

*Title* : The *ipso jure* termination of authorisation for leave within the context of a hospital order (tbs)  
*Issued to* : The State Secretary of Justice  
*Date* : 1 February 2008

**The acronym tbs stands for *terbeschikkingstelling*, ‘placement under a hospital order’. Tbs is a treatment measure the court imposes on people who have committed serious offences and suffer from a psychiatric illness or disorder, which influences their behaviour to a greater or lesser extent.**

The recommendation relates to the proposal to amend the Hospital Orders (Care) Regulations [*Reglement verpleging ter beschikking gestelden*], which would lay down further provisions with regard to the moment at which an authorisation for leave, which is issued by the Minister of Justice to the clinic in respect of an offender under a hospital order, terminates *ipso jure*.

The Council stands by its previously adopted position that the *ipso jure* termination of authorisation for leave does not have any added value in comparison with the other options available under the Hospital Orders (Care) Regulations. Nonetheless, in the event that the *ipso jure* termination of authorisation for leave is to be maintained, the Council has attempted in its recommendation to take a constructive approach towards the proposed changes. In this context, the Council takes a positive view of the proposal to lay down further provisions with regard to the moment at which authorisation for leave terminates *ipso jure*. The Council has doubts, however, with regard to the workability of such provisions and the extent to which the legal position of offenders who have been placed under a hospital order will be safeguarded. The Council has made a number of recommendations for improvements in these areas.

The Council recommends that:

- the obligation of disclosure on the part of the heads of clinics be replaced with a *notification requirement* in respect of all offences;
- authorisation for leave only be terminated *ipso jure* following a decision by the Public Prosecution Service to prosecute;
- in addition to *ipso jure* termination, the measure whereby an authorisation for leave is *provisionally* revoked by the Minister should also be utilised. This provisional revocation can last until such time as the Public Prosecutor issues a decision to prosecute. This means that it is easy to reinstate the authorisation in the event of a decision not to prosecute;
- in view of the interests of the offender who has been placed under a hospital order, a short time limit be specified for the disposal of the case by the prosecution and the judiciary.

The recommendation can be obtained from the secretariat of the Council  
Postbus 30 137  
2500 GC The Hague  
+31 (0)70 - 36 19 300,  
[www.rsj.nl](http://www.rsj.nl)