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## SCHEDULES

### SCHEDULE 11 **N.I.**

#### MENTAL CAPACITY: NORTHERN IRELAND

#### PART 2 **N.I.**

#### MODIFICATIONS OF THE MENTAL CAPACITY ACT (NORTHERN IRELAND) 2016

##### *Proceedings of panels constituted to decide applications*

- 3 Section 297(2) (panels to have 3 members, all present) has effect as if for “(all of whom must be present during any proceedings of the panel)” there were substituted “, all of whom must be present during any proceedings of the panel, except where—
- (a) the panel does not hear oral evidence,
  - (b) each of the members provides a written opinion, and
  - (c) the decision of the panel is unanimous.”

##### **Commencement Information**

**I1** Sch. 11 para. 3 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

##### *Time limit for panel's decisions regarding authorisations of certain serious interventions*

- 4 Paragraph 19(2) of Schedule 1 (time limit for panel's decision) has effect as if for “7 working days” there were substituted “ 28 working days ”.

##### **Commencement Information**

**I2** Sch. 11 para. 4 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

##### *Interim authorisations by panels of certain serious interventions*

- 5 Paragraph 20 of Schedule 1 (interim authorisations by panels) has effect as if in each of sub-paragraphs (2)(b), (3)(b) and (5)(a) for “28 days” there were substituted “ 56 days ”.

##### **Commencement Information**

**I3** Sch. 11 para. 5 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

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*Report authorising short-term detention in hospital for examination etc*

- 6 Paragraph 4(2) of Schedule 2 (medical practitioner making medical report for inclusion in report under paragraph 2 to have examined P not more than 2 days before date on which medical report is made) has effect in relation to the making of a medical report during a period for which this paragraph has effect as if for “two days” there were substituted “ five days ”.

**Commencement Information**

**I4** Sch. 11 para. 6 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

- 7 Paragraph 5 of Schedule 2 (person making report under paragraph 2 to have personally seen P not more than 2 days before date on which report is made) has effect in relation to the making of a report during a period for which this paragraph has effect as if for “two days” there were substituted “ five days ”.

**Commencement Information**

**I5** Sch. 11 para. 7 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

*Consultation required before such a report is made*

- 8 (1) Paragraph 6(1) of Schedule 2 (circumstances in which a person may make a report under paragraph 2 of Schedule 2 only if the person has consulted an approved social worker) has effect as if for “only if the person has consulted an approved social worker.” there were substituted “only if—
- (a) the person has consulted an approved social worker, or
  - (b) the person considers that it is impractical or would involve undesirable delay to consult an approved social worker, the person has consulted a relevant social worker.”
- (2) A person who in relation to the person's proposal to make a report under paragraph 2 of Schedule 2—
- (a) is of the opinion referred to in paragraph 6(1)(b) of Schedule 2 (as inserted by sub-paragraph (1)), and
  - (b) is proposing to consult a relevant social worker in reliance on that paragraph, must inform P, and where practicable P's nominated person, of those facts.
- (3) A report by a person under paragraph 2 of Schedule 2 who has consulted in reliance on paragraph 6(1)(b) of that Schedule (as inserted by sub-paragraph (1)) must be accompanied by a written statement complying with sub-paragraphs (4) and (5).
- (4) The statement must specify—
- (a) that the person was of the opinion referred to in paragraph 6(1)(b) of Schedule 2 (as inserted by sub-paragraph (1)) and accordingly consulted a relevant social worker;
  - (b) that the person has informed P as referred to in sub-paragraph (2);
  - (c) whether the person has informed P's nominated person as referred to in sub-paragraph (2), and if not, the reasons why it was not practicable to do so.

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- (5) The statement must contain a summary of the views (if any) expressed by P and P's nominated person.
- (6) In this paragraph a “relevant social worker” means a person (other than an approved social worker), who—
- (a) is registered as a social worker in the principal part of the register maintained by the Northern Ireland Social Care Council under section 3 of the Health and Personal Social Services Act (Northern Ireland) 2001, and
  - (b) appears to the person proposing to make the report to have at least 5 years' experience within the 10 years immediately preceding the day on which the report is proposed to be made of working as a social worker in relation to persons who lack capacity; and for this purpose the period of 5 years need not be a single period, or continuous periods, of such experience.

**Commencement Information**

**I6** Sch. 11 para. 8 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

*Extension by panel of period of authorisation*

- 9 Paragraph 9(2) of Schedule 3 (time limit for panel's decision on application for extension of period of authorisation) has effect as if for “7 working days” there were substituted “28 working days”.

**Commencement Information**

**I7** Sch. 11 para. 9 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

*Additional notification requirements for panels*

- 10 Where a panel, during a period for which paragraph 3, 4, 5 or 9 has effect, operates in reliance on that paragraph, the panel must as soon as practicable after making the decision concerned give written notice of that fact to P and P's nominated person.

**Commencement Information**

**I8** Sch. 11 para. 10 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

PROSPECTIVE

*<sup>F1</sup>Period of detention in place of safety*

**Textual Amendments**

**F1** Sch. 11 Pt. 2 expires (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), [s. 89](#) (with [s. 90](#))

<sup>F1</sup>11

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PROSPECTIVE

*F1* *Periods of remand to hospital*

F112 .....

PROSPECTIVE

*F1* *Required medical evidence for court to be satisfied  
treatment condition is met in relation to remand to hospital*

F113 .....

PROSPECTIVE

*F1* *Required medical evidence for public protection orders,  
interim detention orders, determinations of question of fitness  
to be tried or findings of not guilty on ground of insanity*

F114 .....

PROSPECTIVE

*F1* *Required medical evidence for hospital directions*

F115 .....

PROSPECTIVE

*F1* *Extension reports in relation to public protection orders without restrictions*

F116 .....

PROSPECTIVE

*F1* *Required medical evidence for directions for the transfer of prisoners etc to hospital*

F117 .....

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PROSPECTIVE

*<sup>F1</sup>Admission of person subject to hospital transfer direction to hospital*

<sup>F1</sup>18

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*Code of practice*

- 19 (1) The Code of Practice for the time being published under section 288 is subject to the provisions of such further Code of Practice (“temporary Code”) as the Department of Health in Northern Ireland may prepare, as appropriate revise, and publish, for the guidance, in relation to a period for which a provision of this Schedule has effect, of such of the persons or bodies referred to in subsection (1) of that section as the Department considers appropriate on such matters as the Department considers appropriate.
- (2) Subsections (4) to (6) and (8) to (10) of section 288 apply to a temporary Code as they apply to a Code of Practice referred to in that section.
- (3) Section 288 does not otherwise apply to a temporary Code.

**Commencement Information**

**19** Sch. 11 para. 19 in force at 2.4.2020 by [S.R. 2020/58](#), [art. 2\(e\)](#)

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