

SCHEDULES

SCHEDULE 10

Section 10

MENTAL HEALTH: NORTHERN IRELAND

PART 1

INTRODUCTORY PROVISION ETC

Interpretation

- 1 (1) In this Schedule—
- “the 1986 Order” means the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));
 - “the 1986 Regulations” means the Mental Health (Nurses, Guardianship, Consent to Treatment and Prescribed Forms) Regulations (Northern Ireland) 1986 (S.R. (N.I.) 1986 No. 174);
 - “the Department of Health” means the Department of Health in Northern Ireland;
 - an “RQIA practitioner” means a medical practitioner appointed for the purposes of Part 2 of the 1986 Order by RQIA.
- (2) In this Schedule—
- (a) references to Articles are to Articles of the 1986 Order;
 - (b) references to Forms are to the Forms set out in the Schedule to the 1986 Regulations.
- (3) Expressions used in this Schedule and in the 1986 Order have the meaning given in that Order.

Prescribed forms

- 2 Where any form prescribed for use in connection with a provision of the 1986 Order is inconsistent with a modification made by Part 2 of this Schedule, the form—
- (a) may, in connection with the provision as so modified, be used with appropriate amendments;
 - (b) is otherwise, for use in that connection, to be read with such amendments as are necessary to reflect the modification.

PART 2

MODIFICATIONS OF THE MENTAL HEALTH (NORTHERN IRELAND) ORDER 1986

Applications for compulsory admission to hospital for assessment

- 3 (1) An application for assessment may be made by a relevant social worker in accordance with Article 4 if the social worker is of the opinion that an application should be made but that it is impractical or would involve undesirable delay for the application to be made by an approved social worker.
- (2) A patient may be admitted to hospital for assessment and there detained for the period allowed by Article 9 (as modified by paragraph 6), in pursuance of such an application; and—
- (a) references in Part 2 of the 1986 Order to an application for admission for assessment made in accordance with Article 4, or duly completed or made under or in accordance with that Part, include an application for assessment duly completed or made by a relevant social worker in reliance on this paragraph; and
 - (b) in relation to such an application, references in the 1986 Order to “the applicant” include the relevant social worker who made the application.
- (3) A relevant social worker who is proposing to make an application in reliance on this paragraph must inform the patient, and where practicable the person (if any) appearing to the relevant social worker to be the nearest relative of the patient, that—
- (a) the application is being made in reliance on this paragraph, and
 - (b) the social worker is of the opinion referred to in sub-paragraph (1).
- (4) Article 5(2) (person making application must have personally seen patient not more than 2 days before date of application) has effect in relation to an application for assessment made during a period for which this sub-paragraph has effect (whether by an approved social worker or a relevant social worker) as if for “two days” there were substituted “five days”.
- (5) An application for assessment made by a relevant social worker in reliance on this paragraph must be accompanied by a written statement complying with sub-paragraphs (6) and (7).
- (6) The statement must specify—
- (a) that the application is being made in reliance on this paragraph,
 - (b) that the social worker is of the opinion referred to in sub-paragraph (1),
 - (c) that the social worker is registered in accordance with and has the experience required by this paragraph (see the definition of “relevant social worker” in sub-paragraph (10)),
 - (d) that the social worker has informed the patient in accordance with sub-paragraph (3), and
 - (e) whether the social worker has informed the person appearing to the social worker to be the nearest relative of the patient in accordance with sub-paragraph (3), and if not the reasons why it was not practicable to do so.
- (7) The statement must contain a summary of the views (if any) expressed by the patient and the person (if any) who was informed in accordance with sub-paragraph (3).

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- (8) Article 5 otherwise does not apply in relation to an application for assessment made in reliance on this paragraph.
- (9) Where an application for assessment is made by a relevant social worker in reliance on this paragraph, Form 2 has effect as if—
- (a) in the heading, for “an approved social worker” there were substituted “a relevant social worker”;
 - (b) for the sentence beginning “I am an officer of” there were substituted “I am a relevant social worker in accordance with paragraph 3 of Schedule 10 to the Coronavirus Act 2020.”;
 - (c) for the two sections headed “The following section should be completed if nearest relative consulted” and “The following section should be completed if nearest relative not consulted” there were substituted—

“I have informed [full name of patient], before making this application, as specified in the written statement by me which accompanies this application.

Delete either (a), (b) or (c) as appropriate

- (a) I have informed [name and address] who, to the best of my knowledge and belief, is the patient’s nearest relative, before making this application, as specified in that written statement.
OR
 - (b) I have informed [name and address] who I understand has been authorised by a county court to exercise the functions under the Order of the patient’s nearest relative, before making this application, as specified in that written statement.
OR
 - (c) It has not been practicable for me to inform the patient’s nearest relative, before making this application, as specified in that written statement.”.
- (10) In this paragraph, “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 \(c. 1 \(N.I.\)\)](#), and
 - (b) has at least 5 years’ experience of working as a social worker within the 10 years immediately preceding the day on which the application is made; and for this purpose the 5 years need not be a single period, or continuous periods, of such experience.

Medical recommendation

- 4 Article 6(a) (medical practitioner to have personally examined patient not more than 2 days before date on which signs medical recommendation) has effect in relation to an application for assessment made during a period for which this paragraph has effect (whether by an approved social worker or a relevant social worker) as if for “two days” there were substituted “five days”.

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Applications for compulsory admission for assessment in respect of patients already in hospital

- 5 (1) Article 7(2) (period for which patient can be detained following report by medical practitioner on staff of hospital) has effect in relation to any patient detained after the beginning of any period for which this sub-paragraph has effect as if for “48 hours” there were substituted “120 hours”.
- (2) Article 7(3) (period for which patient can be detained pending report by medical practitioner on staff of hospital) has effect in relation to any patient detained after the beginning of any period for which this sub-paragraph has effect as if for “6 hours” there were substituted “12 hours”.

The assessment period

- 6 (1) Article 9(1) (period within which patient admitted to hospital in pursuance of an application for assessment must be examined by a medical practitioner) has effect as if for “immediately after” there were substituted “as soon as practicable and not later than 12 hours after”.
- (2) Article 9(4) (period for which patient may be detained in hospital for assessment following report on examination under Article 9(1)) has effect —
- (a) as if for sub-paragraph (b) there were substituted—
- “(aa) where the report was furnished by any other medical practitioner, and the conditions in paragraph (4A) were satisfied, for a period not exceeding 120 hours from the time when the report was furnished;
- (b) where the report was furnished by any other medical practitioner, and any of the conditions in paragraph (4A) was not satisfied, for a period not exceeding 48 hours from when the report was furnished;”, and
- (b) as if after paragraph (4) there were inserted—
- “(4A) The conditions are that the medical practitioner—
- (a) had (at the date on which the examination of the patient in accordance with paragraph (1) was carried out) at least 5 years’ experience of working with mental health patients within the 10 years immediately preceding that date;
- (b) considered that it was impractical for the responsible medical practitioner or a medical practitioner appointed for the purposes of this Part by RQIA to carry out the examination under paragraph (1) before the end of the period of 48 hours from the date on which the report was furnished; and
- (c) furnished together with the report a written statement specifying that the practitioner—
- (i) had the experience referred to in sub-paragraph (a); and
- (ii) was of the opinion referred to in sub-paragraph (b).
- (4B) The 5 years’ experience referred to in sub-paragraph (4A)(a) need not be a single period, or continuous periods, of such experience.”

- (3) Article 9(5) (period within which patient must be examined by responsible medical officer where examination under Article 9(1) was not by that officer) has effect as if for “sub-paragraph (b) of paragraph (4)” there were substituted “sub-paragraph (aa) or (b) of paragraph (4)”.
- (4) Article 9(8) (further period for which patient may be detained for assessment where responsible medical officer furnishes report under Article 9(8)) has effect as if for “7 days” there were substituted “21 days”.

Rectification of applications, recommendations and reports

- 7 Article 11(1) (period within which application for assessment, medical recommendation or report furnished under Article 9 may be amended) has effect as if for “14 days” there were substituted “28 days”.

Detention for treatment

- 8 (1) A relevant medical practitioner may, during the period for which a patient is detained for assessment by virtue of Article 9(8) (as modified by paragraph 6(4)) (the “extended assessment period”)—
 - (a) examine a patient who is detained for assessment by virtue of Article 9(8), and
 - (b) furnish to the responsible authority a report of the examination, if the practitioner considers that it would be impractical for an RQIA practitioner to carry out the examination of the patient and furnish the report of that examination under Article 12(1) during that period.
- (2) For the purposes of sub-paragraph (1), sub-paragraphs (a) to (d) of Article 12(1) apply as if the reference in each to “his opinion” were a reference to the relevant medical practitioner’s opinion.
- (3) A report in reliance on this paragraph must be in the form prescribed under paragraph (1) of Article 12 for a report under that sub-paragraph (Form 10), but as if for the sentence beginning “I [full name and professional address of medical practitioner]” there were substituted—

“I [full name and professional address of medical practitioner], a relevant medical practitioner in accordance with paragraph 8 of Schedule 10 to the Coronavirus Act 2020, examined this patient on [date].”
- (4) Article 12(2) applies in relation to a report in reliance on this paragraph as it applies to a report under Article 12(1).
- (5) A report by a relevant medical practitioner in reliance on sub-paragraph (1) must be accompanied by a written statement by the practitioner specifying that—
 - (a) the practitioner is of the opinion referred to in sub-paragraph (1), and
 - (b) the practitioner has the experience required by this paragraph (see sub-paragraph (9)).
- (6) Where, before the end of the extended assessment period—
 - (a) an examination of a patient is carried out and a report is furnished in reliance on this paragraph, and

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- (b) the report is accompanied by a written statement in accordance with sub-paragraph (5),
the report is sufficient authority for the responsible authority to detain the patient in hospital for treatment for a period not exceeding 28 days from the end of the extended assessment period, pending an examination of the patient by an RQIA practitioner.
- (7) Where an RQIA practitioner examines the patient and furnishes a report of the examination under Article 12(1) before the end of the period of 28 days referred to in sub-paragraph (6), the report has the same effect as if the RQIA practitioner had examined the patient and furnished the report before the end of the extended assessment period.
- (8) The responsible authority must immediately forward to RQIA a copy of any report furnished to it in reliance on this paragraph.
- (9) In this paragraph, a “relevant medical practitioner” means a medical practitioner who—
 - (a) is not an RQIA practitioner, and
 - (b) has at least 5 years’ experience of working with mental health patients, of which at least one year’s experience must have been of working with patients who were detained for treatment.

Periods of remand to hospital

- 9 Article 42(7) (including as applied by Article 43(5)) (periods of remand of accused to hospital for report on mental condition or treatment) has effect as if the words “or for more than 12 weeks in all” were omitted.

Required medical evidence for remand to hospital, hospital or guardianship order, interim hospital order, determinations of question of fitness to be tried or finding of not guilty on ground of insanity

- 10 (1) A court may make an order, determination or direction under a provision listed in sub-paragraph (2) if the court—
- (a) is satisfied that complying with the requirement applying to that provision for the oral evidence of an RQIA practitioner and the written or oral evidence of one other medical practitioner is impractical or would involve undesirable delay, and
 - (b) is satisfied on the evidence of a single RQIA practitioner of the matters of which it would (but for this paragraph) have to be satisfied on the evidence of two practitioners as referred to in sub-paragraph (a),
- and any other conditions for the making of the order, determination or direction are met.
- (2) The provisions referred to in sub-paragraph (1) are—
- (a) Article 43(1) (order remanding accused person to hospital for treatment);
 - (b) Article 44(1)(a) or (b) (hospital order, or guardianship, in respect of convicted person);
 - (c) Article 45(1) (interim hospital order in respect of convicted person pending final hospital order or other disposal);
 - (d) Article 49 (determination of question of fitness of person to be tried on indictment);

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- (e) Article 50(1) (direction for recording of finding that person is not guilty of offence charged on indictment on ground of insanity).
- (3) Article 44(7) has effect as if—
 - (a) for “described by each of the practitioners” there were substituted “described by the practitioner”;
 - (b) for “whether or not he is also described by either of them” there were substituted “whether or not he is also described by the practitioner”.

Required medical evidence for hospital order in respect of certain other detained persons in their absence

- 11 A court may make an order under Article 57(5) (hospital order in respect of a detainee falling within Article 54(2)(a) in absence of detainee) if the court—
- (a) is satisfied that complying with the requirement under Article 57(6) for the oral evidence of two RQIA practitioners is impractical or would involve undesirable delay, and
 - (b) is satisfied on the evidence of a single RQIA practitioner of the matters of which it would (but for this paragraph) have to be satisfied on the evidence of two practitioners as referred to in sub-paragraph (a),
- and any other conditions for the making of the order are met.

Directions for the transfer of prisoners etc to hospital

- 12 (1) The Department of Justice in Northern Ireland may give a transfer direction under Article 53(1) (transfer of prisoners etc to hospital) if the Department—
- (a) is satisfied that complying with the requirement under that provision for written reports from at least two registered medical practitioners, one of whom is an RQIA practitioner, is impractical or would involve undesirable delay, and
 - (b) is satisfied of the matters mentioned in paragraphs (a) and (b) of that provision by a written report from a single RQIA medical practitioner,
- and any other conditions for the giving of the transfer direction are met.
- (2) Article 54(1) has effect as if for “satisfied by the same reports as are required” there were substituted “satisfied by the same report as is required”.

Conveyance of accused or convicted persons to hospital

- 13 (1) The following provisions have effect as if references to conveying or admitting a person to hospital within a specified period were references to doing so within that period or as soon as practicable after the end of that period—
- (a) Article 42(9)(c) (including as applied by Article 43(5)) (period within which accused person remanded to hospital for report on mental condition or treatment must be conveyed and admitted to hospital);
 - (b) Article 46(2) and (3) (period within which person in respect of whom hospital order or interim hospital order is made must be conveyed and admitted to hospital).
- (2) Article 46(4) has effect as if for “within the period of 28 days referred to in” there were substituted “in accordance with”.

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- (3) Article 53(2) (including as applied by Article 54(3)) (period within which person subject to transfer direction must be received into hospital) has effect as if for “14 days” there were substituted “28 days”.

Designation of, and admission of persons to, different hospitals in pursuance of hospital orders

- 14 (1) The Department of Health may designate a different hospital to that which it previously designated under—
- (a) Article 46(1) or (3)(a), or
 - (b) this sub-paragraph,
- where the Department considers that the conditions in sub-paragraph (2) are met.
- (2) Those conditions are—
- (a) that in all the circumstances it is impractical and would involve unreasonable delay for the person who is the subject of the hospital order or interim hospital order to be admitted to the hospital previously designated by it, and
 - (b) that it would be possible for the person to be admitted sooner to the different hospital.
- (3) The power in sub-paragraph (1)(b) may be exercised on more than one occasion where the Department of Health considers that to be expedient.
- (4) Where the Department of Health designates a hospital by virtue of sub-paragraph (1)—
- (a) the new designation takes the place of the previous designation;
 - (b) the references in Article 46(2) and (3) (as modified by paragraph 13(1)(b)) to conveying or admitting the person to hospital apply as regards the hospital specified in the new designation and as if the time limits for doing so begin with the date of that designation.

Code of practice

- 15 (1) The Code of Practice for the time being published under Article 111 is subject to the provisions of such further Code of Practice (“temporary Code”) as the Department of Health 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 medical practitioners, the Board, authorised HSC trusts, staff of hospitals and social workers in relation to admission of patients to hospitals.
- (2) The Department of Health must consult RQIA, and such other bodies as appear to it to be concerned, in relation to the preparation or revision by it of any such temporary Code.

PART 3

TRANSITIONAL PROVISION

- 16 Paragraph 5, 6, 7 or 13(3) continues to apply after the end of any period for which it has effect for the purposes of determining the length of any period which has begun before the end of that period.

- 17 Where, by virtue of paragraph 9, a person has been remanded under Article 42 or 43 for more than 12 weeks in all, the person may not be further remanded under that provision after the end of a period for which that paragraph has effect.
- 18 (1) Paragraph 13(1) or 14(4) continues to apply after the end of a period for which it has effect in relation to any order or direction made during that period, subject to sub-paragraph (2).
- (2) The constable or other person whose duty is modified by paragraph 13(1) or 14(4) (as the case may be) must in any event convey the person concerned to the requisite hospital before—
- (a) the end of the period specified in Article 42(9)(c) or Article 46(2) or (3), without the modification made by the provision concerned, or
 - (b) the end of the period of seven days beginning with the day on which the period referred to in sub-paragraph (1) ends,
- whichever is later.

PART 4

REVIEW OF OPERATION OF CERTAIN PROVISIONS OF THIS SCHEDULE

- 19 (1) Each HSC trust must maintain a record of each instance where—
- (a) an application for assessment is made in reliance on paragraph 3,
 - (b) a patient was detained for assessment in reliance on Article 9(4)(aa) or (b) (as substituted by paragraph 6(2)(a)), and
 - (c) a report is furnished in reliance on paragraph 8.
- (2) The HSC trust must prepare a report containing an evaluation by it of each such instance and its opinion as to whether the reliance—
- (a) by the relevant social worker on paragraph 3,
 - (b) by the medical practitioner on Article 9(4)(aa) or (b) (as substituted by paragraph 6(2)(a)), or
 - (c) by the relevant medical practitioner on paragraph 8,
- was appropriate.
- (3) The HSC trust must send the report under sub-paragraph (2) to the Department of Health no later than 56 days after the end of a period for which the paragraph of this Schedule in question has effect.