

THE HIGH COURT

[2021] IEHC 486

[Record No. 2021/960 SS]

**IN THE MATTER OF AN APPLICATION PURSUANT TO ARTICLE 40.4.2 OF THE
CONSTITUTION OF IRELAND**

BETWEEN

B.

APPLICANT

AND

THE CLINICAL DIRECTOR OF AN APPROVED CENTRE

RESPONDENT

JUDGMENT of Mr. Justice Barr delivered on the 13th day of July, 2021

Introduction

1. This is a judgment in relation to an inquiry pursuant to Art. 40 of the Constitution into the lawfulness of the detention of the applicant at an approved psychiatric centre in the days subsequent to 23rd June, 2021 and in particular on 28th June, 2021, when a renewal order was made extending the period of his detention for a further three months.
2. The inquiry was heard by the court on 9th July, 2021. The court had the benefit of both written and oral legal submissions on behalf of the parties. By agreement, the court was permitted a number of days to consider its judgment.
3. Stripped to its barest essentials, the applicant was the subject of an admission order to an approved centre on 26th May, 2021. The Mental Health Tribunal (hereinafter referred to as "*the Tribunal*") sat on 11th June, 2021 to review the admission order. On that date it made an order extending the period within which it could consider the admission order by a further 14 days pursuant to s. 18 (4) of the Mental Health Act 2001 (as amended) (hereinafter referred to as "*the Act*").
4. On 23rd June, 2021 the tribunal held a further hearing, when it heard evidence from a garda witness. Having considered the matter, it affirmed the admission order on that date.
5. On 28th June, 2021 a renewal order was made by the consultant psychiatrist responsible for the care and treatment of the applicant for a further period of three months.
6. The applicant submitted that he had not been in lawful detention under the Act after 23rd June, 2021 and in particular, when the treating psychiatrist purported to make the renewal order on 28th June, 2021. In essence, it was argued on behalf of the applicant that once the tribunal had reached its decision, which it had done on 23 June 2021, the applicant's detention after that date had not been properly sanctioned by the treating psychiatrist, as he/she had not made the requisite renewal order prior to the tribunal reaching its decision. Accordingly, it was submitted that the applicant's detention from 23rd June 2021 onwards and in particular on 28th June, 2021, when the renewal order was made, was unlawful.
7. On behalf of the respondent, it was submitted that the ordinary and natural meaning of the words used in s. 18 (4) of the Act meant that the period of 21 days under the original

admission order had been extended to 35 days when the tribunal made the extension order on 11th June, 2021.

8. It was submitted that as the renewal order had been made within that period, the applicant's detention had been lawful up to and including the date on which the renewal order had been made.
9. The submissions of the parties will be dealt with in greater detail later in the judgment.

Key Dates

26th May, 2021 Admission order made. The admission order would have expired on 15th June, 2021.

11th June, 2021 Tribunal hearing was held to review the admission order. Some evidence was heard. The tribunal decided that it needed to hear evidence from further witnesses. The tribunal extended the period within which it could make its decision for a period of 14 days pursuant to s. 18 (4).

23rd June, 2021 The tribunal hearing resumed. It heard further evidence from a Garda witness. The tribunal affirmed the admission order on that date.

28th June, 2021 A renewal order was made extending the applicant's detention by a further period of three months from that date.

12th July, 2021 A tribunal hearing was held to review the making of the renewal order.

By letter dated 13th July, 2021 from Ms. Oakes, the applicant's assigned legal representative, the court's registrar was informed that the tribunal had revoked the renewal order. However, the court was asked to proceed to deliver its judgment in the matter.

Background

10. It is not necessary to go into the circumstances of the applicant's case in any great detail. However, a brief description of the background circumstances will be of assistance in understanding the factual background against which the legal issues must be considered in this case.
11. The applicant is a male of 57 years of age. He resides in or near a relatively small rural town. It appears that on 26th May, 2021, the applicant's GP and the Gardaí became aware that the applicant's mother had been put out of her house by the applicant. She had gone to a neighbour's house in some fear and had reported the matter.
12. Section 12 of the Act permits a detention to be made of a person where a Garda has reasonable grounds to believe that there is a serious likelihood of the person causing

immediate and serious harm to himself or others. That section had been invoked by a particular Garda in respect of the applicant on 26th May, 2021. The necessary form, known as a Form 3, had been signed by the Garda concerned and by an authorised officer.

13. An admission order was signed by a consultant psychiatrist at 16:30 hours on 26th May, 2021. When the tribunal sat to review the making of the admission order, a conflict in evidence arose, due to the fact that the applicant gave evidence to the tribunal that he had been working upstairs in his room on his computer, when the Garda and others arrived at the property. He denied that he had acted in any way aggressively towards them or towards his mother. He denied that he had put her out of the house.
14. The tribunal determined that given this conflict in evidence, it would be necessary for them to hear evidence from the Garda who had attended at the property on 26th May, 2021 and from the authorised officer, who had also signed the Form 3. To that end, the tribunal made an order pursuant to s. 18 (4) extending the period during which it could carry out its review of the admission order by a period of 14 days.
15. When the tribunal reconvened on 23rd June, 2021, it heard evidence from the relevant Garda witness. He gave evidence of the applicant's condition when he attended at the property on that date. In particular, he gave evidence in relation to a number of delusional statements made by the applicant in relation to his being persecuted by various persons and entities, and concerning his discovery of a cure for Covid-19.
16. As the Garda stated in evidence that he had already made up his mind to detain the applicant under s. 12 of the Act, prior to speaking to the authorised officer, the tribunal ruled that it was not necessary for them to hear from the authorised officer.
17. On the same date, the tribunal reached its decision in relation to the admission order. The tribunal accepted the evidence of the Garda witness that he had reasonable grounds for forming the belief that the applicant was suffering from a mental disorder and that because of that mental disorder there was a serious likelihood of the applicant causing immediate and serious harm to himself or others, which the Garda witness had outlined to the tribunal and was based both on his interactions with the applicant and his interactions with the applicant's mother. The tribunal ruled that the Garda's evidence to it had been clear and consistent. It stated that it had no reason to doubt his veracity. In such circumstances, the tribunal accepted that s. 12 of the Act was validly invoked by the Garda and held that the Form 3 had been validly signed.
18. Having reviewed certain other evidence that was given to it, the tribunal affirmed the admission order made on 26th May, 2021.
19. On 28th June, 2021 the renewal order in respect of the applicant was made by the responsible consultant psychiatrist. That extended his detention until 27th September, 2021.

Relevant Statutory Provisions

20. It should be noted that a number of the provisions in the 2001 Act have been amended so as to deal with the difficulties caused by the Covid-19 pandemic. However, these amendments are not of relevance to this case.

21. The making of an admission order is provided for in s. 14 of the Act. It provides that where a recommendation in relation to a person the subject of an application is received by the clinical director of an approved centre, a consultant psychiatrist, on the staff of the approved centre shall, as soon as may be, carry out an examination of the person and shall thereupon either (a) if he or she is satisfied that the person is suffering from a mental disorder, make an admission order for the reception, detention and treatment of the person, or (b) if the doctor is not so satisfied, he or she shall refuse to make an admission order.

22. Section 15 of the Act deals with the duration and renewal of admission orders. It is of relevance to the circumstances of this case. The relevant provisions are as follows:-

"15.—(1) An admission order shall authorise the reception, detention and treatment of the patient concerned and shall remain in force for a period of 21 days from the date of the making of the order and, subject to subsection (2) and section 18 (4), shall then expire.

(2) The period referred to in subsection (1) may be extended by order (to be known as and in this Act referred to as "a renewal order") made by the consultant psychiatrist responsible for the care and treatment of the patient concerned for a further period not exceeding 3 months."

23. Section 17 of the Act provides that following the receipt by the Commission of a copy of an admission order, or a renewal order, the Commission shall, as soon as possible (a) refer the matter to a tribunal and (b) assign a legal representative to represent the patient concerned unless he or she proposes to engage one.

24. Section 18 of the Act provides for the review by a tribunal of admission orders and renewal orders. For the purposes of this case, the relevant subsections are subsections (1), (2) and (4). They are in the following terms:-

"18.—(1) Where an admission order or a renewal order has been referred to a tribunal under section 17, the tribunal shall review the detention of the patient concerned and shall either—

(a) if satisfied that the patient is suffering from a mental disorder, and

(i) that the provisions of sections 9, 10, 12, 14, 15 and 16, where applicable, have been complied with, or

(ii) if there has been a failure to comply with any such provision, that the failure does not affect the substance of the order and does not cause an injustice,

affirm the order, or

(b) if not so satisfied, revoke the order and direct that the patient be discharged from the approved centre concerned.

(2) A decision under subsection (1) shall be made as soon as may be but not later than 21 days after the making of the admission order concerned or, as the case may be, the renewal order concerned.

[...]

(4) The period referred to in subsection (2) may be extended by order by the tribunal concerned (either of its own motion or at the request of the patient concerned) for a further period of 14 days and thereafter may be further extended by it by order for a period of 14 days on the application of the patient if the tribunal is satisfied that it is in the interest of the patient and the relevant admission order, or as the case may be, renewal order shall continue in force until the date of the expiration of the order made under this subsection.

The Applicant's Submissions

25. The applicant made three submissions in relation to the issues raised in this case. Firstly, the applicant submitted that the issues which arose for determination in this case had been determined by a decision of the High Court in *J.B. v. The Director of the Central Mental Hospital & Anor.* [2008] 3 I.R. 61.
26. Mr. McDonagh SC on behalf of the applicant submitted that as the court in the JB case had determined that the detention of a patient in circumstances very similar, if not identical to the circumstances in this case, had been unlawful; as a matter of principle, the court ought to follow the decision in the *J.B.* case. It was submitted that if the court did that, the court would have to find in favour of the applicant.
27. The second point made on behalf of the applicant was that once a tribunal exercised the power that it had under s. 18 (4) to extend the period during which it could review either an admission order, or a renewal order, that 14 day period operated from the date on which the extension order had been made by the tribunal.
28. If that argument was accepted by the court, it meant that the 14 days ran from the date on which the tribunal had first sat and on which it made the extension order, being 11th June, 2021, meaning that the period of extension of the detention expired 14 days later on 25th June, 2021. This meant that the applicant was in unlawful detention as and from 26th June, 2021 onwards. That meant that he was in unlawful detention on 28th June, 2021 when the renewal order was made. It was submitted that the wording of section 18 (4) made it clear that the extension by a period of 14 days ran from the date on which the extension order itself was made and not from the expiry of the initial 21 day period provided for under the admission order.

29. In the alternative, it was submitted that even if the extension operated from the end of the 21 day period, it expired on the making of the decision by the tribunal within that period, on 23rd June, 2021. It was submitted that if it did not expire on that date, the result would be that the applicant would be in unlawful detention on the basis of an extended period, the balance of which, was not required by the tribunal for the purpose of reaching its decision.
30. That would mean that for the balance of the extended period, the patient would be detained in the approved centre, not on the basis of any determination reached by the consultant psychiatrist responsible for his or her care, but on the basis of an order made by the tribunal, which no longer needed the requisite period, as it had already reached its decision.
31. It was submitted that that would mean that the patient would be detained for the balance of the extended period, not due to the opinion of the treating doctor, because he or she could only make an admission order for a period of 21 days; but the detention was on foot of an order made by the tribunal, which had the power to extend the time so as to enable it to carry out a review, which it had done in this case by 23rd June, 2021. It was submitted that that meant that the detention of the applicant after that date, was on foot of an extension order that was no longer required by the tribunal and was not mandated by the opinion of the treating consultant and was therefore unlawful.
32. It was submitted that the treating consultant psychiatrist ought to have made a renewal order at any time prior to the time at which the tribunal had reached its decision in relation to the admission order. It was submitted that the fact that the tribunal was considering the validity of the admission order, did not prevent the consultant psychiatrist from making the necessary renewal order at any time prior to the tribunal reaching its decision.
33. It was submitted that on these three grounds the applicant was entitled to a declaration that his detention in the respondent's centre after 23rd June, 2021 had been unlawful. In particular, it was submitted that he was in unlawful detention at the time that the renewal order was made.

The Respondent's Submissions

34. It was submitted on behalf of the respondent that the *J.B.* case was not binding on the court having regard to the principles set down in *Re Worldport Ireland Ltd. (In Liquidation)* [2005] IEHC 189, as applied in *Kadri v. Governor of Wheatfield Prison* [2012] IESC 27, and in *A.S., S. and I. v. Minister for Justice and Equality* [2020] IESC 70.
35. In particular, it was submitted that the judgment was not binding on this court due to the fact that it was not clear from the *J.B.* judgment that the arguments which had been raised by the applicant herein, had been canvassed before the court in that application. Secondly, it was submitted that it was unclear why, or how, the judge in the *J.B.* case had reached the opinion that s. 18 (4) could not be given its ordinary and natural meaning and why he had felt it necessary to reach the conclusion that he had done in that case.

36. In further support of that submission, counsel referred to the fact that the judgment in the *J.B.* case was an *ex tempore* judgment that had been given on the same day that the inquiry had been held by the court. In addition, it was a decision that was now of some antiquity. It was submitted that having regard to these matters, this court was free, having had a more fulsome argument, with the benefit of both written and oral submissions, and having had some days to consider its judgment; it could depart from the earlier decision.
37. In relation to the substantive submissions made on behalf of the applicant, it was submitted by the respondent that the wording in s. 18 (4) was clear. It was clear from the wording of both ss. 15 and 18 of the Act, that time is extended from the end of the 21 day period and an extension has the effect of extending the life of the admission order, or the renewal order, for that period.
38. It was submitted that this interpretation of the provisions of s. 18 of the Act, meant that the scheme for the making of admission orders and renewal orders and the review thereof by tribunals, was consistent and transparent in all cases. It was submitted that on the construction placed upon the section by the applicant, which meant that the period was only extended for a period of 14 days from the date of the making of the order, that would mean that periods of extended detention would vary from case to case depending on when within the 21 day period the extension order had been made. It was submitted that that would not lead to a clear, transparent and consistent scheme for reviewing such orders.
39. In relation to the alternative submission put forward by the applicant, to the effect that the validity of the detention within the extended detention period, only lasted for as long as was actually needed by the tribunal to reach its decision, it was submitted that this was neither logical nor permitted by the wording of the section itself.
40. Insofar as the applicant had argued that the interpretation as proposed by the respondent, would mean that the detention would be lawful "come what may", meaning that the applicant could in fact have been detained for the entirety of the extended period, notwithstanding that the tribunal may have revoked the admission order in its decision; it was submitted that such argument was neither reasonable, nor logical.
41. The respondent stated that it had never questioned the fact that if the tribunal had revoked the admission order, the patient would have to be immediately discharged. The respondent had never argued in any case that circumstances could arise whereby if the period had been extended and if within that period the tribunal made a decision to revoke the admission order, the patient could continue to be detained lawfully until the end of the extended period. That had never been submitted by the respondent in any case in the past and was not submitted in this case. That was a hypothetical case. It did not arise in the circumstances of the present case; nor had it ever been advocated for by the respondent.

42. It was submitted that the Act had set up a clear and transparent system that had multiple safeguards for the patient. The applicant had sought to persuade the court to adopt a strained purposive approach to the interpretation of the section, when that was neither permissible, nor necessary, due to the fact that the wording of the section in its ordinary and natural meaning was clear, unambiguous and fair. It was submitted that the court should decline to make any of the declarations sought by the applicant.

Conclusions

43. The approach which the court must take when considering the legality of detentions of patients under the Act of 2001, was summarised succinctly by Costello P. in *R.T. v. Director of the Central Mental Hospital* [1995] 2 I.R. 65, when he stated as follows in the context of the 1945 Act:-

"The reasons why the Act of 1945 deprives person suffering from mental disorder of their liberty are perfectly clear. It does so for a number of different and perhaps overlapping reasons – in order to provide for their care and treatment, for their own safety, and for the safety of others. Its object is essentially benign. But this objective does not justify any restriction designed to further it. On the contrary, the States duty to protect the citizen's rights becomes more exacting in the case of weak and vulnerable citizens, such as those suffering from mental disorder. So it seems to me that the constitutional imperative to which I have referred requires the Oireachtas to be particularly astute when depriving persons suffering from mental disorder of their liberty and that it should ensure that such legislation should contain adequate safeguards against abuse and error in the interests of those whose welfare the legislation is designed to support."

44. In *A.M. v. Kennedy and Others* [2013] IEHC 55 Peart J. made it clear that the concept of the best interests of the patient, could not be used to justify what would otherwise be an unlawful detention. In that case he was dealing with the legality of a renewal order. He stated as follows:-

"The only way in which this court could hold that the renewal order made on 18 August 2006 endured until the 24 February 2007 would be to decide that it does not matter what is stated on the form of endorsement, and that the only matter to be considered is the overriding interest of ensuring that the applicant is detained in his own and others best interests. Such a manner of approaching the meaning of orders depriving a person of his or her liberty could not in my view be correct, as it would nullify the very purpose of inserting safeguards in the statutory procedures put in place. In matters involving the deprivation of liberty, and a place persons such as the applicant who are ill in no lesser a position than other persons whose liberty is in other circumstances curtailed or removed, the greatest care must be taken to ensure that procedures are properly followed, and it ill serves those whose liberty is involved to say that the formalities laid down by statute do not matter and need not be scrupulously observed. That is not to say that where the meaning of the statutory provision is unclear or open to different interpretations, the meaning

which is consistent with the purpose of interpretation of the legislature's intention is not the one which should be adopted. That is a different question altogether."

45. Finally, in *S.M. v. The Mental Health Commissioner and Others* [2008] IEHC 441, McMahon J emphasised the importance of giving statutory provisions which deprive or curtail a person of their liberty, a narrow construction, when he stated as follows:-

"It must be remembered here that what is at stake is the liberty of the individual and while it is true that no constitutional right is absolute, and a person may be deprived of his/her liberty "in accordance with law", such statutory provisions which attempt to detain a person or restrict his/her liberty must be narrowly construed."

46. It is against that general legal backdrop, that the court must approach the determination of the issues that arise in this case. The first of these, is whether this court is bound by the decision in the *J.B.* case.
47. The principles which have to be considered by a court of first instance, when considering whether to depart from horizontal precedent, being a decision of another court of first instance, are well known. Those principles were set out in the *Worldport* case, as subsequently applied in the *Kadri* case (see paras. 2.1 and 2.2 of the judgment of Clarke J. (as he then was)) and in the *A.S., S. and I.* case (see para. 8 of the judgment of Charleton J).
48. The issue which the court had to decide in the *J.B.* case was set out at paragraph 3 of the judgment. The court had to decide whether or not s. 18 (4) of the 2001 Act effectively authorised a mental health tribunal to extend the time of the renewal order when it granted an adjournment of the hearing during the course of its deliberations pursuant to s. 18 of the 2001 Act.
49. The judgment itself is quite short. The essential findings of the court were set out at paragraphs 7 to 11, as follows:-

"[7.] In this case the hearing was adjourned on two occasions. Counsel for the first respondent has urged the court to take a wide view when it comes to interpreting the Mental Health Act 2001 and has urged the court to hold that when a renewal order is made within an extended time period the detention period is implicitly extended by that amount of time.

[8.] Having considered s. 18(4) of the Act of 2001 the court holds that the purpose of this section is to assist the mental health tribunal in doing its work in a meaningful and fair way, and that the purpose of allowing a hearing to be adjourned is essentially to give the mental health tribunal further time when such is required to enable it to do its work properly.

[9.] In this particular case there is a clear example of that where the matter was listed for hearing within the 21 day period, a crucial witness was absolutely understandably unavailable and the matter had to be adjourned. That is the

purpose of s. 18(4). The court takes the view that it would be going too far if it were to import into that section the implication that the adjournment, or further adjournment, allows the court to take the view that the order for renewal is extended in that way. The court also notes that an order for renewal is effectively made by a consultant psychiatrist following a consultation and an assessment of the situation and he or she can only make the order for a period up to three months and no more.

[10.] While it is common case that the applicant is seriously ill, needs treatment and is presently a potential danger to others, the court is forced back to a consideration that this is an Article 40 application and the Constitution obliges it to consider whether or not the applicant is detained in accordance with law.

[11.] In the circumstances of this case a further renewal order was not in place at the end of the three month period because the first respondent believed that the period of renewal was automatically extended as a result of the adjournments of the mental health tribunal hearing. As this court has held that that interpretation of s. 18(4) of the Mental Health Act 2001 is not correct, the court holds that the applicant is not detained in accordance with law and directs his release pursuant to Article 40 of the Constitution."

50. Having considered the decision in the *J.B.* case carefully, the court is of the view that it must depart from that judgment. It does so for the following reasons: firstly, it was not clear that the arguments put forward by the applicant and the respondent in this case were the arguments advanced or considered by the court in the *J.B.* case. Secondly, the reason why the court in the *J.B.* case felt that it had to adopt the approach to the interpretation of the section that it did, is not clear. There seems to be a jump in the judgment from the recital of the arguments put forward by the parties, to the conclusion that was reached, without it being entirely clear as to why the particular conclusion was reached by the court on its interpretation of the section.
51. Thirdly this court is of the view that the interpretation placed on s. 18 by the court in the *J.B.* case, is not one that can be supported by reference to the ordinary and natural meaning of the words used in that section. This will be dealt with in greater detail below.
52. Fourthly, while not perhaps reasons why a court should depart from an earlier decision, it is of some significance that the decision which this court is departing from, was given on an *ex tempore* basis on the same day that the inquiry was held into the legality of the applicant's detention. Furthermore, that decision is now of some antiquity. Taking all of these matters into consideration, the court is satisfied that it is free to depart from the *J.B.* case if it feels that that decision was incorrect.
53. The court is satisfied that the correct interpretation of s. 18 (4) is that the 14 day extension provided for therein, operates from the end of the relevant period, being the 21 days within which the tribunal is allowed to consider the particular order permitting the detention of the patient.

54. The court is satisfied that this interpretation as to when the 14 day extension commences is in accordance with the words used in the section. It is also both sensible and in accordance with the general scheme provided for in the Act. In this case, when it transpired at the original hearing, held on 11th June, 2021, that further witnesses would be necessary; it was not known when those witnesses, being the relevant Garda and the authorised officer, would be available. Section 18 (4) permits the tribunal to extend the time for reaching its decision for a limited period of 14 days. It makes sense that that period operates from the end of the initial 21 day period within which the tribunal must reach its decision, rather than from the date on which the extension order was made.
55. If it were the latter, this could result in only a very minimal extension of the period, if, for example, the extension order was made on day nine, that would only give the tribunal two extra days within which to consider the matter. When one considers that the tribunal may not have known when the relevant witnesses may become available to give evidence before it, it is entirely reasonable that the 14 day period should commence at the expiry of the initial 21 day period.
56. The court is satisfied that the combined wording of ss. 15 and 18 make it absolutely clear that the extension of the period is for 14 days, on top of the 21 days, that is allowed for the tribunal to reach its decision on the validity of the admission order.
57. That disposes of the applicant's first argument. It means that the extended period did not expire on 25th June, 2021. Therefore, the renewal order was not made out of time.
58. Turning to the applicant's second argument, which was to the effect that while the 14 day extension may have operated from the expiry of the initial 21 day period, it could not render the detention of the applicant lawful for any period after the tribunal had reached its decision within the 14 day extension period. The court is satisfied that this submission is not well-founded. The court is satisfied that in its ordinary and natural meaning the words of the Act as used in s. 18 make it clear that the tribunal can extend the time for its deliberations by 14 days and that that has the effect of extending the life of the relevant admission order, or renewal order. That is precisely what the Act provides.
59. If one looks at the relevant parts of s. 18 (4) which are relevant to this case, the meaning could not be clearer. The section provides that the period within which the tribunal must reach its decision, can be extended by a further period of 14 days (a) on the application of the patient, if the tribunal is satisfied that it is in the interests of the patient, or (b) of its own motion if the tribunal, having due regard to the interests of the patient, is satisfied that it is necessary due to the exigencies of the public health emergency. The section goes on to provide "*and the relevant admission order [...] shall continue in force until the date of the expiration of the order made under this subsection*". The court is satisfied that these words make it clear that the making of the extension order by the tribunal, has the effect of extending the detention order made by the consultant psychiatrist.

60. The applicant accepted that the making of the extension order on 11th June, 2021, had the effect of making his detention lawful in the period from 15th June, 2021 to 23rd June, 2021.
61. What the applicant objected to was the fact that it had the effect of making his detention lawful for the remaining portion of the 14 days, after which the tribunal had reached its decision. The applicant argued that that could not be correct because it would lead to the absurd and unjust result, that if the tribunal had revoked the admission order on 23rd June, 2021, the applicant could have been detained until the expiry of the 14 day extension period, when no medical authority for that existed, as there was no certificate to that effect in existence after the date of the decision to revoke by the tribunal; yet the patient would continue to be detained on foot of the tribunal's original order extending the time by 14 days. It was submitted that that could not possibly be lawful.
62. I do not think that that submission is well founded for two reasons. Firstly, the respondent has never argued for that proposition. The respondent has accepted that if a revocation order was made by the tribunal, the patient would have to be discharged from the hospital or approved centre. The respondent submitted that there was no question of any order (admission or renewal order) extending beyond the time when the order was revoked. It pointed out that such a situation did not arise in the context of the present proceedings; nor had it ever been advocated for by the respondent in any other case.
63. Secondly, the proposition put forward by the applicant is untenable because the revocation order of the tribunal would trump the original admission order made by the consultant psychiatrist because the tribunal decision would revoke that order. That would bring to an end the lawful basis for the patient's continued detention in the approved centre.
64. If one considers the normal procedure under a review by a tribunal of a renewal order; if they revoke the renewal order, it would probably have had a considerable period left to run, given the time limits for consideration of a renewal order by a tribunal, being 21 days, and the usual length of time of a renewal order, being three months. If the tribunal reached a decision that the renewal order had to be revoked, the patient's lawful detention would automatically cease on the decision being made by the tribunal. There would be no question of the patient continuing to be detained for the balance of the period of the renewal order.
65. Of more significance, the argument put forward on behalf of the applicant, seems to lose sight of one key point. That is, that if at any time a consultant psychiatrist comes to the view, either that the person is no longer suffering from a mental disorder, or that the treatment of that disorder no longer requires inpatient treatment in a psychiatric unit, the doctor must immediately discharge the patient from inpatient treatment.
66. This means that where an admission order has been extended beyond the initial 21 day period by the tribunal making an extension order, it is axiomatic that the treating doctor continues to believe that the patient requires inpatient treatment during that time,

because if he/she did not hold that belief at any time, either before the tribunal made its decision, or thereafter, pending expiry of the extended period, he/she would immediately discharge the patient from inpatient care.

67. There is in reality no question of the patient being detained after a decision to affirm the admission order has been made, but which decision is made prior to the expiry of the extended period, where such detention is not in fact sanctioned by the treating psychiatrist.
68. Thus, the mischief which the applicant identified in its argument, being the continued detention of the patient on foot of the order of the tribunal, without that detention being also sanctioned by the consultant psychiatrist, does not in fact arise.
69. To put it another way, at all times the consultant psychiatrist must be of the opinion that the continued detention of the patient is necessary. If the doctor should cease to hold that opinion at any stage, either during the currency of an admission order or a renewal order, a discharge from the hospital must automatically occur.
70. The court is satisfied that this interpretation is based on the ordinary and natural meaning of the words as used in s. 18 (4). That interpretation is consistent with the words used in s. 15 of the Act.
71. The court is further satisfied that the interpretation reached by it herein in respect of s. 18 (4) is in accordance with the scheme for the review of detentions put in place in the Act. This is a transparent scheme, which applies in all cases. That means that patients and their advocates, know where they stand. There are safeguards built in whereby the admission order and subsequent renewal orders must be reviewed by the tribunal within fairly tight timeframes. The tribunal can extend the time so as to enable it to carry out a full review of the circumstances of the case. It is sensible and logical to give it the power to extend its deliberations as required. The court is satisfied that the scheme established by the Act is clear, transparent and does not lead to any infringement of a patient's rights.
72. Accordingly, the court holds that on a correct interpretation of s. 18 (4) as applied to the facts in this case, the period of the admission order was extended by 14 days from expiry of the initial 21 day period on 15th June, 2021. This means that the applicant was being lawfully detained at the approved centre when the renewal order was made on 28th June, 2021. The court so declares.
73. The court proposes to make an order (i) declaring that the applicant was not unlawfully detained at any time prior to and including 28th June, 2021 when the renewal order was made; (ii) the court will make an order pursuant to s. 27 of the Civil Law (Miscellaneous Provisions) Act 2008 prohibiting the publication of any material that would tend to identify the applicant, or the respondent, as the court is concerned that there could be "*jigsaw identification*" of the applicant if the respondent were identified.

74. The court will hear the parties in relation to the terms of the final order and in relation to costs and on any other matters that may arise.