

*Draft Order in Council laid before Parliament under section 84(4) of the Northern Ireland Act 1998,
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

MENTAL HEALTH, NORTHERN IRELAND

The Mental Health (Northern Ireland) (Amendment) Order 2018

Made - - - -

Coming into force in accordance with article 1

At the Court at , the day of
Present,
The Queen’s Most Excellent Majesty in Council

A draft of this Order has been laid before Parliament in accordance with section 84(4) of the Northern Ireland Act 1998(1) and has been approved by a resolution of each House of Parliament.

Her Majesty, in exercise of the powers conferred on Her by section 84(2)(a) of the Northern Ireland Act 1998, is pleased, by and with the advice of Her Privy Council, to order as follows:

1. This Order may be cited as the Mental Health (Northern Ireland) (Amendment) Order 2018 and comes into force on the day after the day on which it is made.

2.—(1) Article 77 (power to discharge patients other than restricted patients) of the Mental Health (Northern Ireland) Order 1986(2) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a), at the beginning insert “(except in relation to detention for assessment),”;

(b) after sub-paragraph (a), insert—

“(aa) in relation to detention for assessment, the tribunal is not satisfied that the patient is then suffering from mental disorder of a nature or degree which warrants the patient’s detention in a hospital for assessment (or for assessment followed by medical treatment); or”.

(3) After paragraph (1), insert—

(1) 1998 c. 47.

(2) S.I. 1986/595 (N.I. 4); Article 77(1) was substituted by Article 3 of S.I. 2004/1272 (N.I. 8).

“(1A) In paragraph (1) “detention for assessment” means detention by virtue of any report under Article 9.”⁽³⁾.

(4) The amendments made by this article have effect in relation to an application or a reference to which Article 77(1) of the Mental Health (Northern Ireland) Order 1986 applies where the application or reference is made after this article comes into force.

Name
Clerk of the Privy Council

(3) Article 9 was amended by sections 32 and 34(3) of, and paragraph 8(1) of Schedule 6 to, the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) (N.I.) and Article 7(1) of, and Schedule 1 to, S.I. 1994/429 (N.I. 2).

EXPLANATORY NOTE

(This note is not part of the Order)

The Mental Health Review Tribunal (Northern Ireland) Rules 1986 ([S.R. 1986 No. 193](#)) were amended by the Mental Health Review Tribunal (Amendment) Rules (Northern Ireland) 2016 ([S.R. 2016 No. 57](#)) (the “Amending Rules”) to enable appeals against detention to be brought, where it is in the interests of justice to do so, during the period of up to fourteen days (“the 14-day period”) in which a patient may be compulsorily admitted, to a hospital, and detained for assessment under Part II of the Mental Health (Northern Ireland) Order 1986 ([S.I. 1986/595 \(N.I. 4\)](#)) (the “1986 Order”).

One effect of the Amending Rules is that, in an appeal against detention brought during the 14-day period, the criteria under which the Mental Health Review Tribunal for Northern Ireland (“the Tribunal”) can direct that a patient is discharged differ from the criteria for compulsory admission and detention for assessment in Article 4 of the 1986 Order. Accordingly, this Order amends the 1986 Order in consequence of the Amending Rules to align the criteria for discharge of patients in an appeal against detention during the 14-day period with the criteria for compulsory admission and detention for assessment in Article 4. The amended criteria apply only to applications or references for discharge made to the Tribunal after the Order comes into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.