

SCHEDULES

SCHEDULE 6

Articles 37, 38(1)(b).

REMOVAL TO SUITABLE PREMISES OF PERSONS IN NEED OF CARE AND ATTENTION

1. Where an officer, being a social worker, of^[F1] the responsible authority]
 - (a) has reason to believe that, in the interests of any such person as is mentioned in Article 37^{F1} . . . , or for preventing injury to the health of, or serious nuisance to, other persons, it is necessary to remove such person from the premises in which he is residing;
 - (b) consults with—
 - (i) the medical practitioner (if any) providing^[F2] primary medical services] for such person under Part VI; and
 - (ii) a medical officer of the^[F1] responsible authority designated by that authority] in that behalf; and
 - (c) after such consultation, obtains from such medical officer a certificate to the effect that such removal is necessary;

that officer shall certify accordingly in writing to the ^[F3]responsible authority and that authority may thereupon, after serving on the nearest known relative (if any) in Northern Ireland of such person three clear days' notice of its intention to do so, apply to the court of summary jurisdiction having jurisdiction in the petty sessions district where the premises are situated for an order under paragraph 2.]

F1 1994 NI 2

F2 2004 NI 2

F3 1994 NI 2

2.—(1) Subject to sub-paragraph (2), on any such application the court may, if satisfied on oral evidence of the allegations in the certificate, order the removal of the person to whom the application relates, by such officer of the^[F4] responsible authority] as may be specified in the order, to a suitable hospital or other place in, or within convenient distance of, the area of that^[F4] authority], and his detention and maintenance therein.

(2) The court shall not order the removal of a person to any premises unless either the person managing the premises has been heard in the proceedings or three clear days' notice has been served on him of the intended application and of the time and place at which it is proposed to be made.

F4 1994 NI 2

3. An order under paragraph 2 may be made so as to authorise a person's detention for any period not exceeding three months, and the court may by order extend that period for such further period, not exceeding three months, as the court may determine.

4. An order under paragraph 2 may be varied by an order of the court so as to substitute for the place referred to in that paragraph such other suitable place in, or within convenient distance of,

Status: Point in time view as at 01/01/2006.

Changes to legislation: Health and Personal Social Services (Northern Ireland) Order 1972, SCHEDULE 6 is up to date with all changes known to be in force on or before 07 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)

the area of the^{F5} responsible authority] as the court may determine, so however that paragraph 2(2) shall apply, with the necessary modifications, to any proceedings under this paragraph.

F5 1994 NI 2

5. At any time after the expiration of six weeks from the making of an order under paragraph 2 or 3, an application may be made to the court by or on behalf of the person in respect of whom the order was made, and, on any such application, the court may, if in the circumstances it appears expedient to do so, revoke or vary the order.

6. An application under this Schedule shall not be entertained by the court unless, three clear days at least before the making of the application, notice of the intended application, and of the time and place at which it is proposed to be made, has been served—

- (a) where the application is for an order under paragraph 2 or 3, on the person in respect of whom the application is made;
- (b) where the application is for the revocation of such an order, on the officer of the^{F6} responsible authority].

F6 1994 NI 2

7. A person in respect of whom an application is made under this Schedule, and any person on whom a notice has been served under paragraph 1, shall have the right to be heard against such application and to be represented by counsel or a solicitor.

8. Where the premises in which a person is maintained under this Schedule are premises which are neither hospital accommodation^{F7} vested in the Department or an HSS trust] nor premises where accommodation is provided by, or by arrangement with, the Ministry under Article 15 or 36, the cost of his maintenance shall be borne by the^{F7} responsible authority].

F7 1994 NI 2

9. Any expenditure incurred by the^{F8} responsible authority] under paragraph 8 shall be recoverable by the^{F8} authority] from the person maintained or from any person who, for the purposes of this Order, is liable to maintain that person; and any expenditure incurred by virtue of this Schedule in connection with the maintenance of a person in premises where accommodation is provided under Article 15 or 36 shall be recoverable in like manner as expenditure incurred in providing such accommodation.

F8 1994 NI 2

10. Any person who wilfully disobeys, or obstructs the execution of, an order under paragraph 2 or 3 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F9} level 1 on the standard scale].

F9 1984 NI 3

11. In the exercise of its functions under this Schedule^{F10} the responsible authority] shall act in accordance with regulations and directions.

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F10 1994 NI 2

[^{F11}12. In this Schedule—

- (a) “responsible authority” means—
 - (i) in relation to a person who resides in the operational area of an HSS trust by which functions under this Schedule are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994, that HSS trust;
 - (ii) in relation to any other person, the Health and Social Services Board for the area in which that person resides;
- (b) references to the area of an HSS trust are references to its operational area.]

F11 1994 NI 2

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