STATUTORY RULES OF NORTHERN IRELAND

2019 No. 163 (C. 5)

MENTAL CAPACITY

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

Made - - - - 29th August 2019

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

Citation and interpretation

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

(2) In this Order—

"the 1986 Order" means the Mental Health (Northern Ireland) Order 1986;

"the Act" means the Mental Capacity Act (Northern Ireland) 2016;

"an act" is an act that requires the protection of liability in accordance with section 9 of the Act;

"deprivation of liberty" has the same meaning as in the Act subject to the conditions in Article 3;

"offences" means the offences found in sections 267 to 270 and 272 to 273 of the Act; and

"research" means research under sections 132 to 138 of the Act.

Appointed days for provisions coming into force

2.—(1) The day appointed for the coming into operation of the provisions of the Act specified in Part 1 of the Schedule for all purposes 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, in so far as it relates to an act that is a deprivation of liberty, research, offences or section 276 (power to make regulations about dealing with money and valuables), is 1st October 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, is 1st October 2019.

(**1**) 2016 c. 18 (NI)

(4) The day appointed for 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 1st October 2020.

Limitations to commencement

3. The provisions of the Act that are included in the Schedule and which are commenced by Article 2 of this Order do not apply in any circumstances in which a deprivation of liberty may instead be authorised by virtue of the provisions contained in Part 2 or Part 3 of the Mental Health (Northern Ireland) Order 1986.

Transitional provisions

4. Until the coming into operation of section 265 of the Act, the duty on hospital managers which appears at Article 3D "In-patients under 16: duties of hospital managers", which is to be inserted into the Mental Health (NI) Order 1986 by section 266 of and Schedule 8 paragraph 4 to the Act shall apply to in-patients under 18 and the heading at Article 3D shall instead be construed as "In-patients under 18 – duties of hospital managers".

Sealed with the Official Seal of the Department of Health on 29th August 2019.

L.S.

Mark Lee
A senior officer of the Department of Health.

SCHEDULE Article 2

PART 1

Provisions coming into operation on 1st October 2019 for all purposes

Provisions of the Act	*Subject Matter*
Sections 132 to 138	Research
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 2

Provisions coming into operation on 1st October 2019 in so far as it relates to an act that is a deprivation of liberty, research, 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 3

Provisions coming into operation on 1st October 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