
STATUTORY INSTRUMENTS

1986 No. 596**NORTHERN IRELAND****The Mental Health (Northern Ireland Consequential Amendments) Order 1986***Laid before Parliament in draft**Made - - - - - 26th March 1986**Coming into operation in accordance with Article 1(2)*

At the Court at Buckingham Palace, the 26th day of March 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 38(2) of the Northern Ireland Constitution Act 1973(a) as extended by paragraph 1(7) of Schedule 1 to the Northern Ireland Act 1974(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

Title, commencement and extent

1.—(1) This Order may be cited as the Mental Health (Northern Ireland Consequential Amendments) Order 1986.

(2) This Order shall come into operation on such day or days as may be appointed by order made under Article 1(2) of the Mental Health (Northern Ireland) Order 1986(c).

(a) 1973 c.36; section 38 was amended by paragraph 6 of Schedule 2 to the Northern Ireland Act 1982 (c.38).

(b) 1974 c.28.

(c) S.I. 1986/595 (NI 4). Provision is made by Article 1(2) and (3) of that Order for the coming into force of this Order.

(3) Article 2(2) to (15) of this Order extends to England and Wales and to Northern Ireland, Article 3(2) to (12), (14), (16) and (17) of this Order extends to Scotland and to Northern Ireland, Article 3(15) extends to Scotland only and the remaining provisions of this Order extend to the whole of the United Kingdom.

Amendment of the Mental Health Act 1983

2.—(1) The Mental Health Act 1983(a) shall have effect subject to the following provisions of this Article.

(2) In section 81(2) for the words “an order or direction” in the second place where they occur there shall be substituted the words “a restriction order or a restriction direction”.

(3) In section 81(4) for the words “for admission under section 12 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986”.

(4) In section 81(5) for paragraphs (a) and (b) there shall be substituted the words “he were detained for treatment under Part II of the Mental Health (Northern Ireland) Order 1986 by virtue of a report under Article 12(1) of that Order made on the date of his admission”.

(5) In section 81(7) for the words “the order or direction restricting his discharge” there shall be substituted the words “the restriction order or restriction direction” and for the words “the restriction order” there shall be substituted the words “the first-mentioned restriction order”.

(6) In section 81(8) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986”.

(7) In section 82(1) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986 (otherwise than by virtue of Article 42, 43 or 45 of that Order)”.

(8) In section 82(2) for the words “subsection (4)” there shall be substituted the words “subsections (4) and (4A)”, for the words “said Act of 1961” there shall be substituted the words “Mental Health (Northern Ireland) Order 1986” and for the words from “subject to an order” to the end there shall be substituted the words “subject to a restriction order or restriction direction under any enactment in that Order, as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in England and Wales.”.

(9) In section 82(3) for the words “said Act of 1961” there shall be substituted the words “Mental Health (Northern Ireland) Order 1986”.

(10) In section 82 for subsection (4) there shall be substituted the following subsections—

(a) 1983 c.20.

“(4) Where a person removed under this section was immediately before his removal liable to be detained for treatment by virtue of a report under Article 12(1) or 13 of the Mental Health (Northern Ireland) Order 1986, he shall be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for treatment made on the date of his admission.

(4A) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986, he shall be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for assessment made on the date of his admission.”.

(11) In section 82(5) for the words “said Act of 1961” there shall be substituted the words “Mental Health (Northern Ireland) Order 1986” and for the words “section 58(6) of that Act” there shall be substituted the words “Article 53(5) of that Order”.

(12) In section 82(6) for the words “an order or direction restricting his discharge, being an order or direction” there shall be substituted the words “a restriction order or restriction direction” and for the words “first-mentioned order or direction” there shall be substituted the words “first-mentioned restriction order or restriction direction”.

(13) In section 82(7) for the words “an order or direction restricting his discharge” there shall be substituted the words “a restriction order or restriction direction”.

(14) In section 86(1) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986”, for the words “an application under section 12 of the said Act of 1961” there shall be substituted the words “a report under Article 12(1) or 13 of that Order”, for the words “section 48 of the said Act of 1961” there shall be substituted the words “Article 44 of that Order” and for the words “the said Act of 1961” in the last place where they occur there shall be substituted the words “under that Order (other than under Article 42, 43 or 45 of that Order)”.

(15) In section 87(1) for the words “section 30 or section 108 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Article 29 or 132 of the Mental Health (Northern Ireland) Order 1986”, for the words “section 30 as applied by section 34 of the said Act of 1961” there shall be substituted the words “Article 29 as applied by Article 31 of the said Order” and for the words “said Act of 1961” in the last place where they occur there shall be substituted the words “said Order”.

(16) In section 88(3)(b) for the words “social worker within the meaning of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “approved social worker within the meaning of the Mental Health (Northern Ireland) Order 1986”.

(17) In section 110(1) for the words from “unless” to the end there shall be substituted the words “unless—

- (a) in Scotland, a curator bonis, tutor or judicial factor has been appointed for him; or

(b) in Northern Ireland, he is a patient in relation to whom powers have been exercised under Part VIII of the Mental Health (Northern Ireland) Order 1986, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order.”.

(18) In section 110(2) the words “or Northern Ireland” are hereby repealed and for the words “judicial factor, committee, receiver or guardian” there shall be substituted the words “or judicial factor”.

(19) In section 110 after subsection (2) there shall be inserted the following subsection—

“(2A) Part VIII of the Mental Health (Northern Ireland) Order 1986 shall apply in relation to the property and affairs in England and Wales of a patient in relation to whom powers have been exercised under that Part, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order as it applies in relation to his property and affairs in Northern Ireland unless he is a patient in relation to whom powers have been exercised under this Part of this Act, or a person as to whom powers are exercisable and have been exercised under section 98 above.”.

(20) In section 110(3) after the word “above” there shall be inserted the words “or Article 99(1)(e) of the Mental Health (Northern Ireland) Order 1986”.

Amendment of the Mental Health (Scotland) Act 1984

3.—(1) The Mental Health (Scotland) Act 1984(a) shall have effect subject to the following provisions of this Article.

(2) In section 80(2) for the words “an order or direction” in the last place where they occur there shall be substituted the words “a restriction order or a restriction direction”.

(3) In section 80(4) for paragraphs (a) and (b) there shall be substituted the words “he were detained for treatment under Part II of the Mental Health (Northern Ireland) Order 1986 by virtue of a report under Article 12(1) of that Order made on the date of his admission”.

(4) In section 80(6) for the words “the order or direction” there shall be substituted the words “the restriction order or restriction direction”.

(5) In section 80(7) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986”.

(6) In section 81(1) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986 (otherwise than by virtue of Article 42, 43 or 45 of that Order)”.

(7) In section 81(2) for the words “subsection (4)” there shall be substituted the words “subsections (4) and (4A)”, for the words “this Act” there shall be substituted the words “the Mental Health (Northern Ireland) Order 1986” and for the words “an order or direction under any enactment in the Mental Health

(a) 1984 c.36.

Act (Northern Ireland) 1961 restricting his discharge” there shall be substituted the words “a restriction order or restriction direction under that Order”.

(8) In section 81(3) for the words “this Act” there shall be substituted the words “the Mental Health (Northern Ireland) Order 1986”.

(9) In section 81 for subsection (4) there shall be substituted the following subsections—

“(4) Where a person removed under this section was immediately before his removal liable to be detained for treatment by virtue of a report under Article 12(1) or 13 of the Mental Health (Northern Ireland) Order 1986, he shall be treated on his admission to a hospital in Scotland as if he had been admitted thereto in pursuance of an application for admission forwarded to the managers of that hospital on the date of his admission.

(4A) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986, he shall be treated on his admission to a hospital in Scotland, as if he had been admitted thereto in pursuance of an emergency recommendation made on the date of his admission.”.

(10) In section 81(5) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986” and for the words “section 58(6) of that Act” there shall be substituted the words “Article 53(5) of that Order”.

(11) In section 81(6) for the words “an order or direction restricting his discharge, being an order or direction” there shall be substituted the words “a restriction order or restriction direction” and for the words “first-mentioned order or direction” there shall be substituted the words “first-mentioned restriction order or restriction direction”.

(12) In section 81(7) for the words “an order or direction restricting his discharge” there shall be substituted the words “a restriction order or restriction direction”.

(13) In section 84(3)(b) for the words “social worker within the meaning of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “approved social worker within the meaning of the Mental Health (Northern Ireland) Order 1986”.

(14) In section 85 for the words “section 30 or section 108 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Article 29 or 132 of the Mental Health (Northern Ireland) Order 1986”, for the words “section 30 as applied by section 34 of the said Act of 1961” there shall be substituted the words “Article 29 as applied by Article 31 of the said Order” and for the words “said Act of 1961” in the last place where they occur there shall be substituted the words “said Order”.

(15) In section 94(6) for the words “committee, receiver or any person having the powers of a receiver or guardian” where they twice occur there shall be substituted the words “receiver or controller or any person having the powers of a receiver or controller”.

(16) In section 95(1) for the words “a committee, receiver or guardian has been appointed for him in Northern Ireland” there shall be substituted the words “he is a patient in relation to whom powers have been exercised under Part VIII of the Mental Health (Northern Ireland) Order 1986, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order”.

(17) In section 95(2) for the words from the beginning to “person in Scotland” there shall be substituted the words “Part VIII of the Mental Health (Northern Ireland) Order 1986 shall apply in relation to the property and affairs in Scotland of a patient in relation to whom powers have been exercised under that Part, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order, as it applies in relation to his property and affairs in Northern Ireland”.

Amendment of the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957

4. In section 116(7)(a) of the Army Act 1955(b), section 116(7)(a) of the Air Force Act 1955(c) and section 71(6)(a) of the Naval Discipline Act 1957(d) for the words “section 57 of the Mental Health Act (Northern Ireland) 1961” and “Act (Northern Ireland) 1961” there shall be substituted respectively the words “Article 52 of the Mental Health (Northern Ireland) Order 1986” and “(Northern Ireland) Order 1986” and after the words “the Act” wherever they occur there shall be inserted the words “or Order”.

Amendment of the Criminal Justice Act 1967

5. In the Criminal Justice Act 1967(e)—

- (a) in section 72(1)(b) for the words “section 30 or 108 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Article 29, 45(6) or 132 of the Mental Health (Northern Ireland) Order 1986”;
- (b) in section 72(3) for the words “section 107 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Article 131 of the Mental Health (Northern Ireland) Order 1986” and for the words “1984 or 1961” there shall be substituted the words “or 1984 or the said Order of 1986”;
- (c) in section 72(4) in the definition of “convicted mental patient” for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986” and at the end there shall be added the words “or Article 45 of the Mental Health (Northern Ireland) Order 1986”;
- (d) in section 72(4) in the definition of “place of safety” for the words “Act of 1961” there shall be substituted the words “Order of 1986”.

(a) Added by Schedule 2 to the Criminal Procedure (Insanity) Act 1964 (c.84).

(b) 1955 c.18.

(c) 1955 c.19.

(d) 1957 c.53.

(e) 1967 c.80.

*Amendment of the Courts-Martial (Appeals) Act 1968***6.** In the Courts-Martial (Appeals) Act 1968(a)—

- (a) in sections 20(4), 25(4) and 43(4) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986”;
- (b) in section 23(1) for paragraph (c) there shall be substituted—
“(c) Article 52 of the Mental Health (Northern Ireland) Order 1986;”;
- (c) at the end of sections 23(2) and 25(4) there shall be added the words “or Order”;
- (d) in section 23(3) after the words “said Act” and “that Act” there shall be inserted the words “or Order”;
- (e) in Schedule 4 the entry relating to the Mental Health Act (Northern Ireland) 1961(b) is hereby repealed.

Amendment of the Reserve Forces Act 1980

7. In Schedule 2 to the Reserve Forces Act 1980(c) in paragraph 2(c) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986”.

Amendment of the British Nationality Act 1981

8. In paragraph 9 of Schedule 1 to the British Nationality Act 1981(d) in sub-paragraph (1)(b) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986”.

*Amendment of the Repatriation of Prisoners Act 1984***9.** In the Repatriation of Prisoners Act 1984(e)—

- (a) in section 2(6) for the words “section 48 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Article 44 of the Mental Health (Northern Ireland) Order 1986”, for the words “those sections” where they twice occur there shall be substituted the words “those provisions” and for the words “section 53 of the said Act of 1961” there shall be substituted the words “Article 47 of the said Order of 1986”;
- (b) in the Schedule, in paragraph 5(1) for the words “Act (Northern Ireland) 1961” there shall be substituted the words “(Northern Ireland) Order 1986” and for the words “either of those Acts” there shall be substituted the words “that Act or that Order”.

G. I. de Deney,
Clerk of the Privy Council.

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- (a) 1968 c.20.
 - (b) 1961 c.15 (N.I.).
 - (c) 1980 c.9.
 - (d) 1981 c.61.
 - (e) 1984 c.47.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes amendments to the law of England and Wales, Scotland, Northern Ireland or the United Kingdom as a whole which are consequential on the Mental Health (Northern Ireland) Order 1986. That Order repealed and re-enacted with amendments the Mental Health Act (Northern Ireland) 1961. This Order amends various statutory references to the Act of 1961 and makes other amendments to reflect changes in the law introduced by the Order of 1986.

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