Changes to legislation: *The Access to Health Records (Northern Ireland) Order 1993 is up to date with all changes known to be in force on or before 16 July 2019. 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*

STATUTORY INSTRUMENTS

1993 No. 1250 (N.I. 4)

The Access to Health Records (Northern Ireland) Order 1993

- - - - - - *12th May 1993*

Introductory

Title and commencement

1.—(1) This Order may be cited as the Access to Health Records (Northern Ireland) Order 1993.

(2) This Order shall come into operation on such day as the Head of the Department may by order appoint[F1].

F1 fully excercised SR 1994/151

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"application" means an application in writing and "apply" shall be construed accordingly;

"care" includes examination, investigation, diagnosis and treatment;

Definition rep. with saving by 1998 c. 29

"the Department" means the Department of Health and Social Services;

[[F3]"general medical services contract" means a contract under Article 57 of the Health and Personal Social Services (Northern Ireland) Order 1972;**]**

Definition rep. by 2004 NI 2

"Health and Social Services Board" means a board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972;

"health service body" means—

(a) a Health and Social Services Board;

(b) a special health and **[**[F4]social care**]** agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990[F5]; or

(c) a **[**[F6]Health and Social Care trust**]** established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991[F7];

"information", in relation to a health record, includes any expression of opinion about the patient;

"make", in relation to such a record, includes compile;

Definition rep. with saving by 1998 c. 29

F2 1954 c. 33 (NI)
F3 2004 NI 2
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. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**
F5 1990 NI 3
F6 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)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
F7 1991 NI 1

Main provisions

"Health record" and related expressions

3.—(1) In this Order "health record" means a record which—

(a) consists of information relating to the physical or mental health of an individual who can be identified from that information, or from that and other information in the possession of the holder of the record; and

(b) has been made by or on behalf of a health professional in connection with the care of that individual;

F8 . . .

(2) In this Order "holder", in relation to a health record, means—

[F9(a) in the case of a record made by a health professional performing primary medical services under a general medical services contract made with a Health and Social Services Board, the person or body who entered into the contract with the Board (or, in a case where more than one person so entered into the contract, any such person);

(aa) in the case of a record made by a health professional performing such services in accordance with arrangements under Article 15B of the Health and Personal Social Services (Northern Ireland) Order 1972 with a Health and Social Services Board, the person or body which made the arrangements with the Board (or, in a case where more than one person so made the arrangements, any such person);**]**

(b) in the case of a record made by a health professional for purposes connected with the provision of **[**F10health care**]** by a health service body**[**F9 (and not falling within sub-paragraph (aa))**]**, the health service body by which or on whose behalf the record is held;

(c) in any other case, the health professional by whom or on whose behalf the record is held.

(3) In this Order "patient", in relation to a health record, means the individual in connection with whose care the record has been made.

F8 with saving 1998 c. 29
F9 2004 NI 2
F10 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)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

Health professionals

4.—**[**F11(1) In this Order, "health professional" has the same meaning as in the Data Protection Act 2018 (see section 204 of that Act).**]**

(3) The provisions of this Order shall apply in relation to health professionals in the public service of the Crown (in right both of Her Majesty's Government in Northern Ireland and Her Majesty's Government in the United Kingdom) as they apply in relation to other health professionals.

F11 Art. 4(1) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 231** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Right of access to health records

5.—(1) An application for access to a health record, or to any part of a health record, may be made to the holder of the record by any of the following, namely—
Sub#paras.(a)#(d) rep. with saving by 1998 c. 29

(e) where the patient has died, the patient's personal representative and any person who may have a claim arising out of the patient's death.

(2) Subject to Article 6, where an application is made under paragraph (1) the holder shall, within the requisite period, give access to the record, or the part of a record, to which the application relates —

(a) in the case of a record, by allowing the applicant to inspect the record or, where Article 7 applies, an extract setting out so much of the record as is not excluded by that Article;

(b) in the case of a part of a record, by allowing the applicant to inspect an extract setting out that part or, where Article 7 applies, so much of that part as is not so excluded; or

(c) in either case, if the applicant so requires, by supplying him with a copy of the record or extract.

(3) Where any information contained in a record or extract which is so allowed to be inspected, or a copy of which is so supplied, is expressed in terms which are not intelligible without explanation, an explanation of those terms shall be provided with the record or extract, or supplied with the copy.

(4) No fee shall be required for giving access under paragraph (2) other than the following, namely—

(a) where access is given to a record, or part of a record, none of which was made after the beginning of the period of 40 days immediately preceding the date of the application, a fee not exceeding**[**F12 such maximum as may be prescribed for the purposes of this Article by regulations **[**F13made by the Department**]** ;**]** and

(b) where a copy of a record or extract is supplied to the applicant, a fee not exceeding the cost of making the copy and (where applicable) the cost of posting it to him.

(5) For the purposes of paragraph (2) the requisite period is—

(a) where the application relates to a record, or part of a record, none of which was made before the beginning of the period of 40 days immediately preceding the date of the application, the period of 21 days beginning with that date;

(b) in any other case, the period of 40 days beginning with that date.

(6) Where—

(a) an application under paragraph (1) does not contain sufficient information to enable the holder of the record to identify the patient or,F14. . . , to satisfy himself that the applicant is entitled to make the application; and