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STATUTORY INSTRUMENTS

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**2004 No. 1272**

**The Mental Health (Amendment) (Northern Ireland) Order 2004**

**Title and commencement**

1.—(1) This Order may be cited as the Mental Health (Amendment) (Northern Ireland) Order 2004.

(2) This Order shall come into operation on the expiration of one week from the day on which it is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order “the principal Order” means the Mental Health (Northern Ireland) Order 1986 (NI 4).

**Amendment of Article 77(1) of the principal Order**

3. In Article 77 of the principal Order (power to discharge patients other than restricted patients) for paragraph (1) there shall be substituted—

“(1) Where application is made to the Review Tribunal by or in respect of a patient who is liable to be detained under this Order, the tribunal may in any case direct that the patient be discharged, and shall so direct if—

- (a) the tribunal is not satisfied that he is then suffering from mental illness or severe mental impairment or from either of those forms of mental disorder of a nature or degree which warrants his detention in hospital for medical treatment; or
- (b) the tribunal is not satisfied that his discharge would create a substantial likelihood of serious physical harm to himself or to other persons; or
- (c) in the case of an application by virtue of Article 71(4)(a) in respect of a report furnished under Article 14(4)(b), the tribunal is satisfied that he would, if discharged, receive proper care.”

**Amendment of Article 78 of the principal Order**

4. In Article 78 of the principal Order (power to discharge restricted patients subject to restriction orders) for paragraphs (1) and (2) there shall be substituted—

“(1) Where an application to the Review Tribunal is made by a restricted patient who is subject to a restriction order, or where the case of such a patient is referred to the tribunal, the tribunal shall direct the absolute discharge of the patient if—

- (a) the tribunal is not satisfied as mentioned in paragraph (1)(a) or (b) of Article 77; and
- (b) the tribunal is satisfied that it is not appropriate for the patient to remain liable to be recalled to hospital for further treatment.

- (2) Where in the case of any such patient as is mentioned in paragraph (1)—
- (a) sub-paragraph (a) of that paragraph applies; but
  - (b) sub-paragraph (b) of that paragraph does not apply,
- the tribunal shall direct the conditional discharge of the patient.” .

**Changes to legislation:**

There are currently no known outstanding effects for the The Mental Health (Amendment) (Northern Ireland) Order 2004.