
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART III

PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

Restriction orders

Powers of court to restrict discharge from hospital

47.—(1) Where—

- (a) a court makes a hospital order in respect of any person; and
- (b) it appears to the court, having regard to the nature of the offence, the antecedents of the person and the risk of his committing further offences if set at large, that it is necessary for the protection of the public from serious harm to do so,

the court may, subject to paragraphs (2) to (5), further order that the person shall be subject to the special restrictions set out in this Article, either without limit of time or during such period as may be specified in the order; and an order under this Article shall be known as “a restriction order”.

(2) The special restrictions applicable to a patient in respect of whom a restriction order is in force are as follows, that is to say—

- (a) none of the provisions of Part II relating to the duration, renewal and expiration of authority for the detention of patients shall apply, and the patient shall continue to be liable to be detained by virtue of the relevant hospital order until he is absolutely discharged under Article 48, 78, 79 or 80;
- (b) no application or reference shall be made to the Review Tribunal in respect of the patient under Articles 71 to 74;
- (c) the following powers shall be exercisable only with the consent of the Secretary of State, namely—
 - (i) power to grant leave of absence to the patient under Article 15;
 - (ii) power to transfer the patient under Article 28;

and if leave of absence is granted under Article 15 the power to recall the patient shall be vested in the Secretary of State as well as in the responsible medical officer;

(d) the power of the Secretary of State to recall the patient under Article 15 and the power to take the patient into custody and return him under Article 29 may be exercised at any time; and in relation to any such patient Article 46(6)(a) shall have effect as if it referred to Part II of Schedule 2 instead of Part I of that Schedule.

(3) A hospital order shall not cease to have effect under Article 46(7) if a restriction order in respect of the patient is in force at the material time.

Changes to legislation: *The Mental Health (Northern Ireland) Order 1986, Cross Heading: Restriction orders is up to date with all changes known to be in force on or before 06 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*

(4) Where a restriction order in respect of a patient ceases to have effect while the relevant hospital order continues in force, Article 46 and Part I of Schedule 2 shall apply to the patient as if he had been admitted to the hospital in which he is then liable to be detained in pursuance of a hospital order (without a restriction order) made on the date on which the restriction order ceased to have effect.

(5) While a person is subject to a restriction order the responsible medical officer shall at such intervals (not exceeding one year) as the Secretary of State may direct examine and report to the Secretary of State on that person; and every report shall contain such particulars as the Secretary of State may require.

Powers of Secretary of State in respect of patients subject to restriction orders

48.—(1) If the Secretary of State is satisfied that in the case of any patient a restriction order is no longer required for the protection of the public from serious harm he may direct that the patient shall cease to be subject to the special restrictions set out in Article 47(2); and where the Secretary of State so directs, the restriction order shall cease to have effect, and Article 47(4) shall have effect accordingly.

(2) At any time while a restriction order is in force in respect of a patient, the Secretary of State may, if he thinks fit, by warrant discharge the patient from hospital, either absolutely or subject to conditions; and where a patient is absolutely discharged under this paragraph, he shall thereupon cease to be liable to be detained by virtue of the relevant hospital order, and accordingly the restriction order shall cease to have effect.

(3) The Secretary of State may at any time during the continuance in force of a restriction order in respect of a patient who has been conditionally discharged under paragraph (2) by warrant recall the patient to such hospital as may be specified in the warrant; and thereupon—

- (a) if the hospital so specified is not the hospital from which the patient was conditionally discharged, sub-paragraph (b) of paragraph (2) of Article 46 shall have effect as if the hospital specified in the warrant were substituted for the hospital designated by [^{F1}the HSC trust] under sub-paragraph (a) of that paragraph; and
- (b) in any case, the patient shall be treated for the purposes of Article 29 as if he had absented himself without leave from the hospital specified in the warrant, and if the restriction order was made for a specified period, that period shall in any event be deemed not to have expired until the patient returns to hospital or is returned to hospital under that Article.

(4) If a restriction order in respect of a patient ceases to have effect after the patient has been conditionally discharged under paragraph (2), the patient shall, unless previously recalled under paragraph (3), be deemed to be absolutely discharged on the date when the order ceases to have effect, and accordingly shall cease to be liable to be detained by virtue of the relevant hospital order.

(5) The Secretary of State may, if satisfied that the attendance at any place in Northern Ireland of a patient who is subject to a restriction order is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place; and where a patient is directed under this paragraph to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place and while being taken back to the hospital in which he is liable to be detained.

<p>F1 Words in art. 48(3)(a) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), Sch. 1 para. 82; S.R. 2022/102, art. 2(b)</p>
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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\(4\)](#)