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STATUTORY INSTRUMENTS

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**1986 No. 595**

**The Mental Health (Northern Ireland) Order 1986**

PART III

PATIENTS CONCERNED IN CRIMINAL  
PROCEEDINGS OR UNDER SENTENCE

*Appeals*

**[<sup>F1</sup>Powers to deal with persons not guilty by reason of insanity or unfit to be tried, etc.]**

**50A.—**(1) This Article applies where—

- (a) a finding is recorded that the accused is not guilty by reason of insanity; or
- (b) findings are recorded that the accused is unfit to be tried and that he did the act or made the omission charged against him.

(2) Subject to paragraphs (3) to (5), the court shall either—

- (a) make an order that the accused be admitted to hospital; or
- (b) make in respect of the accused such one of the following orders as the court thinks most suitable in all the circumstances of the case, namely—
  - (i) a guardianship order;
  - (ii) subject to and in accordance with Part II of Schedule 2A, a supervision and treatment order within the meaning of that Schedule; and
  - (iii) an order for his absolute discharge.

(3) A person who is admitted to a hospital in pursuance of an order under paragraph (2)(a) shall be treated for the purposes of this Order—

- (a) as if he had been so admitted in pursuance of a hospital order made on the date on which the order under paragraph (2)(a) was made; and
- (b) if the court so directs, as if a restriction order had been made, either without limit of time or during such period as may be specified in the direction.

(4) An order shall not be made under paragraph (2)(a) by a court unless an opportunity has been given to the Department to make representations to the court concerning the making of such an order.

(5) A guardianship order placing a patient under the guardianship of any person shall not be made under paragraph (2)(b)(i) unless the court is satisfied that that person is willing to receive the patient into guardianship.

(6) Where the offence to which the findings relate is an offence the sentence for which is fixed by law—

- (a) paragraphs (2)(b), (4) and (5) shall not apply; and
- (b) the court shall give a direction under paragraph (3)(b) without specifying any period.

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** The Mental Health (Northern Ireland) Order 1986, Cross Heading: Appeals is up to date with all changes known to be in force on or before 07 July 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)

(7) Where the Secretary of State is notified by the responsible medical officer that a person detained in a hospital in pursuance of an order made by virtue of paragraph (1)(b) no longer requires treatment for mental disorder, the Secretary of State may remit that person for trial—

- (a) to the Crown Court at the place where, but for the order, he would have been tried; or
- (b) to a prison; or
- (c) to a remand centre; or
- [ to a juvenile justice centre;]

<sup>F2</sup>(d)

<sup>F3</sup>and on his arrival at the Crown Court, prison, remand centre<sup>F4</sup> or [<sup>F2</sup> juvenile justice centre] the order shall cease to have effect.

(8) The provisions of Schedule 2A shall have effect with respect to supervision and treatment orders.]

<b>F1</b>	1996 NI 24
<b>F2</b>	1998 NI 9
<b>F3</b>	prosp. inserted by 2002 c. 26
<b>F4</b>	prosp. subst. by 2002 c. 26

## Appeals

**51.**—(1) On any appeal to any court by a person against a restriction order, the court shall have the like powers as if the appeal were against the hospital order in respect of him as well as against the restriction order.

(2) On any appeal to any court by a person against a hospital order<sup>F5</sup>, a supervision and treatment order] or a guardianship order, the court shall have the like powers as if the appeal were against any further order made by the court which made the hospital order<sup>F5</sup> supervision and treatment order] or guardianship order, as well as against the hospital order<sup>F5</sup> supervision and treatment order] or guardianship order.

(3) An appeal by a child or young person in respect of whom a hospital order<sup>F5</sup>, supervision and treatment order] or guardianship order has been made, whether the appeal is against the order or against the finding upon which the order was made, may be brought by him or by his parent or guardian on his behalf.

(4) Where a hospital order<sup>F5</sup>, supervision and treatment order], guardianship order or restriction order has been made by a court in respect of a person charged before it without convicting him, he shall have the same right of appeal against that order as if it had been made on his conviction and accordingly any such order shall—

- (a) for the purposes of section 8 of the Criminal Appeal (Northern Ireland) Act 1980 and Article 140 of the Magistrates' Courts (Northern Ireland) Order 1981 be treated as if it were an order made on conviction;
- (b) be a determination of the proceedings in which the order was made for the purposes of Article 146 of that Order.

(5) On any such appeal as is referred to in paragraph (4), the Court of Appeal or the county court shall have the same powers as if the appeal had been against both conviction and sentence.

(6) The Criminal Appeal (Northern Ireland) Act 1980 shall have effect subject to the amendments set out in Part I of Schedule 5, being amendments for the purpose of—

- (a) conferring a right of appeal to the Court of Appeal against a finding that a person charged on indictment with the commission of an offence is unfit to be tried;

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- (b) conferring on the Secretary of State a power to refer to the Court of Appeal the case of any person so charged who has been found unfit to be tried;
- (c) empowering the Court of Appeal to make a hospital order where on an appeal the Court is of opinion that the appellant should have been found unfit to be tried; and
- (d) otherwise amending that Act in consequence of the provisions of this Order.

**F5** 1996 NI 24

*Art. 52 rep. by 1996 c. 46*

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

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