
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART III

**PATIENTS CONCERNED IN CRIMINAL
PROCEEDINGS OR UNDER SENTENCE**

Remands to hospital

Remand to hospital for report on accused's mental condition

42.—(1) Subject to the provisions of this Article, the Crown Court or a court of summary jurisdiction may remand an accused person into the care of [^{F1}such authorised HSC trust as it may specify] for admission to hospital for a report on his mental condition.

(2) For the purposes of this Article an accused person is—

- (a) in relation to the Crown Court, any person who is awaiting trial before the court for an offence punishable with imprisonment or who has been arraigned before the court for such an offence and has not yet been sentenced or otherwise dealt with for the offence on which he has been arraigned;
- (b) in relation to a court of summary jurisdiction, any person who has been convicted by the court of an offence punishable on summary conviction with imprisonment and any person charged with such an offence if the court is satisfied that he did the act or made the omission charged or if he has consented to the exercise by the court of the powers conferred by this Article.

(3) Subject to paragraph (4), the powers conferred by this Article may be exercised if—

- (a) the court is satisfied, on the oral evidence of a medical practitioner appointed for the purposes of Part II by [^{F2}RQIA], that there is reason to suspect that the accused person is suffering from mental illness or severe mental impairment; and
- (b) the court is of the opinion that it would be impracticable for a report on his mental condition to be made if he were remanded on bail;

but those powers shall not be exercised by the Crown Court in respect of a person who has been convicted before the court if the sentence for the offence of which he has been convicted is fixed by law.

(4) The court shall not remand an accused person under this Article unless an opportunity has been given to [^{F3}the trust which it proposes to specify] to make representations to the court concerning the remand.

(5) Where a court has remanded an accused person under this Article, it may further remand him if it appears to the court, on the written or oral evidence of the medical practitioner responsible for making the report, that a further remand is necessary for completing the assessment of the accused person's mental condition.

Changes to legislation: The Mental Health (Northern Ireland) Order 1986, Section 42 is up to date with all changes known to be in force on or before 21 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

(6) The power of further remanding an accused person under this Article may be exercised by the court without his being brought before the court if he is represented by counsel or a solicitor and his counsel or solicitor is given an opportunity of being heard.

(7) An accused person shall not be remanded or further remanded under this Article for more than 28 days at a time [^{F4}or for more than 12 weeks in all]; and the court may at any time terminate the remand if it appears to the court that it is appropriate to do so.

(8) An accused person remanded under this Article shall be entitled to obtain at his own expense an independent report on his mental condition from a medical practitioner chosen by him and to apply to the court on the basis of it for his remand to be terminated under paragraph (7).

(9) Where an accused person is remanded under this Article—

- (a) it shall be the duty of [^{F5}the trust] to designate the hospital to which the accused person is to be admitted;
- (b) the court may, pending his admission to hospital, give directions for his conveyance to and detention in a place of safety;
- (c) a constable or any other person directed to do so by the court shall convey the accused person to the hospital designated by [^{F6}the trust] within the period of 7 days beginning with the date of the remand; and
- (d) [^{F7F8}... the authorised [^{F9}HSC trust] managing that hospital] shall admit him within that period and thereafter detain him in accordance with the provisions of this Article.

(10) If an accused person absconds from a hospital to which he has been remanded under this Article, or while being conveyed to or from that hospital, he may be arrested without warrant by any constable and shall, after being arrested, be brought as soon as practicable before the court that remanded him; and the court may thereupon terminate the remand and deal with him in any way in which it would have dealt with him if he had not been remanded under this Article.

- F1** Words in art. 42(1) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 77(2)**; S.R. 2022/102, art. 2(b)
- F2** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 8(1)** (subject to Sch. 6 para. 8(2)-(4)); S.R. 2009/114, **art. 2**
- F3** Words in art. 42(4) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 77(3)**; S.R. 2022/102, art. 2(b)
- F4** Words in art. 42(7) omitted (temp.) (2.4.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(2), **Sch. 10 para. 9** (with ss. 88-90, Sch. 10 paras. 2, 17); S.R. 2020/58, art. 2(c)
- F5** Words in art. 42(9)(a) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 77(4)**; S.R. 2022/102, art. 2(b)
- F6** Words in art. 42(9)(c) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 77(4)**; S.R. 2022/102, art. 2(b)
- F7** 1994 NI 2
- F8** Words in art. 42(9)(d) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 77(5)**; S.R. 2022/102, art. 2(b)
- F9** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

Modifications etc. (not altering text)

- C1** Art. 42(7) expiry of earlier affecting provision 2020 c. 7, Sch. 10 paras. 3-13 (25.3.2022) by Coronavirus Act 2020 (c. 7), **s. 89** (with s. 90)
- C2** Art. 42(9)(c) modified (temp.) (2.4.2020) by Coronavirus Act 2020 (c. 7), s. 87(2), **Sch. 10 para. 13(1)** (with ss. 88-90, Sch. 10 paras. 2, 18); S.R. 2020/58, art. 2(c)

C3 [Art. 42\(9\)\(c\)](#) expiry of earlier affecting provision 2020 c. 7, Sch. 10 paras. 3-13 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with s. 90)

Changes to legislation:

The Mental Health (Northern Ireland) Order 1986, Section 42 is up to date with all changes known to be in force on or before 21 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.

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

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

- Sch. 5 Pt. 2 repealed in part by [S.I. 2003/435 \(N.I.\) Sch. 5](#) (text not available on [Legislation.gov.uk](#))
- Sch.05 Pt. 1 rev. in pt. by [1995 c. 35 s. 29\(2\)Sch. 3](#)
- Sch. 5 Pt. 2 rev. in pt. by [1998 c. 47 s. 100\(2\)Sch. 15](#)
- art. 14A inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 10](#)
- art. 36(2)(za) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(3\)](#)
- art. 36(3)(e) and word inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(4\)\(d\)](#)
- art. 37(1)(za) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 23\(2\)\(a\)](#)
- art. 37(1A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 23\(3\)](#)
- art. 52 rev. by [1996 c. 46 s. 35\(2\)Sch.7 Pt. 3](#)
- art.52 rev. (DrosD,) by [1996 c. 46 s. 35\(2\)Sch.7 Pt.III](#)
- art. 63A63B inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 31](#)
- art. 67(2A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 35\(4\)](#)
- art. 83(4A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 48\(4\)](#)
- art. 120(4) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 59\(4\)](#)
- art. 133(2A) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 68\(4\)](#)