

EXPLANATORY MEMORANDUM TO

Mental Health (Private Hospitals) Regulations (Northern Ireland) 2013

SR 2013 No. 22

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 95 of the Mental Health (Northern Ireland) Order 1986 and is subject to the affirmative resolution procedure.

2. Purpose

- 2.1. These Regulations revoke and replace the Mental Health (Private Hospitals) Regulations (Northern Ireland) 2012 to correct errors in the numbering of certain sub-paragraphs. The Regulations apply certain provisions of the Mental Health (Northern Ireland) Order 1986, “the 1986 Order”, to private hospitals, which do not automatically apply, with modifications and adaptations. In addition to the application of the provisions above, the Department has also adapted certain provisions of the Order to provide extra safeguards to patients detained in private hospitals. The Regulations provide that, in relation to detention for assessment or treatment and renewal of such detention, a supporting opinion from a medical practitioner who is not on the staff of the private hospital in which the patient is being detained is obtained, and who has been appointed for that purpose by RQIA.

3. Background

- 3.1. Currently all psychiatric inpatient care in Northern Ireland is provided in statutory psychiatric hospitals. These Regulations enable private hospitals to treat patients, whether children, adolescents or adults, detained under the Order, provided that such hospitals are registered with and certified by RQIA.
- 3.2. The Regulations apply the same safeguards which apply to the detention of patients in statutory hospitals and which are set out in the Order. This includes the right of appeal to the Mental Health Review Tribunal to have the legality of their detention examined by an independent legally constituted body.
- 3.3. Provision of this statutory rule will avoid situations whereby voluntary patients in the care of a local private hospital may require to be moved to another hospital due to being detained during the course of their treatment when such a move may not be desirable for the continuity of care and wellbeing of the patient.
- 3.4. Through registration with and inspection by RQIA the Department is confident that the quality of care provided would be maintained at a

sufficiently high standard that is at least at that required by the statutory sector.

4. Consultation

- 4.1. On 21st November 2011, the Department for Health, Social Services and Public Safety launched a public consultation on the proposal to introduce these Regulations. This consultation ran for 9 weeks and closed on 23rd January 2012. The consultation documents were available on the Department's website for this period and, in addition, over 500 individual letters were issued to invite response. At the end of the consultation period, 21 responses were received.
- 4.2. While responses were broadly supportive of the Regulations concerns were expressed about the potential for actual, or perceived, inappropriate detentions under the Order. In response the Department has included an additional safeguard for patients, and those administering a private facility, by requiring a second opinion to be obtained when a patient is being detained under the Order. This second opinion must be made by a medical practitioner not on the staff of the private hospital to which detention is sought and who has been appointed for that purpose by RQIA.

5. Equality Impact

- 5.1. Following initial screening and public consultation, the Department is not aware of any evidence to indicate that any adverse impact is likely to arise and responses to consultation did not provide any evidence to indicate that an adverse impact is likely to arise. The Regulations do not impact negatively on any grouping and provide an improved continuity of care for those who are detained in a private hospital during the course of their treatment.
- 5.2. The Department considered that the introduction of these Regulations would not have an adverse differential impact and did not, therefore, require to be subjected to a full equality impact assessment.

6. Regulatory Impact

- 6.1. It is not considered that these Regulations will have a negative impact on businesses or charities, indeed the Regulations will be beneficial to business.

7. Financial Implications

- 7.1. These Regulations have no financial impact on the statutory sector.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. These regulations do not introduce any measures which will fail to meet compliance with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. These Regulations will bring Northern Ireland into line with the other administrations in that private mental health facilities are widely used.

11. Additional Information

11.1. Not applicable.