

---

STATUTORY INSTRUMENTS

---

**1986 No. 595**

**The Mental Health (Northern Ireland) Order 1986**

**PART VI**

**THE MENTAL HEALTH COMMISSION FOR NORTHERN IRELAND**

**[<sup>F1</sup> Duties of RQIA in relation to mental health**

**85.** RQIA shall exercise—

- (a) such functions under this Order as are transferred to it by section 25 of the Health and Social Care (Reform) Act (Northern Ireland) 2009, and
- (b) such other functions relating to or connected with mental health as the Department may by order prescribe.]

**Annotations:**

**F1** Art. 85 substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 8\(4\)](#); S.R. 2009/114, [art. 2](#)

***Functions of [<sup>F2</sup>RQIA]***

**86.**—(1) It shall be the duty of [<sup>F2</sup>RQIA] to keep under review the care and treatment of patients, including (without prejudice to the generality of the foregoing) the exercise of the powers and the discharge of the duties conferred or imposed by this Order.

(2) In the exercise of its functions under paragraph (1) it shall be the duty of [<sup>F2</sup>RQIA]—

- (a) to make inquiry into any case where it appears to [<sup>F2</sup>RQIA] that there may be ill-treatment, deficiency in care or treatment, or improper detention in hospital or reception into guardianship of any patient, or where the property of any patient may, by reason of his mental disorder, be exposed to loss or damage;
- (b) as often as [<sup>F2</sup>RQIA] thinks appropriate to visit and interview in private patients who are liable to be detained in hospital under this Order;
- (c) to bring to the attention of the Department, the Secretary of State,<sup>F3</sup> a Board, an [<sup>F4</sup>HSC trust] or the person] carrying on a private hospital,<sup>F5</sup> residential care home], voluntary home or nursing home the facts of any case in which in the opinion of [<sup>F2</sup>RQIA] it is desirable for the Department, the Secretary of State,<sup>F3</sup> the Board, the [<sup>F4</sup>HSC trust] or that person] to exercise any of their functions to secure the welfare of any patient by—
  - (i) preventing his ill-treatment;
  - (ii) remedying any deficiency in his care or treatment;
  - (iii) terminating his improper detention in hospital or reception into guardianship; or
  - (iv) preventing or redressing loss or damage to his property;

**Changes to legislation:** The Mental Health (Northern Ireland) Order 1986, PART VI is up to date with all changes known to be in force on or before 08 May 2018. 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)

- (d) to advise the Department, the Secretary of State, a Board<sup>[F3]</sup>, an <sup>[F4]</sup>HSC trust]] or any body established under a statutory provision on any matter arising out of this Order which has been referred to <sup>[F2]</sup>RQIA] by the Department, the Secretary of State, the Board<sup>[F3]</sup>, the <sup>[F4]</sup>HSC trust]] or the body, as the case may be;
- (e) to bring to the attention of the Department, the Secretary of State, a Board<sup>[F3]</sup>, an <sup>[F4]</sup>HSC trust]] or any other body or person any matter concerning the welfare of patients which <sup>[F2]</sup>RQIA] considers ought to be brought to their attention.
- (3) In the exercise of its functions under paragraph (1)<sup>[F2]</sup>RQIA] may—
- (a) where it thinks fit, refer to the Review Tribunal the case of any patient who is liable to be detained in hospital or subject to guardianship under this Order;
- (b) at any reasonable time visit, interview and medically examine in private any patient in a hospital, private hospital,<sup>[F5]</sup> residential care home], voluntary home or nursing home or any person subject to guardianship under this Order;
- (c) require the production of and inspect any records relating to the detention or treatment of any person who is or has been a patient in a hospital, private hospital,<sup>[F5]</sup> residential care home], voluntary home or nursing home or relating to any person who is or has been subject to guardianship under this Order.
- (4) Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972 shall have effect in relation to any inquiry under paragraph (2)(a) as it has effect in relation to any inquiry under Article 54 of that Order, but with the omission of paragraphs 1, 2 and 6 of that Schedule and the substitution for references to the person appointed to hold the inquiry of references to <sup>[F2]</sup>RQIA] .
- (5) It shall be the duty of any person carrying on a<sup>[F5]</sup> residential care home], a voluntary home or a nursing home and of the guardian of any person subject to guardianship under this Order to afford <sup>[F2]</sup>RQIA] all facilities necessary to enable it to carry out its functions in respect of any patient.
- (6) Where in the exercise of its functions under this Article <sup>[F2]</sup>RQIA] has advised any body or person on any matter or brought any case or matter to the attention of any body or person, <sup>[F2]</sup>RQIA] may by notice in writing addressed to that body or person require that body or person, within such reasonable period as <sup>[F2]</sup>RQIA] may specify in the notice, to provide to <sup>[F2]</sup>RQIA] such information concerning the steps taken or to be taken by that body or person in relation to that case or matter as <sup>[F2]</sup>RQIA] may so specify; and it shall be the duty of every body or person on whom a notice is served under this paragraph to comply with the requirements of that notice.
- (7) Paragraph (6) does not apply to the Review Tribunal.
- (8) In this Article “voluntary home” has the meaning assigned to it by<sup>[F6]</sup> Article 74 of the Children (Northern Ireland) Order 1995].

#### Annotations:

- F2** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 8(1)** (subject to [Sch. 6 para. 8\(2\)-\(4\)](#)); S.R. 2009/114, **art. 2**
- F3** 1994 NI 2
- F4** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, **art. 2**
- F5** 1992 NI 20
- F6** 1995 NI 2

#### Modifications etc. (not altering text)

- C1** [Art. 86](#) applied (with modifications.) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(6)**, 4

**Changes to legislation:** The Mental Health (Northern Ireland) Order 1986, PART VI is up to date with all changes known to be in force on or before 08 May 2018. 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)

**C2** Art. 86 applied (with modifications) (31.3.2013) by Mental Health (Private Hospitals) Regulations (Northern Ireland) 2012 (S.R. 2012/403), regs. 1, **3(6)(a)(i)(ii)**, 4

### **Exercise of functions of [F7RQIA]**

**87.**—(1) Subject to paragraphs (2) and (3), [F7RQIA] may appoint—

- (a) any member of [F7RQIA] or any committee of members of [F7RQIA] ;
- (b) any person, not being a member of [F7RQIA] ; or
- (c) any committee consisting of members of [F7RQIA] and persons who are not members;

to carry out any of the functions of [F7RQIA] .

(2) The power medically to examine a patient conferred by Article 86(3)(b) and the power conferred by Article 86(3)(c) shall be exercisable only by—

- (a) a member of [F7RQIA] who is a medical practitioner; or
- (b) a medical practitioner appointed by [F7RQIA] for that purpose.

(3) Any member of [F7RQIA] or committee or person appointed in pursuance of paragraph (1) shall exercise the functions so conferred in accordance with the directions of [F7RQIA] .

#### **Annotations:**

**F7** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 8(1)** (subject to Sch. 6 para. 8(2)-(4)); S.R. 2009/114, **art. 2**

### **Financial provisions**

**88.** <sup>F8</sup> .....

#### **Annotations:**

**F8** Art. 88 repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 33, 34(3), Sch. 6 para. 8(5), **Sch. 7**; S.R. 2009/114, **art. 2**

### **Accounts and audit**

**89.** <sup>F9</sup> .....

#### **Annotations:**

**F9** Art. 89 repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 33, 34(3), Sch. 6 para. 8(5), **Sch. 7**; S.R. 2009/114, **art. 2**

**Changes to legislation:**

The Mental Health (Northern Ireland) Order 1986, PART VI is up to date with all changes known to be in force on or before 08 May 2018. 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.

**Changes and effects yet to be applied to :**

- Pt. 6 repealed by [2016 c. 18 \(N.I.\) Sch. 8 para. 50 Sch. 11](#)

**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. 3 para. 7 inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 5](#)
- Sch. 5 Pt. 2 repealed in part by [S.I. 2003/435 \(N.I.\) Sch. 5](#) (text not available on Legislation.gov.uk)
- art. 3A-3D and cross-heading inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 4](#)
- 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. 63A 63B 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. 83(9) inserted by [2016 c. 18 \(N.I.\) Sch. 8 para. 48\(6\)](#)
- 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\(4\)](#)