

## Compulsory Patients - Orders

### Key Message

The *Mental Health Act 2014* (the Act) seeks to minimise the use and duration of compulsory treatment by specifying strict criteria for making a person subject to an Assessment Order, a Temporary Treatment Order or Treatment Order.

An Order must be the least restrictive means reasonably available to ensure that the person receives assessment and treatment.

### Assessment Order

A **registered medical practitioner**<sup>1</sup> or a **mental health practitioner**<sup>2</sup> may make an Assessment Order if they have examined the person and are satisfied that the criteria for an Assessment Order apply to the person.

The criteria for an Assessment Order require the practitioner to be satisfied that the person *appears* to have mental illness and to need immediate treatment to prevent serious deterioration in their mental or physical health or serious harm to the person or to another person.

The practitioner must also be satisfied that there is no less restrictive means reasonably available to assess the person.

The purpose of an Assessment Order is to enable an authorised psychiatrist to examine the person to determine whether they *have* mental illness and require compulsory mental health treatment. Assessment may be conducted in an inpatient setting or in the community. Assessment should only occur in an inpatient setting if the practitioner is satisfied that the assessment cannot occur in the community.

An authorised psychiatrist or their delegate must complete the assessment of a person subject to an Assessment Order with 24 hours of the person being received at a designated mental health service subject to an Inpatient Assessment Order or within 24 hours of the making of a Community Assessment Order.

If the authorised psychiatrist or their delegate is unable to determine whether the treatment criteria apply to the person within these timelines, for example if the person is intoxicated and cannot be effectively assessed, the authorised psychiatrist may extend the duration of the Assessment Order. An Assessment Order may be extended twice for periods up to 24 hours.

A patient subject to an Assessment Order may only be given treatment for their apparent mental illness if they consent to the treatment or if the treatment is necessary as a matter of urgency to prevent serious deterioration in the person's mental or physical health or serious harm to the person or another person.

See [Appendix 1](#) attached for the **Assessment Orders** flow chart.

<sup>1</sup> A **'registered medical practitioner'** is a person who is registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009* to practise in the medical profession other than as a student.

<sup>2</sup> A **'mental health practitioner'** is a registered psychologist, registered nurse, social worker or registered occupational therapist who is employed or engaged by a designated mental health service. A 'designated mental health service' is a publicly funded mental health service that can provide compulsory mental health treatment.

## Temporary Treatment Orders

If an authorised psychiatrist or their delegate determines that the treatment criteria apply to the person subject to an Assessment Order, the authorised psychiatrist or delegate may make a Temporary Treatment Order.

The treatment criteria require the authorised psychiatrist or delegate to be satisfied that the person *has* mental illness. It may not be possible for the authorised psychiatrist or delegate to make a specific medical diagnosis at this early stage but he or she must be satisfied that the person has mental illness as defined in the Act.

The authorised psychiatrist or delegate must be satisfied that because of the person's mental illness, they need immediate treatment to prevent serious deterioration in their mental or physical health or serious harm to the person or another person.

The authorised psychiatrist or delegate must be satisfied that treatment will be provided to the person if they are placed on a Temporary Treatment Order. This criterion ensures that people are only made subject to an order if the authorised psychiatrist is satisfied that there are suitable services available to provide the person with the immediate treatment required to prevent harm or deterioration.

The authorised psychiatrist or delegate must also be satisfied that there is no less restrictive means reasonably available to enable the person to be immediately treated.

The treatment criteria set a high threshold for initiating compulsory treatment under a Temporary Treatment Order because compulsory treatment imposes serious limitations on human rights.

The duration of a Temporary Treatment Order is 28 days unless it is revoked earlier.

## Treatment Orders

If a person remains on a Temporary Treatment Order at the end of the 28-day period of the Order, the Mental Health Tribunal (Tribunal) must conduct a hearing.

The Tribunal may make a Treatment Order if it is satisfied that the treatment criteria apply to the person.

The Tribunal must determine the duration of the Treatment Order and the setting where treatment will be provided:

- an Inpatient Treatment Order has a duration up to six months
- a Community Treatment Order has a duration up to 12 months
- a Treatment Order for a patient under 18 years of age has a duration up to three months regardless of the treatment setting. This shorter timeframe ensures there is greater oversight of compulsory treatment of young people.

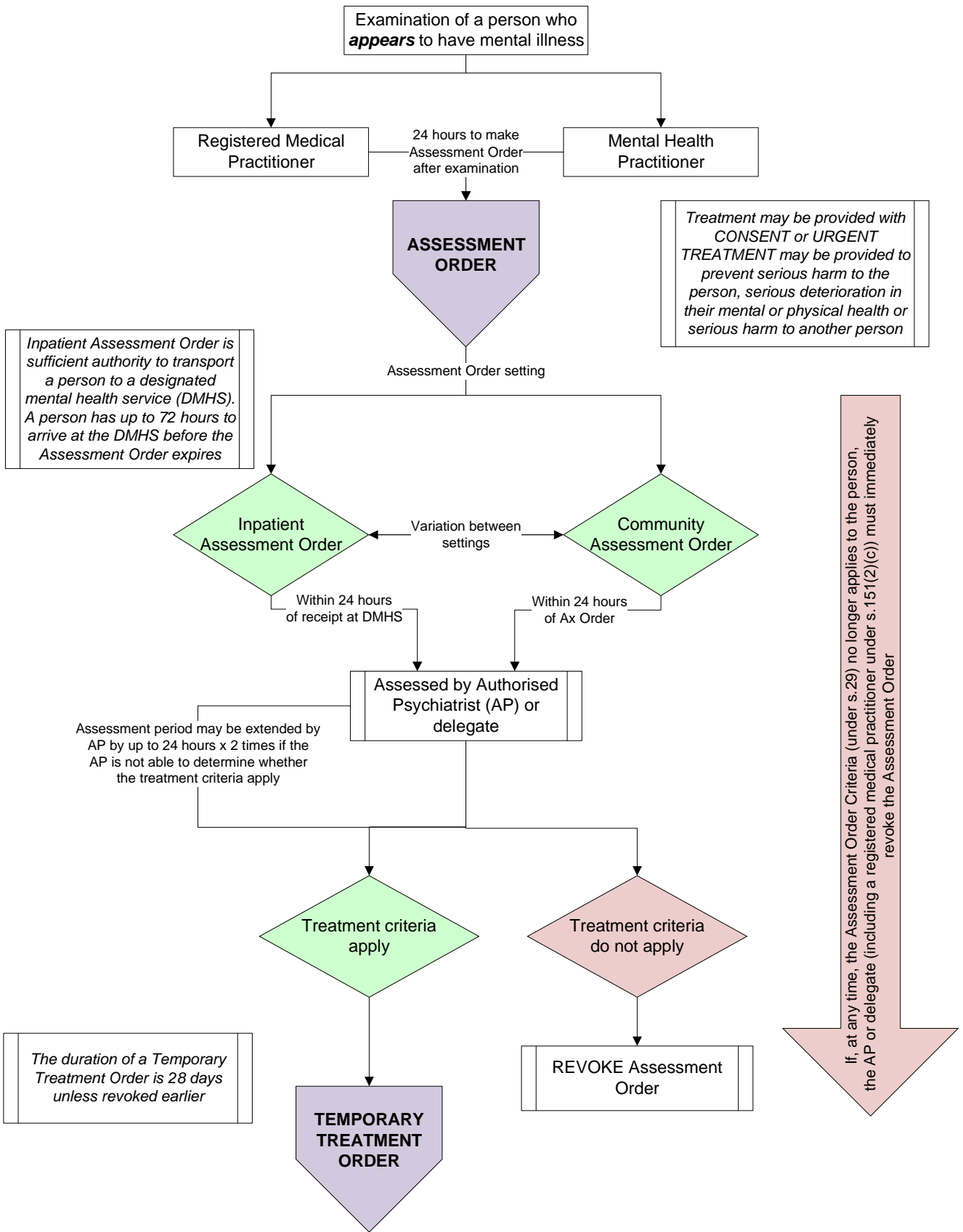
A Treatment Order enables the person to be given compulsory treatment.

At the end of the period of the Treatment Order, the authorised psychiatrist may make an application to the Tribunal for a further Treatment Order if the treatment criteria still apply to the person.

A patient or any person at the patient's request may make an application to the Tribunal for revocation of their Temporary Treatment Order or Treatment Order at any time.

See [Appendix 2](#) attached for the **Temporary Treatment Orders and Treatment Orders** flow chart.

**ASSESSMENT ORDERS**



## Appendix 2

