

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act (Northern Ireland) 2016, SCHEDULE 10. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 10

Section 303(1).

Consequential amendments

Judicature (Northern Ireland) Act 1978 (c. 23)

1. In section 116(1) (fees) after “Enforcement of Judgments Office” insert “ or the Public Guardian ”.

2.—(1) In Schedule 1 (appeals to Supreme Court in certain criminal matters), paragraph 4 is amended as follows.

(2) In sub-paragraph (3)—

- (a) for the words from “the Mental Health” to “45)” substitute “ Part 10 of the Mental Capacity Act (Northern Ireland) 2016 (except an order under section 162 of that Act or an interim detention order within the meaning of Part 10 of that Act) ”;
- (b) for each “the said Order” substitute “ that Act ”;
- (c) for “renewal of authority for detention” substitute “ extension of the period of an order ”;
- (d) for “patients” substitute “ persons ”.

(3) In sub-paragraph (3A)—

- (a) for the words from the first “interim” to “1986” substitute “ interim detention order within the meaning of Part 10 of the Mental Capacity Act (Northern Ireland) 2016 ”;
- (b) in paragraph (b)—
 - (i) for “Part III of that Order” substitute “ Part 10 of that Act ”;
 - (ii) for “transfer direction together with a restriction direction” substitute “ direction under section 220 of that Act ”;
- (c) in paragraph (c) for the words from “paragraph (2)” to the end substitute “ section 178(6) of that Act (power of court to make public protection order in absence of person subject to an interim detention order) applies as if the defendant were still subject to an interim detention order. ”.

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Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

3.—(1) Section 7 (supplementary provisions as to retrial) is amended as follows.

(2) In subsection (3)—

- (a) for the words from “under Part III” to “of that Order” substitute “ under Part 10 of the Mental Capacity Act (except an order under section 162 of that Act or an interim detention order) ”;
- (b) in paragraph (b) for “the said Part III” substitute “ Part 10 of that Act ”.

(3) In subsection (3A)—

- (a) for the words from “remand” to “that Order” substitute “ remand under section 162 of the Mental Capacity Act or an interim detention order ”;
- (b) for “Part III of the Mental Health Order” substitute “ Part 10 of that Act ”;
- (c) for “transfer direction together with a restriction direction” substitute “ direction under section 220 of that Act ”.

4. In section 10(5) (appeals against interim hospital orders) for “interim hospital order under Article 45 of the Mental Health Order” substitute “ interim detention order ”.

5. In section 11 (appeal against conviction: substitution of finding of insanity etc) for each “Article 50A(2) of the Mental Health Order” substitute “ section 207(2) of the Mental Capacity Act ”.

6. In section 12(1) (appeal against finding of not guilty on ground of insanity) for “Article 50(1) of the Mental Health Order” substitute “ section 206 of the Mental Capacity Act ”.

7.—(1) Section 13 (disposal of appeal allowed under section 12) is amended as follows.

(2) In subsection (5A) for “Article 50A(2) of the Mental Health Order” substitute “ section 207(2) of the Mental Capacity Act ”.

(3) Omit subsection (6).

8.—(1) Section 13A (appeal against finding of unfitness to be tried) is amended as follows.

(2) In subsection (1) for “Article 49 of the Mental Health Order” substitute “ section 204 of the Mental Capacity Act ”.

(3) In subsection (6) for “the Mental Health Order” substitute “ Part 10 of the Mental Capacity Act ”.

(4) In subsection (7)—

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- (a) for “the Mental Health Order, Part III of that Order” substitute “ Part 10 of the Mental Capacity Act, that Part ”;
- (b) for “transfer direction together with a restriction direction” substitute “ direction under section 220 of that Act ”.

9.—(1) Section 29A (effect of interim hospital orders) is amended as follows.

(2) In subsection (1) for each “interim hospital order” substitute “ interim detention order ”.

(3) In subsection (2) for “Article 45(6) of the Mental Health Order” substitute “ section 178(7) of the Mental Capacity Act ”.

10.—(1) Section 30(1) (interpretation of Part 1) is amended as follows.

(2) In the definition of “sentence” at the end insert “ , and any hospital direction under Part 10 of the Mental Capacity Act ”.

(3) After “any such order or recommendation” insert “ or direction ”.

11.—(1) Section 36 (detention of defendant pending appeal by the Crown) is amended as follows.

(2) In subsection (3)—

- (a) for “the Mental Health Order (otherwise than under Article 42, 43 or 45 of that Order)” substitute “ Part 10 of the Mental Capacity Act (except an order under section 162 of that Act or an interim detention order) ”;
- (b) for the second “that Order” substitute “ that Act ”;
- (c) for “renewal of authority for detention” substitute “ extension of the period of an order ”;
- (d) for “patients” substitute “ persons ”.

(3) In subsection (3A)—

- (a) for the words from “Article 43” to “Article 45 of that Order” substitute “ section 162 of the Mental Capacity Act or an interim detention order ”;
- (b) in paragraph (b)—
 - (i) for “Part III of the Mental Health Order” substitute “ Part 10 of that Act ”;
 - (ii) for “transfer direction together with a restriction direction” substitute “ direction under section 220 of that Act ”;
- (c) in paragraph (c)—
 - (i) for the first “interim hospital order” substitute “ interim detention order ”;
 - (ii) for the words from “paragraph (2)” to the end substitute “ section 178(6) of that Act (power of court to make public protection

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order in absence of person subject to an interim detention order) applies as if the defendant were still subject to an interim detention order.”.

12. In section 45(3ZA) (powers of court exercisable by single judge) for “interim hospital order” substitute “ interim detention order ”.

13.—(1) Section 50 (interpretation) is amended as follows.

(2) In subsection (1) insert at the appropriate places—

“interim detention order” has the meaning given by section 177 of the Mental Capacity Act;”;

““the Mental Capacity Act” means the Mental Capacity Act (Northern Ireland) 2016;”.

(3) Omit subsection (1A).

14. Omit Schedule 2 (consequences and effect of order under section 13(6) for detention in hospital).

County Courts (Northern Ireland) Order 1980 (NI 3)

15.—(1) Article 28 (appeals and applications to county courts) is amended as follows.

(2) In paragraph (3A) for “interim hospital order under the Mental Health (Northern Ireland) Order 1986” substitute “ interim detention order under Part 10 of the Mental Capacity Act (Northern Ireland) 2016 ”.

(3) In paragraph (3B)—

(a) for “an interim hospital order under the powers referred to in paragraph (3)” substitute “ an interim detention order under Part 10 of that Act ”;

(b) for “Article 45(6) of the said Order of 1986” substitute “ section 178(7) of that Act ”.

(4) In paragraph (4) at the end insert “ (and “sentence” includes a hospital direction under Part 10 of the Mental Capacity Act (Northern Ireland) 2016) ”.

Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

16. In Article 140 (appeals against conviction, sentence etc) after paragraph (2) insert—

“(2ZA) In paragraph (1) “sentence” also includes a hospital direction under Part 10 of the Mental Capacity Act (Northern Ireland) 2016.”.

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