

EXPLANATORY MEMORANDUM TO
The Mental Capacity (Money and Valuables) Regulations (Northern Ireland)
2019

2019 No. 200

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 276 of the Mental Capacity Act (Northern Ireland) 2016 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the instrument is to provide provisions for the managing authority of hospitals and residential care and nursing homes to hold and manage money and valuables of a person who lacks capacity.

3. Background

- 3.1. Article 116 of the Mental Health (Northern Ireland) Order 1986 allows HSC Trusts to hold and manage money and valuables for residents and patients of accommodation or hospital managed by the Trusts if the patient or resident is incapable, by reason of mental disorder to manage their property and affairs.
- 3.2. These Regulations extend this power to any managing authority.
- 3.3. The Regulations also prescribes details on considerations that must be had and the formalities when holding money and valuables.

4. Consultation

- 4.1. The Department publically consulted on the Mental Capacity Bill in summer 2014. This set the policy intent for the instrument. The outcome of the consultation saw overwhelming support for the legislation.
- 4.2. The draft Regulations were informally consulted on in spring/summer of 2019. The Department of Health also had a series of meetings on the regulations. The meetings and consultation did not raise any significant issues that required changes to the overall approach.

5. Equality Impact

- 5.1. In accordance with guidance produced by the Equality Commission for Northern Ireland and in keeping with Regulation 75 of the Northern Ireland Act 1998, the proposals for the Mental Capacity (Money and Valuables) Regulations 2019 have been screened for equality impact and it is concluded that a full Equality Impact Assessment is not required.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment (RIA) screening was carried out prior to consultation. The screening concluded that the Statutory Rule will have negligible cost impact on businesses, charities, social economy enterprises or the voluntary sector in Northern Ireland and will not otherwise adversely affect these groups. The Department considers that a full RIA is not required.

7. Financial Implications

- 7.1. There will be negligible cost impact on businesses, charities, social economy enterprises or the voluntary sector in Northern Ireland.
- 7.2. There is no expected cost to the statutory sector. .

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Statutory Rule is not deemed to breach Section 24 of the Northern Ireland Act 1998 as it is considered to be compatible with any of the Convention rights or community law and does not discriminate against a person on the grounds of religious belief or political opinion.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. Not applicable.