

EXPLANATORY MEMORANDUM TO

The Mental Health (1986 Order) (Amendment No. 2) Order (Northern Ireland) 2021

2021 No. 101

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 Article 64(2) of the Mental Health (Northern Ireland) Order 1986 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of this Order is to vary the length of the period which must elapse for a second opinion to be required for the continued administration of medicine to detained patients from six months to three months.
- 2.2. It is a reversal of the Mental Health (1986 Order) (Amendment) Order (Northern Ireland) 2021 which was made in January 2021 in response to the Coronavirus pandemic.

3. Background

- 3.1. The Mental Health (1986 Order) (Amendment No. 2) Order (Northern Ireland) 2021 varies the length of the period which must elapse for a second opinion to be required for the continued administration of medicine to detained patients from six months to three months.
- 3.2. The original Order, made in January 2021, was a direct response to Coronavirus pressures to ensure that patients detained under the Mental Health Order could continue to receive medication, even when staff are not in work due to illness. Without that Order, administration of medication could not lawfully continue with the current staff pressures due to the Coronavirus.
- 3.3. This Order reverses the previous Order to ensure that the period for second opinion is returned to three months.

4. Consultation

- 4.1. The Department has consulted with the HSC Trusts, the HSC Board, PHA, professional bodies and others. The meetings and consultation did not raise any significant issues that required changes to the overall approach. There is broad support for the amendment considering the current pressures.

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 Order 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 no cost impact on businesses, charities, social economy enterprises or the voluntary sector in Northern Ireland.

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.
- 10.2. Other statutory frameworks exist in other jurisdictions. However, these other frameworks are significantly different and the technical details in this instrument are not relevant to other systems.

11. Additional Information

- 11.1. Not applicable.