

Status: This version of this contains provisions that are prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Paragraph 31 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

Amendments of Mental Health Order

PROSPECTIVE

31 After Article 63 insert—

“Treatment within Article 63: procedure where patient incapable of consenting

63A.—(1) Medical treatment to which Article 63 applies may be given to a patient under 16 if paragraphs (2) to (4) apply.

(2) This paragraph applies if a medical practitioner appointed for the purposes of this Part by RQIA (not being the responsible medical officer) has certified in the prescribed form—

- (a) that the patient is not capable of understanding the nature, purpose and likely effects of the treatment in question; and
- (b) that having regard to the likelihood of the treatment alleviating or preventing a deterioration of the patient's condition, the treatment should be given.

(3) This paragraph applies if two persons appointed for the purposes of this paragraph by RQIA (not being medical practitioners) have certified in the prescribed form that the patient is not capable of understanding the nature, purpose and likely effects of the treatment in question.

(4) This paragraph applies if—

- (a) an application is made to the court for an order authorising the giving of the treatment in question to the patient;
- (b) the application is made by the medical practitioner principally concerned with the patient's medical treatment (or, if there is more than one, any of them); and
- (c) the court makes an order authorising the giving of the treatment.

(5) Before giving a certificate under paragraph (2), the medical practitioner must consult—

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- (a) such person or persons as appear to the medical practitioner to be principally concerned with the patient's medical treatment; and
- (b) the independent advocate instructed to represent and provide support to the patient.

(6) A person appointed under paragraph (3) may at any reasonable time, for the purpose of exercising his or her functions under that paragraph, in private visit and interview any patient.

(7) A person who gives a certificate under this Article must immediately forward a copy of it to RQIA.

Electro-convulsive therapy etc

63B.—(1) This Article applies to the following forms of medical treatment for mental disorder—

- (a) electro-convulsive therapy; and
- (b) such other forms of treatment as may be prescribed for the purposes of this Article.

(2) Subject to Article 68 (urgent treatment), a patient must not be given any form of treatment to which this Article applies unless paragraph (3) or (4) applies.

(3) This paragraph applies if—

- (a) the patient has consented to the treatment in question; and
- (b) a medical practitioner appointed for the purposes of this Part by RQIA (not being the responsible medical officer) has certified in the prescribed form—
 - (i) that the patient is capable of understanding the nature, purpose and likely effects of the treatment in question and has consented to it; and
 - (ii) that having regard to the likelihood of the treatment alleviating or preventing a deterioration of the patient's condition, the treatment should be given.

(4) This paragraph applies if a medical practitioner appointed for the purposes of this Part by RQIA (not being the responsible medical officer) has certified in the prescribed form—

- (a) that the patient is not capable of understanding the nature, purpose and likely effects of the treatment in question; and
- (b) that having regard to the likelihood of the treatment alleviating or preventing a deterioration of the patient's condition, the treatment should be given.

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(5) Before giving a certificate under this Article, the medical practitioner must consult—

- (a) such person or persons as appear to the medical practitioner to be principally concerned with the patient's medical treatment; and
- (b) the independent advocate instructed to represent and provide support to the patient.

(6) A person who gives a certificate under this Article must immediately forward a copy of it to RQIA.

(7) Before making regulations for the purposes of this Article, the Department must consult such bodies as appear to it to be concerned.”.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)