

Certificate of clinical review of condition of patient found to be unfit to stand trial and detained as special patient

To the Director of Area Mental Health Services, at: *Location*

Patient name:

Date of birth:

Address:

Who was found to be unfit to stand trial and who is detained pursuant to an order made under section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 and dated:

I have examined the patient and have consulted with other health professionals involved in the treatment and care of the patient and have taken their views into account when assessing the results of my review of the patient's condition. In my opinion:

Delete if inapplicable: (i) the patient is no longer unfit to stand trial

(ii) the patient is still unfit to stand trial but it is no longer necessary that the patient should be subject to the order as a special patient

(iii) the patient is still unfit to stand trial and the patient should continue to be subject to the order of detention as a special patient

Copies of Certificate:

If I am of the opinion that the patient is not fit to be released from compulsory status, I shall be sending a copy of this certificate to each of the following: *(tick those applicable)*

- | | | |
|---|---|---|
| <ul style="list-style-type: none"> • The patient • Any welfare guardian of the patient • The patient's principal caregiver | <ul style="list-style-type: none"> • The primary health care provider who usually attended the patient immediately before the patient was required to undergo assessment and treatment | <ul style="list-style-type: none"> • A district inspector • An official visitor |
|---|---|---|

I shall be enclosing with each copy of this certificate a statement of:

- (a) The legal consequences of the above finding; and
 (b) The right of each of the following persons to apply to the Mental Health Review Tribunal for a review of the patient's condition:

- | | |
|--|---|
| <ul style="list-style-type: none"> (i) The patient (ii) Any welfare guardian of the patient (iii) The patient's principal caregiver | <ul style="list-style-type: none"> (iv) The primary health care provider who attended the patient immediately before the patient was required to undergo assessment and treatment under Part 1 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 |
|--|---|

Copy for Attorney-General:

I will, in addition, send a copy of this certificate to the Attorney-General for the purposes of section 31 of the Criminal Procedure (Mentally Impaired Persons) Act 2003, if my opinion is either—

- (a) that the patient is no longer unfit to stand trial; or
 (b) that the patient is still unfit to stand trial but it is no longer necessary that the patient should be subject to the order of detention as a special patient.

Reasons and Reports:

I shall be sending to the Director of Area Mental Health Services, with this certificate, full particulars of the reasons for my opinion of the patient's condition and any relevant reports from other health professionals involved in the case.

This certificate is issued by: *Name of responsible clinician who conducted the review*

Address: *Business address and telephone number of responsible clinician*

Signature of responsible clinician: *Date*

*Statement of legal consequences of findings set out in certificate of clinical review
and
Statement of right to apply to Review Tribunal*

Legal consequences

A copy of this certificate will be sent to the Attorney-General for the purposes of section 31 of the Criminal Procedure (Mentally Impaired Persons) Act 2003, if, on a clinical review under section 77(3) of the Mental Health (Compulsory Assessment and Treatment) Act 1992, the responsible clinician is of the opinion that—

- a) **the patient is no longer unfit to stand trial; or**
- b) **the patient is still unfit to stand trial but it is no longer necessary that the patient should be subject to the order of detention as a special patient.**

The Attorney-General will—

- a) direct that the patient be brought before the appropriate court; or
- b) direct that the patient be held under a compulsory treatment order; or
- c) apply to the Review Tribunal for a review of the patient's condition.

If, on the clinical review, the responsible clinician is of the opinion that **the patient is still unfit to stand trial and should continue to be subject to the order of detention as a special patient**, the patient will continue to be detained as a special patient.

Application to Review Tribunal

There is however a further step that may be taken.

Each of the following persons may apply to the Review Tribunal for a review of the patient's condition:

- a) the patient;
- b) any welfare guardian of the patient;
- c) the patient's principal caregiver;
- d) the primary health care provider who usually attended the patient immediately before the making of the order of detention.

If any such person wishes to apply to the Review Tribunal, that person may seek help from—

- a) district inspector;
- b) an official visitor;
- c) his or her lawyer;
- d) the patient's responsible clinician;
- e) a patient advocate (if one is available).

Steps to be taken by district inspector

The district inspector who receives a copy of this certificate (or an official visitor acting under an arrangement with that district inspector) must—

- a) communicate with the patient and find out, if possible, whether or not the patient wants an application to be made to the Review Tribunal for a review of the patient's condition. The district inspector (or official visitor) must communicate with the patient by talking to him or her, unless talking to him or her is impracticable; and
- b) decide, having regard to any view expressed by the patient, whether or not an application should be made to the Review Tribunal for a review of the patient's condition.

If that district inspector or any such official visitor considers that such an application should be made, that district inspector or that official visitor is required to take whatever reasonable steps he or she thinks necessary to encourage or assist the patient, or any of the other persons entitled to apply to the Tribunal, to make such an application.

If that district inspector or any such official visitor considers that an application should be made to have the patient's condition reviewed by the Review Tribunal, but neither the patient nor any other person intends to make such an application, the district inspector or any such official visitor may report the matter to the Review Tribunal. In such a case, the Review Tribunal may, of its own motion, review the patient's condition under section 80 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 as if an appropriate application for such a review had been made to the Review Tribunal.

Finding of Review Tribunal

The Review Tribunal, on conducting such a review, may find that—

- a) the patient is no longer unfit to stand trial; or
- b) the patient is still unfit to stand trial but it is no longer necessary that the patient should be subject to the order of detention as a special patient; or
- c) the patient is still unfit to stand trial and the patient should continue to be subject to the order of detention as a special patient.

Further information

For further information about the Review Tribunal, see sections 80, 82, and 101 to 107 of the Mental Health (Compulsory Assessment and Treatment) Act 1992.