
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Functions of nearest relative of patient

Appointment by county court of acting nearest relative

36.—(1) The county court may, upon application made in accordance with this Article in respect of a patient, by order direct that the functions under this Order of the nearest relative of the patient shall, during the continuance in force of the order, be exercisable by the applicant, or by any other person specified in the application, being a person who, in the opinion of the court, is a proper person to act as the patient's nearest relative and is willing to do so.

(2) An order under this Article may be made on the application of—

- (a) any relative of the patient;
- (b) any other person with whom the patient is residing (or, if the patient is then an in-patient in a hospital, was last residing before he was admitted); or
- (c) an approved social worker,

but in relation to an application made by an approved social worker paragraph (1) shall have effect as if for the words “the applicant” there were substituted the words “the responsible [F¹ authority]”.

(3) An application for an order under this Article may be made upon any of the following grounds—

- (a) that the patient has no nearest relative within the meaning of this Order, or that it is not reasonably practicable to ascertain whether he has such a relative, or who that relative is;
- (b) that the nearest relative of the patient is incapable of acting as such by reason of mental disorder or other illness;
- (c) that the nearest relative of the patient unreasonably objects to the making of an application for assessment or a guardianship application in respect of the patient; or
- (d) that the nearest relative of the patient has exercised without due regard to the welfare of the patient or the interests of the public his power to discharge the patient from hospital or guardianship under this Part, or is likely to do so.

(4) An order made on the ground specified in paragraph (3)(a) or (b) may specify a period for which it is to continue in force unless previously discharged under Article 37.

(5) While an order made under this Article is in force, the provisions of this Order (other than this Article, Article 37 and Article 71(5)) shall apply in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person having the functions of that relative and (without prejudice to Article 37) shall so apply notwithstanding that the person who was the patient's nearest relative when the order was made is no longer his nearest relative.

Changes to legislation: The Mental Health (Northern Ireland) Order 1986, Section 36 is up to date with all changes known to be in force on or before 19 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

F1 1994 NI 2

Modifications etc. (not altering text)

- C1** Art. 36 applied (with modifications) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(3)(ff)(i)(ii)**, 4
- C2** Art. 36 applied (with modifications.) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(3)(w)**, 4

Changes to legislation:

The Mental Health (Northern Ireland) Order 1986, Section 36 is up to date with all changes known to be in force on or before 19 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 :

- art. 36(1) words substituted by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(2\)](#)
- art. 36(3)(c) word repealed by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(4\)\(b\)Sch. 11](#)
- art. 36(3)(c) words repealed by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(4\)\(a\)Sch. 11](#)
- art. 36(3)(d) words repealed by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(4\)\(c\)Sch. 11](#)
- art. 36(4) words substituted by [2016 c. 18 \(N.I.\) Sch. 8 para. 22\(5\)](#)

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\(4\)](#)