

GUIDANCE to TRIBUNAL MEMBERS No. 2/2013
MEDICAL EXAMINATION: REQUIREMENTS
(SECTION 58 OF THE 2003 ACT)

Purpose of this Guidance

1. The purpose of this guidance is to clarify the process of reckoning to be used when calculating the days between the two mental health reports prepared in relation to an application for a compulsory treatment order, where the medical examinations are carried out separately.

The Medical Examinations

2. Section 58(3) of the 2003 Act states
 - (3) Where the medical examinations are carried out separately, the second examination shall be completed no later than 5 days after the first.
3. The subsection specifies “days” and not “working days”. Accordingly, public holidays cannot be discounted from the calculation.
4. Where the examinations are carried out separately, the second report shall be completed no more than 5 days after the first report. Accordingly, the 5 days should be calculated from the day after the first medical examination has been carried out.
5. Accordingly, in calculating the period which has elapsed after the occurrence of the first medical examination, the day on which the first medical examination occurs is *excluded* from the reckoning.
6. The following examples demonstrate:

Example 1:

A first medical examination is carried out on 3 June 2013, a second medical examination is carried out on 8 June 2013 – this complies with the terms of section 58(3) as the second examination has been undertaken no more than 5 days after the first .

Example 2:

A first medical examination is carried out on 6 May 2013, which is a public holiday, a second medical examination is carried out on 12 May 2013 – this does not comply with the terms of section 58(3) as the second examination has been undertaken 6 days after the first examination. The public holiday is not discounted from the calculation.



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President