Act No. 62 of 2 July 1999 relating to the provision and implementation of mental health care (the Mental Health Care Act), with later amendments

Chapter 1. General provisions

Section 1-1 Purpose

The purpose of this Act is to ensure that mental health care is applied and implemented in a satisfactory manner and in accordance with the fundamental principles of the rule of law. The purpose is also to ensure that the measures described in the Act are grounded on the needs of the patient and respect for human dignity.

Section 1-1a

The provisions in this Act apply to examination and treatment in mental health care, and to prior examinations with a view to applying compulsory mental health care.

If a mental health care institution is responsible for a stay [in the institution] that takes place pursuant to another act, the provisions in chapter 4, with the exception of sections 4-4, 4-5 second paragraph, 4-7a second paragraph and 4-10, apply to the implementation of the stay.

Added by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 1-2 Mental health care

The term "mental health care" shall mean the examination and treatment by specialized health services of persons suffering from mental illness, and the nursing and care that this requires.

The term "compulsory observation" shall mean such examination, nursing and care as is mentioned the first paragraph, with a view to establishing whether the conditions for compulsory mental health care are present without consent as provided for in chapter 4 of the Act relating to Patients' Rights.

The term "compulsory mental health care" shall mean such examination, treatment, nursing and care as are mentioned in the first paragraph without consent as provided for in chapter 4 of the Act relating to Patients' Rights.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 1-3 Public authority

For the purposes of this Act, the term " public authority" shall mean the chief municipal medical officer or his or her deputy, the social service, the police or the prison authority responsible.

The King may prescribe regulations regarding who shall be regarded as a public authority, and regarding the exercise of their competence pursuant to this Act.

Amended by Acts No. 45 of 20 June 2003 (entry into force 1 July 2003 as per Resolution No. 712 of 20 June 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 1-4 The mental health professional responsible for administrative decisions

The mental health professional responsible for making administrative decisions and for deciding on more closely specified measures pursuant to this Act shall be a physician with relevant specialist approval or clinical psychologist with relevant practice and supplementary education as laid down in regulations.

The King may prescribe regulations regarding who is the responsible mental health professional pursuant to the first paragraph and regarding delegation of the said person's authority. The King may prescribe regulations making exceptions to the first paragraph.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 1-5 Relationship to the Act relating to Patients' Rights

In connection with the provision and implementation of mental health care, the Act relating to Patients' Rights shall apply.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 1-6 Relationship to the Public Administration Act

The Public Administration Act shall apply to the processing of cases pursuant to this Act. However, section 12 of the Public Administration Act shall apply only when it is expressly so provided.

Section 1-7 Right to a lawyer or other agent

In connection with appeals to the supervisory commission or the county governor against administrative decisions pursuant to this Act, the patient is entitled to the assistance of a lawyer or other agent. As regards agents and power of attorney, section 12, second and fourth paragraphs, of the Public Administration Act shall apply accordingly.

All inquiries in an appeal may be made by an agent, and all communications and inquiries from the administrative body shall be made to the patient's agent, provided that the matter is covered by the power of attorney. When this is deemed expedient, the patient may also be notified directly. The patient may demand to be notified in addition to or instead of the agent.

In connection with cases concerning compulsory observation, application, maintenance or termination of compulsory mental health care, and cases concerning transfers, as mentioned in sections 2-1 second paragraph and 2-2 fourth paragraph, the patient is entitled to a lawyer pursuant to the Act of 13 June 1980 No. 35 relating to free legal aid.

Amended by Acts No. 87 of 29 August 2003 (entry into force 1 Sept. 2003 as per Resolution No. 1092 of 29 Aug. 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 s per Resolution No. 1422 of 15 Dec. 2006)

Section 1-8 Use of electronic communication

Provisions in or pursuant to this Act which require or presume a written form or signature do not preclude the use of electronic communication. This also applies to reports, notifications etc. to the patient or his or her next-of-kin, provided that the patient has expressly accepted the use of electronic communication.

Added by Act No. 117 of 21 Dec. 2001 (entry into force 1 Jan. 2002 as per Resolution No. 1475 of 21 December 2001), amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Chapter 2. Special provisions regarding consent

Heading amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006)

Section 2-1 General rule regarding consent

Mental health care is provided on the basis of consent pursuant to the provisions in the Act relating to Patients' Rights, unless otherwise provided for in this Act.

In the case of examination or treatment with a stay in an institution for children who are over the age of 12 and who do not themselves agree with the measure, the question of applying mental health care shall be brought before the supervisory commission.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 2-2 Consent to being subject to the rules regarding compulsory mental health care in section 3-5

Any person who seeks mental health care may, at the request of the responsible mental health professional, consent to be subject to the rules pursuant to section 3-5 for up to three weeks from the date the care is provided. Such consent does not entail consent to application of section 4-4 or section 4-5, second paragraph.

In the case of children under the age of 16, such consent is required as provided for in the Act relating to Patients' Rights.

The ground for requesting such consent and the consent itself shall be set out in a document that is signed by the patient and the responsible mental health professional. In the case of persons who owing to physical or mental disorders, senile dementia or learning disabilities are clearly not able to understand what consent entails, the responsible mental health professional and any person acting on behalf of the patient, shall sign [the document], subject to the limitations following from section 4-3 of the Act relating to Patients' Rights. In the case of children under the age of 16, the responsible mental health professional and the person or persons who consent(s) on behalf of the child shall sign.

The decision of the responsible mental health professional to require consent may be brought before the supervisory commission by the patient, the next-of-kin or the person acting on behalf of the patient. If the decision concerns a child who has reached the age of 12, and the child himself or herself does not agree with the measure, the decision shall be brought before the supervisory commission.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006)

Section 2-3 (Revoked by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006))

Chapter 3 Application and termination of compulsory mental health care

Heading amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006). The whole chapter was rewritten and previous sections 3-11, 3-12 and 3-13 were removed.

Section 3-1. Medical examination

Compulsory mental health care may not be applied unless a physician has personally examined the person concerned in order to ascertain whether the legal conditions for such care are satisfied. The physician who carries out the examination shall give a written opinion.

If there is a need for a medical examination as mentioned in the first paragraph, but the person concerned avoids such an examination, the chief municipal medical officer may on his or her own initiative or at the request of another public authority or of the next-of-kin of the person concerned decide that such medical examination shall be carried out. If necessary the person concerned may be fetched and examined by force.

The administrative decision of the chief municipal medical officer regarding compulsory examination shall immediately be recorded in writing. The decision may be appealed to the county governor without suspensive effect.

The King issues regulations governing the delegation of the chief municipal medical officer's authority.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-2. Administrative decisions regarding compulsory observation

On the basis of information from the medical examination pursuant to section 3-1, the responsible mental health professional will consider whether the following conditions for compulsory observation are satisfied:

1. Voluntary mental health care has been tried, to no avail, or it is obviously pointless to try this.
2. The patient has been examined by two physicians, one of whom shall be independent of the responsible institution, cf. section 3-1.
3. It is highly probable that the patient satisfies the conditions for compulsory mental health care as laid down in section 3-3.
4. The institution is professionally and materially capable of offering the patient satisfactory treatment and care and is approved in accordance with section 3-5.
5. The patient has been given the opportunity to state his or her opinion, cf. section 3-9.
6. Even though the conditions of the Act are otherwise satisfied, compulsory observation may only take place when this, after an overall assessment, this clearly appears to be the best solution for the person concerned, unless he or she constitutes an obvious and serious risk to the life and health of others. When making the

assessment, special emphasis shall be placed on how great a strain the compulsory observation will entail for the person concerned.

The responsible mental health professional will make a decision on the basis of the available information and his or her personal examination of the patient. The decision of the responsible mental health professional and the basis for it shall immediately be recorded.

Compulsory observation may not be carried out for more than 10 days from the start of the observation without the patient's consent. If the patient's condition indicates that it is absolutely necessary, the time limit may be extended for up to 10 days with the consent of the head of the supervisory commission. Transfer to compulsory mental health care pursuant to section 3-1 may be effected before or upon expiry of this time limit, if the conditions for such care are present.

The patient, and his or her next-of-kin and as the case may be, the authority which has made the request pursuant to section 3-6, may appeal a decision pursuant to the second paragraph to the supervisory commission.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-3. Administrative decisions regarding compulsory mental health care

On the basis of information from the medical examination pursuant to section 3-1 and compulsory observation, if any, pursuant to section 3-2, the responsible mental health professional will assess whether the following conditions for compulsory mental health care are satisfied:

1. Voluntary mental health care has been tried, to no avail, or it is obviously pointless to try this.
2. The patient has been examined by two physicians, one of whom shall be independent of the responsible institution, cf. section 3-1.
3. The patient is suffering from a serious mental disorder and application of compulsory mental health care is necessary to prevent the person concerned from either
   a. having the prospects of his or her health being restored or significantly improved considerably reduced, or it is highly probable that the condition of the person concerned will significantly deteriorate in the very near future, or
   b. constituting an obvious and serious risk to his or her own life and health or those of others

   on account of his or her mental disorder.
4. The institution is professionally and materially capable of offering the patient satisfactory treatment and care and is approved in accordance with section 3-5.
5. The patient has been given the opportunity to state his or her opinion, cf, section 3-9.
6. Even though the conditions of the Act are otherwise satisfied, compulsory mental health care may only be applied when, after an overall assessment, this clearly appears to be the best solution for the person concerned, unless he or she constitutes an obvious and serious risk to the life or health of others. When making the assessment, special emphasis shall be placed on how great a strain the compulsory

intervention will entail for the person concerned.

The responsible mental health professional will make a decision on the basis of the available information and his or her personal examination of the patient. The decision of the responsible mental health professional and the basis for it shall immediately be recorded.

The patient, and his or her next-of-kin and, as the case may be, the authority which has made the request pursuant to section 3-6, may appeal a decision pursuant to this provision to the supervisory commission. The patient may appeal a decision to apply compulsory mental health care for up to three months after the care has terminated.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-4. Prohibition against transfer from voluntary to compulsory mental health care

A person who is under mental health care by his or her own consent may not be transferred to compulsory observation or compulsory mental health care while the voluntary care is in progress.

The prohibition in the first paragraph does not apply however in cases where discharge means that the patient constitutes an obvious and serious risk to his or her own life and health and those of others. In connection with supervision pursuant to section 3-8 first paragraph, a written account shall be sent to the supervisory commission drawing particular attention to the fact that a decision regarding transfer has been made.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-5 What compulsory observation and compulsory mental health care may encompass

Compulsory observation or compulsory mental health care may be provided on an in-patient basis in an institution approved for these purposes. The patient may be detained against his or her will and brought back if he or she escapes, if necessary by force.

If it is necessary in order to ensure satisfactory health care, compulsory mental health care may be provided on a temporary in-patient basis in an institution that is not approved pursuant to the first paragraph. The approved institution shall in such cases be responsible for the compulsory care.

Compulsory observation or compulsory mental health care may also be provided on an out-patient basis when this is a better alternative for the patient. Due consideration shall also be given in the evaluation to relatives with whom the patient is living. Compulsory observation and compulsory mental health care may then only encompass instructions to the patient to attend for examination (compulsory observation) or treatment (compulsory mental health care). If necessary, the patient may be fetched. If necessary, he or she may be fetched by force.

Compulsory mental health care may only be provided on an out-patient basis under the responsibility of an institution which has been approved for the type of treatment in question.

The King in Council may prescribe regulations relating to compulsory observation and compulsory mental health care on an in-patient or out-patient basis.

Amended by Acts No. 87 of 29 Aug. 2003 (entry into force 1 Sept. 2003 as per Resolution No. 1092 of 29 Aug. 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-6. Public authorities' duty to notify and provide assistance

Public authorities shall by notifying the health service and by providing the necessary assistance as described in this Act help to ensure that persons who must be assumed to satisfy the conditions for compulsory mental health care and who do not themselves seek treatment are examined by a physician. If necessary, a request shall be made for compulsory examination, compulsory observation or compulsory mental health care.

Public authorities shall provide the necessary assistance to bring the person concerned to compulsory examination or compulsory observation or place the person concerned under compulsory mental health care. Public authorities shall also provide the necessary assistance in connection with fetching or bringing back as provided for in this Act. Public authorities may if necessary use force.

The King may prescribe regulations regarding the scope of public authorities' duties as laid down in the first and second paragraphs.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-7 Administrative decisions regarding termination of compulsory observation or compulsory mental health care

No one may be kept under compulsory observation or compulsory mental health care pursuant to section 3-5 unless the conditions pursuant to section 3-2 first paragraph or 3-3 first paragraph continue to be satisfied.

The responsible mental health professional will evaluate whether compulsory observation or compulsory mental health care shall be continued, and will make administrative decisions regarding termination of such care if he or she finds that the criteria and conditions mentioned in the first paragraph are no longer satisfied.

The patient or his or her next-of-kin may at any time request that compulsory observation or compulsory mental health care be terminated. The responsible mental health professional will make a decision in this case.

The patient or his or her next-of-kin or, as the case may be, the authority that has requested compulsory observation or compulsory mental health care, may appeal the decisions of the responsible mental health professional pursuant to the second and third paragraphs to the supervisory commission. The patient may appeal decisions to continue compulsory mental health care for up to three months after the care has terminated. If an appeal is lodged, the head of the supervisory commission may decide to postpone implementation of decisions mentioned in the second paragraph until a ruling has been made in the appeal case.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-8. Review without appeal and termination and prolongation of compulsory mental health care

When a person is placed under compulsory mental health care, notification shall be sent to the supervisory commission, together with a copy of the supporting

documents. As soon as possible, the supervisory commission shall assure itself that the correct procedure has been followed and that the administrative decision is based on an assessment of the conditions in section 3-2 or section 3-3.

If the application of compulsory mental health care is not appealed, the supervisory commission shall nevertheless, three months after the decision was made, on its own initiative assess whether there is a need for compulsory care and make sure that an individual plan has been drawn up for the patient, cf. section 4-1.

Compulsory mental health care terminates after one year unless the supervisory commission consents to the care being prolonged. The commission may consent to prolongation of the care by up to one year at a time, counting from the anniversary of its application.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-9. Right to state one's opinion

Before administrative decisions are made pursuant to this chapter, the person directly concerned by the case shall be given an opportunity to state his or her opinion. The right to state one's opinion applies, *inter alia*, to the question of the application of compulsory observation and compulsory mental health care and of which institution is to be responsible for the compulsory care. The next-of-kin of the person concerned and any public authority directly involved in the case are also entitled to state their opinions.

The information pursuant to the first paragraph shall be recorded and form the basis for the decision. Particular importance shall be attached to opinions concerning previous experience with the use of force.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 3-10 Regulations regarding compulsory mental health care

The King may prescribe further regulations regarding how the application of compulsory observation and compulsory mental health care is to be effected.

The King in Council may also prescribe regulations regarding approval of institutions which may apply or be responsible for compulsory mental health care pursuant to section 3-5 of this Act and regarding the further conditions for such approval.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Chapter 4 Implementation of mental health care

Section 4-1 Individual plan

The institution shall draw up individual plans for patients who need prolonged, coordinated services. The institution shall cooperate with other service providers in drawing up the plan in order to help to provide comprehensive services for the patients.

The Ministry may prescribe regulations containing further provisions regarding which patient groups this obligation applies to, and regarding the content of the plan.

Entry into force 1 July 2001 as per Resolution No. 595 of 8 June 2001. Amended by Acts No. 87 of 29 August 2003 (entry into force 1 Sept. 2003 as per Resolution No 1092 of 29 August 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-2 Protection of personal integrity

Restrictions and coercion shall be limited to what is absolutely necessary, and as far as possible the patient's view of such measures shall be taken into account. Use may only be made of measures that have such a favourable effect that it clearly outweighs the disadvantages of the measure.

When mental health care is provided in an institution, the patient's stay there shall as far as this is compatible with its purpose and the condition of each individual be effected in such a way that the patient's possibility of deciding for himself or herself is safeguarded.

Subject to the limitations mentioned, steps shall be taken to ensure that patients are allowed to:

a. take part in shaping the day-to-day life of the institution and other matters that affect the individual patient,
b. have the opportunity to cultivate their private interests and hobbies,
c. have access to the activities offered within the limits of the house rules,
d. have the opportunity to engage in daily outdoor activities.

Consideration shall also be given to the individual's essential beliefs and cultural background.

The King may prescribe further regulations regarding house rules for mental health care institutions.

Section 4-3 Segregation

If a patient's mental state or aggressive behaviour during a stay in an institution makes segregation necessary, the responsible mental health professional may decide that the patient, for reasons related to his or her treatment or in the interests of other patients, shall be kept completely or partly segregated from fellow patients and from personnel who do not take part in the examination, treatment and care of the patient.

An administrative decision shall be made if segregation is maintained for more than 24 hours. If the patient is transferred to a closed unit or similar which entails a significant change in the patient's surroundings or freedom of movement, an administrative decision shall be made if segregation is maintained for more than 12 hours. Decisions regarding segregation shall be recorded without undue delay. Decisions may only be made for up to two weeks at a time.

Administrative decisions regarding segregation and prolongation of segregation may be appealed to the supervisory commission by the patient and his or her next-of-kin.

The King may prescribe further regulations regarding the conditions for segregation and its implementation.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006)

Section 4-4 Treatment without the consent of the patient

Patients under compulsory mental health care may, without their own consent, be placed under such examination and treatment as is clearly in accordance with professionally recognized psychiatric methods and sound clinical practice.

Unless the patient has consented, no examination or treatment entailing a serious intervention may be carried out, but with the following exceptions:

a. The patient may be treated with medicine without his or her own consent. Such medication may only be carried out using preparations which are registered in Norway and in commonly used doses. Medication may only be carried out using medicines which have a favourable effect that clearly outweighs the disadvantages of any side effects.
b. As part of the treatment of a patient with a serious eating disorder, nutrition may be given without the consent of the patient, provided that this is considered to be an absolutely necessary choice of treatment.

Examination and treatment without the consent of the patient may only take place when an attempt has been made to obtain his or her consent to the examination or treatment, or it is obvious that consent cannot or will not be given. If it is not obviously impossible, consideration shall also be given to whether other voluntary measures may be offered as an alternative to examination and treatment without the consent of the patient.

Treatment measures which have not been consented to may only be used after the patient has been sufficiently examined to provide a basis for judging his or her condition and need for treatment. Such treatment measures may only be initiated and implemented when there is a great likelihood of their leading to the cure or significant improvement of the patient's condition, or of the patient avoiding a significant deterioration of the illness.

The responsible mental health professional makes administrative decisions regarding examination and treatment without the consent of the patient.

Administrative decisions regarding examination and treatment without the consent of the patient shall be recorded without delay.

Decisions pursuant to this section may be appealed to the county governor by the patient and his or her next-of-kin.

The King in Council will prescribe regulations regarding examination and treatment without the consent of the patient.

Amended by Acts No. 87 of 29 August 2003 (entry into force 1 Sept. 2003 as per Resolution No 1092 of 29 August 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-5 Contact with the outside world

Any person who stays in a mental health care institution on an in-patient basis is entitled to receive visits and use the telephone, as well as send and receive letters and parcels.

For persons under compulsory mental health care on an in-patient basis in an institution, the responsible mental health professional may decide to restrict the right mentioned in the first paragraph for up to 14 days, insofar as this is necessitated by strong considerations related to the treatment or welfare of the patient or strong

consideration for a closely related person. If an administrative decision is made to impose such restrictions, the institution shall ensure that the patient receives the necessary information regarding his or her next-of-kin and matters outside the institution that are of importance to the patient.

Besides what may be inferred from reasonable limitations laid down in house rules, no restrictions may be imposed on the right to communicate with the supervisory commission, the Ministry, the Norwegian Board of Health Supervision, the Board of Health Supervision in the county, the county governor, the parliamentary ombudsman, the ombudsman for patients, a priest or similar spiritual advisor, a legal advisor or the person acting on behalf of the patient in an appeal.

When there is justifiable suspicion that an attempt will be made to bring a patient medicines, intoxicants, escape aids or dangerous objects, the responsible mental health professional may decide that the patient's mail shall be opened and inspected with this in mind. If possible, this shall be done in the presence of the patient.

Administrative decisions regarding the interventions mentioned in the second and fourth paragraphs shall be recorded without undue delay. The patient or his or her next-of-kin may appeal the decision to the supervisory commission.

The King in Council will prescribe regulations regarding the right to carry out such interventions as are described in this section.

Amended by Acts No. 87 of 29 August 2003 (entry into force 1 Sept. 2003 as per Resolution No 1092 of 29 August 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-6 Inspection of rooms and possessions and bodily searches

When there is a justifiable suspicion that an attempt will be made to bring medicines, intoxicants, escape aids or dangerous objects into an institution for in-patients or have been brought into the said institution, the responsible mental health professional may, in view of this, decide that the patient's room and possessions shall be inspected and that the patient shall be bodily searched. If possible, the inspection of the patient's room and possessions shall take place in the presence of the patient or in the presence of his or her next-of-kin or another person designated by the patient.

It is not permitted to search the body cavities.

The administrative decision shall be recorded without delay. The patient or his or her next-of-kin may appeal the decision to the supervisory commission.

The King in Council will prescribe further regulations regarding the right to carry out such interventions as are described in this section.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-7 Seizure

The responsible mental health professional may decide that medication, intoxicants, escape aids or dangerous objects which are found in connection with the interventions mentioned in sections 4-5, fourth paragraph, and 4-6, first paragraph, shall be seized. The responsible mental health professional may moreover decide that medication, intoxicants or dangerous objects which the person in question is not entitled to have shall be destroyed.

The administrative decision shall be recorded without delay. The patient or his or her next-of-kin may appeal the decision to the supervisory commission. Decisions to destroy seized items may not be implemented until the appeal has been decided.

The King in Council will prescribe further regulations regarding the right to use such measures as are mentioned in this section.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-7a Urine samples

If a patient is suspected of intoxicant abuse, the patient may, at the request of the responsible mental health professional, consent to give a urine sample to expose intoxicant abuse in connection with a course of treatment. Such a request may only be made if it is considered to be absolutely necessary out of consideration for the health care. The grounds for the request for such consent and the consent itself shall be recorded in a document signed by the patient and the responsible mental health professional.

If a patient under compulsory observation or compulsory mental health care is suspected of intoxicant abuse, the responsible mental health professional may decide that urine samples may be taken to expose intoxicant abuse in connection with a course of treatment. Such a request may only be made if it is seen to be absolutely necessary out of consideration for the health care. The decision may be appealed by the patient or the patient's next-of-kin to the supervisory commission.

The King may prescribe further regulations regarding the taking of urine samples, including implementation in mental health care of such decisions made pursuant to other acts.

Added by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-8 Use of coercive means in institutions for in-patients

Coercive means shall only be used in respect of the patient when this is absolutely necessary to prevent him or her from injuring himself or herself or others, or to avert significant damage to buildings, clothing, furniture or other things. Coercive means shall only be used when milder means have proved to be obviously futile or inadequate.

The following coercive means may be applied:

a. mechanical coercive means which hamper the patient's freedom of movement, including belts and straps and clothing specially designed to prevent injury
b. detention for a short period of time behind a locked or closed door without a staff member present
c. single doses of medicines with a short-term effect for the purpose of calming or anaesthetizing the patient
d. briefly holding the patient fast.

In the case of patients under the age of 16, it is not permitted to use the coercive means mentioned in litrae a and b in the previous paragraph.

Patients who are subjected to coercive means shall be kept under continuous supervision by the nursing staff. If the patient is strapped to a bed or a chair, nursing staff shall remain in the same room as the patient unless the patient objects to this.

Coercive means may only be used pursuant to an administrative decision by the responsible mental health professional, unless otherwise laid down in regulations. The

decision shall be recorded without delay. The decision may be appealed to the supervisory commission by the patient or his or her next-of-kin.

The King in Council will prescribe further regulations regarding the use of coercive means.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-9 Control examinations

When a patient is under compulsory mental health care, the responsible mental health professional shall ensure that at least once every three months an examination is carried out to assess whether the conditions for care pursuant to section 3-3 are still satisfied. The assessments shall be recorded in the case record.

The King may prescribe regulations regarding such control examinations.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 4-10 Transfer without consent

The responsible mental health professional may make an administrative decision regarding the transfer of a patient under compulsory mental care to residence in or to other measures under the responsibility of an institution as mentioned in section 3-5. However, administrative decisions are not made regarding transfer between different forms of in-patient care in the same institution.

The decision regarding transfer may be appealed within a week by the patient or the patient's next-of-kin. The supervisory commission will review the decision to see whether it appears unreasonable from the point of view of the patient, placement alternatives and other circumstances.

Administrative decisions regarding transfer shall not be implemented until the time limit for appeal has expired or the appeal case has been decided, unless immediate transfer is absolutely necessary or it is clear that the decision will not be appealed.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Chapter 5 Court order for transfer to compulsory mental health care

Section 5-1 Relationship to the other provisions of this Act

In the case of a court order for transfer to compulsory mental health care pursuant to section 39 of the General Civil Penal Code, the provisions of this Act shall apply insofar as appropriate, with the exception of sections 3-1 to 3-4 and sections 3-7 to 3-9.

Section 39b of the General Civil Penal Code lays down rules regarding termination of the sanction.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 5-2 Administrative decision regarding responsibility for treatment

The regional health authority in the region where the person transferred by court order resides will decide which institution shall be responsible for the treatment of the said person. The King may by regulation transfer competence pursuant to this provision to another authority.

The regional health authority is responsible for ensuring that compulsory mental health care is provided as soon as the court order is legally enforceable.

Amended by Act No. 93 of 15 June 2001 (entry into force 1 Jan. 2002 as per Resolution No. 1417 of 14 Dec. 2001).

Section 5-3 Implementation

Any person who is transferred to compulsory mental health care shall be placed in an institution on an in-patient basis for the first three weeks. During this period, the responsible mental health professional should consult with the forensic psychiatric experts who have examined the said person.

The responsible mental health professional will then decide how the compulsory mental health care shall be carried out at any given time. In making the decision, special consideration shall be given to the treatment of the person transferred by court order, and in particular to the need to protect society against the risk of further serious breaches of the law.

Section 5-4 Appeal to the supervisory commission

After a stay of three weeks in an institution on an in-patient basis pursuant to section 5-3 has been effected, all administrative decisions regarding transfer to residence in or to other measures for which an institution mentioned in section 3-5 is responsible may be appealed to the supervisory commission. The supervisory commission will review the decision to see whether it appears unreasonable from the point of view of the person transferred by court order, placement alternatives and other circumstances. The said decisions shall be communicated to the persons entitled to lodge the appeal, who are the person transferred by court order himself or herself, his or her next-of-kin and the prosecuting authority.

Administrative decisions regarding transfer from in-patient care in an institution to mental health care on an out-patient basis or to in-patient care in another institution shall not be implemented until the time limit for appeal has expired or it is clear that the decision will not be appealed. The decision shall not be implemented until the appeal has been decided, unless the condition of the person transferred by court order makes it absolutely necessary that transfer take place rapidly.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 5-5 Request for changes in implementation

Persons entitled to lodge appeals pursuant to section 5-4 may request such changes in implementation as are mentioned in the said section. If such a request has previously been denied after an appeal to the supervisory commission, none of the persons entitled to lodge appeals may submit a new appeal on the basis of the same factual circumstances until six months have elapsed since the previous decision became final.

Section 5-6 Transfer to a prison service facility

Pursuant to a request by the responsible mental health professional, cf. section 5-3, the court may decide that the person transferred by court order shall be transferred from compulsory mental health care to a prison service facility, when special grounds so indicate. Transfer may only take place when the state of mental health of the said person is no longer such as is described in section 44, first paragraph, of the General Civil Penal Code. The condition regarding the risk of repetition set out in section 39, subsection 1 or subsection 2, of the General Civil Penal Code must still be satisfied.

The prosecuting authority shall bring the case before the district or the city court, which will decide it by a court order. The case shall be dealt with swiftly.

If the court finds that the condition regarding the risk of repetition set out in section 39, subsection 1 or subsection 2, of the General Civil Penal Code is not satisfied, the sanction shall be terminated, cf. section 39b of the General Civil Penal Code.

Amended by Acts No. 64 of 15 June 2001 (entry into force 1 Jan. 2002) and No. 98 of 14 Dec. 2001 (entry into force 1 Jan. 2002 as per Resolution No. 1416 of 14 Dec. 2001)

Section 5-7 Termination of the sanction and release on probation in cases where the person transferred by court order has been transferred to a prison service facility

If the person transferred by court order is transferred to a prison service facility pursuant to section 5-6, the provisions of section 39b of the General Civil Penal Code regarding termination of the sanction shall apply insofar as appropriate. Instead of termination, the court may in such cases decide to release the person concerned on probation pursuant to the provisions of sections 39f and 39g of the General Civil Penal Code.

Amended by Act No. 45 of 20 June 2003 (entry into force 1 July 2003 as per Resolution No. 712 of 20 June 2003)

Section 5-8 Return to compulsory mental health care from a prison service facility

If after transfer to the prison service the state of mental health of the person transferred by court order again becomes such as is described in section 44, first paragraph, of the General Civil Penal Code, the said person shall be returned to compulsory mental health care.

In the event of disagreement as to whether the condition for return is fulfilled, the case shall be brought before the Norwegian Directorate for Health and Social Affairs.

Amended by Acts No. 119 of 21 Dec. 2001 (entry into force 1 Jan. 2002 as per Resolution No. 1542 of 21 Dec. 2001 and No. 45 of 20 June 2003 (entry into force 1 July 2003 as per Resolution No. 712 of 20 June 2003)

Section 5-9 Regulations

The King may prescribe regulations regarding the implementation of court orders for transfer to compulsory mental health care pursuant to this chapter.

Chapter 6 Supervision and review

Section 6-1 Supervisory commission

When a person is placed under mental health care pursuant to this Act, there shall be a supervisory commission which, pursuant to further rules issued by the Ministry, will make the decisions which have been specially assigned to it.

Insofar as possible, the supervisory commission shall also carry out such supervision as it deems necessary for the welfare of the patients. It may take up cases on its own initiative or pursuant to a request by the patient, the patient's next-of-kin or the staff. If it finds circumstances to which it wishes to draw attention, it shall take the matter up with the responsible mental health professional and, as the case may be, the Board of Health Supervision in the county.

The supervisory commission is appointed by the Ministry, which also decides which area shall be assigned to each commission.

The Ministry has the overall responsibility for ensuring that there is a functioning commission in each area.

Amended by Acts No. 87 of 29 August 2003 (entry into force 1 Sept. 2003 as per Resolution No 1092 of 29 August 2003) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).

Section 6-2 Composition of the supervisory commission

The supervisory commission shall be chaired by a lawyer who is qualified to serve as a judge, and shall otherwise consist of a physician and two other members, all of whom shall have personal deputies. In respect of the two latter permanent members, a person shall be appointed who has personally been under mental health care or is or has been a close relative of a patient or who has represented the interests of patients in his occupation or function.

Members shall be appointed for four years at a time. The first time they are appointed after the entry into force of this Act, two of the members shall be appointed for two years. No one may be reappointed more than once in the same supervisory commission.

No one may be a member of a supervisory commission which is to supervise mental health care measures and institutions for which the person in question has any responsibility in his or her ordinary occupation.

Section 6-3 Autonomy of the supervisory commission

The supervisory commission is autonomous in its activity.

The head of the commission shall ensure that the commission does not follow work routines which undermine the autonomy of the commission.

Section 6-4 Special procedural rules

Before the supervisory commission decides cases concerning compulsory observation, the application, maintenance or termination of compulsory mental health care, and cases concerning transfer, the patient or the person acting on his or her behalf shall have the right to state his or her opinion.

The supervisory commission shall ensure that the case is elucidated to the best possible extent. Everyone has a duty to appear before the commission as a witness or an expert pursuant to the rules which apply to main hearings in a district or a city court.

The supervisory commission may request the judicial recording of evidence at a district or a city court, if a witness does not have a duty to appear before the commission or if appearing before the commission would entail disproportionate cost or inconvenience, or if such judicial recording of evidence must be regarded as particularly practical for other reasons.

Lawyers are entitled to acquaint themselves with all the information related to a case and to be present during examinations of parties to a case and witnesses. To the extent the supervisory commission deems it advisable, this also applies to the patient himself or herself or the person acting on his or her behalf.

The supervisory commission shall try all aspects of the case.

If possible, the commission shall make its administrative decision within two weeks after the case was brought before it. If this time limit cannot be observed, the reason for this shall be stated in the decision.

The administrative decision is made at a meeting attended by all the members of the commission. In the event of a parity of votes, the head of the commission has the casting vote. The rules regarding disqualification in chapter 6 of the Courts of Justice Act shall apply correspondingly to the members of the commission. The head of the commission will determine the remuneration of the appointed lawyer.

If an appeal has been rejected by the supervisory commission, no similar appeal may be lodged until at least six months have elapsed.

No fee shall be paid for transcripts and certificates issued by the supervisory commission or by the district or the city court. Nor shall a fee be paid for the judicial recording of evidence. Any person who pursuant to this section appears before the supervisory commission to make a statement is entitled to the same remuneration as witnesses and experts.

When communicating the decision, the supervisory commission shall acquaint the patient, or the person acting on his or her behalf, with the rules regarding judicial review, cf. section 7-1 of this Act.

Amended by Acts No. 98 of 14 Dec. 2001 (entry into force 1 Jan. 2002 as per Resolution No 1416 of 14 Dec. 2001) and No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).
To be amended by Act No. 90 of 17 June 2005 (entering into force on 1 Jan. 2008 as per Resolution No. 88 of 26 Jan. 2007)

Section 6-5 Regulations regarding administrative procedure

The King may prescribe regulations regarding the details of procedure in the supervisory commission.

Chapter 7 Judicial review

Section 7-1 Judicial review

Administrative decisions of the supervisory commission in cases concerning compulsory observation, the application or the maintenance of compulsory mental health care pursuant to sections 3-2, 3-3 and 3-7 may be brought before the court by the patient or his or her next-of-kin pursuant to the provisions of chapter 33 of the Civil Procedure Act of 13 August 1915. The same applies to the supervisory commission's administrative decisions regarding transfer to in-patient care in an institution, cf. sections 4-10 and 5-4.

Amended by Act No. 45 of 30 June 2006 (entry into force 1 Jan. 2007 as per Resolution No. 1422 of 15 Dec. 2006).
To be amended by Act No. 90 of 17 June 2005 (entry into force 1 Jan. 2008 as per Resolution No. 88 of 26 Jan. 2007)

Chapter 8 Various provisions

Section 8-1 Regulations

The King will prescribe regulations regarding the application of this Act to Svalbard and Jan Mayen and may determine special rules which take account of local conditions.

Section 8-2 Entry into force

This Act shall enter into force from the date decided by the King in Council. The King in Council may decide that the individual provisions of the Act shall enter into force on different dates. Chapter 5 shall enter into force pursuant to a separate Act.

From the date the Act enters into force, the Act of 28 April 1961 No. 2 relating to mental health care shall be repealed.

Entered into force on 1 Jan. 2001 as per Resolution No. 1197 of 1 Dec. 2000, with the exception of Section 4-1 which entered into force on 1 July 2001 as per Resolution No. 595 of 8 June 2001. By Act No. 64 of 15 June 2001 chapter 5 entered into force on 1 Jan. 2002.

Section 8-3 Amendments to other Acts

From the date this Act enters into force, the following amendments shall be made to other Acts: --------