
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Provisions relating to patients subject to detention or guardianship

Duty of [F1 authority] to give information to patients and nearest relatives

27.—(1) The responsible[F1 authority] shall, in relation to a patient detained in a hospital or subject to guardianship under this Part, take such steps as are practicable to ensure that the patient understands—

- (a) under which of the provisions of this Order he is for the time being detained or subject to guardianship and the effect of that provision; and
- (b) what rights of applying to the Review Tribunal are available to him in respect of his detention or guardianship under that provision;

and those steps shall be taken as soon as practicable after the commencement of the patient's detention under the provision in question or the commencement or renewal of the authority for his guardianship.

(2) The responsible[F1 authority] shall also take such steps as are practicable to ensure—

- (a) that a patient detained in a hospital or subject to guardianship under this Part understands—
 - (i) the effect, so far as relevant in his case, of Articles 14, 24 and 71(4); and
 - (ii) that he may make representations to [F2RQIA] ;
- (b) that a patient detained in a hospital under this Part understands the effect, so far as relevant in his case, of Articles 16, 17 and 111 and Part IV;
- (c) that the nearest relative of a patient detained in a hospital or subject to guardianship under this Part is furnished with a written statement of his rights and powers under this Order;

and those steps shall be taken as soon as practicable after the commencement of the patient's detention or his reception into guardianship.

(3) The steps to be taken under paragraphs (1) and (2)(a) and (b) shall include giving the requisite information both orally and in writing.

(4) The responsible[F1 authority] shall take such steps as are practicable to ensure that where a patient ceases to be liable to be detained in hospital or subject to guardianship under this Part the patient, his nearest relative and, in the case of a patient subject under this Part to the guardianship of a person other than[F1 the responsible authority], the guardian of the patient are informed of that fact as soon as practicable after he so ceases.

(5) The responsible[F1 authority] shall, except where the patient otherwise requests, take such steps as are practicable to furnish his nearest relative with a copy of any information given to the

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patient in writing under paragraphs (1) and (2); and those steps shall be taken when the information is given to the patient or within a reasonable time thereafter.

- F1** 1994 NI 2
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**

Modifications etc. (not altering text)

- C1** [Art. 27](#) applied (with modifications.) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(3)(o)**, 4
C2 [Art. 27](#) applied (with modifications) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(3)(o)-(x)**, 4

Transfer of patients

28.—(1) [^{F3}[^{F4}An] authorised [^{F5}HSC trust]] may arrange for the transfer from one hospital to another hospital of a patient who is liable to be detained in hospital under this Part.

(2) Where a patient is transferred to another hospital by virtue of paragraph (1), the provisions of this Part shall apply to him as if—

- (a) the application for assessment by virtue of which he was admitted to hospital had specified the hospital to which he is transferred;
- (b) he had been admitted to that hospital at the time when he was originally admitted in pursuance of the application; and
- (c) any report furnished in respect of him under Article 9, 12(1) or 13 had been furnished in that hospital.

(3) Where an application for assessment, duly completed in accordance with this Part, is made in respect of any patient, the Department may by order in writing direct that that patient shall be admitted to any hospital specified in the order.

(4) Where the Department issues an order under paragraph (3)—

- (a) paragraph (2) shall apply in relation to the patient as if he had been transferred to the hospital specified in the order by virtue of paragraph (1); and
- (b) it shall be the duty of [^{F3}[^{F6}... the authorised [^{F5}HSC trust] managing] the hospital specified in the order to admit the patient to that hospital.

(5) [^{F3}[^{F7}An] authorised [^{F5}HSC trust]] may arrange for the transfer—

- (a) of a patient who is subject to guardianship under this Part, from the guardianship of any person into the guardianship of any other person;
- (b) of a patient who is liable to be detained in hospital for treatment, into the guardianship of any person.

(6) Where a patient is transferred into the guardianship of another person by virtue of paragraph (5)(a), the provisions of this Part shall apply to him as if the guardianship application by virtue of which he is subject to guardianship under this Part were for his reception into the guardianship of that person and had been accepted at the time when it was originally accepted.

(7) Where a patient is transferred into the guardianship of any person by virtue of paragraph (5)(b), the provisions of this Part shall apply to him as if the application for assessment by virtue of which he was admitted to hospital were a guardianship application duly accepted at the time when he was originally admitted to hospital in pursuance of the application.

(8) Arrangements for the transfer of a patient under this Article may be made subject to such conditions as may be prescribed.

(9) The responsible^[F3] authority] before arranging for the transfer of any patient under this Article shall, if practicable, inform the nearest relative of the patient and, in the case of a person subject to the guardianship of a person other than the^[F3] authority], the guardian of the patient of the intended transfer.

(10) The responsible^[F3] authority] shall immediately notify ^[F8]RQIA] of the transfer of any patient under this Article.

- F3** 1994 NI 2
- F4** Word in art. 28(1) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 74(2)**; S.R. 2022/102, art. 2(b)
- F5** 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**
- F6** Words in art. 28(4)(b) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 74(3)**; S.R. 2022/102, art. 2(b)
- F7** Word in art. 28(5) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 74(2)**; S.R. 2022/102, art. 2(b)
- 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)

- C3** Art. 28 applied (with modifications) (31.3.2013) by Mental Health (Private Hospitals) Regulations (Northern Ireland) 2012 (S.R. 2012/403), regs. 1, **3(3)(y)(i)-(iii)**, 4
- C4** Art. 28 applied (with modifications.) (31.3.2013) by Mental Health (Private Hospitals) Regulations (Northern Ireland) 2013 (S.R. 2013/22), regs. 1, **3(3)(p)**, 4

Return and readmission of patients absent without leave

29.—(1) Where a patient who is for the time being liable to be detained under this Part in a hospital—

- (a) absents himself from the hospital without leave granted under Article 15; or
- (b) fails to return to the hospital on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that Article, or upon being recalled thereunder; or
- (c) absents himself without permission from any place where he is required to reside in accordance with conditions imposed on the grant of leave of absence under that Article;

he may, subject to paragraphs (3) and (4), be taken into custody and returned to the hospital or place by any officer on the staff of the hospital, by any constable or approved social worker or by any person authorised in writing by the responsible^[F9] authority].

(2) Where a patient who is for the time being subject to guardianship under this Part absents himself without the leave of his guardian from the place at which he is required by the guardian to reside, he may, subject to paragraph (3), be taken into custody and returned to that place by any constable or approved social worker or by any person authorised in writing by the guardian or by the responsible^[F9] authority].

(3) A patient shall not be taken into custody under this Article after the expiration of the period of 28 days beginning with the first day of his absence without leave; and a patient who has not returned or been taken into custody under this Article within that period shall cease to be liable to be detained or subject to guardianship, as the case may be, at the expiration of that period.

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(4) A patient shall not be taken into custody under this Article if the period for which he is liable to be detained is that specified in Article 7(2) or (3)^{F10}, 7A(2)] or Article 9(4), (7) or (8) and that period has expired.

(5) In this Order “absent without leave” means absent from any hospital or other place and liable to be taken into custody and returned under this Article.

F9 1994 NI 2
F10 SR 1994/66

Modifications etc. (not altering text)

- C5** Art. 29 applied (with modifications) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(3)(z)(i)-(iii)**, 4
- C6** Art. 29 applied (with modifications.) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(3)(q)**, 4

Special provisions as to patients absent without leave

30.—(1) If on the day on which, apart from this Article, a patient would cease to be liable to be detained or subject to guardianship under this Part or within the period of 7 days ending with that day, the patient is absent without leave, he shall not cease to be so liable or subject—

- (a) in any case, until the expiration of the period during which he can be taken into custody under Article 29, or the day on which he returns or is returned to the hospital or place where he ought to be, whichever is the earlier; and
- (b) if he returns or is returned as aforesaid within the period during which he can be taken into custody under Article 29, until the expiration of the period of 7 days beginning with the day on which he returns or is returned as aforesaid.

(2) Where the period for which a patient is liable to be detained or subject to guardianship is extended by virtue of this Article, any examination to be made, or report to be furnished, under Article 9, 12, 13 or 23 may be made or furnished within that period as so extended.

(3) Where the authority for detention or guardianship of a patient is renewed by virtue of this Article after the day on which, apart from this Article, that authority would have expired under this Part, the renewal shall take effect as from that day.

Modifications etc. (not altering text)

- C7** Art. 30 applied (with modifications) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(3)(aa)(i)-(iv)**, 4
- C8** Art. 30 applied (with modifications.) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(3)(r)**, 4

Special provisions as to patients sentenced to imprisonment, etc.

31.—(1) Where a patient who is liable to be detained for treatment or subject to guardianship under this Part—

- (a) is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody); and
- (b) is so detained in custody for a period exceeding, or for successive periods exceeding in the aggregate, 6 months;

he shall cease to be so liable or subject at the expiration of that period.

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(2) Where any such patient is detained in custody as mentioned in paragraph (1)(a) but does not cease under that paragraph to be liable to be detained for treatment or subject to guardianship under this Part, then—

- (a) if apart from this paragraph he would have ceased to be liable to be detained for treatment or subject to guardianship under this Part on or before the day on which he is discharged from custody, he shall not cease and shall be deemed not to have ceased to be so liable or subject until the end of that day; and
- (b) in any case, Articles 29 and 30 shall apply in relation to him as if he had absented himself without leave on that day.

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