



Mental Health Act 2014 **Information for Transport Officers**

The purpose of this information sheet is to provide transport officers with an understanding of their role and responsibilities under the *Mental Health Act 2014* (MHA), including undertaking transport orders and exercising various other powers.

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What is the Mental Health Act?

The MHA sets out the mental health laws in WA. The purpose of the MHA is:

- to provide for the treatment, care, support and protection of people who have a mental illness; and
- to provide for the protection of the rights of people who have a mental illness; and
- to recognise the role of carers and families in providing care and support to people who have a mental illness.

Criteria for an involuntary treatment order

Involuntary treatment is one of the ways a person may receive treatment for a mental illness under the MHA.

In most cases the transport officer will be transporting a person who is either an involuntary patient, or is suspected of needing involuntary treatment.

Only a psychiatrist can make an involuntary treatment order and the criteria are that:

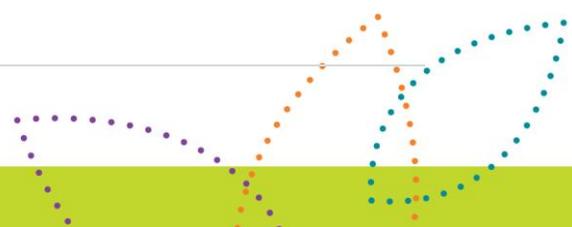
- the person has a mental illness requiring treatment,
- the mental illness is creating a significant risk to the person or another person,
- the person does not have the capacity to make a decision about treatment for their mental illness, and
- there is no less restrictive option.

Role of the transport officer

At various times, the person may need to be transported from one place to another. Where there is no other safe way of transporting a person, a transport order may be made. The transport order (Form 4A) will authorise a transport officer or the police to transport the person.

Sometimes the person may be 'absent without leave' from a hospital. In this case, an apprehension and return order (Form 7D) can be made. The apprehension and return order will authorise the transport officer or a staff member to apprehend the person and return them to the hospital.

The role of the transport officer is to carry out transport orders and apprehension and return orders.





Operation of transport orders

Purpose of a transport order

Where a person needs to be transported for assessment, examination or treatment, they can travel with a clinician, a family member, or by some other safe means.

However, where **no other safe means** of transporting the person is reasonably available, a transport order may be made.

Who may make a transport order

Usually only a medical practitioner or an authorised mental health practitioner can make a transport order. In limited circumstances it could be another mental health practitioner.

Who can carry out a transport order

A transport order can be carried out by a transport officer or a police officer.

A transport order should only be carried out by a **police officer** where the practitioner making the order believes that:

- there is a significant risk of serious harm to the person being transported, or
- the transport officer will not be available in time and any delay is likely to pose a significant risk of harm to the person, or another person.

Places where a person may be transported to and from

Examples of places where a transport officer may be asked to collect or take a person include:

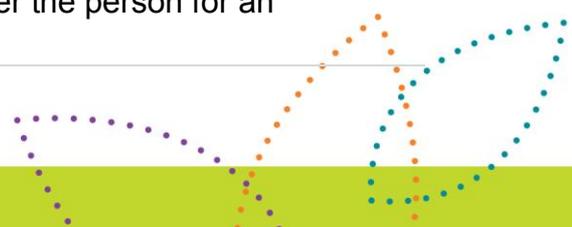
- an emergency department or other ward at a general hospital
- an authorised hospital
- a private psychiatric hospital
- a person's home in the community, and
- a community mental health clinic or general health clinic.

When is a transport order made

From assessment to examination

An assessment of a person by a medical practitioner or authorised mental health practitioner may take place in a variety of settings including a general practice, a community clinic, an emergency department or a person's home.

If after the assessment, the practitioner reasonably suspects that the person needs an involuntary treatment order, the practitioner may refer the person for an





examination by a psychiatrist using a Form 1A – Referral. The practitioner will write the place of examination on the referral. The place of examination may be an authorised hospital or other place.

If the practitioner decides that the person needs to be taken to the place of examination with the assistance of a transport officer, the practitioner can make a transport order for the referred person from the place of assessment to the place of examination.

Between hospitals

While a person is an involuntary patient in a hospital, they may for various reasons, need to be transported to a different hospital. Where this happens a transport order can be made.

Home to hospital

Sometimes an involuntary inpatient may be away from hospital because they are on leave. If this leave expires or is cancelled a practitioner may make a transport order to ensure that the person is collected from their home (or another place where the person is staying) and brought back to the hospital where the person is an inpatient.

Alternatively, the person may be on a community treatment order. If the person stops complying with their order the psychiatrist can make a transport order to ensure that the person is collected from their home (or another place where the person is staying) and brought to a hospital or other place to get treatment.

Community to hospital

While a person is on a community treatment order they have to attend regular examinations with their supervising psychiatrist or another practitioner. If after one of these examinations a psychiatrist decides to make the person an involuntary inpatient, the psychiatrist can make a transport order to ensure that the person is collected from the community clinic and taken to the hospital.

Form 4A – Transport order

The practitioner making a transport order must complete a Form 4A.

The person who made the order must ensure that a copy is given to the transport officer carrying out the transport order.

(For an example of a Form 4A, see Attachment 1 to this document).



Length of a transport order

How long the transport order is valid for depends on the circumstances in which the transport order is made. The Form 4A will specify when the transport order will expire.

(For details of the timeframes, see the back of the Form 4A which is included as Attachment 1).

If the person being transported is on a Form 1A – Referral, and the referral is extended, the transport order is automatically extended for the same timeframe as the referral. The practitioner extending the referral will inform the transport officer of this.

Form 4B – Extension of transport order

If a person is being transported from a non-metropolitan area (an area serviced by the WA Country Health Service), the transport order can be extended by up to 72 hours (total of 144 hours).

If a transport officer thinks that the transport order will expire before the person arrives at their destination, the transport officer can orally request an extension of the order from a medical practitioner or a mental health practitioner.

The practitioner can then extend the transport order using a Form 4B. The transport officer will be given a copy of this form.

(For an example of a Form 4B, see Attachment 2 to this document).

Change of place of examination

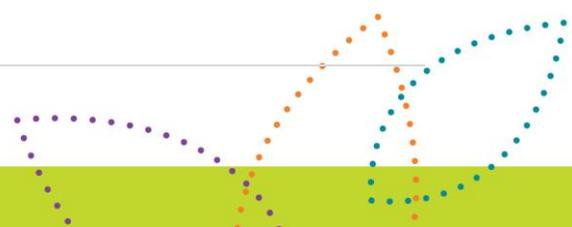
If the person being transported is on a Form 1A - Referral and being taken to a place of examination by a psychiatrist, the practitioner who made the transport order may change the place of examination.

The practitioner will complete a Form 1B – Variation of referral and notify the person carrying out transport order about the change in destination.

Form 4A – Revocation of transport order

If the transport order is no longer needed, a practitioner must revoke the transport order by completing the bottom section of Form 4A.

A copy will be given to the transport officer carrying out the transport order.





If the person being transported is on a Form 1A – Referral, and the referral is revoked, then the transport order is automatically revoked. The person who revoked the referral will inform the transport officer of this.

If an order expires or is revoked during transport

If a transport order expires or is revoked while the person is being transported, the transport officer must take the person:

- back to where they were collected from,
- to the place where they were to have been transported, or
- to another place that is reasonably nominated by the person.

Operation of apprehension and return order

A medical practitioner or person in charge of a hospital/other place can make an apprehension and return order (ARO) in relation to a person who is absent without leave from a hospital or other place.

Making an apprehension and return order - Form 7D

The practitioner making an ARO must complete a Form 7D. A copy of the Form 7D must be given to the transport officer responsible for carrying out the ARO.

An ARO lasts for 14 days. It cannot be extended. If the person is not apprehended within the 14 days, the ARO is no longer valid.

(For an example of a Form 7D, see Attachment 3 to this document).

Revocation of apprehension and return order

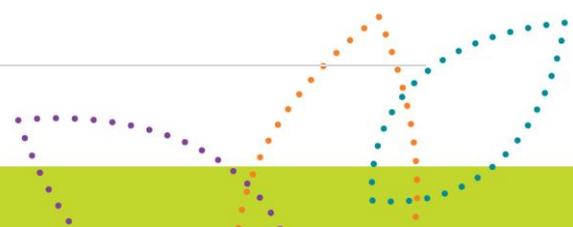
If the ARO is no longer needed, a practitioner must revoke the ARO by completing the revocation section of Form 7D.

The transport officer must be advised of the revocation of the order.

If an ARO expires or is revoked during transport

If a person has been apprehended under an ARO and it expires or is revoked before the person arrives at the destination, the transport officer must take the person:

- back to where they were apprehended, or
- to a place that is reasonably nominated by the person.





Powers of transport officers

A transport officer carrying out a transport order or ARO is authorised to do any or all of the following:

- enter certain premises
- apprehend the person
- use reasonable force to apprehend the person
- use search and seizure powers
- transport the person to the place specified in the transport order/ARO, and
- detain the person until the person is received at the place specified in the transport order/ARO or until the transport order/ARO expires (whichever occurs first).

Premises that transport officers can and cannot enter

A transport officer can enter any non-residential premises to apprehend a person who is on a transport order or an ARO.

A transport officer can only enter residential premises with the consent of:

- the person to be apprehended, or
- the occupier of the premises, or
- the person in charge of the premises.

Reasonable force

When apprehending a person who is on a transport order or an ARO, a transport officer can use reasonable force, if required.

The degree of any force used to detain the person must be the minimum that is required for that purpose.

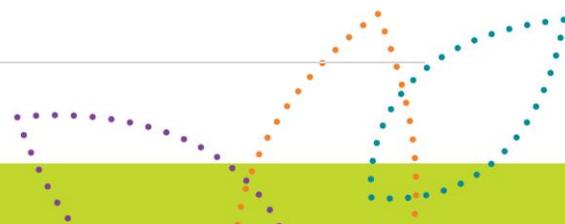
A transport officer can ask another person to assist them in detaining the person. The other person is authorised to use reasonable force to assist the transport officer.

Search and seizure

A transport officer can search a person and seize certain items.

Before a search a transport officer must:

- identify themselves to the person (state their name and that they are a transport officer, at minimum)
- inform the person of the reason for the search, and
- ask the person whether they agree to the search.





If possible, the person conducting the search should be of the same gender as the person to be searched.

A search must be conducted as quickly as possible, and in the least intrusive way.

A transport officer can:

- scan the person with an electronic or mechanical device
- remove the person's outer clothing to search the clothing (the transport officer must first tell the person why this is being done and the person must be allowed to dress again straight after the search), and
- conduct a frisk search.

A transport officer can also:

- search anything that the person is carrying,
- order the person to remove anything that might injure the transport officer,
- photograph the search, and
- order the person to do anything necessary to facilitate the search.

A transport officer can seize any dangerous item and/or intoxicant such as alcohol and illicit, prescription and non-prescription drugs.

A transport officer who searches a person or seizes an item must complete Form 8A - Record of search and seizure (see Attachment 4).

Form 8A must be given to the person in charge of the mental health service or other place to which the person is being taken. If the person is released without first being taken to a mental health service or other place (for example where the transport order expires) the form must be given to the person.

Usually a seized item needs to be given to person in charge of the mental health service or other place, to which to the person is taken.

If the person is released without first being taken to a mental health service or other place (for example where the transport order expires) items must be given back to the person.

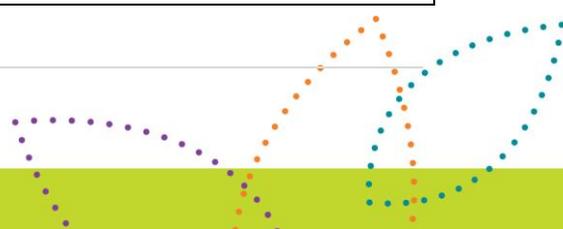
If the item is illegal, police involvement may be required.



Charter of Mental Health Care Principles

The Charter of Mental Health Care Principles is a rights-based set of principles that all persons with a role under the MHA, including transport officers, must have a regard to. The Charter aims to influence the interconnected factors that assist with a person's recovery from mental illness.

Principle 1: Attitude towards people experiencing mental illness	A mental health service must treat people experiencing mental illness with dignity, equality, courtesy and compassion and must not discriminate against or stigmatise them.
Principle 2: Human rights	A mental health service must protect and uphold the fundamental human rights of people experiencing mental illness and act in accordance with the national and international standards that apply to mental health services.
Principle 3: Person-centred approach	<p>A mental health service must uphold a person-centred focus with a view to obtaining the best possible outcomes for people experiencing mental illness, including by recognising life experiences, needs, preferences, aspirations, values and skills, while delivering goal-oriented treatment, care and support.</p> <p>A mental health service must promote positive and encouraging recovery focused attitudes towards mental illness, including that people can and do recover, lead full and productive lives and make meaningful contributions to the community.</p>
Principle 4: Delivery of treatment, care and support	A mental health service must be easily accessible and safe and provide people experiencing mental illness with timely treatment, care and support of high quality based on contemporary best practice to promote recovery in the least restrictive manner that is consistent with their needs.
Principle 5: Choice and self- determination	A mental health service must involve people in decision-making and encourage self-determination, cooperation and choice, including by recognising people's capacity to make their own decisions.
Principle 6: Diversity	A mental health service must recognise, and be sensitive and responsive to, diverse individual circumstances, including those relating to gender, sexuality, age, family, disability, lifestyle choices and cultural and spiritual beliefs and practices.
Principle 7: People of Aboriginal or Torres Strait Islander descent	A mental health service must provide treatment and care to people of Aboriginal or Torres Strait Islander descent that is appropriate to, and consistent with, their cultural and spiritual beliefs and practices and having regard to the views of their families and, to the extent that it is practicable and appropriate to do so, the views of significant members of their communities, including elders and traditional healers, and Aboriginal or Torres Strait Islander mental health workers.





Principle 8: Co-occurring needs	A mental health service must address physical, medical and dental health needs of people experiencing mental illness and other co-occurring health issues, including physical and intellectual disability and alcohol and other drug problems.
Principle 9: Factors influencing mental health and wellbeing	A mental health service must recognise the range of circumstances, both positive and negative, that influence mental health and wellbeing, including relationships, accommodation, recreation, education, financial circumstances and employment.
Principle 10: Privacy and confidentiality	A mental health service must respect and maintain privacy and confidentiality.
Principle 11: Responsibilities and dependants	A mental health service must acknowledge the responsibilities and commitments of people experiencing mental illness, particularly the needs of their children and other dependants.
Principle 12: Provision of information about mental illness and treatment	A mental health service must provide, and clearly explain, information about the nature of the mental illness and about treatment (including any risks, side effects and alternatives) to people experiencing mental illness in a way that will help them to understand and to express views or make decisions.
Principle 13: Provision of information about rights	A mental health service must provide, and clearly explain, information about legal rights, including those relating to representation, advocacy, complaints procedures, services and access to personal information, in a way that will help people experiencing mental illness to understand, obtain assistance and uphold their rights.
Principle 14: Involvement of other people	A mental health service must take a collaborative approach to decision making, including respecting and facilitating the right of people experiencing mental illness to involve their family members, carers and other personal support persons in planning, undertaking, evaluating and improving their treatment, care and support.
Principle 15: Accountability and improvement	A mental health service must be accountable, committed to continuous improvement and open to solving problems in partnership with all people involved in the treatment, care and support of people experiencing mental illness, including their family members, carers and other personal and professional support persons.





Further Information

For more information about the *Mental Health Act 2014*:



Go to our website:

<http://www.mhc.wa.gov.au/Homepage.aspx>



Call us:

+61 8 6272 1200



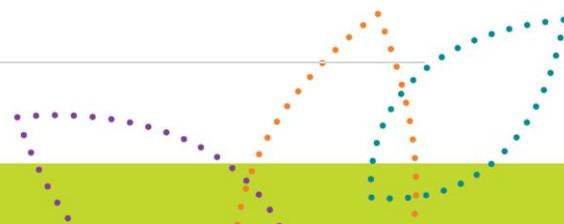
Email us:

legislation@mhc.wa.gov.au



Write to us:

GPO Box X2299
Perth Business Centre WA 6847





**CHIEF PSYCHIATRIST
OF
WESTERN AUSTRALIA**
**WA MENTAL HEALTH
ACT 2014**

SECTIONS: 29,63,67,92,112,129,133,148, 154

Please use ID label or block print

FAMILY NAME	UMRN
GIVEN NAMES	CMHI
BIRTHDATE	GENDER
ADDRESS	

FORM 4A – TRANSPORT ORDER

To the transport officer or police officer: This order authorises you to apprehend the person named in this order and transport him or her to the place specified below.

Place from which person is to be transported: _____
 Metro area Non-metro area

Place to which person is to be transported: _____

Reasons for making transport order: I am satisfied that the –

- referred person needs to be taken to the place for examination by psychiatrist; OR
- person needs to be taken to general hospital to be detained under inpatient treatment order; OR
- person needs to be taken to authorised hospital for further examination by psychiatrist; OR
- involuntary inpatient in general hospital needs to be taken to authorised hospital following a transfer order; OR
- involuntary inpatient in authorised hospital needs to be taken to another authorised hospital following a transfer order; OR
- involuntary inpatient on leave of absence to obtain medical or surgical treatment at a general hospital to be taken to the general hospital; OR
- involuntary inpatient on leave of absence that expires or is cancelled needs to be taken to hospital; OR
- involuntary community patient not complying with order to attend needs to be taken to specified place; OR
- involuntary community patient needs to be taken to hospital as involuntary inpatient;

AND

- No other safe means of taking the person is reasonably available.

Officer responsible for carrying out this order: Police officer and/or Transport officer

If police officer, reason for this:

- I am satisfied that there is a significant risk of serious harm to the person being transported or to another person.

OR

- I am satisfied that a transport officer will not be available to carry out the order within a reasonable time; and any delay in carrying out the order beyond that time is likely to pose a significant risk of harm to the person being transported or to another person.

If applicable, please note any special factors or other important details about the person being transported relevant to this order being carried out:

Name of the practitioner making the order: _____

Qualifications: _____ **Signature:** _____

- Psychiatrist Medical practitioner AMHP

Date and time order made: _____ Date: DD/MM/YY Time: HH:MM

Date and time order will expire: _____ Date: DD/MM/YY Time: HH:MM

(See overleaf for duration of order)

REVOCAION OF TRANSPORT ORDER (if required)

Reasons for revoking transport order:

- Automatically revoked because a referral has been revoked; OR
- I am satisfied that the transport order is no longer needed.

Name of revoking practitioner: _____ Date: DD/MM/YY Time: HH:MM

Qualifications: _____ Signature: _____

FORM 4A – TRANSPORT ORDER

Notes: Form 4A – Transport Order

The transport order can be made in one of the below circumstances if the psychiatrist, medical practitioner or AMHP is satisfied that a transport order needs to be made and there is no other safe means reasonably available to take the person to the place.

Circumstances for making transport order:	Can be made by:	Duration of order:
Referred person to be taken to authorised hospital or other place, for examination by psychiatrist (following Form 1A) NE	Medical practitioner or AMHP	Ends when the referral expires, unless referral is extended or revoked, in which case transport order is automatically extended or revoked.
Person to be taken to general hospital and detained under inpatient treatment order (following Form 6B)	Psychiatrist	72 hours after inpatient treatment order in general hospital (Form 6B) is made. Unless extended or revoked using a Form 4B.
Person at place other than authorised hospital to be taken to authorised hospital for further examination (following Form 3D)	Psychiatrist	72 hours after order authorising reception and detention in authorised hospital for further examination (Form 3C) is made. Unless extended or revoked using a Form 4B.
Involuntary inpatient in general hospital to be transferred to authorised hospital (following Form 4C)	Psychiatrist	72 hours after transport order made. Unless extended or revoked using a Form 4B.
Involuntary inpatient in authorised hospital to be transferred to another authorised hospital (following Form 4C).	Psychiatrist	72 hours after transport order made. Unless extended or revoked using a Form 4B.
involuntary inpatient on leave of absence to obtain medical or surgical treatment at a general hospital to be taken to the general hospital (following Form 7A).	Psychiatrist	72 hours after transport order made. Unless extended or revoked using a Form 4B.
Involuntary inpatient on leave of absence that expires or is cancelled to be taken to hospital (following a Form 7C or an expiry of Form 7A)	Psychiatrist	72 hours after transport order made. Unless extended or revoked using a Form 4B.
Involuntary community patient not complying with order to attend to be taken to specified place (following Form 5F) NE	Medical practitioner or AMHP	72 hours after transport order made. Unless extended or revoked using a Form 4B.
Involuntary community patient to be taken to hospital as involuntary inpatient (following Form 6A)	Medical practitioner or AMHP	72 hours after transport order made. Unless extended or revoked using a Form 4B.

NE The making of a transport order in these circumstances is a **Notifiable Event** which means, where possible, at least one personal support person must be notified about the making of the order.

Related forms:

- *Form 4B – Extension of transport order* can be used to extend a transport order when the person is being transported from a place outside a metropolitan area.

When police officer can carry out a transport order:

A transport order can only authorise a police officer instead of a transport officer to carry out the order if the practitioner or psychiatrist making the order is satisfied:

- that there is a significant risk of serious harm to the person being transported or to another person; or
- that — a transport officer will not be available to carry out the order within a reasonable time; and
— any delay in carrying out the order beyond that time is likely to pose a significant risk of harm to the person being transported or to another person (s149(2)).

Revocation of transport order:

- A medical practitioner or mental health practitioner may make an order revoking a transport order made in respect of a person if satisfied that the transport order is no longer needed (s154).
- If the transport order is made to take a referred person to the place of examination and the referral is revoked, the transport order is automatically revoked (s153).

Checklist of *Mental Health Act 2014* requirements related to this form:

Notes

- Give the person a copy of this form as soon as practicable.
- File this form on the person's medical record.
- Give a copy of this form to the transport officer or police officer responsible for carrying out the order.
- NE** If the making of the transport order is a Notifiable Event, notify at least one personal support person of the making of the order.

If transport order revoked:

- File this form with the revocation section completed on the person's medical record
- Give a copy to the transport officer or police officer responsible for carrying out the order
- Give a copy to the person.

(Not a requirement if transport order is revoked automatically following a revocation of the referral).



CHIEF PSYCHIATRIST OF WESTERN AUSTRALIA

WA MENTAL HEALTH ACT 2014

SECTION: 152

Please use ID label or block print

Table with fields: FAMILY NAME, UMRN, GIVEN NAMES, CMHI, BIRTHDATE, GENDER, ADDRESS

FORM 4B – EXTENSION OF TRANSPORT ORDER

Date and time order would expire if not extended: Date: DD/MM/YY Time: HH:MM (See Form 4A)

Date and time order will expire because of extension: Date: DD/MM/YY Time: HH:MM (Up to a further 72 hours)

Reasons for extending transport order:

- Reasons for extending transport order: The place from which the person is being transported is outside a metropolitan area; AND the transport officer or police officer who is transporting the person has requested an extension of the transport order because he or she has formed the opinion that the transport order is likely to expire before the person is received to the place where they are being transported.

Any comments (optional):

Large empty box for optional comments

Name of the practitioner making the order: _____

Qualifications: [] Psychiatrist [] Medical practitioner [] AMHP [] Mental Health Practitioner

Signature of the practitioner: _____

Date and time order made: Date: DD/MM/YY Time: HH:MM

FORM 4B – EXTENSION OF TRANSPORT ORDER

Notes: Form 4B – Extension of transport order

When to use this form

- If there is a *Form 4A – Transport order* made and:
 - The place from which the person is being transported is outside a metro area; and
 - The transport officer or police officer who is transporting the person forms the opinion that the transport order is likely to expire before the person is received to the place where they are being transported,the transport officer or police officer may orally request an extension of the transport order from a medical practitioner or mental health practitioner (s152(3)).
- The practitioner may make an order orally extending the transport order for a further period of up to 72 hours, and must as soon as practicable complete this form (s152(4)).
- The transport order cannot be extended more than once (s152(5)).

Note: If a referral is extended and there is a transport order in place, this form does not need to be completed because the transport order is automatically extended.

Checklist of *Mental Health Act 2014* requirements related to this form:

Notes

- Give the person a copy of this form as soon as practicable.
- File this form on the person's medical record.
- Give a copy of this form to the transport officer or police officer responsible for carrying out the order.



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WA MENTAL HEALTH ACT 2014

SECTIONS: 98, 101

Please use ID label or block print

Table with fields: FAMILY NAME, UMRN, GIVEN NAMES, CMHI, BIRTHDATE, GENDER, ADDRESS

FORM 7D – APPREHENSION AND RETURN ORDER

Hospital or other place from which the person is absent without leave:

Hospital or other place to which the person must be taken if apprehended:

Reasons for making this order:

I am satisfied that no other safe means of ensuring that the person returns to the hospital or other place is reasonably available.

Any comments (Optional)

Large empty box for comments

Name of person making this order:

Qualifications of person making this order:

Signature of person making this order:

Date and time that this order is made: Date: DD/MM/YY Time: HH:MM

Date and time that this order will expire: Date: DD/MM/YY Time: HH:MM (14 days from the day on which the order is made, cannot be extended).

REVOCATION OF APPREHENSION AND RETURN ORDER (if required)

Reasons for revoking order:

I am satisfied that the apprehension and return order is no longer needed.

Any comments (optional):

Large empty box for comments

Name of person revoking the order:

Qualifications of person revoking the order:

Signature of person revoking the order:

Date and time the order is revoked: Date: DD/MM/YY Time: HH:MM

FORM 7D – APPREHENSION AND RETURN ORDER

Notes: Form 7D – Apprehension and return order

When to use this form:

A person in charge of a hospital or other place or a medical practitioner may make an order using this form, in respect of person who is absent without leave from the hospital or other place if satisfied that no other safe means of ensuring that the person returns to the hospital or other place is reasonably available (s98).

Definition of absence without leave:

A person is absent without leave from a hospital or other place if:

- a person is being detained in order to be taken to an authorised hospital or other place, or to be assessed or examined, and leaves the place where he or she is being detained; or
- a person is under an inpatient treatment order and the person is away from the hospital without having been granted leave, or leave was cancelled or expired and the person has not returned to hospital; or
- a person has breached a community treatment order and is being detained at a place specified in a *Form 5F - Order to Attend*, and he or she leaves that place (s97).

Operation of order:

An apprehension and return order authorises a police officer or a person prescribed by the regulations to:

- apprehend the person; and
- if the person is apprehended – take the person to the hospital or other place specified in this order as soon as practicable and in any event, before the order expires; and
- for the purpose of taking the person to that hospital or other place, detain the person until either the person is received into the hospital or other place, or the order expires (whichever happens first) (s99).

Duration and revocation of order:

- An apprehension and return order remains in force for 14 days from the day on which the order is made (s100) or until it is revoked using the revocation section of this form (s101).
- An apprehension and return order cannot be extended (s100).

Revocation of order:

- The apprehension and return order can be revoked if the person in charge of a hospital or other place from which a person is absent without leave or a medical practitioner is satisfied that the apprehension and return order is no longer needed (s101).

Checklist of *Mental Health Act 2014* requirements related to this form:

Notes

- File this form on the person's medical record.
- Give a copy of this form to the police officer or person who will carry out the order.

If the order is revoked:

- File this form with the revocation section completed, on the person's medical record.
- Advise the police officer or person responsible for carrying out the apprehension and return order of the revocation and file a record of the advice.



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**WA MENTAL HEALTH
ACT 2014**

SECTIONS: 165, 166

Please use ID label or block print

FAMILY NAME	UMRN
GIVEN NAMES	CMHI
BIRTHDATE	GENDER
ADDRESS	

FORM 8A – RECORD OF SEARCH AND SEIZURE

Location of search: _____

Date and time the search was conducted

Date: DD/MM/YY Time: HH:MM

Reasons for conducting the search:

Details of any article seized in the course of the search:

If any articles were seized by a person in the course of carrying out a transport order or a apprehension and return order, details of how the article was dealt with:

Name of person who conducted the search: _____

Qualifications of person who conducted the search: _____

Signature of person who conducted the search: _____

Gender of person who conducted the search: Male Female Other

FOR TRAINING
PURPOSES ONLY

FORM 8A – RECORD OF SEARCH AND SEIZURE

Notes: Form 8A – Record of search and seizure

When to use this form:

Search and seizure can occur in the following circumstances:

1. An authorised staff member can search:
 - a patient who is admitted by a mental health service;
 - a person who is detained at a mental health service or other place for an examination by a psychiatrist; or
 - any other person who presents for treatment or care at a mental health service; while the person is being admitted/received to the place, or at any time while the person is being provided with treatment and care at the place (s162).
2. A transport officer or a staff member of a mental health service can search a person in the course of carrying out a *Form 7D – Apprehension and return order*.
3. A transport officer can search a person in the course of carrying out a *Form 4A – Transport order* (s159).

In carrying out the above searches, the following items can be seized:

- An intoxicant;
- An article, including a drug that is prescribed for the person, that may pose a serious risk to the health or safety of the person or another person;
- An article that the person conducting the search believes is likely to materially assist in determining any question in relation to the person that is likely to arise for determination under this Act (s164).

The person who conducts the search must make a record of the search, and a record of any articles seized, in this form (s165).

(Note: Police officers also have search and seizure powers, however have their own forms to document this.)

How seized article to be dealt with:

If any articles were seized by a transport officer in the course of carrying out a transport order, or a transport officer or staff member of a mental health service in the course of carrying out an apprehension and return order, the transport officer or staff member must:

- give any seized article to either:
 - the person in charge of the place where the search was conducted, or to which the person was to be taken; or
 - if the person searched is released without being taken to a mental health service, then return the articles to the person searched upon their release; and
- make a record of this on this form (s166).

If an article was seized by a staff member at a mental health service or other place, it must be

- held by the service/place (or dealt with in accordance with other laws – eg. given to police if it is an illegal item); and
- eventually either returned to the person, their personal support person or destroyed/otherwise disposed of (s167).

A *Form 8B – Record of dealing with seized article* must be completed.

(See back of Form 8B for more details about how seized article must be dealt with).

Checklist of *Mental Health Act 2014* requirements related to this form:

Notes

- The person who conducted the search and seizure must give a copy of this form as soon as practicable to either:
 - The person in charge of the place where the search was conducted, or to which the person was to be taken; or
 - If the person searched is released without being taken to a mental health service or other place, then to the searched person.
- Unless this form was given to the person who was searched, the person receiving this form must file this form on the medical record of the person who was searched and give a copy of this form to the person.