

SCHEDULES

SCHEDULE 6

Article 137.

TRANSITIONAL PROVISIONS

1. Where, apart from this paragraph, anything done under or for the purposes of any statutory provision which is repealed by this Order would cease to have effect by virtue of that repeal it shall have effect as if it had been done under or for the purposes of the corresponding provision of this Order.

2. Where any period of time specified in any statutory provision repealed by this Order is current at the appointed day, this Order shall have effect as if the corresponding provision of this Order had been in force when that period began to run.

3.—(1) This paragraph applies where immediately before the appointed day an application for the admission of a patient to hospital has been duly completed in accordance with Part II of the 1961 Act but the patient has not been admitted to hospital.

(2) The patient may be admitted to hospital in pursuance of the application and section 17(1) of the 1961 Act shall continue to apply in relation to the patient.

(3) Where at any time within the period referred to in section 17(1)(a) of the 1961 Act the patient is admitted to a hospital pursuant to an application other than an emergency application, he shall be treated for the purposes of this Order as if he had been admitted to the hospital pursuant to an application for assessment made at that time in accordance with Part II of this Order.

(4) Where at any time within the period referred to in section 17(1)(b) of the 1961 Act the patient is admitted to a hospital pursuant to an emergency application under section 15 of the 1961 Act, he may be detained in hospital for a period not exceeding 7 days beginning with the day on which he was admitted but shall not be detained thereafter unless before the expiration of that period an application for assessment is made in respect of him under Part II of this Order.

(5) References in this paragraph to a person being admitted to hospital include references to him being treated as if admitted to hospital.

4.—(1) This paragraph applies where immediately before the appointed day a patient is detained in hospital under section 16(2) of the 1961 Act.

(2) The patient may be detained in hospital for a period not exceeding 3 days beginning with the day on which he was first detained under section 16(2), but shall not be detained thereafter unless before the expiration of that period an application for assessment is made in respect of him under Part II of this Order.

5.—(1) This paragraph applies where immediately before the appointed day a patient is detained in hospital in pursuance of an application for admission under section 12 of the 1961 Act but a report under section 19 of that Act has not been made in respect of him.

(2) The patient may be detained in hospital for a period not exceeding 21 days beginning with the day on which he was admitted to hospital.

Status: Point in time view as at 25/03/2022.

Changes to legislation: The Mental Health (Northern Ireland) Order 1986, SCHEDULE 6 is up to date with all changes known to be in force on or before 19 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)

(3) This Order (except Articles 4 to 11) shall apply to the patient as if for the reference in Article 12(1) to the period for which a patient is detained for assessment by virtue of Article 9(8) there were substituted a reference to the period for which the patient is detained by virtue of sub-paragraph (2).

6.—(1) This paragraph applies where immediately before the appointed day a patient is detained in hospital in pursuance of an application for admission under section 12 of the 1961 Act and a report under section 19 of that Act has been made in respect of him.

(2) The patient may be detained in hospital for a period not exceeding 6 months beginning with the day on which he was admitted to hospital, but shall not be so detained for any longer period unless the authority for his detention is renewed under Article 13 as applied by sub-paragraph (3).

(3) This Order (except Articles 4 to 11) shall apply to the patient as if he were detained for treatment and as if for the reference in Article 13(1)(a) and the first reference in Article 13(2) to Article 12(1) there were substituted references to sub-paragraph (2).

7.—(1) This paragraph applies where immediately before the appointed day a patient is detained in hospital and the authority for his detention has been renewed under section 32 of the 1961 Act for a further period of one year which has not expired.

(2) The patient may be detained in hospital for so much of the period of one year as has not expired, but shall not be so detained for any longer period unless the authority for his detention is renewed under Article 13 as applied by sub-paragraph (3).

(3) This Order (except Articles 4 to 11) shall apply to the patient as if he were detained for treatment and as if—

- (a) in Article 13(1)(b) for the reference to sub-paragraph (a) and in Article 13(3) for the reference to paragraph (2) there were substituted a reference to section 32 of the 1961 Act;
- (b) in Article 13(4)(c) for the references to the application for assessment and any medical report in relation to the patient there shall be substituted references, respectively, to the application for admission and the medical report under section 19 of the 1961 Act in relation to the patient.

8.—(1) This paragraph applies where immediately before the appointed day a patient is detained in hospital and the authority for his detention has been renewed under section 32 of the 1961 Act for a further period of two years which has not expired.

(2) The patient may be detained in hospital—

- (a) if on the appointed day one year or more of the period of two years has expired, for so much of the period of two years as has not expired;
- (b) if on the appointed day less than one year of the period of two years has expired, for a period of one year from the date on which the authority was last renewed,

but shall not be so detained for any longer period unless the authority for his detention is renewed under Article 13 as applied by sub-paragraph (3).

(3) This Order (excluding Articles 4 to 11) shall apply to the patient as if he were detained for treatment and as if in Article 13(1)(c) for the reference to sub-paragraph (b) and in Article 13(5) for the reference to paragraph (3) there were substituted a reference to section 32 of the 1961 Act.

9. Where on the appointed day a person who has not attained the age of 16 years is subject to guardianship, the authority for his guardianship shall terminate on that day.

10.—(1) This paragraph applies where immediately before the appointed day a patient is subject to guardianship in pursuance of a guardianship application under section 21 of the 1961 Act.

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(2) Subject to the following provisions of this paragraph, this Order shall apply to the patient as if he were subject to guardianship in pursuance of a guardianship application duly made in accordance with Part II and accepted by the responsible Board on the date on which the guardianship application in relation to him was accepted under section 22 of the 1961 Act.

(3) Where the authority for the guardianship of the patient has been renewed under section 32 of the 1961 Act for a further period of one year which has not expired on the appointed day, the patient may be kept under guardianship for so much of the period of one year as has not expired but shall not be so kept for any longer period unless the authority for his guardianship is renewed for a further period of one year under Article 23, as applied by sub-paragraph (2).

(4) Where the authority for the guardianship of the patient has been renewed under section 32 of the 1961 Act for a further period of two years which has not expired on the appointed day, the patient may be kept under guardianship—

- (a) if on the appointed day one year or more of the period of two years has expired, for so much of the period of two years as has not expired;
- (b) if on the appointed day less than one year of the period of two years has expired, for a period of one year from the date on which the authority was last renewed,

but shall not be so kept for any longer period unless the authority for his guardianship is renewed for a further period of one year under Article 23, as applied by sub-paragraph (2).

(5) Where the Board named as guardian in the guardianship application is not the responsible Board references in this Order to the responsible Board shall be construed as references to the Board so named.

11. Sections 20 and 22(5) of the 1961 Act shall continue to apply in relation to any application made or recommendation or report given before the appointed day.

12. In the case of a patient who is detained or subject to guardianship on the appointed day, the steps required by Article 27 shall be taken as soon as practicable after that day.

13. Where at any time before the appointed day an application to the Review Tribunal has been made by a person who at that time was the patient's nearest relative and the application has not then been determined and by reason of the coming into force of Article 32 that person ceased to be the patient's nearest relative on that day, that person shall nevertheless be treated for the purposes of the application as continuing to be his nearest relative.

14.—(1) Subject to sub-paragraphs (2) and (3), this Order applies to a patient who immediately before the appointed day is, or is treated as if he were, subject to—

- (a) a hospital order;
- (b) a guardianship order;
- (c) an order restricting discharge;
- (d) a transfer direction;
- (e) a direction restricting discharge; or
- (f) an order or direction having the like effect as any of the above,

made or given under any provision of the 1961 Act as if that order or direction had been made or given under the corresponding provision of this Order.

(2) Where immediately before the appointed day—

- (a) a patient is subject to a hospital order, guardianship order or transfer direction made or given under the 1961 Act;
- (b) the authority for his detention or guardianship has been renewed under section 32 of that Act for a further period of two years which has not expired; and

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(c) less than one year of that period has expired,
the authority for his detention or guardianship under this Order shall expire at the end of the period of one year from the date on which it was last renewed under section 32.

(3) Where apart from this paragraph a transfer direction given before the appointed day would by virtue of Article 56(3) have ceased to have effect before that date it shall cease to have effect on the appointed day.

15.—(1) Paragraph (3) of Article 64 shall not apply to any treatment given to a patient in the period of six months beginning with the appointed day if—

- (a) the detention of the patient began before the beginning of that period; and
- (b) that paragraph has not been complied with in respect of any treatment previously given to him in that period.

(2) The Department may by order reduce the length of the period mentioned in sub-paragraph (1).

16. A patient—

- (a) who was admitted to hospital in pursuance of an application for admission; or
- (b) in respect of whom a guardianship application was accepted; or
- (c) in respect of whom a hospital order was made,

before the appointed day may make an application to the Review Tribunal within the period of six months beginning with the day on which he attains the age of 16 years if that period is later than that which would otherwise apply to an application in his case.

17. Article 73 applies only in relation to a renewal of authority for detention after the appointed day.

18. Any reference to the Review Tribunal under section 54(6) of the 1961 Act in respect of a patient shall be treated for the purposes of Article 82(2) as an application made by him.

19. ^{F1}

<p>F1 Sch. 6 para. 19 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 76, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(a), 29, 30(c)</p>
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20. The responsible Board shall as soon as practicable after the appointed day send to [^{F2}RQIA] a copy of any application, recommendation or report held by it which relates to the authority for the detention of any patient referred to in paragraph 5, 6, 7 or 8 or relates to the authority for the guardianship of any patient referred to in paragraph 10.

<p>F2 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</p>
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21. Where immediately before the appointed day any person's estate was subject to the jurisdiction of the High Court under the Lunacy Regulation (Ireland) Act 1871, Part VIII shall apply in that person's case as if it had been determined that he was a patient within the meaning of Part VIII.

22. Any order or appointment made, direction or authority given, or thing done under the Lunacy Regulation (Ireland) Act 1871 which—

- (a) had effect immediately before the appointed day with respect to the property or affairs of a person; and
- (b) was such as could have been made, given or done under any provision of Part VIII if that provision had been in force at the material time,

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shall continue to have effect as if made, given or done under that provision.

23. Any person who immediately before the appointed day was the committee of the estate of a person shall be deemed to be the controller for that person appointed under Article 101 with such functions in relation to that person's property and affairs as were exercisable by him in relation thereto as committee of the estate and references in any document to such a committee shall be construed accordingly.

24. Any person who immediately before the appointed day was the committee of the person in relation to any person shall cease to be the committee of the person in relation to that person.

25. Article 103(1) shall apply in relation to any disposal of property (within the meaning of that Article) of a person living immediately before the appointed day being a disposal effected under the Lunacy Regulation (Ireland) Act 1871, as it applies in relation to the disposal of the property of a person effected under Part VIII.

26. Until the coming into operation of Article 115 for references in this Order and any other statutory provision to an approved social worker there shall be substituted references to an officer of a Board designated by it, with the approval of the Department, to act as social worker for the purposes of this Order.

27. References to applications, recommendations, reports and other documents in Article 119 shall include those to which section 98 of the 1961 Act applied immediately before the appointed day.

28. References in Article 133 to the acts to which that Article applies shall include those to which section 111 of the 1961 Act applied immediately before the appointed day.

29. Article 134(5) shall not apply in relation to a patient removed from Northern Ireland before the appointed day.

30. The chairman, deputy chairman and other members of the Review Tribunal appointed under Schedule 3 to the 1961 Act and holding office immediately before the appointed day shall continue to hold such offices as if appointed under Schedule 3 to this Order on the same terms as they held office immediately before that day.

Para. 31 rep. by 1987 NI 2

32. The Department may by order subject to negative resolution make such other transitional provision as appears to the Department to be necessary or expedient in connection with the coming into operation of any provision of this Order.

33. In this Schedule—

“the 1961 Act” means the Mental Health Act (Northern Ireland) 1961;

“the appointed day” in relation to any provision of this Schedule means the date appointed under Article 1(2) for the coming into operation of that provision.

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