STATUTORY RULES OF NORTHERN IRELAND

2019 No. 190 (C. 6)

MENTAL CAPACITY

The Mental Capacity (2016 Act) (Commencement No. 1) (Amendment) Order (Northern Ireland) 2019

Made - - - - 27th September 2019

The Department of Health(**1**), in exercise of the powers conferred by section 307 of the Mental Capacity Act (Northern Ireland) 2016(**2**), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Mental Capacity (2016 Act) (Commencement No. 1) (Amendment) Order (Northern Ireland) 2019.

(2) In this Order "the principal Order" means the Mental Capacity (2016 Act) (Commencement No. 1) Order (Northern Ireland) 2019(**3**).

Amendments of the principal Order

2.—(1) The principal Order is amended as follows.

(2) For Article 2 there shall be substituted—

"**Appointed days for provisions coming into operation**

2.—(1) The day appointed for the coming into operation of the provisions of the Act specified in Part 1 of the Schedule, in so far as it relates to an act that is research, is 1st October 2019.

(2) The day appointed for the coming into operation of the provisions of the Act specified in Part 2 of the Schedule for all purposes is 2nd December 2019.

(3) The day appointed for the coming into operation of the provisions of the Act specified in Part 3 of the Schedule, in so far as it relates to an act that is a deprivation of liberty, offences or section 276 (power to make regulations about dealing with money and valuables), is 2nd December 2019.

(**1**) 2016 c.5 (NI), s. 1(5)
(**2**) 2016 c. 18 (NI)
(**3**) S.R. 2019 No. 163 (C. 5)

(4) The day appointed for the coming into operation of the provisions of the Act specified in Part 4 of the Schedule, in so far as it relates to an act that is a deprivation of liberty, is 2nd December 2019.

(5) The day appointed for coming into operation of the provisions of the Act specified in Part 5 of the Schedule, in so far as it relates to an act that is a deprivation of liberty, is 2nd December 2020."

(3) For the Schedule there shall be substituted—

"SCHEDULE Article 2

PART 1

Provisions coming into operation on 1st October 2019 in so far as it relates to an act that is research

Provisions of the Act	*Subject Matter*
Sections 1 to 8	Principles, including capacity assessment and best interests
Sections 132 to 138	Research

PART 2

Provisions coming into operation on 2nd December 2019 for all purposes

Provisions of the Act	*Subject Matter*
Section 266(1)(c) and Schedule 8 paragraphs 1, 2, 3(1), (2), (3) but omit after "(Northern Ireland) 2016" and (9), 4 but omit until "In-patients under 16: duties of hospital managers", 38, 39, 47, 48(1), (2), (5) and (6), and 71".	Amendments to the Mental Health (Northern Ireland) Order 1986 to allow for a functioning Review Tribunal and to provide a duty on hospital managers in relation to age appropriate accommodation
Section 274	The Review Tribunal - renaming
Section 276	Money and valuables
Section 303(2) and Schedule 11 in so far as it relates to Article 83 of, and Schedule 3 paragraph 4(1) and 5 to, the Mental Health (Northern Ireland) Order 1986	Repeals of parts of the Mental Health (Northern Ireland) Order 1986

PART 3

Provisions coming into operation on 2nd December 2019 in so far as it relates to an act that is a deprivation of liberty, offences or section 276 (power to make regulations about dealing with money and valuables)

Provisions of the Act	*Subject Matter*
Sections 1 to 8	Principles, including capacity assessment and best interests

PART 4

Provisions coming into operation on 2nd December 2019 in so far as it relates to an act that is a deprivation of liberty

Provisions of the Act	*Subject Matter*
Section 9(1) to (3)	Protection from liability - general
Section 9(4)(b)	Protection from liability – additional safeguards
In section 9(4)(d) "sections" and "24,26"	Protection from liability – additional safeguards
Section 9(5) and (6)	Protection from liability – help and support and parents
Section 10(1)	Limitations of section 9
Sections 13 to 15	Additional safeguards – formal assessment of capacity and nominated persons
Section 24	Deprivation of liberty – additional safeguards
Section 25 and Schedule 1 paragraphs 1, 2(1), 2(2)(b), 2(3), 2(4)(b), 3, 5 to 8, 10, 13 to 16, 19, 20 and 22 to 27 and Schedule 2	Deprivation of liberty – additional safeguards
Sections 26 and 27	Deprivation of liberty – additional safeguards
Sections 37 to 39	Extensions of authorisation
Section 40 and Schedule 3 paragraphs 1, 2(1), 2(2), 2(3)(a), 3 to 9	Extension of authorisation
Section 41(1), (2)(b), (3) and (4)	Extensions of authorisation
Section 42	Extensions of authorisation
Section 43(1) to (6) and (7)(a)	Extensions of authorisation
Section 44	Extensions of authorisation
Section 45(1) to (3)	Review Tribunal applications
Section 45(4) but omitting "section 29(4) or 32(4) or"	Review Tribunal applications
Sections 46 to 48	Review Tribunal applications
Section 50(1)(a), (b) but omitting "or (d)", (c), (2) and (3)	References to the Tribunal
Section 51(1) to (3), (4)(b) and (5)	Review Tribunal powers
Sections 52 and 53	Review Tribunal powers
Section 54	Medical reports and nominated person
Section 56(1), (2)(a), (3) and (4)	Medical reports and emergency situations
Sections 57 to 59	Provisions of information and other supplementary provisions
Section 60(1) and (2)(d)	Acts where Part 2 is not applicable
Sections 61 and 62	Power to make further provisions and disregard