

# Breach of Community Treatment Order S 58 of Mental Health Act 2007

## Breach may occur when:

The person in any way refuses or fails to comply with the community treatment order  
**AND** the mental health facility (mhf) has taken all reasonable steps to implement the order  
**AND** the director of community treatment is of the opinion that there is a significant risk of deterioration in the mental or physical condition of the person.  
**THEN** the director must make a written record of the opinions, the facts on which they are based and the reasons for forming them and cause the affected person to be informed.

**First warning – can be verbal (58)(2)(b)**  
 Cause the person to be informed of consequences of non-compliance i.e. may be taken to a **declared mhf** or **another mhf**.

If refusal of treatment persists

**Second warning – WRITTEN BREACH NOTICE (58)(3) see attached form**  
 Requiring person's attendance at **declared mhf** or another appropriate **mhf** and warning that police may be called to assist in order to ensure compliance with the order.  
 The notice is to be handed directly to the person or if it is not reasonably practicable, the notice is to be posted to the last known address of the person.

If further refusal

**WRITTEN BREACH ORDER (58)(4) see attached form**  
 Director issues order requiring the person to be taken to a **specified declared mhf**. Police assistance can be engaged.

Assessed by a medical practitioner for **involuntary admission** to hospital

**s27 – 5 steps**

CTO has no effect while detained, but continues to run if discharged

Treatment given according to CTO

Released after treatment accepted

If treatment is refused:  
 • taken to **declared mhf** (hospital)  
 • AMO must examine **within 12 hours** & determine if mentally ill (MI) or mentally disordered (MD) person.

Treatment can be given according to CTO

If AMO finds MI can be detained until end CTO or until discharged

If AMO finds MD can be detained in accordance with part 2 **S 31** MH Act

Discharged

If determined not mentally ill or has less restrictive care available  
 • Must discharge  
 • Can defer order for discharge up to 14 days  
 • **Can revoke the CTO**  
 • **Can make fresh CTO**

**Tribunal review - S 63**  
 If order has more than 3 months to run patient must be reviewed within 3 months of being detained

If Tribunal finds mentally ill and no less restrictive care available, Tribunal must determine **whether person should be detained until end of CTO, or if should be detained as an Involuntary patient**

If detained under CTO, then to be reviewed every 3 months under s63 until the end of the CTO. If requires further detention at end CTO should be assessed for involuntary admission

If detained as an Involuntary Patient, then must have scheduled s37 involuntary patient reviews as determined by Tribunal