

STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART I

INTRODUCTORY

[^{F1}Interpretation of Order]

F1 Art. 2 cross-heading inserted (2.12.2019) by [Mental Capacity Act \(Northern Ireland\) 2016 \(c. 18\)](#), s. 307(2), [Sch. 8 para. 2](#) (with ss. 285-287); S.R. 2019/163, art. 2(2), [Sch. Pt. 2](#) (with art. 3) (as amended by S.R. 2019/190, art. 2)

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“absent without leave” has the meaning assigned to it by Article 29(5);

[^{F2}“the 2016 Act” means the Mental Capacity Act (Northern Ireland) 2016;]

“application for assessment” has the meaning assigned to it by Article 4(1);

“the applicant”, in relation to an application for assessment, has the meaning assigned to it by Article 5(1) and, in relation to a guardianship application, has the meaning assigned to it by Article 19(1);

[^{F3}“approved social worker” means an officer of ^{F4}... an authorised [^{F5}HSC trust] appointed to act as an approved social worker for the purposes of this Order;]

[^{F2}“best interests”: any determination of what would be in the best interests of a patient who is under 16 is to be made in accordance with Article 3B;]

^{F6}
...

^{F7}
.....

“date of admission” has the meaning assigned to it by Article 9(3);

“the Department” means the Department of Health and Social Services;

“detained for treatment” has the meaning assigned to it by Article 12(5);

“guardianship application” has the meaning assigned to it by Article 18(1);

[^{F3}“hospital”, subject to paragraph (2A), means any hospital, institution or special accommodation vested in the Department or in an authorised [^{F5}HSC trust];]

“hospital order” and “guardianship order” have the meanings respectively assigned by Article 44(1)(a) and (b);

Changes to legislation: The Mental Health (Northern Ireland) Order 1986, Cross Heading: Interpretation of Order is up to date with all changes known to be in force on or before 14 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Definition rep. by 1992 NI 20

[^{F3}“ [^{F5}HSC trust]” means a [^{F8}Health and Social Care trust] established under the Health and Personal Social Services (Northern Ireland) Order 1991 and “authorised [^{F5}HSC trust]” shall be construed in accordance with paragraph (2B);]

[^{F2}“independent advocate” has the same meaning as in Article 3C;]

“interim hospital order” has the meaning assigned to it by Article 45(1);

“medical practitioner” means a fully registered person within the meaning of the Medical Act 1983;

“medical treatment” includes nursing, and also includes care and training under medical supervision;

“nearest relative”, in relation to a patient, has the meaning assigned to it in Part II;

“nursing home” has the meaning assigned to it by [^{F9} Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003];

“patient” (except in Part VIII) means a person suffering or appearing to be suffering from mental disorder;

“prescribed” means prescribed by regulations;

“private hospital” has the meaning assigned to it by Article 90(2);

[^{F10}“RQIA” means the Health and Social Care Regulation and Quality Improvement Authority;]

“regulations” means regulations made by the Department;

[^{F9}“residential care home” has the meaning assigned to it by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;]

[^{F3}“responsible authority” means—

- (a) [^{F11} in relation to a patient whose admission to a hospital is being sought or who is in, or is liable to be detained in, a hospital, the authorised HSC trust in which the hospital is vested;
- (b) in relation to a patient who is the subject of a guardianship application or is subject to guardianship under this Order, the authorised HSC trust in whose area the patient resides.]]

“responsible medical officer” means—

- (a) in relation to a patient liable to be detained in hospital under this Order, the medical practitioner appointed for the purposes of Part II by [^{F12}RQIA] who is in charge of the assessment or treatment of the patient;
- (b) in relation to a patient subject to guardianship under this Order, any medical practitioner appointed for the purposes of Part II by [^{F12}RQIA] who may be authorised to act (either generally or in any particular case or class of case or for any particular purpose) as the responsible medical officer by the responsible [^{F3} authority];
- (c) in relation to any other patient, the medical practitioner appointed for the purposes of Part II by [^{F12}RQIA] who is in charge of the treatment of the patient;

“restriction direction” has the meaning assigned to it by Article 55(2);

“restriction order” has the meaning assigned to it by Article 47(1);

“the Review Tribunal” means [^{F13}the Review Tribunal constituted under Article 70] ;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“special accommodation” has the meaning assigned to it by Article 110;

“transfer direction” has the meaning assigned to it by Article 53(2).

[^{F3}(2A) In Articles 7A,^[F14 29,] 107(1B), 113, 116, 121, 123(1) and 129(7) “hospital” includes any hospital or institution vested in an [^{F5}HSC trust] other than an authorised [^{F5}HSC trust].

(2B) A reference in any provision of this Order to an “authorised [^{F5}HSC trust]” is a reference to an [^{F5}HSC trust]^[F15] that is exercising social care and children functions within the meaning of Article 10A of the Health and Personal Social Services (Northern Ireland) Order 1991.]

(2C) A reference in this Order to the area of an authorised [^{F5}HSC trust] is a reference to the operational area of that trust as defined in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972.]

(3) In relation to a person who is liable to be detained or subject to guardianship by virtue of an order or direction under Part III, any reference in this Order to any provision contained in Part II or in Article 71, 72 or 73 shall be construed as a reference to that provision as it applies to that person by virtue of Part III or Article 74(1).

(4) In determining for the purposes of this Order whether the failure to detain a patient or the discharge of a patient would create a substantial likelihood of serious physical harm—

(a) to himself, regard shall be had only to evidence—

(i) that the patient has inflicted, or threatened or attempted to inflict, serious physical harm on himself; or

(ii) that the patient's judgment is so affected that he is, or would soon be, unable to protect himself against serious physical harm and that reasonable provision for his protection is not available in the community;

(b) to other persons, regard shall be had only to evidence—

(i) that the patient has behaved violently towards other persons; or

(ii) that the patient has so behaved himself that other persons were placed in reasonable fear of serious physical harm to themselves.

F2 Words in art. 2(2) inserted (2.12.2019 for specified purposes) (but omit after "(Northern Ireland) 2016") by [Mental Capacity Act \(Northern Ireland\) 2016 \(c. 18\), s. 307\(2\), Sch. 8 para. 3\(3\)](#) (with *ss.* 285-287); S.R. 2019/163, art. 2(2), Sch. Pt. 2 (with art. 3) (as amended by S.R. 2019/190, art. 2)

F3 1994 NI 2

F4 Words in art. 2(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 68\(2\)\(a\)](#); S.R. 2022/102, art. 2(b)

F5 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F6 Word in art. 2(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 68\(2\)\(b\)](#); S.R. 2022/102, art. 2(b)

F7 Art. 2(2): definition of "the Commission" repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 33, 34\(3\), Sch. 6 para. 8\(2\)\(a\), Sch. 7](#); S.R. 2009/114, **art. 2**

F8 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(c\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F9 2003 NI 9

F10 Art. 2(2): definition of "RQIA" inserted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 8\(2\)\(c\)](#); S.R. 2009/114, **art. 2**

F11 Words in art. 2(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 68\(2\)\(c\)](#); S.R. 2022/102, art. 2(b)

Changes to legislation: *The Mental Health (Northern Ireland) Order 1986, Cross Heading: Interpretation of Order is up to date with all changes known to be in force on or before 14 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F12** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 8\(1\)](#) (subject to Sch. 6 para. 8(2)-(4)); S.R. 2009/114, [art. 2](#)
- F13** Words in art. 2(2) substituted (2.12.2019) by [Mental Capacity Act \(Northern Ireland\) 2016 \(c. 18\), s. 307\(2\), Sch. 8 para. 3\(9\)](#) (with ss. 285-287); S.R. 2019/163, art. 2(2), Sch. Pt. 2 (with art. 3) (as amended by S.R. 2019/190, art. 2)
- F14** SR 1994/66
- F15** Words in art. 2(2B) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 68\(3\)](#); S.R. 2022/102, art. 2(b)

Definition of “mental disorder” and related expressions

3.—(1) In this Order—

“mental disorder” means mental illness, mental handicap and any other disorder or disability of mind;

“mental illness” means a state of mind which affects a person's thinking, perceiving, emotion or judgment to the extent that he requires care or medical treatment in his own interests or the interests of other persons;

“mental handicap” means a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning;

“severe mental handicap” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning;

“severe mental impairment” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.

(2) No person shall be treated under this Order as suffering from mental disorder, or from any form of mental disorder, by reason only of personality disorder, promiscuity or other immoral conduct, sexual deviancy or dependence on alcohol or drugs.

Changes to legislation:

The Mental Health (Northern Ireland) Order 1986, Cross Heading: Interpretation of Order is up to date with all changes known to be in force on or before 14 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 5 Pt. 2 repealed in part by [S.I. 2003/435 \(N.I.\) Sch. 5](#) (text not available on [Legislation.gov.uk](#))
- Sch.05 Pt. 1 rev. in pt. by [1995 c. 35 s. 29\(2\)Sch. 3](#)
- Sch. 5 Pt. 2 rev. in pt. by [1998 c. 47 s. 100\(2\)Sch. 15](#)
- art. 14A inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 10](#)
- art. 36(2)(za) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(3\)](#)
- art. 36(3)(e) and word inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(4\)\(d\)](#)
- art. 37(1)(za) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 23\(2\)\(a\)](#)
- art. 37(1A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 23\(3\)](#)
- art. 52 rev. by [1996 c. 46 s. 35\(2\)Sch.7 Pt. 3](#)
- art.52 rev. (DrosD,) by [1996 c. 46 s. 35\(2\)Sch.7 Pt.III](#)
- art. 63A63B inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 31](#)
- art. 67(2A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 35\(4\)](#)
- art. 83(4A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 48\(4\)](#)
- art. 120(4) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 59\(4\)](#)
- art. 133(2A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 68\(4\)](#)