk to the health or welfare of the child or that of another person by releasing the child,
 - (b) in the opinion of the registered medical practitioner or consultant psychiatrist concerned, there is an immediate and serious risk to the health or welfare of the child or that of another person by releasing the child,
 - (c) in the case of a child who is not the subject of a care order, a voluntary care arrangement, an emergency care order or an interim care order, his or her relevant carer, after the making of reasonable enquiries, cannot be found, or
 - (d) his or her detention is authorised by law other than under this Act.

- (8) Where *paragraph (a), (b) or (c) of subsection (7)* applies, the member or members of An Garda Síochána may request that the Executive take charge of the child as soon as possible until such time as—
- (a) an involuntary admission order is made under *section 67* in respect of the child, or
 - (b) the Executive assesses that an application for involuntary admission under *section 67* is not required in respect of the child.
- (9) The Executive shall comply with the request under *subsection (8)* as soon as practicable.
- (10) Where *subsection (7)(c)* applies and the child's relevant carer is subsequently found, the child shall be released from the custody of An Garda Síochána or from the charge of the Executive, as the case may be, unless, in the opinion of the member or members of An Garda Síochána responsible for the child or the Executive, there is an immediate and serious risk to the health or welfare of the child or that of another person by releasing the child into the care of that person or persons.
- (11) Where a request is made under *subsection (8)* due to *paragraph (a) or (c) of subsection (7)* applying, the member or members of An Garda Síochána responsible for the child shall notify the Agency as soon as may be.
- (12) Where—
- (a) in advance of an examination of a child under *subsection (4)*, the member or members of An Garda Síochána responsible for the child has or have reasonable grounds for believing that the child concerned no longer has a mental disorder that fulfils *paragraph (a)* of the criteria for involuntary admission of a child, or
 - (b) following an examination of a child under *subsection (4)*, a registered medical practitioner or consultant psychiatrist referred to in that subsection is of the opinion that the child concerned does not have a mental disorder that fulfils the criteria for involuntary admission of a child,
- the child shall, subject to *subsections (13), (14) and (15)*, be released from the custody of An Garda Síochána.
- (13) Where *paragraph (a) or (b) of subsection (12)* applies—
- (a) where the child is the subject of a care order, a voluntary care arrangement, an emergency care order or an interim care order, a member or members of An Garda Síochána shall release the child into the care of the Agency unless his or her detention is authorised other than under this Act, and
 - (b) subject to *subsection (14)*, in all other circumstances—
 - (i) where the child is under 16 years of age, a member or members of An Garda Síochána shall release the child into the care of his or her relevant carer, and
 - (ii) where the child is aged 16 years or older, a member or members of An Garda Síochána shall release the child immediately,

unless the detention of the child is authorised other than under this Act.

(14) A member or members of An Garda Síochána shall not release a child under *subsection (13)(b)* where—

(a) in the opinion of the member or members of An Garda Síochána responsible for the child, there is an immediate and serious risk to the health or welfare of the child by releasing the child, or

(b) in respect of a child referred to in *subsection (13)(b)(i)*, his or her relevant carer, after the making of reasonable enquiries, cannot be found,

until such time as a request is made under *subsection (15)* or a notification is made under *subsection (16)*, as the case may be.

(15) Where *subsection (14)(a)* applies, a member or members of An Garda Síochána may request the Agency that the child be delivered up to the custody of the Agency under section 12 of the Act of 1991 as soon as may be.

(16) Where *subsection (14)(b)* applies, a member or members of An Garda Síochána may notify the Agency.”.

***163.** In page 92, to delete lines 4 to 39.

***164.** In page 93, line 4, to delete “parents or guardian or the Agency” and substitute “relevant carer”.

***165.** In page 93, lines 7 and 8, to delete “the parents or guardian of a child the subject of an involuntary admission order or the Agency are” and substitute “a child’s relevant carer is”.

***166.** In page 93, lines 9 and 10, to delete “parents or guardian or the Agency” and substitute “relevant carer”.

***167.** In page 93, between lines 15 and 16, to insert the following:

“(3) Where the relevant carer of a child the subject of an involuntary admission order, other than the Agency, fails or refuses to arrange for the child to be brought to the registered acute mental health centre specified in the order, the clinical director of the registered acute mental health centre concerned or a consultant psychiatrist acting on the clinical director’s behalf shall arrange for the child concerned to be brought to the registered acute mental health centre.”.

***168.** In page 93, line 20, to delete “person referred to in *paragraph (a)* or *(b)* of *subsection (2)*” and substitute the following:

“clinical director or consultant psychiatrist referred to in *paragraph (a)* or *(b)* of *subsection (2)* or in *subsection (3)*”.

[#This is a reference to a subsection proposed to be inserted by amendment No. 167.]

***169.** In page 93, line 23, to delete “person referred to in *paragraph (a)* or *(b)* of *subsection (2)*” and substitute “clinical director or consultant psychiatrist concerned”.

***170.** In page 94, to delete lines 7 to 39, and in page 95, to delete lines 1 to 3 and substitute the following:

“(2) A notice under *subsection (1)* and any information provided in accordance with *subsection (3)* shall be given to—

- (a) the child concerned,
- (b) the child’s relevant consulted carers, if any,
- (c) in relation to a child who is the subject of a voluntary care arrangement, an emergency care order, an interim care order or a supervision order, if not already notified under *paragraph (b)*, the Agency, and
- (d) where relevant, any nominated person.

(3) A notice under *subsection (1)* shall include a statement in writing to the effect that—

- (a) the child’s relevant consulted carers, if any, will be given a general description of the proposed care and treatment to be administered to the child during the period of his or her admission,
- (b) the child’s relevant consulted carers, if any, are entitled to receive information on any aspect of the child’s proposed care and treatment at any time during the period of admission,
- (c) the recipient will be provided with an explanatory note on the guiding principles that apply in relation to all decisions regarding the child’s care and treatment,
- (d) the recipient is informed of the rights of the child or his or her parents or guardian or the Agency, where appropriate, subject to *Chapter 3*, to consent or refuse to consent to treatment,
- (e) the recipient is informed of the complaints procedure for the registered acute mental health centre and of the entitlement of the child and his or her parents or guardian or the Agency to bring a complaint under that procedure,
- (f) the recipient is informed of any relevant advocacy services,
- (g) the recipient is informed of the entitlement of the child and his or her parents or guardian or the Agency to communicate with the Chief Inspector,
- (h) the recipient is informed of the entitlement of the child and his or her relevant consulted carers, if any, to discuss discharge planning,
- (i) the recipient is informed of the entitlement of the child to engage with—
 - (i) his or her relevant consulted carers, and
 - (ii) where applicable, a nominated person,
- (j) the recipient will be provided with all other relevant information as outlined in the code of practice relating to admission of children, and

- (k) the recipient is informed of the entitlement of the child to leave the registered acute mental health centre at any time, subject to *sections 63(4), 64(3), 64(5), 65(4) and 72.*”.

[#This is a reference to a subsection proposed to be inserted by this amendment.]

***171.** In page 95, lines 8 to 14, to delete all words from and including “(1) The” in line 8 down to and including line 14.

***172.** In page 95, line 16, after “practicable” to insert “but not later than 24 hours”.

***173.** In page 95, lines 19 to 37, and in page 96, lines 1 to 36, to delete all words from and including “(3) A” in line 19 down to and including line 35, and in page 96, to delete lines 1 to 36 and substitute the following:

“(3) A notice under *subsection (2)* and any information provided in accordance with *subsection (4)*# shall be given to—

- (a) the child concerned,
- (b) the child’s relevant consulted carers, if any,
- (c) in relation to a child who is the subject of a voluntary care arrangement, an emergency care order, an interim care order or a supervision order, if not already notified under *paragraph (b)*, the Agency, and
- (d) where relevant, any nominated person.

(4) A notice under *subsection (2)* shall include a statement in writing to the effect that—

- (a) the child’s relevant consulted carers, if any, will be given a general description of the proposed care and treatment to be administered to the child during the period of his or her involuntary admission,
- (b) the child’s relevant consulted carers, if any, are entitled to receive information on any aspect of the child’s proposed care and treatment at any time during the period of involuntary admission,
- (c) the recipient will be provided with an explanatory note on the guiding principles that apply in relation to all decisions regarding the child’s care and treatment,
- (d) the recipient is informed of the rights of the child or his or her parents or guardian or the Agency, where appropriate, subject to *Chapter 3*, to consent or refuse to consent to treatment,
- (e) the recipient is informed of the complaints procedure for the registered acute mental health centre and of the entitlement of the child and his or her parents or guardian or the Agency to bring a complaint under that procedure,
- (f) the recipient is informed of any relevant advocacy services,
- (g) the recipient is informed of the entitlement of the child and his or her parents or guardian or the Agency to communicate with the Chief Inspector,

- (h) the recipient is informed that a court may, in any proceedings under this Part that the child to whom the notice relates is a party, if it thinks fit, appoint a solicitor to represent the interests of the child in the proceedings pursuant to section 25 of the Act of 1991,
- (i) the recipient is informed of the guardian *ad litem* appointed for him or her following the making of the involuntary admission order in accordance with Part VA of the Act of 1991, as applied by *section 61*,
- (j) the recipient is provided with all other relevant information as outlined in the code of practice relating to admission of children,
- (k) the recipient is informed of the entitlement to appeal to the Family Circuit Court under *section 70* against an involuntary admission order or a renewal order, and of the effect of such appeals,
- (l) the recipient is informed of the entitlement of the child and his or her relevant consulted carers, if any, to discuss discharge planning, and
- (m) the recipient is informed of the entitlement of the child to engage with—
 - (i) his or her relevant consulted carers, and
 - (ii) where applicable, a nominated person.”.

[#This is a reference to a subsection proposed to be inserted by this amendment.]

- *174. In page 97, line 2, to delete “(1) Subject to *subsection (2)*, the child’s parents or guardian or the Agency” and substitute “The child’s relevant consulted carers, if any,”.
- *175. In page 97, to delete lines 8 to 11.
- *176. In page 97, line 15, to delete “parents or guardian or the Agency are or is” and substitute “relevant carer is”.
- *177. In page 97, lines 16 and 17, to delete “parents or guardian or the Agency, as the case may be,” and substitute “relevant carer”.
- *178. In page 98, line 21, to delete “reception,” and substitute “reception and”.
- *179. In page 98, to delete lines 28 to 30 and substitute the following:
 - “(a) the child’s relevant notified carers, and”.
- *180. In page 99, line 23, after “may” to insert “request the Executive to”.
- *181. In page 99, line 26, after “whether” to insert “to request the Executive”.

- *182.** In page 99, line 33, after “not” to insert “to request the Executive”.
- *183.** In page 100, line 4, to delete “Part” and substitute “Act”.
- *184.** In page 100, to delete lines 13 to 15 and substitute the following:
- “(2) Where a permitted absence is given under *subsection (1)* to—
- (a) a child the subject of a care order, a voluntary care arrangement, an emergency care order or an interim care order, or
- (b) a child under 16 years of age or aged 16 years or older assessed as lacking capacity to consent under *section 62*,
- he or she shall be released into the care of his or her relevant carer for the duration of the permitted absence.
- (3) The responsible consultant psychiatrist shall, where practicable, give adequate notice of not less than 3 days to the child’s relevant notified carers in advance of giving a permitted absence under *subsection (1)*.”.
- *185.** In page 100, to delete lines 19 to 21.
- *186.** In page 100, line 25, after “child” to insert “and his or her relevant carer for the child”.
- *187.** In page 100, line 40, to delete “child, or his or her parents or guardian or the Agency” and substitute “child or his or her relevant carer”.
- *188.** In page 101, lines 38 and 39, to delete “(in this section referred to as “information relevant to the decision”)”.
- *189.** In page 102, line 6, to delete “relevant to the decision” and substitute the following:
- “in a form and language that the child can understand on the nature, purpose and likely effects of the treatment concerned”.
- *190.** In page 103, lines 1 and 2, to delete “parents, or either of them, or guardian, or, where the child is the subject of a care order, the Child and Family Agency refuses” and substitute “parents or guardian or the Agency refuse or refuses”.
- *191.** In page 103, line 4, before “his” to insert “other than where the child is the subject of a care order,”.

- *192.** In page 103, lines 8 and 9, to delete “parents, or either of them, or guardian, or, where the child is the subject of a care order, the Child and Family Agency refuses” and substitute “parents or guardian or the Agency refuse or refuses”.
- *193.** In page 103, line 11, before “his” to insert “other than where the child is the subject of a care order,”.
- *194.** In page 103, lines 34 to 36, to delete all words from and including “the parents” in line 34 down to and including “or its” in line 36 and substitute “his or her parents or guardian or the Agency withdraws the”.
- *195.** In page 103, line 40, after “child,” to insert “and”.
- *196.** In page 104, to delete lines 1 to 11 and substitute the following:

“(b) the child’s relevant notified carers,”.
- *197.** In page 104, to delete lines 21 and 22 and substitute the following:

“the grounds in *paragraph (a)* or *(b)* of *subsection (1)* and the relevant criteria in *subsection (2)* continue to apply.”.
- *198.** In page 104, lines 29 and 30, to delete all words from and including “psychiatrist,” in line 29 down to and including line 30 and substitute the following:

“psychiatrist, the grounds in *paragraph (a)* or *(b)* of *subsection (1)* and the relevant criteria in *subsection (2)* continue to apply.”.
- *199.** In page 105, line 7, to delete “*paragraphs (a)* and *(b)* of *subsection (2)* apply” and substitute the following:

“*paragraphs (a), (b)* and *(d)* of *subsection (2)* apply (with the modification that a reference to an involuntarily admitted child shall be construed as a reference to the child concerned)”.
- *200.** In page 105, line 13, to delete “*subsection (11)*” and substitute “*subsections (11)* and *(16)*”.
- *201.** In page 105, line 21, to delete “where, in respect of a child who is not the subject of a care order,”.
- *202.** In page 106, line 6, to delete “district court” and substitute “District Court”.
- *203.** In page 106, line 8, to delete “3 days” and substitute “3 working days”.

- *204.** In page 106, line 10, to delete “3 days” and substitute “3 working days”.
- *205.** In page 106, lines 11 and 12, to delete “district court district” and substitute “District Court district”.
- *206.** In page 106, line 34, to delete “and”, and substitute the following:
“(c) where the child is the subject of a voluntary care arrangement, an interim care order, an emergency care order or a supervision order, the Agency, and”.
- *207.** In page 106, line 39, to delete “the circumstances in *subsection (1)* apply” and substitute the following:
“the grounds in *paragraph (a)* of *subsection (1)* and the relevant criteria in *subsection (2)* continue to apply”.
- *208.** In page 107, lines 11 and 12, to delete all words from and including “the” where it thirdly occurs in line 11 down to and including line 12 and substitute the following:
“the grounds in *paragraph (a)* of *subsection (1)* and the relevant criteria in *subsection (2)* continue to apply.”.
- *209.** In page 107, line 14, to delete “*paragraphs (a), (b) and (c)*” and substitute “*paragraphs (a), (b), (c) and (d)*”.
- *210.** In page 107, line 18, after “person,” to insert “may”.
- *211.** In page 107, line 38, to delete “*subsection (1)*” and substitute “in *paragraph (a)* of *subsection (1)* and the relevant criteria in *subsection (2)*”.
- *212.** In page 108, line 9, to delete “parents or guardian or the Agency make” and substitute “parents, or either of them, or guardian makes”.
- *213.** In page 108, between lines 14 and 15, to insert the following:
“(16) This section shall not apply to a child the subject of a care order other than where *subsection (11)* applies.”.
- *214.** In page 109, to delete lines 8 to 10 and substitute the following:
“(c) the application of such restraint is determined by the consultant psychiatrist, in accordance with regulations made under *section 98*, to be necessary where there is an immediate threat of serious harm to the child or to another person, and”.

- *215. In page 109, line 34, to delete “should be applied in respect of a child only” and substitute “may only be applied in respect of a child”.
- *216. In page 110, lines 18 and 19, to delete “which in the opinion of the consultant psychiatrist or relevant health professional expects will” and substitute “which, in the opinion of the consultant psychiatrist or relevant health professional, will”.
- *217. In page 110, line 20, after “proprietor” to insert “of a registered acute mental health centre”.
- *218. In page 110, line 28, to delete “specified,” and substitute “specified”.
- *219. In page 111, line 2, after “Minister,” to insert “and following consultation with the Minister and Minister for Children, Disability and Equality,”.
- *220. In page 112, lines 2 to 15, to delete all words from and including “(1) Where” in line 2 down to and including line 15 and substitute the following:

“(1) Where a restrictive practice is applied in respect of a child admitted under *section 63, 64, 65 or 67*, his or her relevant notified carers and nominated person, if any, shall be informed of the application of the restrictive practice as soon as possible after the initiation of the application of the restrictive practice.”.
- *221. In page 112, line 18, to delete “or (2)”.
- *222. In page 112, line 32, before “provide” to insert “subject to *subsection (3)#*,”.
 [#This is a reference to a subsection proposed to be inserted by amendment No. 230.]
- *223. In page 112, line 36, to delete “parents or guardian or the Agency” and substitute “relevant consulted carers, if any”.
- *224. In page 112, line 37, to delete “the persons referred to in” and substitute “any person to whom information is provided under”.
- *225. In page 113, line 1, to delete “those persons” and substitute “any person to whom information is provided under *paragraph (a)*”.
- *226. In page 113, line 5, before “provide” to insert “subject to *subsection (3)#*,”.
 [#This is a reference to a subsection proposed to be inserted by amendment No. 230.]
- *227. In page 113, to delete line 9, and substitute the following:

“(iii) his or her relevant consulted carers, if any”.

*228. In page 113, line 10, to delete “the persons referred to in” and substitute “any person to whom information is provided under”.

*229. In page 113, line 12, to delete “those persons” and substitute “any person to whom information is provided under *paragraph (a)*”.

*230. In page 113, between lines 12 and 13, to insert the following:

“(3) Where the responsible consultant psychiatrist forms an opinion that it would be in the best interests of the child for any persons specified in *subsection (1)(a)* or *(2)(a)* not to be provided with information on the application of restrictive practices, such information is not required to be provided.

(4) Where information is provided to a child under *subsection (1)(a)* or *(2)(a)*, such information shall be—

(a) given in a manner that is accessible to the child, and

(b) provided in a manner that can reasonably be understood by the child.”.

*231. In page 123, line 24, to delete “employed,” and substitute “was employed”.

*232. In page 124, line 10, to delete “*section 5*” and substitute “*section 253*”.

[#This is a reference to a section proposed to be inserted by amendment No. 328.]

*233. In page 126, line 12, to delete “and” and substitute “or”.

234. In page 128, between lines 21 and 22, to insert the following:

“Review of Complaints Procedures

130. (1) Within 6 months of the passing of this Act, the Minister shall request the Commission to conduct a review of:

(a) the procedures made by registered mental health services for dealing with complaints made by or on behalf of a person who is or was receiving any of the services or who is seeking or has sought any such service;

(b) the effectiveness, timeliness and independence of such procedures;

(c) the merits of providing for a statutory right to an independent complaints process for people accessing mental health services.

(2) On conclusion of the review under *subsection (1)*, the Minister shall cause a report on the review to be published and laid before both Houses of the Oireachtas.”.

—*Senators Laura Harmon, Nessa Cosgrove, Patricia Stephenson, Malcolm Noonan,*

Victor Boyhan.

*235. In page 133, line 17, to delete “or” and substitute “and”.

*236. In page 134, lines 5 to 7, to delete all words from and including “persons,” in line 5 down to and including “Inspectors”)” in line 7 and substitute the following:

“persons (who shall be known as Assistant Inspectors of Mental Health Services and are referred to in this Act as “Assistant Inspectors”), including members of staff of the Commission,”.

*237. In page 136, line 19, after “*section 25*,” to insert “42,”.

*238. In page 136, line 21, to delete “or” where it firstly occurs and substitute “and”.

*239. In page 136, line 29, to delete “or” where it firstly occurs and substitute “and”.

*240. In page 137, line 20, to delete “its” and substitute “his or her”.

241. In page 137, between lines 29 and 30, to insert the following:

“Review and reporting on child and youth mental health services

144. (1) The Chief Inspector shall, within 12 months of the commencement of this section, undertake and publish a review of governance, clinical oversight, workforce capacity and risk management arrangements within child and adolescent mental health services and youth mental health services.

(2) The review shall include—

- (a) an assessment of clinical governance and supervision structures,
- (b) staffing levels and workforce planning, including the number of whole-time equivalent clinicians required to provide safe and timely care,
- (c) waiting times and unmet need,
- (d) procedures for the identification and management of clinical risk, and
- (e) the adequacy and independence of complaints and review mechanisms.

(3) The review shall make recommendations regarding the extension of child and adolescent mental health services towards a youth mental health service model up to the age of 25 years.

(4) The Minister shall, within 6 months of receipt of the report, lay a response before each House of the Oireachtas outlining measures to address the findings.

(5) The Commission shall thereafter include in its annual report an update on progress in implementing recommendations arising under this section.”.

—*Senators Nicole Ryan, Victor Boyhan.*

- *242. In page 138, line 27, to delete “the later of the periods” and substitute “the period”.
- *243. In page 140, line 24, to delete “section” and substitute “Act”.
- *244. In page 141, line 7, to delete “section” and substitute “Act”.
- *245. In page 141, line 23, to delete “section” and substitute “Act”.
- *246. In page 143, line 34, to delete “or” and substitute “and”.
- *247. In page 145, line 2, to delete “or” and substitute “and”.
- *248. In page 145, line 33, to delete “or” and substitute “and”.
- *249. In page 148, lines 8 to 10, to delete all words from and including “*section 155, 156 or 157 or vary*” in line 8 down to and including line 10 and substitute “*section 155, 156 or 157,*”.
- *250. In page 148, between lines 10 and 11, to insert the following:
 - “(c) vary or impose a condition, including an additional condition, where it considers it necessary under *section 161*, or”.
- *251. In page 149, line 23, to delete “remove,”.
- *252. In page 154, line 10, to delete “cause” and substitute “causing”.
- *253. In page 154, line 14, to delete “*section 155, 156 or 157*” and substitute “*section 151, 152 or 153*”.
- *254. In page 154, line 17, to delete “or” and substitute “and”.
- *255. In page 155, line 11, to delete “Part” and substitute “Act”.
- *256. In page 155, line 33, to delete “or” and substitute “and”.
- *257. In page 157, line 23, to delete “(b)”.
- *258. In page 157, line 35, to delete “matter”.
- *259. In page 160, line 18, to delete “under” and substitute “in accordance with”.

- *260.** In page 161, line 6, to delete “centre” and substitute “registered acute mental health centre”.
- *261.** In page 161, line 10, to delete “proprietor,” and substitute “proprietor”.
- *262.** In page 161, line 13, to delete “District Court in the District Court district” and substitute “Family District Court in the Family District Court district”.
- *263.** In page 162, lines 14 to 27, to delete all words from and including “(1) Where—” in line 14 down to and including line 27 and substitute the following:
- “(1) Where—
- (a) the registration of a registered acute mental health centre has been cancelled and the service will cease to provide mental health services, and
- (b) the Executive is not taking charge of the centre concerned or the centre concerned will otherwise cease to provide mental health services,
- the Executive or the registered proprietor shall or may, as the case may be, carry out the steps specified in *subsection (2)* in respect of any person (including a voluntarily admitted child or a child aged 16 years or older lacking capacity admitted with parental consent) receiving treatment in the centre concerned who is not subject to an involuntary admission order or a renewal order.
- (2) Where *subsection (1)* applies, the Executive or the registered proprietor—
- (a) shall, where there is an imminent risk of harm to the person concerned if he or she does not continue to receive mental health treatment, arrange for his or her transfer to another registered acute mental health centre, or
- (b) may, where there is no risk of harm to the person concerned, arrange for his or her transfer to another registered acute mental health centre.”.
- *264.** In page 162, line 35, to delete “proprietor, may arrange for his or her transfer” and substitute “proprietor may arrange for the transfer of the person concerned”.
- *265.** In page 162, line 39, to delete “*subsection (1)*” and substitute “*subsection (2)*”.
- [*#This is a reference to a subsection proposed to be inserted by amendment No. 263.*]
- *266.** In page 164, between lines 37 and 38, to insert the following:
- “(k) the information to be provided by a registered mental health service on any relevant advocacy services and access to such services, as appropriate;”.
- *267.** In page 165, line 21, to delete “age appropriate” and substitute “age-appropriate”.

***268.** In page 165, between lines 22 and 23, to insert the following:

- “(3) A person who contravenes a provision of a regulation made under *subsection (1)* that is stated in the regulations to be a penal provision shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 3 months, or to both.”.

269. In page 165, between lines 22 and 23, to insert the following:

“Review of complaints procedures in registered mental health services

186. (1) The Minister shall, within 12 months of the commencement of this Act, review the complaints procedures available to persons accessing registered mental health services.

(2) The review shall—

- (a) assess the accessibility, independence, transparency and effectiveness of existing procedures,
 - (b) examine the feasibility of an independent complaints mechanism for mental health services, and
 - (c) identify any legislative or administrative reforms required.
- (3) The review shall be carried out using existing Department of Health resources and shall include consultation with service users, advocacy groups, mental health professionals, service providers, the Mental Health Commission, and any other persons the Minister considers appropriate.
- (4) A report on the review shall be laid before each House of the Oireachtas within 24 months of the commencement of this Act.”.

—Senator Victor Boyhan, Aubrey McCarthy, Sharon Keogan, Patricia Stephenson, Frances Black, Alice-Mary Higgins, Laura Harmon, Nessa Cosgrove.

***270.** In page 166, line 2, after “*section 20*” to insert “or 76”.

***271.** In page 167, line 35, to delete “insofar” and substitute “in so far”.

***272.** In page 168, line 26, to delete “parents or guardian or the Agency, as appropriate,” and substitute “relevant consulted carers, if any.”.

***273.** In page 168, to delete lines 30 to 36 and substitute the following:

“(c) provide a copy of that plan to—

- (i) the child concerned,
- (ii) the child’s relevant consulted carers, if any,
- (iii) in relation to a child who is the subject of a voluntary care arrangement, an emergency care order, an interim care order or a supervision order, if not

already notified under *subparagraph (ii)*, the Agency, and
(iv) the child's nominated person, if any."

***274.** In page 169, line 4, to delete "parents or guardian or the Agency" and substitute "relevant consulted carers, if any".

***275.** In page 169, lines 18 and 19, to delete "adult, child, the child's parents or guardian or the Agency, where appropriate, the subject of a care plan" and substitute the following:

"adult or child the subject of a care plan, and, where appropriate, the parents, or either of them, or guardian of a child the subject of a care plan or the Agency".

***276.** In page 171, to delete lines 22 to 28.

***277.** In page 171, line 39, to delete "99 and 100" and substitute "99, 100 and 189 and to make requests in accordance with *section 83*".

***278.** In page 172, line 24, to delete "Subject to *section 197*, a registered proprietor" and substitute the following:

"A registered proprietor of a registered community mental health centre or a registered community mental health service".

***279.** In page 172, line 26, to delete "a registered mental health service" and substitute the following:

"the registered community mental health centre or the registered community mental health service concerned".

***280.** In page 172, lines 30 and 31, to delete "a registered mental health service" and substitute the following:

"the registered community mental health centre or the registered community mental health service concerned".

***281.** In page 172, line 33, to delete "the registered mental health service" and substitute the following:

"the registered community mental health centre or the registered community mental health service concerned".

***282.** In page 173, line 2, to delete "registered mental health service" and substitute "registered community mental health centre or a registered community mental health service".

***283.** In page 173, line 5, after "proprietor" to insert "of a registered acute mental health centre".

*284. In page 173, line 13, to delete “*section 63(2), 65(2), 67 or 71*” and substitute “*section 63(2), 65(2), 67, 68 or 71*”.

*285. In page 173, line 37, after “*Part 6*” to insert “(other than an offence under *section 184 or 185*)”.

*286. In page 179, between lines 25 and 26, to insert the following:

“PART 8

AMENDMENT OF CRIMINAL LAW (INSANITY) ACT 2006

Definition

210. In this Part, “Act of 2006” means the Criminal Law (Insanity) Act 2006.”.

*287. In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 1 of Act of 2006

211. Section 1 of the Act of 2006 is amended—

- (a) by the deletion of the definitions of “the Act of 2001”, “approved medical officer” and “patient”,
- (b) by the substitution of the following definition for the definition of “clinical director”:

‘clinical director’ has the meaning assigned to it by the *Act of 2026*, and, where a consultant psychiatrist is duly authorised by a clinical director to perform his or her functions under this Act, the consultant psychiatrist shall, in relation to those functions, be deemed for the purposes of this Act, to be a clinical director,”,

and

- (c) by the insertion of the following definitions:

“ ‘*Act of 2026*’ means the *Mental Health Act 2026*;

‘consultant psychiatrist’ has the same meaning as it has in the *Act of 2026*;

‘criteria for involuntary admission’ shall be construed in accordance with the *Act of 2026*;

‘detained person’ means a person detained in a designated centre pursuant to this Act;”.

***288.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 3 of Act of 2006

212. Section 3 of the Act of 2006 is amended—

- (a) in subsection (2), by the deletion of “established under section 32 of the Act of 2001”,
- (b) in subsection (3), by the substitution of “*Chapter 3 of Part 3 of the Act of 2026*” for “Part 4 of the Act of 2001”, and
- (c) by the substitution of the following subsection for subsection (4):
 - “(4) In this section, ‘psychiatric centre’ means a registered acute mental health centre (within the meaning of the *Act of 2026*) in which treatment is provided to persons for a mental disorder (within the meaning of that Act) that fulfils the criteria for involuntary admission.”.

***289.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 4 of Act of 2006

213. Section 4 of the Act of 2006 is amended—

- (a) in subsection (3)—
 - (i) in paragraph (aa), by the substitution of “a consultant psychiatrist” for “an approved medical officer”, and
 - (ii) by the substitution of the following paragraph for paragraph (b):
 - “(b) Subject to subsections (7) and (8), where in a case to which paragraph (a) relates, the Court determines that an accused person is unfit to be tried, the Court shall adjourn the proceedings until further order, and may—
 - (i) if it is satisfied, having considered the evidence of a consultant psychiatrist adduced pursuant to subsection (6)(b) and any other evidence that may be adduced before it that the accused person has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and is in need of in-patient care or treatment in a designated centre, commit him or her to a specified designated centre until an order is made under section 13 or 13A, or
 - (ii) if it is satisfied, having considered the evidence of a consultant psychiatrist adduced pursuant to subsection (6)(b) and any other evidence that may be adduced before it that the accused person has a mental disorder or has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for

involuntary admission and is in need of out-patient care or treatment in a designated centre, make such order as it thinks proper in relation to the accused person for out-patient treatment in a designated centre.”,

(b) in subsection (5)—

(i) in paragraph (bb), by the substitution of “a consultant psychiatrist” for “an approved medical officer”, and

(ii) by the substitution of the following paragraph for paragraph (c):

“(c) Subject to subsections (7) and (8), if the judge determines that the accused person is unfit to be tried, he or she shall adjourn the proceedings until further order, and may—

(i) if it is satisfied, having considered the evidence of a consultant psychiatrist adduced pursuant to subsection (6)(b) and any other evidence that may be adduced before it, that the accused person has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and is in need of in-patient care or treatment in a designated centre, commit him or her to a specified designated centre until an order is made under section 13 or 13A, or

(ii) if it is satisfied, having considered the evidence of a consultant psychiatrist adduced pursuant to subsection (6)(b) and any other evidence that may be adduced before it, that the accused person has a mental disorder or has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and is in need of out-patient care or treatment in a designated centre, make such order as it thinks proper in relation to the accused person for out-patient treatment in a designated centre.”,

and

(c) in subsection (6)—

(i) in paragraph (a), by the substitution of “a consultant psychiatrist” for “an approved medical officer” in both places that it occurs, and

(ii) by the substitution of the following paragraph for paragraph (b):

“(b) Within the period authorised by the court under this subsection, the consultant psychiatrist who examined the accused person pursuant to subparagraph (ii) of paragraph (a) shall report to the court on whether or not in his or her opinion the accused person—

(i) has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and is in need of in-patient care or treatment in a designated centre, or

- (ii) has a mental disorder or has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and is in need of out-patient care or treatment in a designated centre.”.”.

***290.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 5 of Act of 2006

214. Section 5 of the Act of 2006 is amended—

- (a) in subsection (1)(a), by the substitution of “had, at the time, a mental disorder” for “was suffering at the time from a mental disorder”,
 - (b) in subsection (2), by the substitution of “has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission” for “is suffering from a mental disorder (within the meaning of the Act of 2001)”,
 - (c) in subsection (3)—
 - (i) by the substitution of the following paragraph for paragraph (a):

“(a) For the purposes of subsection (2), if the court considers that an accused person found not guilty by reason of insanity pursuant to subsection (1) has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and may be in need of in-patient care or treatment in a designated centre, the court may commit that person to a specified designated centre for a period of not more than 14 days and direct that during such period he or she be examined by a consultant psychiatrist at that centre.”,
 - (ii) in paragraph (b), by the substitution of “a consultant psychiatrist” for “an approved medical officer”, and
 - (iii) by the substitution of the following paragraph for paragraph (c):

“(c) Within the period of committal authorised by the court under this subsection the consultant psychiatrist concerned shall report to the court on whether in his or her opinion the accused person committed under paragraph (a) has a mental disorder (within the meaning of the *Act of 2026*) that fulfils the criteria for involuntary admission and is in need of in-patient care or treatment in a designated centre.”,
- and
- (d) in subsection (4), by the substitution of “had a mental disorder” for “was suffering from a mental disorder” in both places that it occurs.”.

***291.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 6 of Act of 2006

215. Section 6 of the Act of 2006 is amended, in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) had, at the time, a mental disorder, and”.’”.

***292.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 8 of Act of 2006

216. Section 8 of the Act of 2006 is amended—

- (a) in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) that he or she did not, at the time when the act was committed, have a mental disorder of the nature referred to in section 5(1)(b);”,

- (b) in subsection (3), by the substitution of “that he or she did not have a mental disorder” for “that he or she was not suffering from a mental disorder”,
- (c) in subsection (5), by the substitution of “he or she had at the time that the offence alleged was committed, a mental disorder” for “he or she was at the time that the offence alleged was committed suffering from any mental disorder”,
- (d) in subsection (6)(b), by the substitution of “did not, at the time when the act was committed, have a mental disorder” for “was not, at the time when the act was committed, suffering from any mental disorder”,
- (e) in subsection (8), by the substitution of “he or she did not have a mental disorder” for “he or she was not suffering from any mental disorder”, and
- (f) in subsection (10), by the substitution of “is satisfied that the appellant at the time that the offence alleged was committed had a mental disorder” for “is satisfied that the appellant was at the time that the offence alleged was committed suffering from a mental disorder.”.

***293.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 12 of Act of 2006

217. Section 12 of the Act of 2006 is amended—

- (a) by the substitution of “detained person” for “patient” in each place that it occurs, and
- (b) in subsection (6)(a), by the substitution of “detained persons” for “patients”.’”.

***294.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 13 of Act of 2006

218. Section 13 of the Act of 2006 is amended by the substitution of “detained person” for “patient” in each place that it occurs.”.

***295.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 13A of Act of 2006

219. Section 13A of the Act of 2006 is amended by the substitution of “detained person” for “patient” in each place that it occurs.”.

***296.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 13B of Act of 2006

220. Section 13B of the Act of 2006 is amended, in subsection (10)—

(a) by the substitution of the following paragraph for paragraph (b):

“(b) the Board shall order that the detained person be brought before it as soon as may be for the purposes of reviewing his or her detention, and”,

and

(b) in paragraph (c), by the substitution of “detained person” for “patient”.”.

***297.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 13C of Act of 2006

221. Section 13C of the Act of 2006 is amended by the substitution of the following subsection for subsection (3):

“(3) In this section, ‘registered proprietor’ has the same meaning as it has in the *Act of 2026*.”.

***298.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 14 of Act of 2006

222. Section 14 of the Act of 2006 is amended—

(a) in subsection (1), by the substitution of “detained person” for “patient”,

(b) in subsection (2), by the substitution of “detained person” for “patient”,

- (c) in subsection (3), by the substitution of “person” for “patient” in each place that it occurs,
- (d) in subsection (4), by the substitution of “person” for “patient”,
- (e) in subsection (5), by the substitution of “person” for “patient”,
- (f) in subsection (6), by the substitution of “person” for “patient”,
- (g) in subsection (8), by the substitution of “detained person” for “patient” in each place that it occurs.”.

***299.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 15 of Act of 2006

223. Section 15 of the Act of 2006 is amended—

- (a) by the substitution of “has a mental disorder” for “is suffering from a mental disorder” in each place that it occurs, and
- (b) in subsection (9)(a), by the substitution of “a consultant psychiatrist” for “an approved medical officer”.”.

***300.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 16 of Act of 2006

224. Section 16 of the Act of 2006 is amended, in subsection (2), by the substitution of “*Act of 2026*” for “Act of 2001”.”.

***301.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of section 17 of Act of 2006

225. Section 17 of the Act of 2006 is amended, in subsection (3)(a), by the substitution of “has a mental disorder” for “is suffering from or continues to suffer from a mental disorder”.”.

***302.** In page 179, between lines 25 and 26, to insert the following:

“Amendment of Schedule 1 to Act of 2006

226. Schedule 1 to the Act of 2006 is amended, in paragraph 1, by the substitution of “consultant psychiatrist” for “approved medical officer”.”.

***303.** In page 181, line 13, to delete “*section 16 of*”.

***304.** In page 181, line 15, to delete “person.” and substitute “person”.

***305.** In page 183, between lines 2 and 3, to insert the following:

“(a) in section 12(3), after “in accordance with subsection (1),” by the insertion of “or where a request is made under *section 74(15)# of the Mental Health Act 2026*,”.”

[#This is a reference to a section proposed to be inserted by amendment No. 162.]

***306.** In page 185, between lines 12 and 13, to insert the following:

“(2) The amendments to the Health Act 2004 effected by *subsection (1)* shall not apply in relation to a protected disclosure under section 55D of that Act or a disclosure to the Inspector of Mental Health Services under section 55G of that Act regarding actions or omissions that occurred before the commencement of this section.”.

***307.** In page 185, lines 16 to 18, to delete all words from and including “by” in line 16 down to and including line 18 and substitute the following:

“by the substitution of “the *Mental Health Act 2026*” for “the Mental Health Acts 1945 to 2001”,.”.

***308.** In page 185, lines 20 and 21, to delete all words from and including “by” in line 20 down to and including line 21 and substitute “by the substitution of “the *Mental Health Act 2026*” for “the Mental Health Acts 1945 to 2001”,.”.

***309.** In page 185, between lines 26 and 27, to insert the following:

“(2) (a) The amendments to section 86 of the Social Welfare Consolidation Act 2005 effected by *subsection (1)(a)* shall not apply to medical care provided under the Mental Health Acts 1945 to 2001 before the date on which *subsection (1)(a)* comes into operation.

(b) The amendment to section 249(1A) of the Social Welfare Consolidation Act 2005 effected by *subsection (1)(b)* shall not apply to an admission order or renewal order made under the Act of 2001 that continues in force after the date on which *subsection (1)(b)* comes into operation.”.

***310.** In page 187, after line 14, to insert the following:

“PART 10

TRANSITIONAL PROVISIONS

CHAPTER 1

Transitional provisions: Act of 2001

Interpretation

235. (1) In this Chapter—

“clinical director” includes, where the context so requires, a clinical director so deemed under *section 248#*;

“registered acute mental health centre” includes, where the context so requires, a registered acute mental health centre so deemed under *section 248#*;

“relevant order”, other than in *sections 242##, 243### and 244####*, means—

(a) an admission order made under section 14 or 24 of the Act of 2001, or

(b) a renewal order made under section 15 of the Act of 2001;

“tribunal” has the same meaning as it has in the Act of 2001.

(2) For the purposes of this Chapter and to the extent only that this Chapter applies, references to a person include references to a patient within the meaning of the Act of 2001.”.

[*#This is a reference to a section proposed to be inserted by amendment No. 323.*]

[*##This is a reference to a section proposed to be inserted by amendment No. 317.*]

[*###This is a reference to a section proposed to be inserted by amendment No. 318.*]

[*####This is a reference to a section proposed to be inserted by amendment No. 319.*]

***311.** In page 187, after line 14, to insert the following:

“Transitional provisions: admission and renewal orders for adults

236. (1) Subject to *sections 237(4)# and 239(6)##*, a relevant order in respect of a person that is in force immediately before the relevant date shall, subject to the modifications specified in *subsection (2)*, continue in force on and after the relevant date, and accordingly the Act of 2001, as it stood immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”), shall continue to have effect in respect of the person concerned until the earlier of—

(a) the date an involuntary admission order is made under *Part 3* in respect of the person the subject of the relevant order,

- (b) the date the person the subject of the relevant order is discharged following its revocation under section 18, 19 or 28 of the Act of 2001, or
 - (c) the date of the expiration of the relevant order.
- (2) The modifications referred to in *subsection (1)* are—
- (a) *subsections (3), (4), (6), (7) and (8) of section 9* shall apply in respect of the making of any decision relating to a person the subject of a relevant order that continues in force under *subsection (1)* as if that person were an applicable person (within the meaning of that section), and
 - (b) *Chapter 4 of Part 3 and section 194* shall, notwithstanding *subsection (1)*, apply in respect of a person the subject of a relevant order as if that person were an involuntarily admitted person.”.

[#This is a reference to a section proposed to be inserted by amendment No. 312.]

[##This is a reference to a section proposed to be inserted by amendment No. 314.]

***312.** In page 187, after line 14, to insert the following:

“Transitional provisions: involuntarily admitted adults

- 237.** (1) Subject to *subsections (4) and (6)*, where, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”) or following a transfer referred to in *section 246#*, a person is being detained in a registered acute mental health centre pursuant to a relevant order, the clinical director of the registered acute mental health centre concerned shall, on or after the relevant date, arrange for the person concerned to be examined by a consultant psychiatrist under *section 22(1)* as if the person concerned were the subject of a recommendation for involuntary admission.
- (2) Following an examination of a person referred to in *subsection (1)*, the consultant psychiatrist—
- (a) shall, if satisfied that the person concerned has a mental disorder which fulfils the criteria for involuntary admission, make an involuntary admission order for the reception, detention and care and treatment of the person under *section 22(2)(a)*, or
 - (b) if not satisfied that the person concerned has a mental disorder which fulfils the criteria for involuntary admission, shall—
 - (i) refuse to make an involuntary admission order, and
 - (ii) arrange, subject to the modifications specified in *subsection (3)*, for the person to be discharged in accordance with section 28 of the Act of 2001.
- (3) In relation to each subsection of section 28 of the Act of 2001, the modifications referred to in *subsection (2)(b)(ii)* are—
- (a) in subsection (1), the consultant psychiatrist concerned shall, where not satisfied

that the person concerned has a mental disorder which fulfils the criteria for involuntary admission, revoke the relevant order and discharge the person,

- (b) for the purpose of subsection (3)(b), the consultant psychiatrist shall notify the person concerned that he or she is entitled to have his or her detention reviewed by a tribunal in accordance with *section 240##*, and
 - (c) subsection (5) shall not apply to a person concerned, and any subsequent review or otherwise of his or her detention shall be in accordance with *section 240##*.
- (4) A decision under *subsection (2)* to make or refuse to make an involuntary admission order shall be made as soon as may be after the relevant date, but not later than—
- (a) the date of the expiration of the relevant order for the person concerned, or
 - (b) the date that falls 28 days after the relevant date,
- whichever occurs sooner.
- (5) Where an involuntary admission order referred to in *subsection (2)(a)* is made in respect of a person referred to in *subsection (1)*, the relevant order pursuant to which that person was previously detained shall immediately cease to have effect and be deemed to be revoked.
- (6) A reference, in *subsection (1)*, to a person detained in a registered acute mental health centre pursuant to a relevant order immediately before the relevant date—
- (a) includes a person on a permitted leave of absence under section 26 of the Act of 2001,
 - (b) subject to *section 247###*, includes a person absent from that centre without permission under section 27 of the Act of 2001, and
 - (c) does not include a person transferred to and detained in the Central Mental Hospital under section 21 of the Act of 2001.”.

[#This is a reference to a section proposed to be inserted by amendment No. 321.]

[##This is a reference to a section proposed to be inserted by amendment No. 315.]

[###This is a reference to a section proposed to be inserted by amendment No. 322.]

***313.** In page 187, after line 14, to insert the following:

“Transitional provisions: involuntary admission processes in being

- 238.** (1) Where, before the date on which this section comes into operation (in this section referred to as the “relevant date”), a person is the subject of an application under section 9(1) or 12(2) of the Act of 2001 but the medical practitioner to whom the application is addressed has not decided whether to make a recommendation in respect of the person concerned under section 10 of that Act by immediately before the relevant date, the registered medical practitioner concerned shall, on or after the relevant date, treat the application as if it were a direct application for a recommendation for involuntary admission under *section 15* and any subsequent

involuntary admission (or otherwise) of the person concerned shall be determined in accordance with *Part 3*.

- (2) Where, before the relevant date, a person is the subject of a recommendation under section 10 of the Act of 2001 but an involuntary admission order has not yet been made or refused in respect of the person concerned under section 14(1)(a) or (b) of that Act by immediately before the relevant date, the clinical director to whom the recommendation is addressed shall, on or after the relevant date, treat the recommendation as if it were a recommendation for involuntary admission under *section 16* and any subsequent involuntary admission (or otherwise) of the person concerned shall be determined in accordance with *Part 3*.
- (3) Where, before the relevant date, a person has been detained under section 23 of the Act of 2001 but a determination has not been made by immediately before the relevant date on whether the person concerned is to be—

- (a) the subject of an admission order under section 24(3) of that Act, or
- (b) discharged under subsection (1) or (2)(b) of section 24 of that Act,

the detention of that person shall, on or after the relevant date, be determined in accordance with *section 38* subject to the modification that the steps in *section 38* are required to be completed within 24 hours of the time the person is detained under section 23 of the Act of 2001, and any necessary additional modifications.”.

***314.** In page 187, after line 14, to insert the following:

“Transitional provisions: admission to Central Mental Hospital

- 239.** (1) Where, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”) or following a transfer referred to in *subsection (8)* or *(9)*, a person is detained in the Central Mental Hospital under section 21 of the Act of 2001 pursuant to a relevant order, the clinical director of the Central Mental Hospital shall arrange for the person concerned to be examined by his or her responsible consultant under *section 22(1)* on or after the relevant date, as the case may be, as if the person concerned were the subject of a recommendation for involuntary admission.
- (2) Following an examination of a person referred to in *subsection (1)*, the responsible consultant psychiatrist—
- (a) shall, if satisfied that the person concerned has a mental disorder which fulfils the criteria for involuntary admission, make an involuntary admission order for the reception, detention and care and treatment of the person under *section 22(2)(a)*, or
 - (b) shall, if not satisfied that the person concerned has a mental disorder which fulfils the criteria for involuntary admission—
 - (i) refuse to make such an involuntary admission order, and

- (ii) arrange, subject to the modifications specified in *subsection (3)*, for the person to be discharged in accordance with section 28 of the Act of 2001.
- (3) In relation to each subsection of section 28 of the Act of 2001, the modifications referred to in *subsection (2)(b)(ii)* are—
 - (a) in subsection (1), the consultant psychiatrist concerned shall, where not satisfied that the person concerned has a mental disorder which fulfils the criteria for involuntary admission, revoke the relevant order and discharge the person,
 - (b) for the purpose of subsection (3)(b), the consultant psychiatrist shall notify the person concerned that he or she is entitled to have his or her detention reviewed by a tribunal in accordance with *section 240#*, and
 - (c) subsection (5) of that section shall not apply to the person concerned, and any subsequent review or otherwise of his or her detention shall be in accordance with *section 240#*.
- (4) Where an involuntary admission order referred to in *subsection (2)(a)* is made in respect of a person referred to in *subsection (1)*, the clinical director of the Central Mental Hospital shall, at the same time, consider whether—
 - (a) it would be for the benefit of the person to remain in the Central Mental Hospital, or
 - (b) it is necessary, for the purpose of obtaining special treatment, the details of which shall be specified in writing, for the person to remain in the Central Mental Hospital.
- (5) Where the clinical director of the Central Mental Hospital is of the opinion that *paragraph (a) or (b) of subsection (4)* applies, the involuntary admission order made under *section 22(2)(a)* in respect of a person referred to in *subsection (1)*—
 - (a) shall be for the reception, detention and care and treatment of the person in the registered acute mental health centre from which the person was transferred under section 21 of the Act of 2001, and
 - (b) shall be deemed to authorise the reception, detention and care and treatment of the person in the Central Mental Hospital.
- (6) A decision under *subsection (2)* shall be made and, as applicable, any considerations under *subsection (4)* shall be concluded as soon as may be after the relevant date, but not later than the date the relevant order for the person concerned expires or the date that falls 28 days after the relevant date, whichever occurs sooner.
- (7) Where an involuntary admission order is made in respect of a person referred to in *subsection (1)*, the relevant order pursuant to which that person was previously detained shall immediately cease to have effect and be deemed to be revoked.
- (8) The clinical director of the Central Mental Hospital shall notify the clinical director of the registered acute mental health centre from which a person was transferred under section 21 of the Act of 2001 of—
 - (a) the results of an examination referred to in *subsection (1)*,

- (b) the decision referred to in *subsection (2)* to make an involuntary admission order or to discharge the person concerned, and
 - (c) the outcome of considerations referred to in *subsection (4)*.
- (9) Where, before the relevant date, a clinical director of a registered acute mental health centre has proposed to transfer a person to the Central Mental Hospital under paragraph (a) of section 21(2) of the Act of 2001 but the Commission has not referred the proposal to a tribunal under subsection (2)(b) of that section by immediately before the relevant date, the Commission shall, on and after the relevant date, treat the proposal as if it were made under *section 36(1)* for the purpose of *subsection (4)* of that section, and any subsequent transfer (or otherwise) of the person concerned shall be determined in accordance with *Part 3*.
- (10) Where, before the relevant date, the Commission has referred a proposal to transfer a person to the Central Mental Hospital to a tribunal under paragraph (a) of section 21(2) of the Act of 2001 but a tribunal has not by immediately before the relevant date reviewed the proposed transfer and determined whether to—
- (a) authorise the proposed transfer under section 21(2)(b)(i) of the Act of 2001, or
 - (b) refuse to authorise the proposed transfer section 21(2)(b)(ii) of that Act,
- the referral to the tribunal shall lapse and the Commission shall, on and after the relevant date, treat the proposal to transfer the person concerned under paragraph (a) of section 21(2) of the Act of 2001 as if it were made under *section 36(1)* for the purpose of *subsection (4)* of that section, and any subsequent transfer (or otherwise) of the person concerned shall be determined in accordance with *Part 3*.
- (11) *Subsections (13), (14) and (15) of section 36 shall apply to an admission to the Central Mental Hospital under this section with the modification that a reference to a registered acute mental health centre from which a person has been or was transferred shall be construed as a reference to the registered acute mental health centre from which the person admitted under this section was previously transferred under section 21 of the Act of 2001 and any other necessary modifications.”.*

[#This is a reference to a section proposed to be inserted by amendment No. 315.]

***315.** In page 187, after line 14, to insert the following:

“Transitional provisions: referral to and review by tribunal

- 240.** (1) Where, before the date on which this section comes into operation (in this section referred to as the “relevant date”), a relevant order has been made but the Commission has not received the relevant order under section 17 of the Act of 2001 by immediately before the relevant date, the Commission shall, on or after the relevant date, carry out the matters specified in subsection (1) of that section upon receipt of the relevant order.
- (2) Where, before the relevant date, the Commission has received—

- (a) a copy of a relevant order under section 17 of the Act of 2001,
 - (b) an application referred to in section 15(3)(b) of the Act of 2001, or
 - (c) a notice referred to in section 28(5) of the Act of 2001,
- but has not carried out the matters specified in section 17(1) of the Act of 2001 by immediately before the relevant date, the Commission shall, on or after the relevant date, carry out the matters specified in that subsection.
- (3) Where, immediately before the relevant date—
- (a) a person has been discharged under section 28 of the Act of 2001,
 - (b) he or she has not made a request to the Commission for a review of his or her detention in accordance with section 28(5) of the Act of 2001, and
 - (c) the period allowed under section 28(5) of the Act of 2001 for making a request referred to in *paragraph (b)* has not yet expired,
- the person may, on or after the relevant date but before the expiration of the period referred to in *paragraph (c)*, make a request to the Commission in accordance with section 28(5) of the Act of 2001 for a review of his or her detention and, where he or she does so, the Commission shall, on or after the relevant date, carry out the matters specified in section 17(1) of that Act.
- (4) Where the Commission carries out the matters specified in section 17(1) of the Act of 2001 pursuant to *subsection (1), (2) or (3)*, a tribunal shall proceed in accordance with sections 17 and 18 of the Act of 2001 and, where the relevant order is affirmed, that decision may be appealed to the Circuit Court in accordance with section 19 of that Act.
- (5) Where, before the relevant date, the Commission has referred—
- (a) the making of a relevant order,
 - (b) an application referred to in section 15(3)(b) of the Act of 2001, or
 - (c) a notice referred to in section 28(5) of the Act of 2001,
- to a tribunal under section 17(1) of the Act of 2001 but such tribunal has not by immediately before the relevant date reviewed the detention of the person concerned under section 18 of that Act, the tribunal shall, on or after the relevant date, carry out the review of the relevant order concerned in accordance with section 18 of that Act and, where the relevant order is affirmed, that decision may be appealed to the Circuit Court in accordance with section 19 of that Act.
- (6) Where, before the relevant date, an appeal has been made under section 19 of the Act of 2001 against a decision to affirm a relevant order under section 18 of that Act but the Circuit Court has not, by immediately before the relevant date, determined the appeal, the appeal shall, on or after the relevant date, be determined in accordance with that Act.
- (7) Where, immediately before the relevant date—

- (a) a decision to affirm a relevant order under section 18 of the Act of 2001 has been made,
- (b) the person the subject of the relevant order has not appealed the decision under section 19 of that Act, and
- (c) the period of time allowed under section 19(2) of the Act of 2001 for bringing an appeal referred to in *paragraph (b)* has not expired,

the person the subject of the relevant order concerned may, on or after the relevant date but before the expiration of the period of time referred to in *paragraph (c)*, appeal the decision to the Circuit Court under section 19 of that Act and, where he or she does so, the appeal shall be determined by the Circuit Court in accordance with that Act.

- (8) Where a relevant order is deemed to be revoked under *section 237(5)#* or *239(7)##* or revoked by a consultant psychiatrist due to a discharge under *section 237(3)(a)#* or *239(3)(a)##* before a tribunal referred to in *subsections (4) or (5)* completes its review in respect of the relevant order under section 18 of the Act of 2001, the review by the tribunal shall not be completed unless the person or his or her legal representative notifies the Commission, as soon as practicable but not later than the time and date scheduled for the review, that the person concerned wishes the review to be completed in accordance with the Act of 2001.
- (9) Where a person requests that a review referred to in *subsection (8)* be completed, the tribunal shall, notwithstanding that the person concerned is no longer being detained pursuant to the relevant order the subject of the review, on or after the relevant date, determine the review in accordance with the Act of 2001 with any necessary modifications.
- (10) A person who is a member of a panel of consultant psychiatrists referred to in section 33(3)(b) of the Act of 2001 immediately before the relevant date shall, on and after the relevant date, continue as a member of that panel and be subject to the Act of 2001 as it stood immediately before the relevant date until the date of the determination of the final matter referred to a tribunal, including an appeal involving a decision of the tribunal concerned under section 19 of the Act of 2001, under *subsection (4), (5), (6), (7) or (9)*.
- (11) The functions standing vested in a member of a panel of consultant psychiatrists referred to in section 33(3)(b) of the Act of 2001 immediately before the relevant date shall, in relation to a matter referred to in *subsection (10)*, continue to be performable on and after the relevant date by such a person.”.

[#This is a reference to a section proposed to be inserted by amendment No. 312.]

[##This is a reference to a section proposed to be inserted by amendment No. 314.]

*316. In page 187, after line 14, to insert the following:

“Transitional provision: membership of tribunals

241. (1) Subject to *subsection (4)*—

- (a) a person who is, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”), a member of a tribunal referred to in section 48(3)(a) of the Act of 2001 shall, on the panel establishment date, stand appointed as a member of the consultant psychiatrist review panel,
 - (b) a person who is, immediately before the relevant date, a member of a tribunal referred to in section 48(3)(b) of the Act of 2001 shall, on the panel establishment date, stand appointed as a member of the legal practitioners review panel, and
 - (c) a person who is, immediately before the relevant date, a member of a tribunal referred to in section 48(3)(c) of the Act of 2001 shall, on the panel establishment date, stand appointed as a member of the community review panel.
- (2) A person appointed under *subsection (1)* shall be so appointed for a period equal to the unexpired period for which he or she was appointed as a member of the tribunal, on the same conditions (including those relating to termination of appointment) as the Commission determined when appointing him or her under section 48(6) of the Act of 2001.
- (3) The period served by a person referred to in *subsection (1)* as a member of a tribunal immediately before the relevant date and the period for which he or she is appointed under *subsection (2)* shall be regarded as one period of office for the purposes of *section 27(7)*.
- (4) A person who is a member of a tribunal immediately before the relevant date shall, on and after the relevant date, continue as a member of that tribunal and be subject to the Act of 2001 as it stood immediately before the relevant date until the date on which any of the following occurs:
- (a) the determination of the final matter referred to that tribunal under—
 - (i) section 17 or 21 of the Act of 2001, including an appeal involving a decision of the tribunal concerned under section 19 of the Act of 2001, or
 - (ii) *section 240#*, including an appeal involving a decision of the tribunal concerned under section 19 of the Act of 2001;
 - (b) he or she ceases to hold office under section 48(7), (9) or (10) of the Act of 2001;
 - (c) his or her period of membership expires,
- whichever is soonest.
- (5) The functions standing vested in a member of a tribunal immediately before the relevant date shall, in relation to a matter referred to in *subsection (4)(a)*, continue to be performable on and after the relevant date by such a person.

(6) In this section—

“community review panel” has the meaning given to it in *section 27(2)(c)*;

“consultant psychiatrist review panel” has the meaning given to it in *section 27(2)(a)*;

“legal practitioners review panel” has the meaning given to it in *section 27(2)(b)*;

“panel establishment date” means the date that the Commission establishes the community review panel, the consultant psychiatrist review panel and the legal practitioners review panel under *section 27(1)*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 315.]

***317.** In page 187, after line 14, to insert the following:

“Transitional provisions: admission and renewal orders for children

242. (1) Subject to *section 243#*, a relevant order in respect of a child that is in force immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”) shall, subject to the modifications in *subsection (2)*, continue in force on and after the relevant date and accordingly the Act of 2001 as it stood immediately before the relevant date shall continue to have effect in respect of the child until the earlier of—

(a) the date the child the subject of the relevant order is admitted under *section 63, 64, 65 or 67* following the commencement of the process specified in *section 243(1)#*, or

(b) the date the relevant order is revoked and the child is discharged by the Family District Court or the District Court, as the case may be, under *section 22* of the Act of 1991 (as applied by *section 25* of the Act of 2001) following an application under *section 243(2)(b)#*.

(2) The modifications referred to in *subsection (1)* are that the following provisions shall apply in respect of a relevant order that continues in force under *subsection (1)* as if the child the subject of the relevant order concerned were an involuntarily admitted child (and any other necessary modifications):

(a) *paragraphs (a), (b), (d), (e), (f) and (g) of subsection (1) and subsections (2) and (3) of section 10*;

(b) *Chapter 4 of Part 4*;

(c) *section 195*.

(3) In this section and *sections 243# and 244##*, “relevant order” means—

(a) an order authorising the detention of the child in an approved centre made under *section 25(6)* of the Act of 2001, or

(b) an extension of an order referred to in *paragraph (a)* made under *subsections (9) or (10) of section 25* of the Act of 2001.”.

[#This is a reference to a section proposed to be inserted by amendment No. 318.]

[##This is a reference to a section proposed to be inserted by amendment No. 319.]

***318.** In page 187, after line 14, to insert the following:

Transitional provisions: involuntarily admitted children

243. (1) Subject to *subsection (3)* and *(6)*, where, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”) or following a transfer referred to in *section 246#*, a child is being detained in a registered acute mental health centre pursuant to a relevant order, the clinical director of the registered acute mental health centre concerned shall, on or after the relevant date—

(a) arrange for the child concerned to be examined by a consultant psychiatrist under *section 67(1)*, and

(b) furnish the results of that examination to the Executive.

(2) The Executive, having considered the results of an examination under *section 67(1)* referred to in *subsection (1)*—

(a) shall arrange for the child to be admitted, with the agreement of the responsible consultant psychiatrist and the consent of the child or, as the case may be, his or her parents or guardian or the Agency—

(i) as a voluntarily admitted child under *section 63* or *64*, or

(ii) as a child aged 16 years or older lacking necessary capacity admitted with parental consent under *section 65*,

or

(b) shall make an application to the Family District Court or the District Court, as the case may be—

(i) for an order authorising the reception, detention and care and treatment of the child in a registered acute mental health centre under *section 67*, or

(ii) for the child to be discharged in accordance with section 22 of the Act of 1991 (as applied by section 25 of the Act of 2001).

(3) An admission referred to in *subsection (2)(a)* or an application referred to in *subsection (2)(b)* in respect of a child the subject of a relevant order shall be made as soon as may be after the relevant date, but not later than the date the relevant order for the child concerned expires or the date that falls 28 days after the relevant date, whichever occurs sooner.

(4) Where a child referred to in *subsection (1)* is admitted to a registered acute mental health centre under *section 63*, *64*, *65* or *67* or discharged in accordance with section 22 of the Act of 1991 (as applied by section 25 of the Act of 2001), the relevant order pursuant to which the child was previously detained shall immediately cease to have

effect.

- (5) Where a child referred to in *subsection (1)* is admitted to a registered acute mental health centre under *section 63, 64 or 65*, the Executive shall notify the Family District Court or District Court, as the case may be, as soon as may be that the child is no longer being detained pursuant to a relevant order.
- (6) In this section, references to a child being detained in a registered acute mental health centre pursuant to a relevant order includes—
 - (a) a child on a permitted leave of absence under section 26 of the Act of 2001,
 - (b) subject to *section 247##*, a child absent from that centre without permission under section 27 of the Act of 2001, and
 - (c) a child being detained in that centre following a transfer referred to in *section 246#*.

[#This is a reference to a section proposed to be inserted by amendment No. 321.]

[##This is a reference to a section proposed to be inserted by amendment No. 322.]

***319.** In page 187, after line 14, to insert the following:

“Transitional provisions: involuntary admission of children processes in being

- 244.** (1) Where, before the date on which this section comes into operation (in this section referred to as the “relevant date”), an application in respect of a child has been made under section 25(1) of the Act of 2001 but the District Court has not determined whether to make or refuse to make an admission order under that section by immediately before the relevant date, the Family District Court or District Court, as the case may be, shall, on or after the relevant date, determine whether or not the child should be admitted to a registered acute mental health centre in accordance with Part 4 subject to any necessary modifications.
- (2) Where, before the relevant date, an appeal has been brought to the Circuit Court under section 28 of the Act of 1991 (as applied by section 25 of the Act of 2001) in respect of a relevant order but the Circuit Court has not determined the appeal by immediately before the relevant date, the appeal shall be determined, on or after the relevant date, in accordance with those Acts and where a relevant order is affirmed, those Acts, subject to sections 242# and 243##, shall apply accordingly.”.

[#This is a reference to a section proposed to be inserted by amendment No. 317.]

[##This is a reference to a section proposed to be inserted by amendment No. 318.]

***320.** In page 187, after line 14, to insert the following:

“Transitional provisions: voluntarily admitted children

- 245.** (1) Where, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”), a child is being treated in a registered

acute mental health centre as a voluntary patient (within the meaning of the Act of 2001), his or her responsible consultant psychiatrist shall, as soon as may be but not later than 28 days after the relevant date, carry out an examination of the child.

(2) After carrying out an examination under *subsection (1)*, the responsible consultant psychiatrist shall—

(a) arrange for the child—

(i) to be admitted, with the agreement of the responsible consultant psychiatrist, and with the consent of the child or, as the case may be, his or her parents or guardian or the Agency—

(I) as a voluntarily admitted child under *section 63 or 64*, or

(II) as a child aged 16 years or older lacking necessary capacity admitted with parental consent under *section 65*,

or

(ii) to be discharged from the registered acute mental health centre,

or

(b) where the results of the examination recommend the making of an application for involuntary admission, furnish the results of the examination to the Executive as soon as may be for the purpose of making an application for an involuntary admission order under *section 67*.

(3) Where the results of the examination under *subsection (1)* recommend the making of an application for involuntary admission, that examination shall be deemed to be an examination for the purpose of *section 67(1)* if—

(a) the examination was carried out within a period of not more than 72 hours before the making of the application under *section 67(2)#*, and

(b) a report of the results of the examination is furnished to the District Court or the Family District Court, as the case may be, by the Executive upon the making of the application.

(4) Where, before the relevant date, a child has been detained under *section 23(2)* of the Act of 2001 but an application under *section 25(1)* of that Act has not been made by immediately before the relevant date, any admission of the child shall be determined on or after the relevant date in accordance with *section 72* as if the child were detained under that section subject to the modification that the period of 24 hours referred to in *section 72(1)* shall be deemed to have begun at the time the person was detained under *section 23* of the Act of 2001.”.

[#This is a reference to a subsection proposed to be inserted by amendment No. 129.]

***321.** In page 187, after line 14, to insert the following:

“Transitional provisions: transfers of persons

- 246.** (1) Where, before the date on which this section comes into operation (in this section referred to as the “relevant date”), a clinical director of a registered acute mental health centre has received an application under section 20 of the Act of 2001 for a transfer of a person to another registered acute mental health centre (in this section referred to as the “second-mentioned registered acute mental health centre”) but has not considered the application by immediately before the relevant date, the clinical director may, on or after the relevant date, consider and determine the application and, if he or she so thinks fit—
- (a) refuse the application, or
 - (b) arrange for the transfer of the person to the second-mentioned registered acute mental health centre in accordance with that section and for the person to be detained accordingly in the second-mentioned registered acute mental health centre with the consent of the clinical director of that centre.
- (2) Where, before the relevant date, a clinical director of a registered acute mental health centre has arranged for the transfer of a person to another registered acute mental health centre (other than the Central Mental Hospital) under section 21(1) of the Act of 2001 but the transfer has not taken place by immediately before the relevant date, the clinical director may—
- (a) refuse the transfer, or
 - (b) arrange for the transfer to take place on or after the relevant date in accordance with that section and for the person to be detained accordingly in the other registered acute mental health centre concerned.”.

***322.** In page 187, after line 14, to insert the following:

“Transitional provisions: absence with and without leave

- 247.** (1) Where, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”), permission for a period of absence granted to a person under section 26(1) of the Act of 2001 is in force, the grant of such permission shall, on and after the relevant date, continue in force and accordingly that Act as it stood immediately before the relevant date shall continue to have effect in respect of the person until the date of the period specified in the permission expires, unless that permission is sooner withdrawn under *subsection (2)*.
- (2) Where, immediately before the relevant date, a person is absent from a registered acute mental health centre pursuant to a permission granted under section 26(1) of the Act of 2001, the responsible consultant psychiatrist for the person concerned shall, on or after the relevant date, withdraw the permission and direct the person to return to the registered acute mental health centre for the purpose of an examination referred to in *section 237(1)#* or *243(1)##*, as the case may be.

- (3) Where, immediately before the relevant date, following a withdrawal of permission under *subsection (2)*, or on or after the relevant date, a person in respect of whom a relevant order or a relevant order within the meaning of *section 242###* is in force—
- (a) is absent from a registered acute mental health centre without permission granted under section 26(1) of the Act of 2001, or
 - (b) fails to return to the registered acute mental health centre in accordance with any direction given under section 26 of the Act of 2001 or *subsection (2)*,
- the clinical director of the registered acute mental health centre concerned may arrange for the person to be brought back to the centre in accordance with section 27 of the Act of 2001.”.

[#This is a reference to a section proposed to be inserted by amendment No. 312.]

[##This is a reference to a section proposed to be inserted by amendment No. 318.]

[###This is a reference to a section proposed to be inserted by amendment No. 317.]

***323.** In page 187, after line 14, to insert the following:

“CHAPTER 2

Registration of services

Transitional provision: registration of services, general

- 248.** (1) Where, immediately before the date on which this section comes into operation (in this section referred to as the “relevant date”) or following a determination under *section 249(1)(a)#*, an approved centre within the meaning of the Act of 2001 (in this section referred to as an “approved centre”) is registered by the Commission under section 64 of the Act of 2001, the approved centre shall be deemed, on the relevant date or on the date of such a determination under *section 249(1)(a)#*, to be registered as a registered acute mental health centre and shall be entered by the Commission, on or after the relevant date, in the Register of acute mental health centres under *section 148*.
- (2) The duration of a registration of an approved centre deemed to be a registered acute mental health centre in accordance with *subsection (1)* shall begin on either of the dates referred to in *subsection (1)* as applies in relation to the centre and end on the date the period of the registration of that approved centre under section 64 of the Act of 2001 expires.
- (3) Where, immediately before the relevant date, a certificate of registration in respect of an approved centre under section 64 of the Act of 2001 is in force, that certificate of registration shall, on the relevant date, be deemed to be a certificate of registration under *section 155* for the duration of the unexpired period of the registration referred to in *subsection (2)*.
- (4) The Commission shall, on or after the relevant date, include a registered proprietor of an approved centre that is deemed to be a registered acute mental health centre in

accordance with *subsection (1)* as the registered proprietor of the registered acute mental health centre concerned in the Register of acute mental health centres.

- (5) The clinical director of an approved centre that is deemed to be a registered acute mental health centre in accordance with *subsection (1)* shall be deemed, on the relevant date, to be the clinical director of the registered acute mental health centre.
- (6) The registered proprietor of an approved centre that is deemed to be a registered acute mental health centre in accordance with *subsection (1)* shall, as soon as may be and not later than 3 months after the relevant date, nominate a person to be the registered person in accordance with *section 172(2)*, subject to the modification that the nominated person shall not be replacing a person named under *section 172(1)*.
- (7) A registered proprietor of a registered acute mental health centre that is deemed to be a registered acute mental health centre in accordance with *subsection (1)* shall comply with this Act and any regulations made thereunder from the relevant date.”.

[#This is a reference to a section proposed to be inserted by amendment No. 324.]

***324.** In page 187, after line 14, to insert the following:

“Transitional provision: registration of services

249. (1) Where, before the date on which this section comes into operation (in this section referred to as the “relevant date”), an application has been made for registration of an approved centre within the meaning of the Act of 2001 (in this section referred to as an “approved centre”) under section 64 of the Act of 2001 but has not been determined by immediately before the relevant date, the application shall, on or after the relevant date, be determined in accordance with that Act and—

- (a) where a certificate of registration is issued pursuant to that application under section 64 of that Act, *section 248#* shall apply accordingly, and
- (b) where a decision is made under section 64 of that Act to refuse to register the approved centre concerned, to remove the centre from the register or to attach a condition, or to amend or revoke a condition attached to the registration of the centre, that decision may be appealed to the District Court in accordance with section 65 of that Act subject to any necessary modifications.

(2) Where, before the relevant date, an appeal has been made under section 65 of the Act of 2001 against a decision under section 64 of that Act—

- (a) to refuse to register an approved centre,
- (b) to remove the centre from the register or to attach a condition, or
- (c) to amend or revoke a condition attached to the registration of the centre,

but the District Court has not determined the appeal by immediately before the relevant date, the appeal shall, on and after the relevant date, be determined in accordance with that Act with any necessary modifications.

- (3) Where, immediately before the relevant date, an appeal under section 65 of the Act of 2001 has not been made but, on that date, the period allowed for bringing an appeal under that section has not yet expired, a registered proprietor or, as the case may be, a person intending to be a registered proprietor of an approved centre may, on or after that date, and within the period allowed for bringing the appeal, bring an appeal to the Family District Court under section 65 of the Act of 2001 and where he or she does so, the appeal shall be determined in accordance with that Act subject to any necessary modifications.”.

[#This is a reference to a section proposed to be inserted by amendment No. 323.]

*325. In page 187, after line 14, to insert the following:

“Transitional provision: register of approved centres

250. (1) Subject to *subsection (2)*, the Commission may retain the information contained in the register of approved centres maintained under section 64 of the Act of 2001 for the purposes of performing its functions under *Part 6* in respect of an acute mental health centre deemed to be a registered acute mental health centre in accordance with *section 248*#.

(2) The Commission may retain the information referred to in *subsection (1)* for a period of 4 years commencing on the date on which this section comes into operation.”.

[#This is a reference to a section proposed to be inserted by amendment No. 323.]

*326. In page 187, after line 14, to insert the following:

“Transitional provision: Inspector of Mental Health Services

251. Where, before the date on which this section comes into operation (in this section referred to as the “relevant date”), the Inspector (within the meaning of section 50 of the Act of 2001) or an Assistant Inspector (within the meaning of section 54 of the Act of 2001) has commenced a matter under the Act of 2001 but has not completed it by immediately before the relevant date, that matter may be carried on and completed on or after the relevant date by the Inspector or the Assistant Inspector in accordance with that Act.”.

*327. In page 187, after line 14, to insert the following:

“CHAPTER 3

Miscellaneous

Transitional provision: Service arrangements

252. An arrangement entered into under section 71A of the Act of 2001 that was for the time

being in force immediately before the commencement of section 20 shall remain in force and have effect on or after the date of the commencement of section 20 as if that section had not been enacted.”.

***328.** In page 187, after line 14, to insert the following:

“Transitional provision: Superannuation schemes

253. A superannuation scheme made under section 40 of the Act of 2001 that was in force immediately before the commencement of section 120 or 121, as the case may be, shall—

- (a) remain in force and have effect on or after the commencement of section 120 or 121, as the case may be, as if the scheme concerned had been made under section 120 or 121, as the case may be, and
- (b) be construed as if references to a member of the staff of the Commission included references to a member of the staff of the Commission as established under the Act of 2001.”.