

---

STATUTORY INSTRUMENTS

---

**1986 No. 595**

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

**PART V**

**[<sup>F1</sup>THE REVIEW TRIBUNAL]**

*Discharge of patients*

***Power to discharge patients other than restricted patients***

77.—[<sup>F1</sup>(1) Where application is made to the Review Tribunal by or in respect of a patient who is liable to be detained under this Order, the tribunal may in any case direct that the patient be discharged, and shall so direct if—

(a) [<sup>F2</sup>(except in relation to detention for assessment),] the tribunal is not satisfied that he is then suffering from mental illness or severe mental impairment or from either of those forms of mental disorder of a nature or degree which warrants his detention in hospital for medical treatment; or

[ in relation to detention for assessment, the tribunal is not satisfied that the patient is then  
<sup>F3</sup>(aa) 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]

(b) the tribunal is not satisfied that his discharge would create a substantial likelihood of serious physical harm to himself or to other persons; or

(c) in the case of an application by virtue of Article 71(4)(a) in respect of a report furnished under Article 14(4)(b), the tribunal is satisfied that he would, if discharged, receive proper care.]

[<sup>F4</sup>(1A) In paragraph (1) “detention for assessment” means detention by virtue of any report under Article 9.]

(2) A tribunal may under paragraph (1) direct the discharge of a patient on a future date specified in the direction; and where the tribunal does not direct the discharge of a patient under that paragraph the tribunal may—

(a) with a view to facilitating his discharge on a future date, recommend that he be granted leave of absence or transferred to another hospital or into guardianship; and

(b) further consider his case in the event of any such recommendation not being complied with.

(3) Where application is made to the Review Tribunal by or in respect of a patient who is subject to guardianship under this Order, the tribunal may in any case direct that the patient be discharged, and shall so direct if it is satisfied—

(a) that he is not then suffering from mental illness or severe mental handicap or from either of those forms of mental disorder of a nature or degree which warrants his remaining under guardianship; or

**Changes to legislation:** *The Mental Health (Northern Ireland) Order 1986, Section 77 is up to date with all changes known to be in force on or before 09 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) View outstanding changes*

(b) that it is not necessary in the interests of the welfare of the patient that he should remain under guardianship.

(4) Paragraphs (1) to (3) apply in relation to references to the Review Tribunal as they apply in relation to applications made to the tribunal by or in respect of a patient.

(5) Paragraph (1) shall not apply in the case of a restricted patient except as provided in Articles 78 and 79.

- F1** 2004 NI 8
- F2** Words in art. 77(1)(a) inserted (13.12.2018) by [The Mental Health \(Northern Ireland\) \(Amendment\) Order 2018 \(S.I. 2018/1360\)](#), arts. 1, **2(2)(a)** (with art. 2(4))
- F3** Art. 77(1)(aa) inserted (13.12.2018) by [The Mental Health \(Northern Ireland\) \(Amendment\) Order 2018 \(S.I. 2018/1360\)](#), arts. 1, **2(2)(b)** (with art. 2(4))
- F4** Art. 77(1A) inserted (13.12.2018) by [The Mental Health \(Northern Ireland\) \(Amendment\) Order 2018 \(S.I. 2018/1360\)](#), arts. 1, **2(3)** (with art. 2(4))

**Modifications etc. (not altering text)**

- C1** Art. 77 applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(5)(d)**, 4
- C2** Art. 77 applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(5)(d)**, 4

**Changes to legislation:**

The Mental Health (Northern Ireland) Order 1986, Section 77 is up to date with all changes known to be in force on or before 09 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- art. 77(3) repealed by [2016 c. 18 \(N.I.\) Sch. 8 para. 44\(3\)](#)[Sch. 11](#)
- art. 77(4) words substituted by [2016 c. 18 \(N.I.\) Sch. 8 para. 44\(4\)](#)
- art. 77(5) repealed by [2016 c. 18 \(N.I.\) Sch. 8 para. 44\(5\)](#)[Sch. 11](#)

**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\(4\)](#)