
STATUTORY INSTRUMENTS

1986 No. 595

The Mental Health (Northern Ireland) Order 1986

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Guardianship

Transfer of guardianship on death, incapacity, etc. of guardian

25.—(1) If any person^[F1] (other than ^{F2}... an authorised [^{F3}HSC trust]) having the guardianship of a patient received into guardianship under this Part—

- (a) dies; or
- (b) gives notice in writing to the responsible^[F1] authority] that he desires to relinquish the functions of guardian,

the guardianship of the patient shall thereupon vest in the responsible^[F1] authority], but without prejudice to any power to transfer the patient into the guardianship of another person by virtue of Article 28.

(2) If any such person, not having given notice under paragraph (1)(b), is incapacitated by illness or any other cause from performing the functions of guardian of the patient, those functions may, during his incapacity, be performed on his behalf by the responsible^[F1] authority] or by any other person approved for the purpose by that^[F1] authority].

(3) If it appears to a county court, upon application made by an officer of the responsible^[F1] authority], that any person^[F1] (other than ^{F2}... an authorised [^{F3}HSC trust]) having the guardianship of a patient received into guardianship under this Part has performed his functions negligently or in a manner contrary to the interests of the welfare of the patient, the court may order that the guardianship of the patient be transferred to the responsible^[F1] authority] or to any other person approved for the purpose by that^[F1] authority].

(4) Where the guardianship of a patient is transferred to^[F1] the responsible authority or any] other person by or under this Article, Article 28(6) shall apply as if the patient had been transferred into the guardianship of that^[F1] authority] or person by virtue of that Article.

(5) The responsible^[F1] authority] shall immediately notify [^{F4}RQIA] of the transfer of guardianship of a patient by or under this Article.

F1 1994 NI 2

F2 Words in art. 25 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 72](#); S.R. 2022/102, art. 2(b)

F3 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](#)

Changes to legislation: The Mental Health (Northern Ireland) Order 1986, Section 25 is up to date with all changes known to be in force on or before 21 April 2024. 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) View outstanding changes

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. 8(1)** (subject to Sch. 6 para. 8(2)-(4)); S.R. 2009/114, **art. 2**

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Changes and effects yet to be applied to :

- [art. 18-26 repealed by 2016 c. 18 \(N.I.\) Sch. 8 para. 11](#)[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. 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\(4\)](#)