
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Detention in hospital for treatment

Detention for treatment

12.—(1) Where, during the period for which a patient is detained for assessment by virtue of Article 9(8), he is examined by a medical practitioner appointed for the purposes of this Part by [F1RQIA] and that medical practitioner furnishes to the responsible[F2 authority] in the prescribed form a report of the examination stating—

- (a) that, in his opinion, the patient is suffering from mental illness or severe mental impairment of a nature or degree which warrants his detention in hospital for medical treatment; and
- (b) that, in his opinion, failure to so detain the patient would create a substantial likelihood of serious physical harm to himself or to other persons; and
- (c) such particulars as may be prescribed of the grounds for his opinion so far as it relates to the matters set out in sub-paragraph (a); and
- (d) the evidence for his opinion so far as it relates to the matters set out in sub-paragraph (b), specifying whether other methods of dealing with the patient are available and, if so, why they are not appropriate,

that report shall be[F2 sufficient authority for the responsible authority to detain the patient] in the hospital for medical treatment and the patient may, subject to the provisions of this Order, be so detained for a period not exceeding 6 months beginning with the date of admission, but shall not be so detained for any longer period unless the authority for his detention is renewed under Article 13.

(2) A report under paragraph (1) shall not be given by—

- (a) the medical practitioner who gave the medical recommendation on which the application for assessment is founded; or
- (b) any of the persons described in Schedule 1.

(3) Where a patient is detained in a hospital for treatment by virtue of a report under paragraph (1), any previous application under this Part by virtue of which he was subject to guardianship shall cease to have effect.

(4) The responsible[F2 authority] shall immediately forward to [F1RQIA] a copy of any report furnished to the[F2 authority] under paragraph (1).

(5) In this Order “detained for treatment”, in relation to a patient, means detained in a hospital for medical treatment by virtue of a report under paragraph (1) or by virtue of a report under Article 13(2), (3) or (5).

Status: Point in time view as at 01/04/2016.

Changes to legislation: The Mental Health (Northern Ireland) Order 1986, Cross Heading: Detention in hospital for treatment is up to date with all changes known to be in force on or before 12 June 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)

- F1** 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](#)
- F2** 1994 NI 2

Modifications etc. (not altering text)

- C1** Art. 12 applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\), regs. 1, 3\(3\)\(i\), 4](#)
- C2** Art. 12 applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\), regs. 1, 3\(3\)\(i\), 4](#)

Renewal of authority for detention

13.—(1) Authority for the detention of a patient for treatment may, unless the patient has previously been discharged, be renewed under this Article—

- (a) from the expiration of the period referred to in Article 12(1), for a further period of 6 months if the provisions of paragraph (2) are complied with;
- (b) from the expiration of any period of renewal under sub-paragraph (a), for a further period of one year if the provisions of paragraphs (3) and (4) are complied with;
- (c) from the expiration of any period of renewal under sub-paragraph (b) for a further period of one year if the provisions of paragraph (5) are complied with, and so on for periods of one year at a time if the provisions of paragraph (5) are complied with in each case.

(2) Within the period of one month ending with the day on which a patient who is liable to be detained for treatment would cease under Article 12(1) to be so liable in default of the renewal of the authority for his detention, the responsible medical officer shall examine the patient and where that medical officer furnishes to the responsible^[F3] authority] in the prescribed form a report of the examination stating the opinions, particulars and evidence referred to in Article 12(1)(a), (b), (c) and (d), the authority for the detention of the patient shall, by virtue of the report, be renewed for the further period mentioned in paragraph (1)(a).

(3) Within the period of two months ending with the day on which a patient who is liable to be detained by virtue of an authority renewed under paragraph (2) would cease to be so liable in default of the further renewal of that authority, the responsible^[F3] authority] shall arrange for the examination of the patient by two medical practitioners in accordance with paragraph (4) and where those practitioners furnish to the responsible^[F3] authority] in the prescribed form a report of the examination stating the opinions, particulars and evidence referred to in Article 12(1)(a), (b), (c) and (d), the authority for the detention of the patient shall, by virtue of the report, be renewed for the further period mentioned in paragraph (1)(b).

(4) Where the^[F3] responsible authority] arranges for the examination of the patient under paragraph (3)—

- (a) it shall give the patient and his nearest relative not less than 14 days' notice in writing of the date of the examination;
- (b) the two medical practitioners who carry out the examination shall be appointed for the purposes of this Part by ^[F4]RQIA] ;
- (c) one of the medical practitioners who carry out the examination shall be a person who is not on the staff of the hospital in which the patient is detained and who has not given either the medical recommendation on which the application for assessment in relation to the patient was founded or any medical report in relation to the patient under Article 9 or 12(1);
- (d) the report of the examination shall consist of a joint report signed by both medical practitioners.

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(5) Within the period of two months ending with the day on which a patient who is liable to be detained by virtue of an authority for detention renewed under paragraph (3) or this paragraph would cease to be so liable in default of the further renewal of that authority, the responsible medical officer shall examine the patient and where that medical officer furnishes to the responsible^[F3] authority] in the prescribed form a report of the examination stating the opinions, particulars and evidence referred to in Article 12(1)(a), (b), (c) and (d), the authority for the detention of the patient shall, by virtue of the report, be renewed for the further period mentioned in paragraph (1)(c).

(6) Where a report under paragraph (2), (3) or (5) is furnished to the responsible^[F3] authority], it shall, unless it discharges the patient—

- (a) cause him and his nearest relative to be informed;
- (b) forward to ^[F4]RQIA] a copy of the report.

F3 1994 NI 2

F4 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](#)

Modifications etc. (not altering text)

C3 [Art. 13](#) applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\), regs. 1, 3\(3\)\(j\), 4](#)

C4 [Art. 13](#) applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\), regs. 1, 3\(3\)\(j\), 4](#)

Discharge of patient from detention

14.—(1) Subject to the following provisions of this Article, a patient who is for the time being liable to be detained under this Part shall cease to be so liable if an order in writing discharging him from detention is made in respect of him by the responsible medical officer, the responsible^[F5] authority] or his nearest relative.

(2) The responsible medical officer shall make an order under paragraph (1) in respect of a patient liable to be detained under this Part where he is satisfied—

- (a) that the patient is no longer suffering from mental illness or severe mental impairment of a nature or degree which warrants his detention in hospital for medical treatment; or
- (b) that, having regard to the care which would be available for the patient if he were discharged, the discharge would not create a substantial likelihood of serious physical harm to himself or to other persons.

(3) The responsible medical officer shall not make an order under paragraph (1) in respect of a patient detained in any special accommodation unless the responsible^[F5] authority] consents to the discharge of the patient.

(4) An order under paragraph (1) in respect of a patient who is liable to be detained under this Part shall not be made by his nearest relative except after giving not less than 72 hours' notice in writing to the responsible^[F5] authority]; and if, within 72 hours after such notice has been given, the responsible medical officer furnishes to that^[F5] authority] a report in writing certifying—

- (a) that, in the opinion of that officer, the patient is suffering from mental illness or severe mental impairment of a nature or degree which warrants his detention in hospital for medical treatment and that the discharge of the patient would create a substantial likelihood of serious physical harm to himself or to other persons; or
- (b) that that officer is not satisfied that the patient, if discharged, would receive proper care;

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then—

- (i) any order under paragraph (1) made by that relative in pursuance of the notice shall be of no effect; and
- (ii) a further order for the discharge of the patient shall not be made by that relative during the period of 6 months beginning with the date of the report.

(5) Where, but for this paragraph, a Sunday or any part thereof would be reckoned in the period of 72 hours referred to in paragraph (4), for the references in that paragraph to 72 hours there shall be substituted references to 96 hours.

(6) For the purpose of advising as to the exercise by the nearest relative of a patient who is liable to be detained under this Part of any power to order his discharge, any medical practitioner authorised by or on behalf of the nearest relative may—

- (a) at any reasonable time visit the patient and examine him in private; and
- (b) require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.

(7) Where a report is furnished under paragraph (4) in respect of a patient, the responsible^[F5] authority] shall immediately—

- (a) inform the nearest relative of the patient; and
- (b) forward a copy of the report to ^[F6]RQIA .

(8) Where a patient is discharged from detention under this Article the responsible^[F5] authority] shall immediately inform ^[F6]RQIA] to that effect.

F5 1994 NI 2

F6 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](#)

Modifications etc. (not altering text)

C5 [Art. 14](#) applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, [3\(3\)\(k\)](#), 4

C6 [Art. 14](#) applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, [3\(3\)\(k\)](#), 4

Leave of absence from hospital

15.—(1) The responsible medical officer may grant to any patient who is for the time being liable to be detained in a hospital under this Part leave to be absent from the hospital subject to such conditions, if any, as that officer considers necessary in the interests of the patient or for the protection of other persons.

(2) Leave of absence may be granted to a patient under this Article either on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the patient.

(3) Where it appears to the responsible medical officer that it is necessary to do so in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this Article, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient may be kept in the custody of any officer of the responsible^[F7] authority], or of any other person authorised in writing by that^[F7] authority].

(4) Where leave of absence is granted to a patient under this Article or where a period of leave is extended by further leave and the leave or the extension is for a period of more than 28 days, it

shall be the duty of the responsible^[F7] authority] to inform ^[F8]RQIA] within 14 days of the granting of leave or of the extension, as the case may be, of the address at which the patient is residing and, on the return of the patient, to notify ^[F8]RQIA] thereof within 14 days.

(5) Where—

- (a) a patient is absent from a hospital in pursuance of leave of absence granted under this Article; and
- (b) it appears to the responsible medical officer that it is necessary to do so in the interests of the patient's health or safety or for the protection of other persons or because the patient is not receiving proper care;

that officer may, subject to paragraph (6), by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the hospital.

(6) A patient to whom leave of absence is granted under this Article shall not be recalled under paragraph (5) after he has ceased to be liable to be detained under this Part.

F7 1994 NI 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. 8\(1\)](#) (subject to [Sch. 6 para. 8\(2\)-\(4\)](#)); S.R. 2009/114, [art. 2](#)

Modifications etc. (not altering text)

C7 [Art. 15](#) applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, [3\(3\)\(1\)](#), 4

C8 [Art. 15](#) applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, [3\(3\)\(1\)](#), 4

Correspondence of detained patients

16.—(1) A postal packet addressed to any person by a patient detained in a hospital under this Part and delivered by him for dispatch may be withheld from^[F9] the postal operator concerned]

- (a) if that person has requested that communications addressed to him by the patient should be withheld; or
- (b) subject to paragraph (3), if the patient is detained in special accommodation and the responsible^[F10] authority] considers that the postal packet is likely—
 - (i) to cause distress to the person to whom it is addressed or to any other person (not being a person on the staff of the special accommodation); or
 - (ii) to cause danger to any person,

and any request for the purposes of sub-paragraph (a) shall be made by a notice in writing given to the responsible^[F10] authority] or the responsible medical officer.

(2) Subject to paragraph (3), a postal packet addressed to a patient detained in special accommodation under this Part may be withheld from the patient if, in the opinion of the responsible^[F10] authority], it is necessary to do so in the interests of the safety of the patient or for the protection of other persons.

(3) Paragraphs (1)(b) and (2) do not apply to any postal packet addressed by a patient to, or sent to a patient by or on behalf of—

- (a) any Northern Ireland department or department of the government of the United Kingdom;

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- (b) any Minister of the Crown^[F11], the Scottish Ministers], any member of either House of Parliament^[F11], any member of the Scottish Parliament] or member of the Assembly;
- (c) the Master (Care and Protection), any of the Lord Chief Justice's Visitors or any officer of the Office of Care and Protection;
- (d) ^[F12RQIA]^{F13} . . . or any person appointed by ^[F12RQIA] under Article 87(1)(b) or (c);
- (e) the Review Tribunal;
- ^[F10](f) any Board or ^[F14HSC trust] ;]
- (g) the Parliamentary Commissioner for Administration ^[F15]or the Northern Ireland Public Services Ombudsman] ;
- (h) any legally qualified person instructed by the patient to act as his legal adviser; or
- (i) the European Commission on Human Rights or the European Court of Human Rights.

(4) The responsible^[F10] authority] may open and inspect any postal packet for the purpose of determining whether it is one to which paragraph (1) or (2) applies and, if so, whether or not it should be withheld under that paragraph; and the power to withhold a postal packet under either of those paragraphs includes power to withhold anything contained in it.

(5) Where a postal packet or anything contained in it is withheld under paragraph (1) or (2) the responsible^[F10] authority] shall record that fact in writing.

(6) Where a postal packet or anything contained in it is withheld under paragraph (1)(b) or (2) the responsible^[F10] authority] shall within 7 days give notice of that fact to the patient and, in a case under paragraph (2) to the person (if known) by whom the postal packet was sent; and any such notice shall be in writing and shall contain a statement of the effect of Article 17.

(7) The Department may make regulations with respect to the exercise of the powers conferred by this Article.

(8) In this Article and in Article 17^[F9] “postal packet” and “postal operator” have] the same meaning as in^[F16]the Postal Services Act 2011];^{F9} . . .

F9 SI 2001/1149

F10 1994 NI 2

F11 SI 1999/1820

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. 16(3)(d) 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(3), **Sch. 7**; S.R. 2009/114, **art. 2**

F14 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**

F15 Words in art. 16(3)(g) substituted (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64(1), **Sch. 8 para. 2** (with ss. 23, 50(3))

F16 Words in art. 16(8) substituted (1.10.2011) by Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085), art. 5(1), **Sch. 1 para. 19**

Modifications etc. (not altering text)

C9 Art. 16 applied (31.3.2013) by Mental Health (Private Hospitals) Regulations (Northern Ireland) 2012 (S.R. 2012/403), regs. 1, **3(3)(m)**, 4

C10 Art. 16 applied (31.3.2013) by Mental Health (Private Hospitals) Regulations (Northern Ireland) 2013 (S.R. 2013/22), regs. 1, **3(3)(m)**, 4

Review of decision to withhold postal packet

17.—(1) [F17RQIA] shall review any decision to withhold a postal packet or anything contained in it under paragraph (1)(b) or (2) of Article 16 if an application in that behalf is made—

- (a) in a case under the said paragraph (1)(b), by the patient; or
- (b) in a case under the said paragraph (2), either by the patient or by the person by whom the postal packet was sent;

and any such application shall be made within 6 months of the receipt by the applicant of the notice referred to in paragraph (6) of that Article.

(2) On an application under paragraph (1) [F17RQIA] may direct that the postal packet or anything contained in it which is the subject of the application shall not be withheld and the responsible[F18 authority] shall comply with any such direction.

(3) The Department may by regulations make provision with respect to the making and determination of applications under paragraph (1), including provision for the production to [F17RQIA] of any postal packet which is the subject of such an application.

F17 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**

F18 1994 NI 2

Modifications etc. (not altering text)

C11 Art. 17 applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(3)(n)**, 4

C12 Art. 17 applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(3)(n)**, 4

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