
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART IV

CONSENT TO TREATMENT

Modifications etc. (not altering text)

- C1** Pt. IV applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013](#) (S.R. 2013/22), regs. 1, **3(4)**, 4
- C2** Pt. IV applied (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012](#) (S.R. 2012/403), regs. 1, **3(4)**, 4

Patients to whom the provisions of this Part apply

62.—(1) Article 63 and, so far as relevant to that Article, Articles 65, 66 and 68 apply to all patients.

(2) The other provisions of this Part apply to any patient liable to be detained under this Order except—

- (a) a patient who is liable to be detained by virtue of Article 7(2) or (3)^[F1], 7A(2), 42, 129 or 130 or by virtue of directions under Article 46(4); and
- (b) a patient who has been conditionally discharged under Article 48(2), 78 or 79 and has not been recalled to hospital.

F1 SR 1994/66

Treatment requiring consent and a second opinion

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

- (a) any surgical operation for destroying brain tissue or for destroying the functioning of brain tissue; and
- (b) such other forms of treatment as may be prescribed for the purposes of this Article.

(2) Subject to Article 68, a patient shall not be given any form of treatment to which this Article applies unless he has consented to it and—

- (a) a medical practitioner appointed for the purposes of this Part by ^[F2]RQIA] (not being the responsible medical officer) and two other persons appointed for the purposes of this subparagraph by ^[F2]RQIA] (not being medical practitioners) have certified in the prescribed form that the patient is capable of understanding the nature, purpose and likely effects of the treatment in question and has consented to it; and

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- (b) the medical practitioner referred to in sub-paragraph (a) has certified in the prescribed form 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) Before giving a certificate under paragraph (2)(b) the medical practitioner concerned shall consult such person or persons as appear to him to be principally concerned with the patient's medical treatment.
- (4) A medical practitioner or other person appointed as is mentioned in paragraph (2)(a) may, for the purpose of exercising his functions under this Part or (as the case may be) paragraph (2)(a), at any reasonable time—
 - (a) in private visit and interview any patient; and
 - (b) in the case of a medical practitioner, examine any patient and require the production of and inspect any records relating to the treatment of the patient.
- (5) Where any person has given a certificate under paragraph (2)(a) or (b) he shall immediately forward a copy thereof to [F2RQIA] .
- (6) Before making any regulations for the purpose of this Article the Department shall consult such bodies as appear to it to be concerned.

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](#)

Treatment requiring consent or a second opinion

- 64.**—(1) This Article applies to the following forms of medical treatment for mental disorder—
- (a) such forms of treatment as may be prescribed for the purposes of this Article; and
 - (b) the administration of medicine to a patient by any means (not being a form of treatment prescribed under sub-paragraph (a) or Article 63) at any time during a period for which he is liable to be detained as a patient to whom this Article applies if [F3three months] or more have elapsed since the first occasion in that period when medicine was administered to him by any means for his mental disorder.
- (2) The Department may by order vary the length of the period mentioned in paragraph (1)(b).
- (3) Subject to Article 68, a patient shall not be given any form of treatment to which this Article applies unless—
- (a) he has consented to that treatment and either the responsible medical officer or a medical practitioner appointed for the purposes of this Part by [F4RQIA] has certified in the prescribed form that the patient is capable of understanding its nature, purpose and likely effects and has consented to it; or
 - (b) subject to paragraph (4), a medical practitioner appointed as aforesaid (not being the responsible medical officer) has certified in the prescribed form that the patient is not capable of understanding the nature, purpose and likely effects of that treatment or has not consented to it but that, having regard to the likelihood of its alleviating or preventing a deterioration of his condition, the treatment should be given.
- (4) In relation to any form of treatment mentioned in paragraph (1)(b), a certificate under paragraph (3)(b) may also be given by a medical practitioner appointed by [F4RQIA] for the purposes of Part II (not being the responsible medical officer).
- (5) Before giving a certificate under paragraph (3)(b) the medical practitioner concerned shall consult such person or persons as appear to him to be principally concerned with the patient's medical treatment.

(6) Where any person has given a certificate under paragraph (3)(a) or (b) he shall immediately forward a copy thereof to [F4RQIA] .

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

F3 Words in art. 64(1)(b) substituted (10.5.2021) by [The Mental Health \(1986 Order\) \(Amendment No. 2\) Order \(Northern Ireland\) 2021 \(S.R. 2021/101\)](#), arts. 1, 2

F4 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](#)

Plans of treatment

65. Any consent or certificate under Article 63 or 64 may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more of the forms of treatment to which that Article applies.

Withdrawal of consent

66.—(1) Where the consent of a patient to any treatment has been given for the purposes of Article 63 or 64, the patient may, subject to Article 68, at any time before the completion of treatment withdraw his consent, and those Articles shall then apply as if the remainder of the treatment were a separate form of treatment.

(2) Without prejudice to the application of paragraph (1) to any treatment given under a plan of treatment to which a patient has consented, a patient who has consented to such a plan may, subject to Article 68, at any time withdraw his consent to further treatment, or to further treatment of any description, under the plan.

Review of treatment

67.—(1) Where a patient is given treatment in accordance with Article 63(2) or 64(3)(b) a report on the treatment and the patient's condition shall be given by the responsible medical officer to [F5RQIA]—

(a) on the next occasion on which a report is furnished in respect of the patient under Article 13(2), (3) or (5); and

(b) at any other time if so required by [F5RQIA] .

(2) In relation to a patient who is subject to a restriction order or restriction direction paragraph (1) shall have effect as if sub-paragraph (a) required the report to be made—

(a) in the case of treatment in the period of six months beginning with the date of the order or direction, at the end of that period;

(b) in the case of treatment at any subsequent time, on the next occasion on which the responsible medical officer makes a report in respect of the patient under Article 47(5).

(3) [F5RQIA] may at any time give notice to the responsible medical officer directing that, subject to Article 68, a certificate given in respect of a patient under Article 63(2) or 64(3)(b) shall not apply to treatment given to him after a date specified in the notice and Articles 63 and 64 shall then apply to any such treatment as if that certificate had not been given.

F5 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](#)

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Urgent treatment

68.—(1) Articles 63 and 64 shall not apply to any treatment—

- (a) which is immediately necessary to save the patient's life; or
- (b) which (not being irreversible) is immediately necessary to prevent a serious deterioration of his condition; or
- (c) which (not being irreversible or hazardous) is immediately necessary to alleviate serious suffering by the patient; or
- (d) which (not being irreversible or hazardous) is immediately necessary and represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or to others.

(2) Articles 66 and 67(3) shall not preclude the continuation of any treatment or of treatment under any plan pending compliance with Article 63 or 64 if the responsible medical officer considers that the discontinuance of the treatment or of treatment under the plan would cause serious suffering to the patient.

(3) For the purposes of this Article treatment is irreversible if it has unfavourable irreversible physical or psychological consequences and hazardous if it entails significant physical hazard.

(4) Where a patient is given treatment under this Article the responsible medical officer shall immediately notify [^{F6}RQIA] as to—

- (a) the nature of the treatment given to the patient; and
- (b) where treatment is given under paragraph (1), which of sub-paragraphs (a) to (d) of that paragraph applied in relation to the patient.

<p>F6 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</p>
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Treatment not requiring consent

69. The consent of a patient shall not be required for any medical treatment given to him for the mental disorder from which he is suffering, not being treatment falling within Article 63 or 64, if the treatment is given by or under the direction of the responsible medical officer.

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Changes and effects yet to be applied to :

- [Pt. 4 heading words inserted by 2016 c. 18 \(N.I.\) Sch. 8 para. 28](#)

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\(4\)](#)