

1993 No. 58

MENTAL HEALTH

The Mental Health (HSS Trusts — Consequential Amendments) Regulations (Northern Ireland) 1993

Made 17th February 1993

Coming into operation 1st April 1993

*To be laid before Parliament under paragraph 3(3) of
Schedule 1 to the Northern Ireland Act 1974*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 134A of the Mental Health (Northern Ireland) Order 1986(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Mental Health (HSS Trusts — Consequential Amendments) Regulations (Northern Ireland) 1993 and shall come into operation on 1st April 1993.

Amendments to the Mental Health (Northern Ireland) Order 1986

2. The Mental Health (Northern Ireland) Order 1986 shall be amended as follows—

(a) in Article 2(2)—

- (i) in the definition of “hospital” the words “or in an HSS trust” shall be inserted after “Department”;
- (ii) after the definition of “hospital order” there shall be inserted the following definition—
“HSS trust” means a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991(b);” and
- (iii) for paragraph (a) of the definition of “responsible Board” there shall be substituted the following paragraph—

“(a) in relation to a patient who is in, or is liable to be detained in,—

- (i) a hospital administered by a Board, the Board administering that hospital; or

(a) S.I. 1986/595 (N.I. 4); as amended by S.I. 1991/194 (N.I. 1)

(b) S.I. 1991/194 (N.I. 1)

- (ii) a hospital managed by an HSS trust, the Board for the area in which that hospital is situated;”;
- (b) in Article 8(2)(a), after the words “responsible Board” there shall be inserted the words “, or the HSS trust acting on behalf of the responsible Board,”;
- (c) in Article 12(1), after the words “responsible Board” in the second place where they occur, there shall be inserted the words “, or the HSS trust acting on behalf of the responsible Board,”;
- (d) in Articles 28(4)(b), 42(9)(d) and 46(1), (2)(b) and (3)(c), after the words “Board administering” there shall be inserted the words “, or the HSS trust managing,”;
- (e) in Article 61(2), after the word “Board” there shall be inserted the words “or the managing HSS trust”;
- (f) in Article 86(2)(c), after the word “Board”—
 - (i) in the first place where it occurs there shall be inserted the words “, an HSS trust”; and
 - (ii) in the second place where it occurs there shall be inserted the words “, the HSS trust”;
- (g) in Article 107, after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where an HSS trust is satisfied—

 - (a) that any person in a hospital managed by the HSS trust is incapable, by reason of mental disorder, of managing and administering his property and affairs;
 - (b) that any of the powers of the court under Article 98 or 99 ought to be exercised with respect to the property or affairs of that person; and
 - (c) that arrangements in that behalf have neither been made nor are being made,

it shall be the duty of the HSS trust to notify the Office of Care and Protection of those matters.”;
- (h) in Article 108(2), after the word “Board,” there shall be inserted the words “HSS trust,”;
- (i) in Article 111(1)(a), after the word “Boards,” there shall be inserted the words “HSS trusts,”;
- (j) in Article 116—
 - (i) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to paragraphs (4) and (5), where it appears—

 - (a) to a Board that any patient in any hospital or in any accommodation administered by it under the Health and Personal Social Services (Northern Ireland) Order 1972; or
 - (b) to an HSS trust that any patient in any hospital managed by it,

is incapable, by reason of mental disorder, of managing and administering his property and affairs, the Board or HSS trust may receive and hold money and valuables on behalf of that patient.”;

- (ii) in paragraphs (2) and (4), after the word “Board” there shall be inserted the words “or an HSS trust”;
 - (iii) in paragraph (3), after the word “Board”, in the first place where it occurs, there shall be inserted the words “or an HSS trust”; and
 - (iv) in paragraph (3), after the word “Board”, in the second place where it occurs, there shall be inserted the words “or the HSS trust”;
- (k) in Article 118—
- (i) in paragraphs (1) and (2), after the word “Board” there shall be inserted the words “or an HSS trust”; and
 - (ii) in paragraph (4)(a), after the word “Board” there shall be inserted the words “or managed by an HSS trust within the Board’s area”;
- (l) in Article 121(1), after the word “administering” there shall be inserted the words “, or a director of the HSS trust managing,”;
- (m) in Article 123(1)(a)(ii), after the word “administering” there shall be inserted the words “, or a director of the HSS trust managing,”;
- (n) in Article 129(7), after the word “Board” there shall be inserted the words “or managing HSS trust”;
- (o) in Article 133(4), after the word “Board” there shall be inserted the words “or against an HSS trust”; and
- (p) in Article 134A, paragraph (3) is hereby repealed.

Sealed with the Official Seal of the Department of Health and Social Services on 17th February 1993.

(L.S.)

John McGrath

Assistant Secretary

(This note is not part of the Regulations.)

These Regulations, which are operative from 1st April 1993, amend the Mental Health (Northern Ireland) Order 1986 in consequence of, or in connection with, the establishment of Health and Social Services trusts.

The Regulations amend that Order by providing that the arrangements for—

(a) admission to; and

(b) detention for assessment or treatment in,

a hospital administered by a Health and Social Services Board apply also to admission to, or detention in, a hospital managed by an HSS trust.

The Regulations also provide—

(a) that certain functions under the 1986 Order in relation to patients in hospitals administered by Health and Social Services Boards may be exercised by HSS trusts in relation to patients in hospitals managed by those trusts; and

(b) that directors of HSS trusts are to be treated in the same way as members of Health and Social Services Boards for the purpose of criminal offences relating to the ill-treatment of patients or to unlawful sexual intercourse with patients.