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## STATUTORY INSTRUMENTS

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# 1986 No. 595

## The Mental Health (Northern Ireland) Order 1986

### PART X

#### OFFENCES

##### *Forgery, false statements, etc.*

**119.**—(1) Any person who without lawful authority or excuse has in his custody or under his control any document to which this paragraph applies which is, and which he knows or believes to be, false within the meaning of Part I of the Forgery and Counterfeiting Act 1981 shall be guilty of an offence.

(2) Any person who without lawful authority or excuse makes, or has in his custody or under his control, any document so closely resembling a document to which paragraph (1) applies as to be calculated to deceive shall be guilty of an offence.

(3) Paragraph (1) applies to any document purporting to be—

- (a) an application under Part II;
- (b) any recommendation or report under this Order; and
- (c) any other document required or authorised to be made for any of the purposes of this Order.

(4) Any person who—

- (a) wilfully makes a false entry or statement in any application, recommendation, report, record or other document required or authorised to be made for any of the purposes of this Order; or
- (b) with intent to deceive, makes use of any such entry or statement which he knows to be false,

shall be guilty of an offence.

(5) Any person guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

##### *Unlawful detention of patients*

**120.**—(1) Any person who knowingly receives and detains otherwise than in accordance with this Order a person suffering from mental disorder shall be guilty of an offence.

(2) Any person who exercises in relation to any patient any power of detention, or any other power conferred on him by or under this Order, after he has knowledge that the power has expired, shall be guilty of an offence.

(3) Any person guilty of an offence under this Article shall be liable—

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- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

***Ill-treatment of patients***

**121.**—(1) Any person who, being an officer on the staff of or otherwise employed in a hospital, private hospital or nursing home or being <sup>F1</sup>... <sup>F1</sup><sup>F2</sup>... a director of the [<sup>F3</sup>HSC trust] managing] a hospital, or a person carrying on a private hospital or nursing home—

- (a) ill-treats or wilfully neglects a patient for the time being receiving treatment for mental disorder as an in-patient in that hospital or nursing home; or
- (b) ill-treats or wilfully neglects, on the premises of which the hospital or nursing home forms part, a patient for the time being receiving such treatment there as an out-patient,

shall be guilty of an offence.

(2) Any individual who ill-treats or wilfully neglects a patient who is for the time being subject to his guardianship under this Order or otherwise in his custody or care (whether by virtue of any legal or moral obligation or otherwise) shall be guilty of an offence.

(3) Any person guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

<b>F1</b>	Words in art. 121(1) omitted (1.4.2022) by virtue of <a href="#">Health and Social Care Act (Northern Ireland) 2022 (c. 3)</a> , s. 8(1)(b), <a href="#">Sch. 1 para. 97</a> ; S.R. 2022/102, art. 2(b)
<b>F2</b>	1994 NI 2
<b>F3</b>	Words in Order substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1)</a> , ss. 32, 34(3), <a href="#">Sch. 6 para. 1(1)(d)</a> (with Sch. 6 para. 1(3)); S.R. 2009/114, <a href="#">art. 2</a>

***Protection of women suffering from severe mental handicap***

**122.** <sup>F4</sup> .....

<b>F4</b>	<a href="#">Art. 122</a> repealed (2.2.2009) by <a href="#">Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))</a> , arts. 1(3), 81, 83, <a href="#">Sch. 1 para. 17(a)</a> , <a href="#">Sch. 3</a> (with transitional and transitory provisions in <a href="#">Sch. 2 para. 1</a> ); S.R. 2008/510, <a href="#">art. 2</a>
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***Protection of patients***

**123.** <sup>F5</sup> .....

<b>F5</b>	<a href="#">Art. 123</a> repealed (2.2.2009) by <a href="#">Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))</a> , arts. 1(3), 81, 83, <a href="#">Sch. 1 para. 17(b)</a> , <a href="#">Sch. 3</a> (with transitional and transitory provisions in <a href="#">Sch. 2 para. 1</a> ); S.R. 2008/510, <a href="#">art. 2</a>
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### ***Assisting patients to absent themselves without leave***

**124.**—(1) Any person who induces or knowingly assists any other person—

- (a) being liable under this Order to be detained in a hospital, or being subject to guardianship under this Order, to absent himself without leave; or
- (b) being in legal custody by virtue of Article 131 to escape from such custody;

shall be guilty of an offence.

(2) Any person who knowingly harbours a patient who is absent without leave or is otherwise at large and liable to be retaken under this Order, or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody or returned to the hospital or other place where he ought to be, shall be guilty of an offence.

(3) Any person guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

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

- C1** Art. 124 applied (with modifications.) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/22\)](#), regs. 1, **3(8)**, 4
- C2** Art. 124 applied (with modifications) (31.3.2013) by [Mental Health \(Private Hospitals\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/403\)](#), regs. 1, **3(8)(a)(i)**, 4

### ***Obstruction***

**125.**—(1) Any person who without reasonable cause—

- (a) refuses to allow the inspection of any premises by a person authorised in that behalf by or under this Order;
- (b) refuses to allow the visiting, interviewing or examination of any person by a person so authorised;
- (c) refuses to produce for the inspection of any person so authorised any document or record the production of which is duly required by him; or
- (d) otherwise obstructs any such person in the exercise of his functions,

shall be guilty of an offence.

(2) Without prejudice to the generality of paragraph (1), any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private, shall be guilty of an offence.

(3) Any person guilty of an offence under this Article shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale, or to both.

### ***Consent for certain prosecutions***

**126.** No proceedings shall be instituted for an offence under Article 120, 121, 122 or 123 except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

**Changes to legislation:**

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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\(4\)](#)