

# Mental Health and Related Services Act 1998

## Sections 67 - 73

# Approved procedure number 12A

## Electroconvulsive Therapy (ECT) Licensing of Premises

<b>Target Audience</b>	General Public
<b>Jurisdiction</b>	Northern Territory
<b>Document Owner</b>	Chair Mental Health and Related Services Act Approved Procedures and Quality Assurance Committee
<b>Approval Authority</b>	Chief Executive
<b>Author</b>	Approved Procedures and Quality Assurance Committee

## Purpose

To outline the requirements for compliance with sections 67 - 73 of the Mental Health and Related Services Act 1998 (the Act), and provide guidance to the legislative requirements relating to the licensing of establishments that conduct Electroconvulsive Therapy (ECT).

## Procedure

### Introduction

Licensing of ECT premises is fundamental to the regulation of standards under the Act. ECT may only be performed at an Approved Treatment Facility or premises licensed for this purpose. This requirement applies to both public and private services.

The Act provides for inspection of premises prior to licensing and regulates the suitability of the licence holder, the standards and conditions of premises and equipment, and the qualifications of the persons permitted to perform ECT.

The Act also provides penalties in the case of poor practice, including the revocation of a licence.

## Requirements under the Act

### Licence Required

Section 67(2) of the Act states that an occupier of premises must not permit ECT to be performed on the premises unless the premises is licensed.

**Practice Note:**

Section 66(7) states that ECT must be performed only in an approved treatment facility (ATF) or premises licensed under Division Two of the Act. Therefore if a premises is already a declared ATF, they are not required to separately obtain a licence to perform ECT.

Under the provisions of 67(3) and (4), the occupier of premises may apply to the Chief Executive (CE) of the Department of Health (DoH) for a licence in the approved form and accompanied by the specified fee.

The CE will then consider the application and choose to grant or refuse to grant, the licence.

In determining an application, the CE is to take into account the recommendations of the Chief Health Officer (CHO) regarding:

- (a) the suitability of the applicant to hold a licence;
- (b) the suitability of the premises;
- (c) whether the equipment to be used in performing ECT complies with the prescribed standards and conditions;
- (d) the qualifications of persons who are to perform ECT on the premises;
- (e) any conditions to be specified in the licence; and
- (f) how long the licence should remain in force.

**Practice Note:**

In most cases the Person in Charge (PIC) of a facility will make the application. The application is to be made on Form 29 - Electroconvulsive Therapy (ECT) Licensed Premises Application.

A floor plan of the premises indicating all suites/areas where ECT is to be performed must be attached to the application form. The floor plan will be incorporated to become part of the ECT licence.

Each service must also be inspected before a licence can be approved. A qualified psychiatrist, a Registered Nurse (RN) and other staff nominated by the CHO will conduct the inspection. Personnel representing the occupier at the inspection should be familiar with the premises and be able to provide information to address the key licensing criteria.

Following the inspection, a nominated member of the inspection team will prepare a report for the CHO, addressing the key licensing criteria and making a recommendation.

Options are:

- Recommended; or
- Qualified recommendation, subject to specific conditions being met. It must propose such terms and conditions as are necessary to ensure the service meets the key licensing criteria; or
- Not recommended. Where an application is not recommended, a statement of reasons will be provided.

The CHO will then consider the application, based on the inspection report and the key licensing criteria and may seek further information as necessary. The CHO will then provide appropriate advice to the CE regarding the application.

## Form of licence

Under the provisions of section 69, the licence is required to be in the approved form and subject to the conditions that are determined by the CE (and specified in the licence). It is valid only in respect of the ECT specified and remains in force for the specified period, which is not to be longer than three (3) years.

**Practice Note:**

As well as the details specified in the Act, the licence will also stipulate the following:

- Licence holder;
- Name of the service;
- Address of the premises; and
- Licence number.

A plan of the premises showing all areas/suites where ECT can be performed is provided as Attachment A to the licence.

Terms and conditions attached to the licence are contained in Attachment B with the following included as standard conditions:

The CHO or nominee may at any time:

- visit and inspect any part of the premises;
- inspect and make copies of any documents kept at the premises relating to the regulation and performance of ECT; and
- request assistance from staff within the premises in the performance of any duties or functions relating to the regulation and performance of ECT.

## Renewal of licence

Under the provisions of 68(1) and (2), the occupier of premises may apply to the CE for a renewal of licence in the approved form and accompanied by the specified fee.

The CE must grant an application to renew a licence unless satisfied that any of the grounds for cancelling a licence apply.

Before considering an application to renew a licence, the CE obtains a report from the CHO regarding (a) – (f) above.

**Practice Note:**

The Act places the onus on the holder of a licence to apply to the CE for the renewal of a licence. An application for renewal must be made in the on Form 29 - Electroconvulsive Therapy (ECT) Licensed Premises Application. The prescribed renewal fee is an administration fee and will not be refunded if the licence is not renewed.

On receipt of the application for renewal and the specified fee, the procedure for renewal will be implemented. This parallels the procedure for making a new licence. A service will be inspected and a report will be prepared in accordance with the procedures for a new application for a licence.

However, the CE may renew a licence without an inspection of premises if satisfied that the relevant criteria have been met.

## Cancellation of licence

Section 70 states that the licence may be cancelled where there has been a breach of a condition of the licence or an offence against section 66. Also, if the premises is noted to be no longer suitable or equipment on the premises does not comply with prescribed standards and conditions the licence may also be cancelled. The licence can be cancelled if it is found that an unqualified or insufficiently qualified person has been performing ECT on the premises.

**Practice Note:**

Cancellation must be in writing and will give reasons. As a general principle, consultation with the licence holder will occur before a licence is cancelled. Other options such as imposing a specific condition or limitation will be considered.

## Amendment of licence

The CE may also revoke or vary a condition to which the licence is subject or impose further conditions or the holder of a licence may apply for the licence to be amended under the provisions of section 71.

## Review of certain decision

Section 72 states that a person aggrieved by a decision of the CE relating to the licensing of ECT provisions, may apply to the Ombudsman for an investigation of the decision to be conducted under the Ombudsman Act 2009.

## Returns

Section 73 of the Act requires the holder of a licence to provide a monthly report of the details of ECT performed to the CE as soon as possible after the end of each month.

**Practice Note:**

The monthly report should be provided to the CHO on the Electroconvulsive Therapy (ECT) Monthly Return Form.

## Document Quality Assurance

	Method	Responsibility
Implementation	Document will be accessible via the MHARS Act internet and intranet pages and the PGC.	Senior Compliance and Clinical Policy Co-ordinator MHAOD Branch
Review	Document will be reviewed within a period of 4 years.	Approved Procedures Quality Assurance Committee
Evaluation	Document will be informally evaluated at time of review.	Approved Procedures Quality Assurance Committee

## Key Associated Documents

All related material produced by the Northern Territory Department of Health is available from: <https://health.nt.gov.au/professionals/mental-health-information-for-health-professional>

Mental Health and Related Services (MHARS) Act 1998 – available from: <https://legislation.nt.gov.au/en/LegislationPortal/Acts/By-Title#>

## Definitions and Search Terms

Preferred Term	Description
<b>ECT</b>	<p>Electroconvulsive Therapy is the application of an alternating current at a frequency of 50 - 60 cycles per second, ranging from 70 to 150 volts, for a period of 0.1 to 1.0 seconds. If the voltage is above 70 volts it produces a seizure that is similar to a grand mal epileptic seizure and lasts 30 - 60 seconds (Coles, 1982).</p> <p>ECT is a recognised standard medical treatment, used for the treatment of various disorders pursuant to s66 of the Act.</p>
<b>MHARS Act</b>	<i>Mental Health and Related Services Act 1998</i>
<b>Occupier</b>	Occupier of premises includes a person who occupies or has control of the premises, whether or not the person is the owner of the premises.
<b>Patient</b>	A person who is being assessed or receiving treatment under the Mental Health and Related Services Act 1998

### Alternative Search Terms