

2021 No. 98

MENTAL HEALTH

**The Coronavirus Act 2020 (Suspension) Order (Northern
Ireland) 2021**

Made - - - - - *15th April 2021*

Coming into operation - *10th May 2021*

The Department of Health^(a) makes the following Order in exercise of the powers conferred by section 88(1) and (5) of the Coronavirus Act 2020^(b).

The Department of Health is satisfied that the conditions specified in section 88(13) of that Act are satisfied in relation to the provisions suspended by this Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Coronavirus Act 2020 (Suspension) Order (Northern Ireland) 2021 and comes into force on 10th May 2021.

(2) In this Order “the 2020 Act” means the Coronavirus Act 2020.

Suspension of modifications of the Mental Health (Northern Ireland) Order 1986

2.—(1) The operation of the following provisions of the 2020 Act is suspended—

- (a) Part 2 of Schedule 10 (modifications of the Mental Health (Northern Ireland) Order 1986^(c));
- (b) section 10(3) (temporary modification of mental health and mental capacity legislation) so far as relating to Part 2 of Schedule 10;
- (c) Part 1 of Schedule 10 (introductory provision etc) so far as relating to Part 2 of Schedule 10.

(2) References in paragraph (1) to provisions of the 2020 Act are to those provisions as brought into operation again by the Coronavirus Act 2020 (Revival) Order (Northern Ireland) 2021.

Transitional provisions

3. The transitional provisions set out in the Schedule have effect.

(a) 2016 c. 5 (N.I.), s. 1(5)
(b) 2020 c. 7
(c) S.I. 1986/595 (N.I. 4)

Sealed with the Official Seal of the Department of Health on 15th April 2021.

(L.S.)

Mark Lee
A senior officer of the Department of Health.

SCHEDULE

Article 3

TRANSITIONAL PROVISIONS

1. Paragraph 1 of Schedule 10 to the 2020 Act (interpretation), so far as relating to Part 2 of that Schedule, continues to have effect so far as is necessary for the purposes of any provision of that Part which is to any extent continued in effect by the following provisions of this Schedule.

2. The suspension by this Order of paragraph 2 of Schedule 10 to the 2020 Act (prescribed forms) does not affect—

- (a) the requirement in sub-paragraph (b) of that paragraph so far as relating to a form used during the operative period, or
- (b) the continuing validity of any amendments made under that paragraph to a form used during the operative period.

3. The suspension by this Order of paragraphs 3 and 4 of Schedule 10 to the 2020 Act does not affect the continuing validity of an application for assessment made during the operative period in reliance on any provision of those paragraphs (whether the application was an application under paragraph 3(1) of Schedule 10 or an application under the 1986 Order).

4.—(1) In relation to any case where an application for assessment was made under paragraph 3(1) of Schedule 10 to the 2020 Act during the operative period, the following provisions of paragraph 3 of that Schedule continue to have effect—

- (a) sub-paragraph (2) (and so far as necessary for the interpretation of sub-paragraph (2), sub-paragraph (1));
- (b) sub-paragraphs (8) to (10).

(2) In paragraph 3(2) of Schedule 10 to the 2020 Act as continued in effect by this paragraph, the reference to the period allowed by Article 9 of the 1986 Order being “modified by paragraph 6” is subject to paragraph 16 of that Schedule (which continues the application of paragraph 6 but only in relation to periods already begun).

5. Paragraph 6(3) of Schedule 10 to the 2020 Act continues to have effect in relation to any case where the period mentioned in Article 9(4)(aa) of the 1986 Order (treated as inserted by paragraph 6(2) of Schedule 10 to the 2020 Act)—

- (a) has begun, but not ended, by the end of the operative period, and
- (b) accordingly continues to apply by virtue of paragraph 16 of Schedule 10.

6. Paragraph 8(6) and (7) of Schedule 10 to the 2020 Act (and paragraph 8(1) so far as necessary for the interpretation of paragraph 8(6) and (7)) continue to have effect in relation to any case where—

- (a) during the operative period a report in respect of a person was made under paragraph 8(1) to (5) of that Schedule, but
- (b) by the end of the operative period no report in respect of that person had been made under Article 12(1) of the 1986 Order in reliance on paragraph 8(6) and (7) of that Schedule.

7. Paragraph 8(7) of Schedule 10 to the 2020 Act (and paragraph 8(1) so far as necessary for the interpretation of paragraph 8(7)) also continues to have effect in relation to any case where during the operative period—

- (a) a report in respect of a person was made under paragraph 8(1) to (5) of that Schedule, and
- (b) a report in respect of that person was subsequently made under Article 12(1) of the 1986 Order in reliance on paragraph 8(6) and (7) of that Schedule.

8. The suspension by this Order of paragraphs 10 to 12 of Schedule 10 to the 2020 Act does not affect the continuing validity of anything done under the 1986 Order in reliance on any of those provisions during the operative period.

9. Where paragraph 18(1) of Schedule 10 to the 2020 Act applies in relation to a direction made during the operative period, the continuing validity of that direction is not affected by the suspension by this Order of paragraph 13(2) of Schedule 10 to the 2020 Act, but the direction is subject to paragraph 18(2) of that Schedule.

10. The suspension by this Order of paragraph 15 of Schedule 10 to the 2020 Act does not affect the continuing validity of any temporary Code under that paragraph in relation to any case to which a provision of that Schedule continues to apply (whether by virtue of this Schedule or Part 3 of Schedule 10 to the 2020 Act).

11. The provision made by this Schedule is without prejudice to section 16(1) of the Interpretation Act 1978(a) as applied by section 88(2) of the 2020 Act (and applies in addition to the transitional provision in Part 3 of Schedule 10 to the 2020 Act).

12. In this Schedule—

“the 1986 Order” means the Mental Health (Northern Ireland) Order 1986;

“the operative period” means the period—

- (a) beginning when the provisions suspended by Article 2 came into operation under the Coronavirus Act 2020 (Revival) Order (Northern Ireland) 2021; and
- (b) ending immediately before Article 2 comes into force.

(a) 1978 c. 30

EXPLANATORY NOTE

(This note is not part of the Order)

This Order suspends provisions in Part 2 (modifications of the Mental Health (Northern Ireland) Order 1986) of Schedule 10 to the Coronavirus Act 2020 (“the 2020 Act”).

Article 2 provides for the suspension of the operation of Part 2 of Schedule 10 to the 2020 Act and other specified provisions so far as relating to Part 2 of Schedule 10.

The relevant provisions of the 2020 Act were commenced by the Coronavirus Act 2020 (Commencement No.1) Order (Northern Ireland) 2020 on 2nd April 2020. They were suspended on 10th August 2020 pursuant to the Coronavirus Act 2020 (Suspension) Order (Northern Ireland) 2020 (“the Suspension Order”). The Suspension Order made transitional provision, continuing the effect of certain modifications made by those provisions which were suspended. The relevant provisions of the 2020 Act were revived by the Coronavirus Act 2020 (Revival) Order (Northern Ireland) 2021 on 18th January 2021.

The suspension of the provisions in Part 2 of Schedule 10 to the 2020 Act means that they no longer have effect but are capable of being brought back into effect by an order to revive the operation of a provision under section 88(3) of the 2020 Act.

Article 3 provides for the transitional provisions in the Schedule, making transitional provisions in connection with the suspension in Article 2.

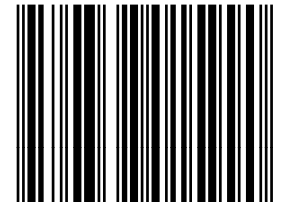
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