



Northern Ireland
Assembly

Mental Capacity Bill

Annotated Marshalled List of Amendments
Consideration Stage

Tuesday 16 February 2016

Amendments tabled up to 9.30am Wednesday, 10 February 2016 and selected for debate

The Bill will be considered in the following order-
Clauses, Schedules and Long Title

Amendment 1 [Made]

Clause 4, Page 2, Line 41

After ‘means).’ insert ‘and references to enabling or helping a person to make a decision about a matter are to be read accordingly.’

Minister of Health, Social Services and Public Safety

Amendment 2 [Made]

Clause 5, Page 3, Line 29

At end insert -

‘(3A) For the purposes of providing the information or explanation mentioned in subsection (2)(a) in a way appropriate to the person’s circumstances it may, in particular, be appropriate—

- (a) to use simple language or visual aids; or
- (b) to provide support for the purposes of communicating the information or explanation.

(3B) The reference in subsection (2)(c) to persons whose involvement is likely to help the person to make a decision may, in particular, include a person who provides support to help the person communicate his or her decision.’

Minister of Health, Social Services and Public Safety

Amendment 3 [Made]

Clause 7, Page 5, Line 17

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 4 [Made]

Clause 7, Page 5, Line 19

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 5 [Made]

Clause 7, Page 5, Line 23

After second ‘attorney’ insert ‘, or an enduring power of attorney,’

Minister of Health, Social Services and Public Safety

Amendment 6 [Made]

Clause 9, Page 6, Line 33

After ‘(independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 7 [Negatived]

Clause 10, Page 7, Line 3

After ‘damage’ insert ‘or injury’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 8 [Negatived on division]

Clause 12, Page 8, Line 18

Leave out ‘a threat’ and insert ‘an expressed intention to use force’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 9 [Made]

Clause 14, Page 9, Line 22

Leave out subsection (4) and insert -

‘(4) In this section references to a “suitably qualified” person are to a person of a prescribed description.’

Minister of Health, Social Services and Public Safety

Amendment 10 [Not called]

Clause 14, Page 9, Line 22

Leave out ‘may’ and insert ‘shall’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 11 [Not moved]

Clause 16, Page 10, Line 6

Leave out paragraph (a)

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 12 [Made]

Clause 16, Page 10, Line 10

Leave out ‘for P’

Minister of Health, Social Services and Public Safety

Amendment 13 [Made]

Clause 18, Page 11, Line 24

Leave out ‘for P’

Minister of Health, Social Services and Public Safety

Amendment 14 [Made]

Clause 18, Page 11, Line 32

Leave out from ‘consulted’ to end of line 33 and insert -

‘—

- (a) examined P;
- (b) examined any health records relating to P that have been produced under subsection (2)(b) and appear to the practitioner to be relevant (having taken reasonable steps to require the production of relevant health records); and
- (c) consulted such person or persons as appear to the practitioner to be principally concerned with treating P (generally).’

Minister of Health, Social Services and Public Safety

Amendment 15 [Made]

Clause 18, Page 11, Line 41

Leave out ‘for P’

Minister of Health, Social Services and Public Safety

Amendment 16 [Made]

Clause 18, Page 11, Line 42

At end insert -

‘(5A) Where RQIA receives a relevant request and proposes to ask a medical practitioner to provide an opinion on whether it would be in P’s best interests to have the treatment, it must (when considering who to ask) have regard to the desirability of asking a medical practitioner who is independent of any medical practitioner concerned with the provision to P of the treatment.’

Minister of Health, Social Services and Public Safety

Amendment 17 [Made]

Clause 18, Page 12, Line 1

Leave out ‘subsection (5)’ and insert ‘this section’

Minister of Health, Social Services and Public Safety

Amendment 18 [Made]

Clause 21, Page 13, Line 10

Leave out ‘section 19’ and insert ‘sections 19 and 22’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 19 [Negatived on division]

Clause 21, Page 13, Line 14

Leave out ‘physical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 20 [Not called]

Clause 21, Page 13, Line 16

Leave out ‘physical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 21 [Not called]

Clause 21, Page 13, Line 24

Leave out ‘physical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 22 [Made]

Clause 22, Page 13, Line 38

Leave out from ‘(and’ to ‘act)’ on line 39 and insert ‘; and (b) the prevention of serious harm condition (as well as the conditions of section 9(1)(c) and (d), and any other conditions that apply under this Part) is met’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 23 [Made]

Clause 22, Page 13, Line 40

Leave out ‘This section’ and insert ‘Subsection (2)(a)’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 24 [Made]

Clause 22, Page 14, Line 1

Leave out ‘(2)’ and insert ‘(2)(a)’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 25 [Made]

Clause 22, Page 14, Line 3

At end insert -

‘(5) See section 21 for the prevention of serious harm condition.’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 26 [Made]

Clause 23, Page 14, Line 14

At end insert -

‘; or

(d) the act is done at a time when a supervision and assessment order (see Schedule 7A) is in force in respect of the person.’

Minister of Health, Social Services and Public Safety

Amendment 27 [Made]

Clause 28, Page 16, Line 22

Leave out from ‘which’ to ‘to’ on line 23 and insert ‘that would or might’

Minister of Health, Social Services and Public Safety

Amendment 28 [Made]

Clause 28, Page 17, Line 1

Leave out subsection (6)

Minister of Health, Social Services and Public Safety

Amendment 29 [Not moved]

Clause 29, Page 17, Line 8

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 30 [Made]

Clause 31, Page 18, Line 16

Leave out subsection (3) and insert -

‘(3) In subsection (2)(a) “healthcare professional” means a person of a prescribed description.’

Minister of Health, Social Services and Public Safety

Amendment 31 [Not called]

Clause 31, Page 18, Line 16

Leave out ‘may’ and insert ‘shall’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 32 [Made]

Clause 31, Page 18, Line 18

Leave out ‘which is likely to’ and insert ‘that would or might’

Minister of Health, Social Services and Public Safety

Amendment 33 [Made]

Clause 35, Page 19, Line 39

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 34 [Made]

Clause 35, Page 19, Line 41

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 35 [Made]

Clause 35, Page 20, Line 2

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 36 [Made]

Clause 35, Page 20, Line 5

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 37 [Made]

Clause 35, Page 20, Line 12

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 38 [Made]

Clause 36, Page 20, Line 19

Leave out from ‘which’ to ‘to’ on line 20 and insert ‘that would or might’

Minister of Health, Social Services and Public Safety

Amendment 39 [Not moved]

Clause 39, Page 21, Line 36

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 40 [Not called]

Clause 39, Page 22, Line 4

After ‘practitioner’s’ insert ‘or approved clinician’s’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 41 [Not called]

Clause 39, Page 22, Line 13

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 42 [Made]

Clause 39, Page 22, Line 13

Leave out ‘is likely to lack’ and insert ‘lacks (or probably lacks)’

Minister of Health, Social Services and Public Safety

Amendment 43 [Not called]

Clause 39, Page 22, Line 18

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 44 [Made]

Clause 43, Page 23, Line 32

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 45 [Made]

Clause 43, Page 23, Line 41

Leave out ‘likely to lack’ and insert ‘lacks, or probably lacks,’

Minister of Health, Social Services and Public Safety

Amendment 46 [Not moved]

Clause 47, Page 25, Line 40

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 47 [Made]

Clause 48, Page 26, Line 4

Leave out subsections (1) and (2) and insert -

‘(1) Where—

- (a) on any date (“the extension date”), the period of an authorisation under Schedule 1 is extended under section 38 or Schedule 3,
- (b) the authorisation has been in force throughout the relevant period (see subsection (2)), and
- (c) the Tribunal has not considered the person’s case at any time in that period,

the relevant trust must as soon as practicable refer the person's case to the Tribunal.

(2) The "relevant period" is—

- (a) if the person to whom the authorisation relates ("the person") is under 18, the period of one year ending with the extension date;
- (b) otherwise, the period of two years ending with the extension date.'

Minister of Health, Social Services and Public Safety

Amendment 48 [Not moved]

Clause 48, Page 26, Line 8

Leave out 'two' and insert 'one'

Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 49 [Not moved]

Clause 48, Page 26, Line 9

Leave out 'one year' and insert 'six months'

Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 50 [Made]

Clause 48, Page 26, Line 32

Leave out '(1)(c)' and insert '(2)'

Minister of Health, Social Services and Public Safety

Amendment 51 [Made]

New Clause

After clause 48 insert -

'References etc to Tribunal: persons formerly detained under the Mental Health Order

48A.—(1) This section applies where—

- (a) immediately before the day a person reaches the age of 16 ("the relevant day"), the person is liable to be detained under Part 2 of the Mental Health Order; and

(b) on that day, there is in force an authorisation under Schedule 1 to this Act (“the authorisation”) that authorises the detention of the person in circumstances amounting to a deprivation of liberty.

(2) If an application to the Tribunal by the person, or a reference of the person’s case to the Tribunal, was made under Part 5 of the Mental Health Order before the relevant day but has not been dealt with by that day, the matters to be considered by the Tribunal include the question whether the authorisation is appropriate.

(3) If—

(a) on any date when the person is under 17, the period of the authorisation is extended (under section 37 or 38 or Schedule 3),

(b) a relevant authority has been in force throughout the period of one year ending with that date, and

(c) the Tribunal has not considered the person’s case at any time in that period,

the relevant trust must as soon as practicable refer to the Tribunal the question whether the authorisation is appropriate.

(4) In this section—

“the person’s case”—

(a) in relation to any time when the person was under 16, has the same meaning as in Part 5 of the Mental Health Order;

(b) in relation to any time when the person is 16 or over, means the question whether the authorisation is appropriate;

“relevant authority”—

(a) in relation to any time when the person was under 16, means an authority under Part 2 of the Mental Health Order for the detention of the person;

(b) in relation to any time when the person is 16 or over, means the authorisation;

“the relevant trust” has the same meaning as in section 48.’

Minister of Health, Social Services and Public Safety

Amendment 52 [Made]

Clause 49, Page 26, Line 41

Leave out ‘is likely to lack’ and insert ‘lacks (or probably lacks)’

Minister of Health, Social Services and Public Safety

Amendment 53 [Made]

Clause 50, Page 27, Line 27

Leave out ‘it is more likely than not’ and insert ‘there is a good prospect of it being established’

Minister of Health, Social Services and Public Safety

Amendment 54 [Made]

Clause 50, Page 27, Line 30

Leave out from ‘it’ to ‘not’ on line 31 and insert ‘there is a good prospect of it being established’

Minister of Health, Social Services and Public Safety

Amendment 55 [Made]

Clause 51, Page 28, Line 11

Leave out from ‘prevention’ to ‘2)’ on line 12 and insert ‘condition in paragraph 12 of Schedule 2’

Minister of Health, Social Services and Public Safety

Amendment 56 [Made]

New Clause

After clause 51 insert -

‘Sections 50 and 51: additional powers of Tribunal

51A.—(1) This section applies where, under section 50 or 51, the Tribunal decides to do anything other than revoke the authorisation.

(2) The Tribunal may, with a view to facilitating the ending at a future date of a measure still authorised by the authorisation—

(a) recommend the taking of specified actions in relation to P; and

(b) further consider P’s case in the event of any recommendation not being complied with.

(3) Where the Tribunal further considers P’s case under subsection (2)(b), section 50 or (as the case may be) section 51 applies.’

Minister of Health, Social Services and Public Safety

Amendment 57 [Not moved]

Clause 52, Page 28, Line 17

Leave out ‘medical’ and insert ‘clinical’

Ms Rosaleen McCorley

Mr Raymond McCartney

Mr Seán Lynch

Amendment 58 [Made]

Clause 52, Page 28, Line 28

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 59 [Not called]

Clause 52, Page 28, Line 32

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 60 [Not called]

Clause 52, Page 28, Line 34

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 61 [Not called]

Clause 52, Page 28, Line 35

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 62 [Not called]

Clause 52, Page 28, Line 36

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 63 [Not moved]

Clause 53, Page 28, Line 38

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 64 [Made]

Clause 53, Page 28, Line 40

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 65 [Made]

Clause 53, Page 29, Line 4

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 66 [Made]

Clause 53, Page 29, Line 13

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 67 [Made]

Clause 54, Page 29, Line 31

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 68 [Made]

Clause 58, Page 31, Line 32

Leave out ‘power’ and insert ‘a power (or duty)’

Minister of Health, Social Services and Public Safety

Amendment 69 [Made]

New Clause

After clause 58 insert -

‘Power to make further provision

58A.—(1) The Department may by regulations make provision modifying any provision of this Part in relation to cases where—

- (a) an act is proposed to be done in respect of a person after that person has reached the age of 16, but
- (b) at the time the act is proposed, the person is under 16.

(2) The Department may by regulations make provision enabling prescribed relevant documents that are found to be incorrect or defective within a prescribed period from being made—

- (a) to be rectified within a prescribed period, and
- (b) to have effect as if originally made as rectified.

(3) In subsection (2) “relevant document” means an authorisation, or other document, made for the purposes of this Part.’

Minister of Health, Social Services and Public Safety

Amendment 70 [Made]

Clause 59, Page 32, Line 6

Leave out ‘other’ and insert ‘otherwise’

Minister of Health, Social Services and Public Safety

Amendment 71 [Made]

Clause 59, Page 32, Line 8

Leave out ‘at the end of that period, did not become liable to be’ and insert ‘immediately after the end of that period, was not’

Minister of Health, Social Services and Public Safety

Amendment 72 [Made]

Clause 59, Page 32, Line 32

Leave out 'liable to be'

Minister of Health, Social Services and Public Safety

Amendment 73 [Made]

Clause 63, Page 35, Line 4

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Clause 65 [*Question that Clause 65 stand part negatived*]

The Minister of Health, Social Services and Public Safety gives notice of his intention to oppose the question that clause 65 stand part of the Bill.

Minister of Health, Social Services and Public Safety

Amendment 74 [Made]

Clause 66, Page 36, Line 27

After '20.' insert 'treatment that "might be" treatment with serious consequences: references to such treatment are to treatment where the risk of the treatment turning out to be treatment with serious consequences is more than negligible.'

Minister of Health, Social Services and Public Safety

Amendment 75 [*Negatived on division*]

Clause 73, Page 39, Line 37

Leave out paragraph (b)

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 76 [Made]

Clause 77, Page 41, Line 37

After ‘X’ insert ‘(including sensitive personal information)’

Minister of Health, Social Services and Public Safety

Amendment 77 [Made]

Clause 78, Page 42, Line 27

After second ‘attorney’ insert ‘, or an enduring power of attorney,’

Minister of Health, Social Services and Public Safety

Amendment 78 [Made]

Clause 78, Page 42, Line 31

Leave out subsection (6) and insert -

‘(6) In this section “appropriate healthcare professional” means a person of a prescribed description.’

Minister of Health, Social Services and Public Safety

Amendment 79 [Made]

Clause 84, Page 45, Line 6

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 80 [Made]

Clause 84, Page 45, Line 8

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 81 [Made]

Clause 84, Page 45, Line 15

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 82 [Made]

Clause 84, Page 45, Line 16

Leave out from ‘, so’ to ‘practicable,’ on line 17

Minister of Health, Social Services and Public Safety

Amendment 83 [Made]

Clause 84, Page 45, Line 19

Leave out “‘an independent’ and insert “‘independent mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 84 [Made]

Clause 85, Page 45, Line 39

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 85 [Made]

Clause 85, Page 45, Line 41

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 86 [Made]

Clause 85, Page 46, Line 13

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 87 [Made]

Clause 85, Page 46, Line 17

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 88 [Made]

Clause 86, Page 46, Line 26

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 89 [Made]

Clause 86, Page 46, Line 29

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 90 [Made]

Clause 86, Page 46, Line 37

Leave out subsection (6) and insert -

‘(6) In this section “appropriate healthcare professional” means a person of a prescribed description.’

Minister of Health, Social Services and Public Safety

Amendment 91 [Made]

Clause 87, Page 46, Line 41

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 92 [Made]

Clause 87, Page 47, Line 2

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 93 [Made]

Clause 87, Page 47, Line 8

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 94 [Made]

Clause 87, Page 47, Line 8

After ‘P’ insert ‘(including sensitive personal information)’

Minister of Health, Social Services and Public Safety

Amendment 95 [Made]

Clause 87, Page 47, Line 9

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 96 [Made]

Clause 88, Page 47, Line 12

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 97 [Made]

Clause 88, Page 47, Line 19

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 98 [Made]

Clause 89, Page 47, Line 27

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 99 [Made]

Clause 89, Page 47, Line 32

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 100 [Made]

Clause 90, Page 47, Line 35

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 101 [Made]

Clause 90, Page 47, Line 38

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 102 [Made]

Clause 90, Page 47, Line 40

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 103 [Made]

Clause 90, Page 48, Line 1

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 104 [Made]

Clause 90, Page 48, Line 5

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 105 [Made]

Clause 91, Page 48, Line 9

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 106 [Made]

Clause 91, Page 48, Line 12

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 107 [Made]

Clause 91, Page 48, Line 13

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 108 [Made]

Clause 92, Page 48, Line 22

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 109 [Made]

Clause 92, Page 48, Line 23

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 110 [Made]

Clause 92, Page 48, Line 27

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 111 [Made]

Clause 94, Page 49, Line 10

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 112 [Made]

Clause 94, Page 49, Line 14

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 113 [Made]

Clause 94, Page 49, Line 17

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 114 [Made]

Clause 94, Page 49, Line 19

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 115 [Made]

Clause 94, Page 49, Line 21

After 'independent' insert 'mental capacity'

Minister of Health, Social Services and Public Safety

Amendment 116 [Not moved]

Clause 95, Page 50, Line 17

Leave out '18' and insert '16'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 117 [Not moved]

Clause 98, Page 52, Line 37

Leave out '(including the attorney)'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 118 [Negatived on division]

Clause 99, Page 53, Line 14

At end insert -

'(3) An individual convicted of fraud should be the subject of a risk assessment for suitability for post of Attorney.'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 119 [Not moved]

Clause 110, Page 60, Line 9

At end insert -

'(4) Enduring power of Attorney can run in tandem with lasting power of attorney.'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Clause 110 [Question that Clause 110 stand part negatived]

The Member listed below gives notice of his intention to oppose the question that clause 110 stand part of the Bill.

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 120 [Made]

Clause 113, Page 61, Line 34

At end insert -

'(1A) In this section "specified" means specified by the court.'

Minister of Health, Social Services and Public Safety

Amendment 121 [Made]

Clause 115, Page 62, Line 37

Leave out paragraphs (a) and (b) and insert -

- ‘(a) in specified circumstances or on the happening of specified events;
- (b) for a specified period.’

Minister of Health, Social Services and Public Safety

Amendment 122 [Made]

Clause 115, Page 63, Line 14

At end insert -

- ‘(10) In this section “specified” means specified by the court.’

Minister of Health, Social Services and Public Safety

Amendment 123 [Made]

Clause 116, Page 63, Line 35

After ‘attorney’ insert ‘, or an enduring power of attorney,’

Minister of Health, Social Services and Public Safety

Amendment 124 [Made]

Clause 121, Page 66, Line 11

Leave out ‘permission’ and insert ‘leave’

Minister of Health, Social Services and Public Safety

Amendment 125 [Made]

Clause 121, Page 66, Line 16

Leave out paragraphs (c) and (d) and insert -

- ‘(c) where the application relates to a lasting power of attorney or enduring power of attorney and the application is made by the donor or any person who is an attorney under the power;’

Minister of Health, Social Services and Public Safety

Amendment 126 [Made]

Clause 121, Page 66, Line 26

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 127 [Made]

Clause 121, Page 66, Line 28

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 128 [Made]

New Clause

After clause 121 insert -

'Duty to notify Attorney General

121A.—(1) A person who makes an application to the court under this Part must notify the Attorney General of that fact.

(2) The notification must be made in accordance with rules of court.

(3) The Attorney General may intervene in the proceedings on the application in such way as the Attorney General considers appropriate.'

Minister of Health, Social Services and Public Safety

Amendment 129 [Made]

Clause 122, Page 68, Line 11

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 130 [Made]

Clause 122, Page 68, Line 12

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 131 [Made]

Clause 122, Page 68, Line 13

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 132 [Made]

Clause 122, Page 68, Line 20

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 133 [Made]

Clause 125, Page 70, Line 20

After 'trust' insert 'or its employees or agents;'

Minister of Health, Social Services and Public Safety

Amendment 134 [Made]

Clause 127, Page 71, Line 19

Leave out first 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 135 [Made]

Clause 127, Page 71, Line 19

Leave out second 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 136 [Made]

Clause 127, Page 71, Line 22

Leave out 'institution' and insert 'bringing'

Minister of Health, Social Services and Public Safety

Amendment 137 [Not moved]

Clause 128, Page 71, Line 33

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 138 [Made]

Clause 131, Page 73, Line 11

Leave out from ‘and’ to end of line 12 and insert ‘that are designated by regulations made for the purposes of this subsection.’

Minister of Health, Social Services and Public Safety

Amendment 139 [Made]

Clause 133, Page 74, Line 38

After second ‘attorney’ insert ‘, or an enduring power of attorney,’

Minister of Health, Social Services and Public Safety

Amendment 140 [Not moved]

Clause 134, Page 75, Line 12

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 141 [Made]

Clause 137, Page 76, Line 39

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 142 [Made]

Clause 137, Page 77, Line 2

Leave out sub-paragraphs (i) and (ii) and insert ‘the likelihood and seriousness of the harm concerned;’
Minister of Health, Social Services and Public Safety

Amendment 143 [Made]

Clause 139, Page 77, Line 35

Leave out ‘taken’ and insert ‘removed’
Minister of Health, Social Services and Public Safety

Amendment 144 [Made]

Clause 139, Page 77, Line 37

Leave out ‘taken’ and insert ‘removed’
Minister of Health, Social Services and Public Safety

Amendment 145 [Not moved]

Clause 140, Page 78, Line 7

After ‘practitioner’ insert ‘or approved clinician’
Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 146 [Not moved]

Clause 141, Page 78, Line 24

After ‘practitioner’ insert ‘or approved clinician’
Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 147 [Made]

Clause 141, Page 78, Line 25

After ‘preventing’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 148 [Made]

Clause 142, Page 78, Line 38

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 149 [Made]

Clause 142, Page 79, Line 1

Leave out sub-paragraphs (i) and (ii) and insert ‘the likelihood and seriousness of the harm concerned;’

Minister of Health, Social Services and Public Safety

Amendment 150 [Made]

Clause 143, Page 79, Line 27

After ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 151 [Made]

Clause 143, Page 79, Line 31

Leave out sub-paragraphs (i) and (ii) and insert ‘the likelihood and seriousness of the harm concerned;’

Minister of Health, Social Services and Public Safety

Amendment 152 [Made]

Clause 145, Page 80, Line 12

Leave out from ‘removes’ to end of line 14 and insert ‘takes a person (“R”) to a place of safety under section 137 or 143.’

Minister of Health, Social Services and Public Safety

Amendment 153 [Made]

Clause 145, Page 80, Line 15

Leave out ‘the person (“R”)’ and insert ‘R’

Minister of Health, Social Services and Public Safety

Amendment 154 [Made]

Clause 145, Page 80, Line 18

Leave out ‘(but this is subject to subsection (4))’

Minister of Health, Social Services and Public Safety

Amendment 155 [Made]

Clause 145, Page 80, Line 20

Leave out ‘person within subsection (3)’ and insert ‘relevant person’

Minister of Health, Social Services and Public Safety

Amendment 156 [Made]

Clause 145, Page 80, Line 22

Leave out subsection (3)

Minister of Health, Social Services and Public Safety

Amendment 157 [Made]

Clause 145, Page 80, Line 26

At beginning insert ‘But’

Minister of Health, Social Services and Public Safety

Amendment 158 [Made]

Clause 145, Page 80, Line 28

Leave out ‘but’ and insert ‘and’

Minister of Health, Social Services and Public Safety

Amendment 159 [Made]

Clause 145, Page 80, Line 29

Leave out from ‘person’ to ‘(3)’ on line 30 and insert ‘relevant person’

Minister of Health, Social Services and Public Safety

Amendment 160 [Made]

Clause 145, Page 80

Leave out lines 31 to 33 and insert -

‘subsection (2) has effect as if the reference in paragraph (b) to the appropriate person were to a relevant person.’

Minister of Health, Social Services and Public Safety

Amendment 161 [Made]

Clause 145, Page 80, Line 37

At end insert -

“‘relevant person’ means a person who is 16 or over and is—

- (a) named by R as someone to whom the information should be given;
- (b) engaged in caring for R; or
- (c) interested in R’s welfare;’

Minister of Health, Social Services and Public Safety

Amendment 162 [Made]

Clause 145, Page 80, Line 39

Leave out subsections (6) and (7)

Minister of Health, Social Services and Public Safety

Amendment 163 [Made]

Clause 146, Page 81, Line 5

Leave out subsection (1) and insert ‘This section supplements section 145.’

Minister of Health, Social Services and Public Safety

Amendment 164 [Made]

Clause 146, Page 81, Line 9

Leave out ‘That information is’ and insert ‘‘The required information’’ means’

Minister of Health, Social Services and Public Safety

Amendment 165 [Made]

Clause 146, Page 81, Line 10

Leave out from ‘removed’ to ‘be)’ on line 11

Minister of Health, Social Services and Public Safety

Amendment 166 [Made]

Clause 146, Page 81, Line 11

After ‘section’ insert ‘137 or’

Minister of Health, Social Services and Public Safety

Amendment 167 [Made]

Clause 146, Page 81, Line 13

Leave out from ‘removed’ to ‘be)’ on line 14

Minister of Health, Social Services and Public Safety

Amendment 168 [Made]

Clause 146, Page 81, Line 18

Leave out ‘removed’ and insert ‘taken’

Minister of Health, Social Services and Public Safety

Amendment 169 [Made]

Clause 146, Page 81, Line 22

Leave out ‘removed or transferred’ and insert ‘taken’

Minister of Health, Social Services and Public Safety

Amendment 170 [Made]

Clause 146, Page 81, Line 23

Leave out ‘removed or transferred’ and insert ‘taken’

Minister of Health, Social Services and Public Safety

Amendment 171 [Made]

Clause 146, Page 81, Line 23

At end insert -

‘(3) Section 145 applies instead of Article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 in any case where (but for this subsection) both that section and that Article would apply.

(4) Article 57 of PACE (right to have someone informed when arrested and detained) does not apply in relation to a person detained in a place of safety under this Part.’

Minister of Health, Social Services and Public Safety

Amendment 172 [Made]

Clause 153, Page 83, Line 39

After ‘(10A)’ insert ‘, (12)(a)(iii)’

Minister of Health, Social Services and Public Safety

Amendment 173 [Made]

Clause 154, Page 84, Line 5

At end insert -

‘(c) the number of children detained under this Part in hospitals;

(d) the number of children detained under this Part in police stations;

(e) final disposals in respect of children detained as mentioned in paragraphs (c) and (d).’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 174 [Made]

Clause 154, Page 84, Line 8

At end insert -

‘(3) In this section “children” means persons under 18.’

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 175 [Made]

Clause 155, Page 85, Line 17

Leave out from ‘, 2’ to ‘interests’ on line 18 and insert ‘to 3 and 5 to 8 (principles, best interests etc’

Minister of Health, Social Services and Public Safety

Amendment 176 [Not moved]

Clause 156, Page 85, Line 30

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 177 [Made]

Clause 158, Page 86, Line 19

Leave out ‘has the meaning given by’ and insert ‘, and references to enabling a person to make a decision, are to be read in accordance with’

Minister of Health, Social Services and Public Safety

Amendment 178 [Not moved]

Clause 162, Page 88, Line 26

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 179 [Not moved]

Clause 162, Page 88, Line 27

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 180 [Not called]

Clause 162, Page 88, Line 31

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 181 [Made]

Clause 163, Page 88, Line 38

Leave out ‘substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 182 [Made]

Clause 163, Page 88, Line 38

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 183 [Not called]

Clause 163, Page 89, Line 15

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 184 [Not called]

Clause 163, Page 89, Line 16

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 185 [Not called]

Clause 163, Page 89, Line 21

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 186 [Not moved]

Clause 164, Page 89, Line 37

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 187 [Made]

Clause 166, Page 91, Line 39

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 188 [Made]

Clause 166, Page 92, Line 6

After ‘of’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 189 [Not called]

Clause 166, Page 92, Line 17

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 190 [Made]

Clause 166, Page 92, Line 21

Leave out from ‘means’ to end of line 22 and insert ‘has the same meaning as in Part 8 of the Justice Act (Northern Ireland) 2015 (see section 76(1)).’

Minister of Health, Social Services and Public Safety

Amendment 191 [Made]

Clause 167, Page 92, Line 28

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 192 [Made]

Clause 167, Page 92, Line 32

After ‘of’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 193 [Made]

Clause 170, Page 93, Line 30

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 194 [Made]

Clause 173, Page 95, Line 24

Leave out ‘substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 195 [Made]

Clause 173, Page 95, Line 24

After ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 196 [Not moved]

Clause 173, Page 95, Line 43

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 197 [Not moved]

Clause 175, Page 97, Line 10

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 198 [Not called]

Clause 176, Page 97, Line 28

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 199 [Not called]

Clause 176, Page 97, Line 38

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 200 [Not moved]

Clause 178, Page 98, Line 34

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 201 [Not called]

Clause 178, Page 98, Line 40

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 202 [Not called]

Clause 178, Page 99, Line 1

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 203 [Made]

Clause 178, Page 99, Line 5

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 204 [Not moved]

Clause 181, Page 100, Line 5

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 205 [Not called]

Clause 181, Page 100, Line 8

After ‘practitioner’s’ insert ‘or approved clinician’s’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 206 [Not called]

Clause 181, Page 100, Line 15

After first ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 207 [Not called]

Clause 181, Page 100, Line 15

After second ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 208 [Made]

Clause 183, Page 100, Line 41

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 209 [Not called]

Clause 184, Page 101, Line 13

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 210 [Not called]

Clause 184, Page 101, Line 14

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 211 [Not called]

Clause 185, Page 101, Line 27

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 212 [Not called]

Clause 185, Page 101, Line 31

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 213 [Not called]

Clause 185, Page 101, Line 36

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 214 [Not called]

Clause 185, Page 102, Line 13

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 215 [Made]

Clause 190, Page 104, Line 23

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 216 [Not moved]

Clause 191, Page 104, Line 40

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 217 [Not called]

Clause 193, Page 105, Line 18

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 218 [Not called]

Clause 193, Page 105, Line 23

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 219 [Not called]

Clause 193, Page 105, Line 28

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 220 [Not called]

Clause 193, Page 106, Line 5

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 221 [Not called]

Clause 193, Page 106, Line 9

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 222 [Made]

Clause 195, Page 106, Line 41

Leave out ‘234’ and insert ‘235’

Minister of Health, Social Services and Public Safety

Amendment 223 [Made]

Clause 196, Page 107, Line 7

Leave out ‘may’ and insert ‘must’

Minister of Health, Social Services and Public Safety

Amendment 224 [Made]

Clause 196, Page 107, Line 10

At end insert -

‘(2A) But subsection (2) does not apply if (having received a relevant notification) the Department of Justice directs that with effect from a specified date—

- (a) A is to be treated as if he or she had been removed to the hospital under the relevant provision from a prison specified in the direction under this subsection; and
- (b) the hospital direction is to cease to have effect.’

Minister of Health, Social Services and Public Safety

Amendment 225 [Made]

Clause 196, Page 107, Line 15

Leave out ‘not substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 226 [Made]

Clause 196, Page 107, Line 16

After ‘(2),’ insert ‘no’

Minister of Health, Social Services and Public Safety

Amendment 227 [Made]

Clause 196, Page 107, Line 16

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 228 [Made]

Clause 196, Page 107, Line 20

Leave out ‘where A is detained’

Minister of Health, Social Services and Public Safety

Amendment 229 [Made]

Clause 196, Page 107, Line 21

Leave out subsections (4) to (6) and insert -

‘(4) In this section—

- (a) “the disorder” means the disorder in respect of which the hospital direction was given;
- (b) “the hospital” means the hospital where A is detained;
- (c) any reference to “prison” is to be read, where A would (but for the hospital direction) be detained in a place of any other description, as a reference to a place of that other description;
- (d) “the relevant provision” means—
 - (i) section 16(2) of the Prison Act (Northern Ireland) 1953; or
 - (ii) if A would (but for the hospital direction) be detained in a juvenile justice centre, paragraph 3 of Schedule 2 to the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (e) “a suitable medical practitioner” means the responsible medical practitioner or—
 - (i) if the disorder was mental disorder, any approved medical practitioner;
 - (ii) otherwise, any medical practitioner who appears to the Department of Justice to have special experience in the diagnosis or treatment of the disorder.’

Minister of Health, Social Services and Public Safety

Amendment 230 [Not called]

Clause 196, Page 107, Line 21

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 231 [Not called]

Clause 196, Page 107, Line 22

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 232 [Not called]

Clause 196, Page 107, Line 23

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 233 [Made]

Clause 198, Page 108, Line 10

At end insert -

‘(e) any power to apply to the Sentence Review Commissioners;

(f) any power or duty of the Sentence Review Commissioners or the Secretary of State under the Northern Ireland (Sentences) Act 1998.’

Minister of Health, Social Services and Public Safety

Amendment 234 [Not called]

Clause 199, Page 108, Line 34

After ‘practitioner’ insert ‘or approved responsible clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 235 [Not called]

Clause 202, Page 110, Line 9

After ‘practitioners’ insert ‘or approved clinicians’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 236 [Not called]

Clause 202, Page 110, Line 10

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 237 [Not called]

Clause 204, Page 111, Line 2

After ‘practitioners’ insert ‘or approved clinicians’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 238 [Not called]

Clause 204, Page 111, Line 3

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 239 [Made]

Clause 205, Page 111, Line 12

Leave out ‘treatment’ and insert ‘assessment’

Minister of Health, Social Services and Public Safety

Amendment 240 [Made]

Clause 205, Page 111, Line 21

At end insert -

‘(5A) The power to make an order under subsection (2)(c) is subject to Schedule 7A, which makes provision about such orders.’

Minister of Health, Social Services and Public Safety

Amendment 241 [Made]

Clause 205, Page 111, Line 24

Leave out '(5)' and insert '(5A)'

Minister of Health, Social Services and Public Safety

Amendment 242 [Made]

Clause 205, Page 111, Line 31

Leave out subsection (8)

Minister of Health, Social Services and Public Safety

Amendment 243 [Made]

Clause 206, Page 111, Line 38

Leave out 'treatment' and insert 'assessment'

Minister of Health, Social Services and Public Safety

Amendment 244 [Not called]

Clause 206, Page 111, Line 40

After 'practitioner' insert 'or approved clinician'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 245 [Made]

Clause 206, Page 112, Line 7

Leave out 'treatment' and insert 'assessment'

Minister of Health, Social Services and Public Safety

Amendment 246 [Not called]

Clause 206, Page 112, Line 16

After ‘practitioner’ insert ‘or approved clinician’

Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 247 [Not called]

Clause 206, Page 112, Line 17

After ‘practitioner’ insert ‘or approved responsible clinician’

Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 248 [Not called]

Clause 206, Page 112, Line 18

After ‘practitioner’ insert ‘or approved clinician’

Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 249 [Made]

New Clause

After clause 207 insert -

‘Restraining orders

Power to make restraining order following finding of unfitness to plead etc

207A.—(1) In Article 7 of the Protection from Harassment (Northern Ireland) Order 1997 (restraining orders on conviction) (“the 1997 Order”)—

- (a) in the heading at the end insert “etc”;
- (b) for paragraph (7) substitute—

“(7) A court—

- (a) which deals with a person convicted of an offence under this Article, or
 - (b) before which a person is acquitted of an offence under this Article,
- may vary or discharge the order in question by a further order.

- (8) In paragraphs (1) and (7) references to a person convicted of an offence include—
- (a) a person in respect of whom findings that the person is unfit to be tried, and that the person did the act or made the omission charged against him or her in respect of the offence, have been made; and
 - (b) a person in respect of whom a public protection order (as defined by section 165 of the Mental Capacity Act (Northern Ireland) 2016) has been made in respect of the offence by virtue of section 207 of that Act.
- (9) Where an order under this Article is made in respect of a person by virtue of paragraph (7) (b) or (8), the person has the same right of appeal against the order as if—
- (a) the person had been convicted of the offence in question before the court that made the order; and
 - (b) that court had made the order when dealing with the person in respect of that offence.”.

(2) In Article 7A(2) of the 1997 Order (restraining orders on acquittal) after “7” insert “(and paragraph (8) so far as applying for the purposes of paragraph (7))”.

(3) The amendments made by subsections (1) and (2) apply in relation to offences committed (or alleged to have been committed) before (as well as after) the coming into operation of this section.

(4) In Article 7(8)(b) of the 1997 Order (inserted by subsection (1))—

- (a) the reference to a public protection order is to be read, until the coming into operation of section 165, as a reference to a hospital order within the meaning of the Mental Health Order; and
- (b) the reference to section 207 is to be read, until the coming into operation of that section, as a reference to Article 44(4) of the Mental Health Order.’

Minister of Health, Social Services and Public Safety

Amendment 250 [Made]

Clause 209, Page 113, Line 26

Leave out ‘substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 251 [Made]

Clause 209, Page 113, Line 26

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 252 [Made]

Clause 212, Page 114, Line 31

Leave out ‘234’ and insert ‘235’

Minister of Health, Social Services and Public Safety

Amendment 253 [Made]

Clause 213, Page 115, Line 3

Leave out ‘may’ and insert ‘must’

Minister of Health, Social Services and Public Safety

Amendment 254 [Made]

Clause 213, Page 115, Line 8

At end insert -

‘(3A) But subsection (3) does not apply if (having received a relevant notification) the Department of Justice directs that with effect from a specified date—

- (a) A is to be treated as if he or she had been removed to the hospital under the relevant provision from a place, specified in the direction under this subsection, in which A might (but for the hospital transfer direction) be detained; and
- (b) the hospital transfer direction is to cease to have effect.’

Minister of Health, Social Services and Public Safety

Amendment 255 [Made]

Clause 213, Page 115, Line 13

Leave out ‘not substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 256 [Made]

Clause 213, Page 115, Line 14

After ‘(3),’ insert ‘no’

Minister of Health, Social Services and Public Safety

Amendment 257 [Made]

Clause 213, Page 115, Line 14

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 258 [Made]

Clause 213, Page 115, Line 18

Leave out ‘where A is detained’

Minister of Health, Social Services and Public Safety

Amendment 259 [Made]

Clause 213, Page 115, Line 21

At end insert -

“‘the hospital’ means the hospital where A is detained;’

Minister of Health, Social Services and Public Safety

Amendment 260 [Made]

Clause 213, Page 115, Line 24

At end insert -

“‘the relevant provision’—

(a) in the case of a civil prisoner (as defined by section 211), means section 16(2) of the Prison Act (Northern Ireland) 1953;

(b) in the case of an immigration detainee (as defined by section 211) means—

(i) if the place specified in the direction under subsection (3A) is a prison, section 16(2) of the Prison Act (Northern Ireland) 1953;

(ii) otherwise, removal centre rules (within the meaning of Part 8 of the Immigration and Asylum Act 1999);’

Minister of Health, Social Services and Public Safety

Amendment 261 [Made]

Clause 215, Page 116, Line 8

Leave out ‘234’ and insert ‘235’

Minister of Health, Social Services and Public Safety

Amendment 262 [Made]

Clause 216, Page 116, Line 29

Leave out ‘not substantially likely that’ and insert ‘more likely than not that no’

Minister of Health, Social Services and Public Safety

Amendment 263 [Made]

Clause 216, Page 116, Line 29

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 264 [Made]

Clause 218, Page 117, Line 36

Leave out ‘234’ and insert ‘235’

Minister of Health, Social Services and Public Safety

Amendment 265 [Made]

Clause 219, Page 118, Line 9

Leave out ‘may’ and insert ‘must’

Minister of Health, Social Services and Public Safety

Amendment 266 [Made]

Clause 219, Page 118, Line 14

At end insert -

‘(3A) But subsection (3) does not apply if (having received a relevant notification) the Department of Justice directs that with effect from a specified date—

(a) A is to be treated as if he or she had been removed to the hospital under the relevant provision from a place, specified in the direction under this subsection, in which A might (but for the hospital transfer direction) be detained; and

(b) the hospital transfer direction is to cease to have effect.’

Minister of Health, Social Services and Public Safety

Amendment 267 [Made]

Clause 219, Page 118, Line 15

Leave out ‘subsection (3)’ and insert ‘this section’

Minister of Health, Social Services and Public Safety

Amendment 268 [Made]

Clause 219, Page 118, Line 19

Leave out ‘not substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 269 [Made]

Clause 219, Page 118, Line 20

After ‘(3),’ insert ‘no’

Minister of Health, Social Services and Public Safety

Amendment 270 [Made]

Clause 219, Page 118, Line 20

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 271 [Made]

Clause 219, Page 118, Line 24

Leave out ‘where A is detained’

Minister of Health, Social Services and Public Safety

Amendment 272 [Made]

Clause 219, Page 118, Line 25

After ‘(3)’ insert ‘or (3A)’

Minister of Health, Social Services and Public Safety

Amendment 273 [Made]

Clause 219, Page 118, Line 35

Leave out ‘not substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 274 [Made]

Clause 219, Page 118, Line 36

After '(5),' insert 'no'

Minister of Health, Social Services and Public Safety

Amendment 275 [Made]

Clause 219, Page 118, Line 36

After first 'serious' insert 'physical or psychological'

Minister of Health, Social Services and Public Safety

Amendment 276 [Made]

Clause 219, Page 118, Line 40

Leave out 'where A is detained'

Minister of Health, Social Services and Public Safety

Amendment 277 [Made]

Clause 219, Page 119, Line 3

At end insert -

“the hospital” means the hospital where A is detained;

“the relevant provision” means—

(a) section 16(2) of the Prison Act (Northern Ireland) 1953; or

(b) if A would (but for the hospital transfer direction) be detained in a juvenile justice centre, paragraph 3 of Schedule 2 to the Criminal Justice (Children) (Northern Ireland) Order 1998;'

Minister of Health, Social Services and Public Safety

Amendment 278 [Made]

Clause 220, Page 119, Line 32

Leave out 'substantially likely' and insert 'more likely than not'

Minister of Health, Social Services and Public Safety

Amendment 279 [Made]

Clause 220, Page 119, Line 32

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 280 [Made]

Clause 221, Page 120, Line 27

Leave out from second ‘is’ to ‘lack’ on line 28 and insert ‘lacks (or probably lacks)’

Minister of Health, Social Services and Public Safety

Amendment 281 [Made]

Clause 222, Page 121, Line 33

At end insert -

‘(3) This section is subject to sections 232 and 233 (applications to Tribunal following conditional discharge of person subject to public protection order with restrictions).’

Minister of Health, Social Services and Public Safety

Amendment 282 [Made]

Clause 226, Page 122, Line 38

Leave out subsections (1) and (2) and insert -

‘(1) Where—

- (a) on a relevant date, a person is liable to be detained under a public protection order or is liable to be detained in a hospital under a hospital direction or hospital transfer direction,
- (b) the order or direction has been in force throughout the relevant period, and
- (c) the Tribunal has not considered the person’s case at any time in that period,

the relevant trust must as soon as practicable refer the person’s case to the Tribunal.

(2) The “relevant period” is—

- (a) if the person is under 18, the period of one year ending with the relevant date;
- (b) otherwise, the period of two years ending with the relevant date.’

Minister of Health, Social Services and Public Safety

Amendment 283 [Made]

Clause 226, Page 123, Line 9

Leave out ‘179 or’

Minister of Health, Social Services and Public Safety

Amendment 284 [Made]

Clause 226, Page 123, Line 12

Leave out sub-paragraph (i)

Minister of Health, Social Services and Public Safety

Amendment 285 [Made]

Clause 226, Page 123, Line 28

Leave out ‘(1)(b)’ and insert ‘(2)’

Minister of Health, Social Services and Public Safety

Amendment 286 [Made]

Clause 227, Page 123, Line 38

Leave out from second ‘is’ to ‘lack’ on line 39 and insert ‘lacks (or probably lacks)’

Minister of Health, Social Services and Public Safety

Amendment 287 [Made]

Clause 228, Page 124, Line 16

Leave out subsection (4)

Minister of Health, Social Services and Public Safety

Amendment 288 [Made]

Clause 230, Page 125, Line 12

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 289 [Made]

New Clause

After clause 230 insert -

‘Sections 228 and 229: additional powers of Tribunal etc

230A.—(1) Where under section 228 or 229 the Tribunal decides not to discharge a person, the Tribunal may, with a view to facilitating the discharge of the person at a future date—

(a) recommend the taking of specified actions in relation to the person; and

(b) further consider the person’s case in the event of any recommendation not being complied with.

(2) Where the Tribunal further considers a person’s case under subsection (1)(b), section 228 or (as the case may be) section 229 applies.

(3) A discharge of a person under this Chapter does not prevent the person from being detained in circumstances amounting to a deprivation of liberty by virtue of Part 2 of this Act (or, where the person is under 16, under Part 2 of the Mental Health Order), if the criteria that apply to such detention are met.’

Minister of Health, Social Services and Public Safety

Amendment 290 [Made]

Clause 232, Page 126, Line 9

At end insert -

‘(5A) No application under section 222 may be made in respect of the order.’

Minister of Health, Social Services and Public Safety

Amendment 291 [Made]

Clause 234, Page 127, Line 16

Leave out ‘substantially likely’ and insert ‘more likely than not’

Minister of Health, Social Services and Public Safety

Amendment 292 [Made]

Clause 234, Page 127, Line 17

After first ‘serious’ insert ‘physical or psychological’

Minister of Health, Social Services and Public Safety

Amendment 293 [Made]

New Clause

After clause 234 insert -

‘Section 234: additional powers of Tribunal

234A.—(1) This section applies where under section 234 the Tribunal notifies the Department of Justice that it is satisfied that the prevention of serious harm condition is met in respect of a person.

(2) The Tribunal may, with a view to facilitating a transfer of the person at a future date—

(a) recommend the taking of specified actions in relation to the person; and

(b) further consider the person’s case in the event of any recommendation not being complied with.

(3) Where the Tribunal further considers the person’s case under subsection (2)(b), section 234 applies.

(4) In subsection (2) the reference to a “transfer” of the person is to a transfer to any place in which the person might (but for the relevant direction) be detained.’

Minister of Health, Social Services and Public Safety

Amendment 294 [Made]

Clause 241, Page 130, Line 31

Leave out ‘treatment’ and insert ‘assessment’

Minister of Health, Social Services and Public Safety

Amendment 295 [Made]

Clause 242, Page 131, Line 3

Leave out ‘treatment’ and insert ‘assessment’

Minister of Health, Social Services and Public Safety

Amendment 296 [Made]

New Clause

After clause 242 insert -

‘Hospital directions: cases stated by magistrates’ courts

242A.—(1) This section applies where a magistrates’ court makes a hospital direction.

(2) For the purposes of Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (cases stated by magistrates’ courts), the hospital direction is a determination of the proceedings in which the direction was made.’

Minister of Health, Social Services and Public Safety

Amendment 297 [Made]

Clause 247, Page 133

Leave out line 24

Minister of Health, Social Services and Public Safety

Amendment 298 [Made]

Clause 247, Page 133, Line 25

Leave out line 25 and insert -

“supervision and assessment order” has the meaning given by paragraph 1(1) of Schedule 7A;’

Minister of Health, Social Services and Public Safety

Amendment 299 [Made]

Clause 248, Page 134, Line 6

Leave out from ‘by’ to ‘be’ on line 7 and insert ‘is’

Minister of Health, Social Services and Public Safety

Amendment 300 [Made]

Clause 248, Page 134, Line 22

Leave out subsection (5)

Minister of Health, Social Services and Public Safety

Amendment 301 [Made]

Clause 249, Page 134, Line 28

Leave out from ‘by’ to ‘be’ on line 29 and insert ‘is’

Minister of Health, Social Services and Public Safety

Amendment 302 [Made]

Clause 249, Page 135, Line 8

Leave out subsection (5)

Minister of Health, Social Services and Public Safety

Amendment 303 [Made]

New Clause

After clause 249 insert -

Removal to other parts of UK of persons detained under Part 10

Removal of certain persons detained under Part 10 to England or Wales

249A.—(1) This section applies in relation to a person (“P”) who is—

- (a) detained under a public protection order; or
- (b) detained in a hospital under a hospital direction or a hospital transfer direction made under section 208, 211 or 217.

(2) If it appears to the Department of Justice that the conditions for removal to England or Wales are met in P’s case, that Department may authorise P’s removal to England or Wales and may give any necessary directions for P’s conveyance there.

(3) The conditions for removal to England or Wales are that—

- (a) failure to remove P to England or (as the case may be) Wales would be more likely than not to result in serious physical or psychological harm to P or serious physical harm to other persons; and
- (b) arrangements have been made for admitting P to a hospital in England or Wales in which care or treatment which is appropriate in P’s case is available for him or her.

(4) Where P is removed from Northern Ireland under this section, the order or direction mentioned in subsection (1) ceases to have effect when P leaves Northern Ireland (within the meaning given by section 98 of the Northern Ireland Act 1998); but this is subject to subsection (6).

(5) Subsection (6) applies where—

- (a) P is not admitted to a hospital in England or Wales, and
- (b) P returns to Northern Ireland at any time before the end of period for which the order or direction mentioned in subsection (1) would have continued in force (but for P’s removal).

(6) Subsection (4) ceases to apply to the order or direction, so that (accordingly) the order or direction applies to P on P’s return to Northern Ireland.

(7) In subsections (3)(b) and (5)(a) “hospital” has the same meaning as in the 1983 Act.’

Minister of Health, Social Services and Public Safety

Amendment 304 [Made]

New Clause

After clause 249 insert -

Removal of certain persons detained under Part 10 to Scotland

249B.—(1) This section applies in relation to a person (“P”) who is—

- (a) detained under a public protection order; or
- (b) detained in a hospital under a hospital direction or a hospital transfer direction made under section 208, 211 or 217.

(2) If it appears to the Department of Justice that the conditions for removal to Scotland are met in P's case, that Department may authorise P's removal to Scotland and may give any necessary directions for P's conveyance there.

(3) The conditions for removal to Scotland are that—

- (a) failure to remove P to Scotland would be more likely than not to result in serious physical or psychological harm to P or serious physical harm to other persons; and
- (b) arrangements have been made for admitting P to a hospital in Scotland in which care or treatment which is appropriate in P's case is available for him or her.

(4) Where P is removed from Northern Ireland under this section, the order or direction mentioned in subsection (1) ceases to have effect when P leaves Northern Ireland (within the meaning given by section 98 of the Northern Ireland Act 1998); but this is subject to subsection (6).

(5) Subsection (6) applies where—

- (a) P is not admitted to a hospital in Scotland, and
- (b) P returns to Northern Ireland at any time before the end of period for which the order or direction mentioned in subsection (1) would have continued in force (but for P's removal).

(6) Subsection (4) ceases to apply to the order or direction, so that (accordingly) the order or direction applies to P on P's return to Northern Ireland.

(7) In subsections (3)(b) and (5)(a) "hospital" has the same meaning as in the 2003 Act.'

Minister of Health, Social Services and Public Safety

Amendment 305 [Made]

Clause 250, Page 135, Line 27

After 'If (' insert 'immediately'

Minister of Health, Social Services and Public Safety

Amendment 306 [Made]

Clause 251, Page 136, Line 6

Before 'before' insert 'immediately'

Minister of Health, Social Services and Public Safety

Amendment 307 [Made]

New Clause

After clause 251 insert -

'Persons to be detained under Part 10

Persons to be detained under Part 10 after removal from England or Wales

251A.—(1) This section applies where—

- (a) a person (“P”) is removed from England and Wales to Northern Ireland by virtue of Part 6 of the 1983 Act; and
- (b) immediately before being removed, P is subject to—
- (i) a hospital order;
 - (ii) a hospital direction (within the meaning of the 1983 Act); or
 - (iii) a transfer direction.

(2) Immediately after P’s admission to an appropriate establishment in Northern Ireland in pursuance of arrangements made for the purposes of his or her removal from England or Wales, the relevant trust must notify RQIA of P’s admission.

(3) The relevant trust must also arrange for a report in the prescribed form, containing prescribed information, to be made by the responsible medical practitioner and given to the relevant trust within the period of 28 days beginning with the day P is admitted to the appropriate establishment.

(4) Where a report under subsection (3) is given to the relevant trust, that trust must as soon as practicable give RQIA a copy of the report.

(5) Where (immediately before being removed from England or Wales) P is of a description mentioned in the first column of the following table, an order or direction of a kind mentioned in the corresponding entry of the second column of the table, specifying the appropriate establishment, is treated as having been made or given in respect of P.

<i>Description of person</i>	<i>Order or direction treated as made</i>
Person subject to a hospital order and a restriction order	Public protection order with restrictions that provides as mentioned in section 165(4)(b)(i) (no time limit for treating the order as a PPO with restrictions)
Person subject to a hospital order but not a restriction order	Public protection order without restrictions
Person subject to a hospital direction (within the meaning of the 1983 Act)	Hospital direction under section 172
Person subject to a transfer direction given by virtue of section 47(1) of the 1983 Act	Hospital transfer direction under section 208
Person subject to a transfer direction given by virtue of section 48(2)(a) of the 1983 Act	Hospital transfer direction under section 217
Person subject to a transfer direction given by virtue of section 48(2)(c) or (d) of the 1983 Act	Hospital transfer direction under section 211

(6) An order or direction is to be treated as having been made or given under subsection (5), for the purposes mentioned in the first column of the following table, on the date mentioned in the corresponding entry in the second column of the table.

<i>Purpose</i>	<i>Date on which order or direction treated as made</i>
Duration for which P may be detained under section 177 and calculation of the “initial period” for the purposes of section 179 (where P is treated as being subject to a public protection order without restrictions)	Date of P’s arrival in Northern Ireland
Calculation of the “release date” within the meaning given by section 197 (where P is treated as being subject to a hospital direction made under section 172)	Date on which the hospital direction (within the meaning of the 1983 Act) was made

Right to apply to the Tribunal under the first entry in the table in section 222(1)	Date on which the hospital order, hospital direction (within the meaning of the 1983 Act) or transfer direction was made
Calculation of the “relevant date” for the purposes of section 226(3) (referral of case to the Tribunal)	Date on which the hospital order, hospital direction (within the meaning of the 1983 Act) or transfer direction was made

(7) The first report under section 191 (where P is treated as being subject to a public protection order with restrictions) must be made—

- (a) if the most recent report on P under section 41(6) of the 1983 Act was made more than 6 months before P’s arrival in Northern Ireland, not later than 6 months after P’s arrival there, or
- (b) otherwise, not later than 12 months after the most recent report under that section.

(8) Section 221(2) (direction ceasing to have effect if person not admitted within 14 days) does not apply to a hospital transfer direction which is treated as having been given under subsection (5).

(9) The date of P’s arrival in Northern Ireland is to be treated as being the end of a relevant period for the purposes of section 227 (duty to notify Attorney General).

(10) Where (immediately before being removed) P is subject to—

- (a) a hospital direction (within the meaning of the 1983 Act), or
- (b) a transfer direction made because P was serving a sentence of imprisonment (within the meaning of section 47 of that Act),

P is to be treated as if the sentence, order or committal in relation to which the direction has effect were a similar or corresponding sentence, order or committal imposed or made by a court in Northern Ireland.

(11) In this section—

- “hospital order” has the same meaning as in the 1983 Act;
- “relevant trust” means the HSC trust in whose area the appropriate establishment is situated;
- “restriction order” has the same meaning as in the 1983 Act;
- “transfer direction” has the same meaning as in the 1983 Act.’

Minister of Health, Social Services and Public Safety

Amendment 308 [Made]

New Clause

After clause 251 insert -

‘Persons to be detained under Part 10 after removal from Scotland

251B.—(1) This section applies where—

- (a) a person (“P”) is removed from Scotland to Northern Ireland under regulations made under section 290 of the 2003 Act; and
- (b) immediately before being removed, P is subject to—
 - (i) a relevant compulsion order;
 - (ii) a hospital direction (within the meaning of the 1995 Act); or
 - (iii) a transfer for treatment direction.

(2) Immediately after P’s admission to an appropriate establishment in Northern Ireland in pursuance of arrangements made for the purposes of his or her removal from Scotland, the relevant trust must notify RQIA of P’s admission.

(3) The relevant trust must also arrange for a report in the prescribed form, containing prescribed information, to be made by the responsible medical practitioner and given to the relevant trust within the period of 28 days beginning with the day P is admitted to the appropriate establishment.

(4) Where a report under subsection (3) is given to the relevant trust, that trust must as soon as practicable give RQIA a copy of the report.

(5) Where (immediately before being removed from Scotland) P is of a description mentioned in the first column of the following table, an order or direction of a kind mentioned in the corresponding entry of the second column of the table, specifying the appropriate establishment, is treated as having been made or given in respect of P on his or her arrival in Northern Ireland.

<i>Description of person</i>	<i>Order or direction treated as made</i>
Person subject to a relevant compulsion order and a restriction order	Public protection order with restrictions that provides as mentioned in section 165(4)(b)(i) (no time limit for treating the order as a PPO with restrictions)
Person subject to a relevant compulsion order but not a restriction order	Public protection order without restrictions
Person subject to a hospital direction (within the meaning of the 1995 Act)	Hospital direction under section 172
Person subject to a transfer for treatment direction	Hospital transfer direction of a description specified in P's case in a direction given by the Department of Justice under this subsection

(6) An order or direction is to be treated as having been made or given under subsection (5), for the purposes mentioned in the first column of the following table, on the date mentioned in the corresponding entry in the second column of the table.

<i>Purpose</i>	<i>Date on which order or direction treated as made</i>
Duration for which P may be detained under section 177 and calculation of the "initial period" for the purposes of section 179 (where P is treated as being subject to a public protection order without restrictions)	Date of P's arrival in Northern Ireland
Calculation of the "release date" within the meaning given by section 197 (where P is treated as being subject to a hospital direction made under section 172)	Date on which the hospital direction (within the meaning of the 1995 Act) was made
Right to apply to the Tribunal under the first entry in the table in section 222(1)	Date on which the relevant compulsion order, hospital direction (within the meaning of the 1995 Act) or transfer for treatment direction was made
Calculation of the "relevant date" for the purposes of section 226(3) (referral of case to the Tribunal)	Date on which the relevant compulsion order, hospital direction (within the meaning of the 1995 Act) or transfer for treatment direction was made

(7) The first report under section 191 (where P is treated as being subject to a public protection order with restrictions) must be made—

- (a) if the most recent report on P under section 183 of the 2003 Act was made more than 6 months before P's arrival in Northern Ireland, not later than 6 months after P's arrival there, or
- (b) otherwise, not later than 12 months after the most recent report under that section.

(8) Section 221(2) (direction ceasing to have effect if person not admitted within 14 days) does not apply to a hospital transfer direction which is treated as having been given under subsection (5).

(9) The date of P’s arrival in Northern Ireland is to be treated as being the end of a relevant period for the purposes of section 227 (duty to notify Attorney General).

(10) Where (immediately before being removed) P is subject to—

(a) a hospital direction (within the meaning of the 1995 Act), or

(b) a transfer for treatment direction made because P was serving a sentence of imprisonment (within the meaning of section 136(1) of the 2003 Act),

P is to be treated as if the sentence, order or committal in relation to which the direction has effect were a similar or corresponding sentence, order or committal imposed or made by a court in Northern Ireland.

(11) In this section—

“relevant compulsion order” means a compulsion order (within the meaning of the 1995 Act) that authorises the detention of the person in a hospital (within the meaning of that Act);

“relevant trust” means the HSC trust in whose area the appropriate establishment is situated;

“restriction order” has the same meaning as in the 1995 Act;

“transfer for treatment direction” has the same meaning as in the 2003 Act.’

Minister of Health, Social Services and Public Safety

Clause 252 [Question that Clause 252 stand part negatived]

The Minister of Health, Social Services and Public Safety gives notice of his intention to oppose the question that clause 252 stand part of the Bill.

Minister of Health, Social Services and Public Safety

Amendment 309 [Made]

New Clause

After clause 252 insert -

‘Removal or transfer from Northern Ireland: power to make further provision

252A.—(1) Regulations may make provision in connection with the removal of a person by virtue of this Part or Part 2 to a place outside Northern Ireland (whether or not a place in the United Kingdom).

(2) Regulations may make provision for and in connection with enabling the Department to authorise, and to give directions in connection with, the removal or transfer to a place outside Northern Ireland (whether or not a place in the United Kingdom) of prescribed descriptions of persons where—

(a) the person is subject in Northern Ireland to measures under this Act, and

(b) the person lacks capacity in relation to the removal or transfer and the removal or transfer would be in that person’s best interests.

(3) Regulations may make provision for and in connection with enabling the Department of Justice to authorise, and to give directions in connection with, the removal or transfer to a place outside Northern Ireland (whether or not a place in the United Kingdom) of prescribed descriptions of persons where—

(a) the person is subject in Northern Ireland to measures under this Act, and

(b) either—

(i) the person consents to the removal or transfer, or

- (ii) failure to remove or transfer the person there would be more likely than not to result in serious physical or psychological harm to the person or serious physical harm to other persons.

(4) In this section, references to the “transfer” of a person are to the transfer of responsibility for a person who is not detained by virtue of Part 2 or Part 10; and regulations may prescribe the powers and duties that constitute responsibility for a person for this purpose.

(5) References to persons subject to measures under this Act include, in particular,—

- (a) in subsection (2)(a), persons in respect of whom an authorisation under Part 2 has been granted authorising a particular measure (within the meaning given by section 41);
- (b) in subsection (3)(a), persons in respect of whom an order or direction has been made or given under Part 10 (including persons in respect of whom a warrant under section 189(1)(b) or an order under section 229(2)(b) is in effect).

(6) Regulations under this section—

- (a) may prescribe steps to be taken before a person may be removed or transferred, or prescribe other conditions which must be met before a person may be removed or transferred,
- (b) may provide that, where a person is removed or transferred, any prescribed measure to which the person is subject ceases to have effect, and
- (c) may apply, or make provision similar to, any provision of Part 2 or Part 10 (with or without modifications).

(7) The powers to make regulations under this section must be exercised so as to ensure that, where under this Part the removal or transfer of a person from Northern Ireland is authorised—

- (a) notice of the authorisation and proposed removal or transfer must be given to—
 - (i) the person to be removed or transferred, and
 - (ii) any prescribed person,
at least a prescribed period before the date of the proposed removal or transfer; and
- (b) there is a right to apply to the Tribunal in respect of the authorisation (except where the Tribunal approved the removal or transfer before the authorisation was given).

(8) Regulations under this section may amend this Part, and may make supplementary or consequential amendments to other provisions of this Act.

(9) In this section “regulations” means—

- (a) in relation to provision concerning the removal or transfer of a Part 10 transferee, regulations made by the Department of Justice;
- (b) in any other case, regulations made by the Department.

(10) In subsection (9) a “Part 10 transferee” is a person—

- (a) who is detained by virtue of Part 10 or (if not detained under this Act) in respect of whom an order or direction has been made or given under Part 10, or
- (b) (in the case of a person who does not fall within paragraph (a)) whose removal is authorised on the ground that either of the conditions set out in subsection (3)(b) is met.’

Minister of Health, Social Services and Public Safety

Clause 253 [*Question that Clause 253 stand part negatived*]

The Minister of Health, Social Services and Public Safety gives notice of his intention to oppose the question that clause 253 stand part of the Bill.

Minister of Health, Social Services and Public Safety

Amendment 310 [*Made*]

New Clause

After clause 253 insert -

‘Persons removed or transferred to Northern Ireland: power to make further provision

253A.—(1) Regulations may make provision, in respect of persons of a prescribed description removed to Northern Ireland under a relevant provision—

- (a) requiring prescribed steps to be taken when the person arrives in Northern Ireland;
- (b) providing for the person to be treated as if he or she were a person of a prescribed description subject to measures under this Act.

(2) The reference in subsection (1)(b) to persons subject to measures under this Act includes, in particular—

- (a) persons in respect of whom an authorisation under Part 2 has been granted authorising a particular measure (within the meaning given by section 41), and
- (b) persons in respect of whom an order or direction has been made or given under Part 10 (including persons in respect of whom a warrant under section 189(1)(b) or an order under section 229(2)(b) is in effect).

(3) Subsection (1)(b) permits the regulations to provide for a person to be treated as if an authorisation under Part 2 authorising a particular measure had been granted only where the person (before being removed to Northern Ireland) was subject under the law of England, Wales or Scotland to a corresponding or similar measure.

(4) Subsection (1)(b) permits the regulations to provide for a person to be treated as if an order or direction had been made or given under Part 10 only where the person (before being removed to Northern Ireland) was subject under the law of England, Wales or Scotland to an order, direction or other measure have corresponding or similar effect.

(5) Regulations may make provision about the application of this Act to persons who are removed to Northern Ireland under a relevant provision and who are treated, by virtue of this Part, as if they were subject to particular measures under this Act.

(6) In this section “a relevant provision” means—

- (a) Part 6 of the 1983 Act;
- (b) regulations made under section 289 or 290 of the 2003 Act; or
- (c) any provision of the law of a country or territory other than the United Kingdom which is similar or corresponds to this Part or Part 2 or 10 of this Act.

(7) Regulations under this section may amend this Part, and may make supplementary or consequential amendments to other provisions of this Act.

(8) In this section “regulations” means—

- (a) in relation to provision concerning a Part 10 arrival, regulations made by the Department of Justice;

(b) in any other case, regulations made by the Department.

(9) In subsection (8) a “Part 10 arrival” is a person who (by virtue of the regulations) is to be treated as if an order or direction under Part 10 had been made or given in respect of him or her.’

Minister of Health, Social Services and Public Safety

Amendment 311 [Made]

New Clause

After clause 253 insert -

‘Interpretation of Part 11

253B.—(1) In this Part—

“the 1983 Act” means the Mental Health Act 1983;

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995;

“the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003;

“appropriate establishment” has the same meaning as in Part 10 (see section 165);

“hospital direction”, except where otherwise provided, has the same meaning as in Part 10 (see section 247(1));

“hospital transfer direction” has the same meaning as in Part 10 (see section 247(1));

“public protection order”, “public protection order with restrictions” and “public protection order without restrictions” have the same meaning as in Part 10 (see section 165);

“the responsible medical practitioner” has the same meaning as in Part 10 (see section 247(1)).’

Minister of Health, Social Services and Public Safety

Amendment 312 [Made]

Clause 256, Page 138, Line 23

At end insert -

‘(aa) P is detained under Part 9 or 10, and is in the custody or care of X;’

Minister of Health, Social Services and Public Safety

Amendment 313 [Made]

Clause 256, Page 138, Line 24

After second ‘attorney’ insert ‘, or an enduring power of attorney,’

Minister of Health, Social Services and Public Safety

Amendment 314 [Made]

Clause 256, Page 138, Line 30

At end insert -

‘(4) Proceedings in respect of an offence under this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.’

Minister of Health, Social Services and Public Safety

Amendment 315 [Made]

Clause 258, Page 139, Line 23

Leave out ‘receives and’

Minister of Health, Social Services and Public Safety

Amendment 316 [Made]

Clause 258, Page 139, Line 27

At end insert -

‘(1A) A person (“R”) commits an offence if—

- (a) R intentionally detains another person (“P”) in circumstances amounting to a deprivation of liberty;
- (b) R does so in purported reliance on Part 9 or 10; and
- (c) P is not liable to be detained by virtue of that Part.’

Minister of Health, Social Services and Public Safety

Amendment 317 [Made]

Clause 258, Page 140, Line 2

At end insert -

‘(5) Proceedings in respect of an offence under this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

(6) Section 20(1) of the Interpretation Act (Northern Ireland) 1954 applies in relation to the offence under this section as it applies in relation to other offences under this Act (so, for example, nothing in this section prevents a person from being prosecuted and punished for an offence of false imprisonment).’

Minister of Health, Social Services and Public Safety

Amendment 318 [Made]

Clause 259, Page 140, Line 4

Leave out Subsections (1) to (5) and insert -

‘(1) A person commits an offence if—

- (a) the person knows that another person (“P”) is, by virtue of this Act, liable to be detained in a place in circumstances amounting to a deprivation of liberty; and
- (b) the person induces, or intentionally assists, P to absent himself or herself without permission from that place.

(2) A person commits an offence if—

- (a) the person knows that another person (“P”) is, by virtue of this Act, liable to be detained in a place (“the relevant place”) in circumstances amounting to a deprivation of liberty;
- (b) P has absented himself or herself without permission from the relevant place; and
- (c) the person—
 - (i) allows P to live or stay with the person, knowing that P absented himself or herself without permission from the relevant place; or
 - (ii) gives P any assistance with the intention of preventing, delaying or interfering with P’s being returned to detention.

(3) A person commits an offence if—

- (a) the person knows that another person (“P”) is, by virtue of this Act, liable to be detained in a place in circumstances amounting to a deprivation of liberty;
- (b) P is being taken to that place; and
- (c) the person induces, or intentionally assists, P to escape.

(4) In subsections (1) and (2) references to P absenting himself or herself without permission from a place where P is liable to be detained (“the relevant place”) include—

- (a) P failing to return to the relevant place at the end of an occasion or period for which P was given permission to be absent, or on being recalled from a permitted absence; and
- (b) P absenting himself or herself, without permission, from a place where P is required to be by conditions imposed on the grant of a permission for absence from the relevant place.’

Minister of Health, Social Services and Public Safety

Amendment 319 [Made]

Clause 260, Page 140, Line 31

Leave out Subsections (1) to (3) and insert -

‘(1) A person commits an offence if—

- (a) the person knows that another person (“P”) is required by a community residence requirement to live at a particular place; and
- (b) the person induces, or intentionally assists, P to stop living at that place.

(2) A person commits an offence if—

- (a) the person knows that another person (“P”) is required by a community residence requirement to live at a particular place;

- (b) P has stopped living at that place; and
- (c) the person gives P any assistance with the intention of preventing, delaying or interfering with P's being returned to live at that place.'

Minister of Health, Social Services and Public Safety

Amendment 320 [Made]

Clause 260, Page 141, Line 3

Leave out from 'has' to end of line 4 and insert 'means a community residence requirement (as defined by section 31) that is imposed under Part 2.'

Minister of Health, Social Services and Public Safety

Amendment 321 [Made]

Clause 262, Page 141, Line 39

At end insert -

'(2A) Proceedings in respect of an offence committed by virtue of this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.'

Minister of Health, Social Services and Public Safety

Amendment 322 [Made]

Clause 265, Page 143, Line 9

Leave out subsection (3)

Minister of Health, Social Services and Public Safety

Amendment 323 [Made]

Clause 265, Page 143, Line 37

After 'made' insert 'in accordance with this Act'

Minister of Health, Social Services and Public Safety

Amendment 324 [Made]

Clause 265, Page 143, Line 37

After second 'attorney' insert ', or an enduring power of attorney,'

Minister of Health, Social Services and Public Safety

Amendment 325 [Made]

Clause 265, Page 143, Line 39

After ‘made’ insert ‘in accordance with this Act’

Minister of Health, Social Services and Public Safety

Amendment 326 [Made]

Clause 266, Page 143, Line 42

After ‘265’ insert ‘(2)’

Minister of Health, Social Services and Public Safety

Amendment 327 [Made]

Clause 266, Page 144, Line 3

Leave out from ‘taken’ to ‘has’ on line 4 and insert -

‘brought only—

(a) by RQIA; or

(b) by, or with’

Minister of Health, Social Services and Public Safety

Amendment 328 [Made]

Clause 270, Page 145, Line 20

Leave out from ‘, in’ to ‘Act’ on line 22 and insert ‘is absent with permission from a place of detention’

Minister of Health, Social Services and Public Safety

Amendment 329 [Made]

Clause 270, Page 145, Line 34

At end insert -

‘(2) In subsection (1)(b) “place of detention” means a place where the person is detained, by virtue of this Act, in circumstances amounting to a deprivation of liberty.’

Minister of Health, Social Services and Public Safety

Amendment 330 [Made]

Clause 271, Page 146, Line 34

Leave out from ‘granted’ to ‘and’ on line 35 and insert ‘or enduring power of attorney (within the meaning of the Mental Capacity Act) granted by P’

Minister of Health, Social Services and Public Safety

Amendment 331 [Made]

New Clause

After clause 272 insert -

‘Advance decisions to refuse treatment

Review of law relating to advance decisions

272A.—(1) Before the third anniversary of the day this section comes into operation, the Department must—

- (a) review the law relating to advance decisions to refuse treatment; and
- (b) produce a report setting out the conclusions reached on the review (including any proposals for changes to that law).

(2) The Department must lay a copy of the report before the Assembly.’

Minister of Health, Social Services and Public Safety

Amendment 332 [Made]

Clause 274, Page 148, Line 35

After ‘questions’ insert ‘or propositions’

Minister of Health, Social Services and Public Safety

Amendment 333 [Made]

Clause 276, Page 149, Line 16

After ‘over’ insert ‘(or is under 16 and is detained under Part 9 or being dealt with under Part 10)’

Minister of Health, Social Services and Public Safety

Amendment 334 [Made]

Clause 276, Page 149, Line 18

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 335 [Made]

Clause 276, Page 149, Line 19

Leave out ‘of this Act’

Minister of Health, Social Services and Public Safety

Amendment 336 [Made]

Clause 276, Page 150, Line 5

After ‘concerned’ insert ‘(and must in particular consult the Department of Justice if the code contains specific provision about persons detained under Part 9 or persons being dealt with under Part 10)’

Minister of Health, Social Services and Public Safety

Amendment 337 [Made]

Clause 276, Page 150, Line 12

At end insert -

‘(8A) For the purposes of this section a person is “being dealt with under Part 10” if—

(a) the person is remanded to hospital under Chapter 1 of Part 10; or

(b) a public protection order, hospital direction, interim detention order or hospital transfer direction has been made in respect of the person and remains in force.’

Minister of Health, Social Services and Public Safety

Amendment 338 [Made]

Clause 276, Page 150, Line 13

After first ‘section’ insert -

‘—

“hospital direction”, “hospital transfer direction”, “interim detention order” and “public protection order” have the same meaning as in Part 10 (see section 247);

Minister of Health, Social Services and Public Safety

Amendment 339 [Made]

Clause 277, Page 150, Line 22

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 340 [Made]

Clause 277, Page 150, Line 23

After second ‘attorney’ insert ‘or an enduring power of attorney’

Minister of Health, Social Services and Public Safety

Amendment 341 [Made]

New Clause

After clause 277 insert -

‘Provision of information and facilities

Provision of information by HSC trusts and the Department

277A.—(1) An HSC trust, and the Department, must provide to a relevant authority such returns, reports and other information as the relevant authority may require for the performance of its functions under this Act.

(2) In subsection (1) “relevant authority” means—

- (a) the High Court;
- (b) the Public Guardian;
- (c) the Tribunal; or
- (d) the Attorney General.’

Minister of Health, Social Services and Public Safety

Amendment 342 [Made]

New Clause

After clause 277 insert -

‘Provision of facilities by HSC trusts and the Department

277B.—(1) An HSC trust must provide to a relevant authority such facilities as are necessary to enable the relevant authority to perform its functions under this Act.

(2) In subsection (1) “relevant authority” means—

- (a) the High Court;
- (b) the Public Guardian; or

(c) the Tribunal.

(3) The Department must provide, to the Tribunal, such facilities as are necessary to enable the Tribunal to perform its functions under this Act.’

Minister of Health, Social Services and Public Safety

Amendment 343 [Made]

Clause 278, Page 150, Line 37

Leave out ‘justice of the peace’ and insert ‘lay magistrate’

Minister of Health, Social Services and Public Safety

Amendment 344 [Made]

Clause 278, Page 150, Line 39

Leave out from ‘person’ to ‘place’ on line 40 and insert ‘relevant person’

Minister of Health, Social Services and Public Safety

Amendment 345 [Made]

Clause 278, Page 151, Line 4

Leave out ‘justice’ and insert ‘lay magistrate’

Minister of Health, Social Services and Public Safety

Amendment 346 [Made]

Clause 278, Page 151, Line 5

After second ‘the’ insert ‘relevant’

Minister of Health, Social Services and Public Safety

Amendment 347 [Made]

Clause 278, Page 151, Line 6

At end insert -

‘(2A) A constable executing a warrant under subsection (2) may be accompanied by an approved social worker (as well as a medical practitioner).’

Minister of Health, Social Services and Public Safety

Amendment 348 [Made]

Clause 278, Page 151, Line 7

Leave out ‘person concerned’ and insert ‘relevant person’

Minister of Health, Social Services and Public Safety

Amendment 349 [Made]

Clause 278, Page 151, Line 9

Leave out from ‘place’ to end of line 10 and insert -

‘person’ means a person who—

(a) by virtue of this Act, is liable to be detained in a place in circumstances amounting to a deprivation of liberty; and

(b) is, by virtue of this Act, to be taken to that place.’

Minister of Health, Social Services and Public Safety

Amendment 350 [Made]

Clause 279, Page 151, Line 12

Leave out ‘justice of the peace’ and insert ‘lay magistrate’

Minister of Health, Social Services and Public Safety

Amendment 351 [Made]

Clause 279, Page 151, Line 15

After ‘(b)’ insert ‘(a “relevant person”)’

Minister of Health, Social Services and Public Safety

Amendment 352 [Made]

Clause 279, Page 151, Line 19

Leave out ‘justice’ and insert ‘lay magistrate’

Minister of Health, Social Services and Public Safety

Amendment 353 [Made]

Clause 279, Page 151, Line 21

Leave out ‘person liable to be so taken’ and insert ‘relevant person’

Minister of Health, Social Services and Public Safety

Amendment 354 [Made]

Clause 279, Page 151, Line 23

Leave out ‘1983 Act’ and insert ‘Mental Health Act 1983’

Minister of Health, Social Services and Public Safety

Amendment 355 [Made]

Clause 279, Page 151, Line 26

Leave out ‘into custody in Northern Ireland any person who may be so taken.’ and insert ‘any relevant person into custody in Northern Ireland.’

Minister of Health, Social Services and Public Safety

Amendment 356 [Made]

Clause 280, Page 152, Line 4

At end insert -

‘(4) Nothing in subsection (3) affects any other power, or authority to do an act, that the relevant person (or any other person) may have.’

Minister of Health, Social Services and Public Safety

Amendment 357 [Made]

Clause 281, Page 152, Line 24

At end insert -

‘(6) Nothing in subsection (1) affects any other power, or authority to do an act, that a person mentioned in subsection (2) (or any other person) may have.’

Minister of Health, Social Services and Public Safety

Amendment 358 [Made]

Clause 282, Page 152, Line 29

Leave out 'liable to be'

Minister of Health, Social Services and Public Safety

Amendment 359 [Made]

Clause 282, Page 152, Line 31

Leave out from 'from' to 'harm' on line 32

Minister of Health, Social Services and Public Safety

Amendment 360 [Made]

Clause 283, Page 152, Line 38

Leave out "'a panel'" and insert "'panel'"

Minister of Health, Social Services and Public Safety

Amendment 361 [Made]

Clause 283, Page 153, Line 3

After 'members' insert '(all of whom must be present during any proceedings of the panel)'

Minister of Health, Social Services and Public Safety

Amendment 362 [Made]

Clause 283, Page 153, Line 4

Leave out subsection (3)

Minister of Health, Social Services and Public Safety

Amendment 363 [Made]

Clause 283, Page 153, Line 5

Leave out 'provision about the procedure of such a panel' and insert 'further provision about the membership or procedure of panels'

Minister of Health, Social Services and Public Safety

Amendment 364 [Made]

Clause 283, Page 153, Line 7

Leave out ‘the panel to afford’ and insert ‘panels to give’

Minister of Health, Social Services and Public Safety

Amendment 365 [Made]

Clause 283, Page 153, Line 9

Leave out ‘the’ and insert ‘a’

Minister of Health, Social Services and Public Safety

Amendment 366 [Made]

Clause 283, Page 153, Line 11

Leave out ‘the’ and insert ‘a’

Minister of Health, Social Services and Public Safety

Amendment 367 [Made]

Clause 283, Page 153, Line 14

Leave out ‘the’ and insert ‘a’

Minister of Health, Social Services and Public Safety

Amendment 368 [Made]

Clause 284, Page 153, Line 25

Leave out ‘permission’ and insert ‘consent’

Minister of Health, Social Services and Public Safety

Amendment 369 [Not moved]

Clause 286, Page 154, Line 5

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 370 [Not called]

Clause 286, Page 154, Line 8

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 371 [Not called]

Clause 286, Page 154, Line 9

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 372 [Not called]

Clause 286, Page 154, Line 10

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 373 [Not called]

Clause 286, Page 154, Line 11

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 374 [Not called]

Clause 286, Page 154, Line 13

After ‘practitioners’ insert ‘or approved clinicians’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 375 [Not called]

Clause 286, Page 154, Line 15

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 376 [Not called]

Clause 286, Page 154, Line 16

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 377 [Not called]

Clause 286, Page 154, Line 18

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 378 [Not called]

Clause 286, Page 154, Line 22

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Clause 288 [Question that Clause 288 stand part negatived]

The Minister of Health, Social Services and Public Safety gives notice of his intention to oppose the question that clause 288 stand part of the Bill.

Minister of Health, Social Services and Public Safety

Clause 288 [*Question that Clause 288 stand part negatived*]

The Member listed below gives notice of his intention to oppose the question that clause 288 stand part of the Bill.

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 379 [*Made*]

Clause 289, Page 155, Line 8

Leave out ‘under a relevant provision’ and insert ‘to which subsection (3) applies’

Minister of Health, Social Services and Public Safety

Amendment 380 [*Made*]

Clause 289, Page 155, Line 11

Leave out ‘Regulations under any other provision of’ and insert ‘Any other regulations under’

Minister of Health, Social Services and Public Safety

Amendment 381 [*Made*]

Clause 289, Page 155, Line 13

Leave out ‘In this section “relevant provision” means’ and insert -

‘This subsection applies to—

(a) regulations under’

Minister of Health, Social Services and Public Safety

Amendment 382 [*Made*]

Clause 289, Page 155, Line 13

After ‘22(1),’ insert ‘36(4)(b),’

Minister of Health, Social Services and Public Safety

Amendment 383 [*Made*]

Clause 289, Page 155, Line 14

After ‘48(5),’ insert ‘58A(2),’

Minister of Health, Social Services and Public Safety

Amendment 384 [Made]

Clause 289, Page 155, Line 14

Leave out ‘205(8),’

Minister of Health, Social Services and Public Safety

Amendment 385 [Made]

Clause 289, Page 155, Line 15

Leave out ‘, 288(3)(b)’

Minister of Health, Social Services and Public Safety

Amendment 386 [Made]

Clause 289, Page 155, Line 15

After ‘293(3)’ insert ‘, paragraph 14(1) of Schedule 7A’

Minister of Health, Social Services and Public Safety

Amendment 387 [Made]

Clause 289, Page 155, Line 15

At end insert -

- ‘(b) regulations under section 252 or 253 that amend this Act;
- (c) regulations under section 265(2) containing any provision that creates an offence;
- (d) regulations under section 290(3) that amend the text of Northern Ireland legislation or an Act of Parliament;
- (e) any other regulations under this Act that are contained in a statutory rule that contains regulations within any of paragraphs (a) to (d).’

Minister of Health, Social Services and Public Safety

Amendment 388 [Made]

Clause 290, Page 155, Line 21

At end insert -

‘(3) The Department or the Department of Justice may by regulations make such other amendments of statutory provisions as it considers appropriate in consequence of this Act.’

Minister of Health, Social Services and Public Safety

Amendment 389 [Made]

Clause 293, Page 156

Leave out lines 12 to 14

Minister of Health, Social Services and Public Safety

Amendment 390 [Made]

Clause 293, Page 157, Line 9

After ‘physical’ insert ‘or psychological’

Minister of Health, Social Services and Public Safety

Amendment 391 [Made]

Clause 293, Page 157, Line 11

Before ‘includes harm’ insert ‘except in references to physical harm,’

Minister of Health, Social Services and Public Safety

Amendment 392 [Made]

Clause 293, Page 157

Leave out line 27

Minister of Health, Social Services and Public Safety

Amendment 393 [Made]

Clause 293, Page 157, Line 28

At end insert -

“‘independent mental capacity advocate’ has the meaning given by section 84;’

Minister of Health, Social Services and Public Safety

Amendment 394 [Made]

Clause 293, Page 157, Line 33

At end insert -

“‘liable to be detained’”: any reference to a person who, by virtue of this Act, is liable to be detained in a place in circumstances amounting to a deprivation of liberty includes—

- (a) person who is detained in the place in such circumstances, where section 9(2) applies in relation to the detention, and
- (b) a person who would fall within paragraph (a) if he or she were so detained, whether or not an authorisation under Schedule 1 or 2 is in force in respect of the person;’

Minister of Health, Social Services and Public Safety

Amendment 395 [Made]

Clause 293, Page 159, Line 11

After ““regulations”” insert ‘and “prescribed” mean’

Minister of Health, Social Services and Public Safety

Amendment 396 [Made]

Clause 293, Page 159, Line 12

Leave out ‘means’

Minister of Health, Social Services and Public Safety

Amendment 397 [Made]

Clause 293, Page 159, Line 13

After ‘and’ insert ‘prescribed by such regulations;’

Minister of Health, Social Services and Public Safety

Amendment 398 [Made]

Clause 293, Page 159, Line 14

Leave out ‘section 289’ and insert ‘sections 252, 253, 289, 290 and 294’

Minister of Health, Social Services and Public Safety

Amendment 399 [Made]

Clause 293, Page 159, Line 15

Leave out ‘means’

Minister of Health, Social Services and Public Safety

Amendment 400 [Made]

Clause 293, Page 159, Line 15

After ‘Department,’ insert ‘and prescribed by such regulations.’

Minister of Health, Social Services and Public Safety

Amendment 401 [Made]

Clause 293, Page 159

Leave out lines 16 and 17

Minister of Health, Social Services and Public Safety

Amendment 402 [Made]

Clause 293, Page 159, Line 17

At end insert -

‘(6A) Part 1 (principles) applies in relation to regulations made under any provision of this Act as it applies in relation to that provision.’

Minister of Health, Social Services and Public Safety

Amendment 403 [Made]

Clause 294, Page 159, Line 23

After ‘Sections’ insert ‘272A,’

Minister of Health, Social Services and Public Safety

Amendment 404 [Made]

Clause 294, Page 159, Line 23

Leave out ‘288, 289 and’ and insert ‘289, 290(3),’

Minister of Health, Social Services and Public Safety

Amendment 405 [Made]

Clause 294, Page 159, Line 26

At end insert -

‘(3) The Department or the Department of Justice may by regulations make such transitional, transitory or saving provision as it considers appropriate in connection with the coming into operation of any provision of this Act.’

Minister of Health, Social Services and Public Safety

Amendment 406 [Made]

Schedule 1, Page 160, Line 33

Leave out ‘which would be likely to’ and insert ‘that would or might’

Minister of Health, Social Services and Public Safety

Amendment 407 [Made]

Schedule 1, Page 161, Line 40

Leave out ‘be, or would be likely to be,’ and insert ‘or might be’

Minister of Health, Social Services and Public Safety

Amendment 408 [Made]

Schedule 1, Page 162, Line 32

Leave out ‘would be likely to lack’ and insert ‘would lack (or would probably lack)’

Minister of Health, Social Services and Public Safety

Amendment 409 [Not moved]

Schedule 1, Page 162, Line 37

Leave out ‘medical’ and insert ‘clinical’

Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch

Amendment 410 [Not called]

Schedule 1, Page 162, Line 38

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 411 [Not called]

Schedule 1, Page 163, Line 1

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 412 [Not called]

Schedule 1, Page 163, Line 9

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 413 [Made]

Schedule 1, Page 163, Line 12

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 414 [Made]

Schedule 1, Page 164, Line 11

Leave out ‘for P’

Minister of Health, Social Services and Public Safety

Amendment 415 [Made]

Schedule 1, Page 164, Line 15

Leave out ‘which would be likely to’ and insert ‘that would or might’

Minister of Health, Social Services and Public Safety

Amendment 416 [Made]

Schedule 1, Page 167, Line 28

Leave out ‘likely to lack’ and insert ‘lacks, or probably lacks’

Minister of Health, Social Services and Public Safety

Amendment 417 [Made]

Schedule 1, Page 167, Line 32

Leave out from ‘in’ to end of line 36 and insert -

‘—

- (a) that it will not be possible within that period to decide whether the criteria for authorisation are met in respect of a measure proposed in the application, but
- (b) that there is a good prospect of it being established that the criteria for authorisation are met in respect of the measure,’

Minister of Health, Social Services and Public Safety

Amendment 418 [Made]

Schedule 1, Page 168, Line 23

Leave out ‘likely to lack’ and insert ‘lacks, or probably lacks,’

Minister of Health, Social Services and Public Safety

Amendment 419 [Made]

Schedule 1, Page 169, Line 30

Leave out ‘P is liable by virtue of an authorisation under this Schedule to be detained’ and insert ‘an authorisation under this Schedule authorises the detention of P’

Minister of Health, Social Services and Public Safety

Amendment 420 [Made]

Schedule 1, Page 169, Line 33

Leave out lines 33 and 34 and insert ‘the authorisation ceases to authorise any detention of P.’

Minister of Health, Social Services and Public Safety

Amendment 421 [Not moved]

Schedule 1, Page 170, Line 35

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 422 [Not moved]

Schedule 2, Page 170, Line 38

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 423 [Not called]

Schedule 2, Page 171, Line 33

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 424 [Made]

Schedule 2, Page 172, Line 1

Leave out from second ‘is’ to ‘lack’ on line 2 and insert ‘lacks (or probably lacks)’

Minister of Health, Social Services and Public Safety

Amendment 425 [Not called]

Schedule 2, Page 172, Line 18

Leave out 'medical' and insert 'clinical'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 426 [Not called]

Schedule 2, Page 172, Line 20

After 'practitioner' insert 'or approved clinician'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 427 [Not called]

Schedule 2, Page 172, Line 22

Leave out 'medical' and insert 'clinical'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 428 [Not called]

Schedule 2, Page 172, Line 25

Leave out 'medical' and insert 'clinical'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 429 [Not called]

Schedule 2, Page 172, Line 26

Leave out 'medical' and insert 'clinical'

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 430 [Made]

Schedule 2, Page 172, Line 28

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 431 [Made]

Schedule 2, Page 174, Line 9

Leave out sub-paragraphs (2) to (3) and insert -

‘(2) Immediately after being admitted or treated as admitted, P must be examined by a medical practitioner who—

(a) is within sub-paragraph (4); and

(b) did not make the medical report under paragraph 4.’

Minister of Health, Social Services and Public Safety

Amendment 432 [Not called]

Schedule 2, Page 174, Line 9

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 433 [Made]

Schedule 2, Page 174, Line 19

Leave out ‘An examination under this paragraph must be carried out by’ and insert ‘The medical practitioners are’

Minister of Health, Social Services and Public Safety

Amendment 434 [Not called]

Schedule 2, Page 174, Line 20

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 435 [Not called]

Schedule 2, Page 174, Line 21

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 436 [Not called]

Schedule 2, Page 174, Line 22

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 437 [Made]

Schedule 2, Page 174, Line 23

Leave out sub-paragraph (5)

Minister of Health, Social Services and Public Safety

Amendment 438 [Not called]

Schedule 2, Page 174, Line 24

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 439 [Not called]

Schedule 2, Page 174, Line 24

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 440 [Not called]

Schedule 2, Page 174, Line 25

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 441 [Made]

Schedule 2, Page 174, Line 33

At end insert -

‘(10) If there is a failure to examine P in accordance with sub-paragraph (2), or to make a report in accordance with sub-paragraphs (6) and (7), the failure is an event which terminates the authorisation.’

Minister of Health, Social Services and Public Safety

Amendment 442 [Not called]

Schedule 2, Page 175, Line 16

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 443 [Not called]

Schedule 2, Page 175, Line 19

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 444 [Not called]

Schedule 2, Page 175, Line 20

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 445 [Not called]

Schedule 2, Page 175, Line 22

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 446 [Not called]

Schedule 2, Page 175, Line 24

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 447 [Not called]

Schedule 2, Page 176, Line 6

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 448 [Not called]

Schedule 2, Page 176, Line 7

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 449 [Not called]

Schedule 2, Page 176, Line 11

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 450 [Made]

Schedule 2, Page 177, Line 33

Leave out sub-paragraph 1 and insert -

‘(1) Where a report under this Schedule is incorrect or defective in any respect as a result of an administrative error, the appropriate person may (subject to sub-paragraph (2)) amend the report for the purpose of correcting the error.

(2) “The appropriate person”, in relation to a report (“the relevant report”), means—

(a) if the relevant report is a report under paragraph 2 and the amendment is to the medical report included in the relevant report, the person who signed the medical report;

(b) otherwise, the person who signed the relevant report.’

Minister of Health, Social Services and Public Safety

Amendment 451 [Made]

Schedule 2, Page 177, Line 40

Leave out ‘But’

Minister of Health, Social Services and Public Safety

Amendment 452 [Made]

Schedule 2, Page 178, Line 10

Leave out from ‘in’ to ‘(“P”)’ on line 11

Minister of Health, Social Services and Public Safety

Amendment 453 [Made]

Schedule 2, Page 178, Line 14

Leave out from ‘, or’ to end of line 16 and insert ‘does not comply with the requirements of paragraph 4.’

Minister of Health, Social Services and Public Safety

Amendment 454 [Made]

Schedule 2, Page 178, Line 19

Leave out from ‘or’ to ‘given’ on line 20

Minister of Health, Social Services and Public Safety

Amendment 455 [Made]

Schedule 2, Page 178, Line 21

Leave out sub-paragraph (4) and insert -

‘(4) But if, before the end of the permitted period—

(a) a fresh medical report is made in accordance with paragraph 4, and

(b) the fresh report states that in the opinion of the person making the report the condition in paragraph 12 is met, and has been met at all times since the making of the medical report mentioned in sub-paragraph (1)(b),

the authorisation report is valid, and is to be treated as always having been valid.’

Minister of Health, Social Services and Public Safety

Amendment 456 [Made]

Schedule 2, Page 178, Line 28

Leave out sub-paragraph (5) and insert -

‘(5) Nothing in this paragraph limits the application of paragraph 20.’

Minister of Health, Social Services and Public Safety

Amendment 457 [Made]

Schedule 2, Page 178, Line 32

At end insert -

‘22.—(1) This paragraph applies where—

(a) a report under paragraph 2 (“the authorisation report”) has been made in respect of a person (“P”); and

(b) at any time before the end of the permitted period, it appears to the managing authority that a report under paragraph 11, 13 or 14 made in respect of P (“the original report”) does not comply with the requirements of that paragraph (“the relevant paragraph”).

(2) The managing authority may, before the end of the permitted period, give notice in writing to that effect to the person who signed the authorisation report.

(3) Where any such notice is given, the original report is to be disregarded.

(4) But if, before the end of the permitted period—

(a) P is examined, and a fresh report is made, in accordance with the requirements of the relevant paragraph (except any requirements as to the timing of the examination or report), and

(b) the fresh report states that in the opinion of the person making the report the condition in paragraph 12 is met, and has been met at all times since the making of the original report,

the authorisation has effect, and is treated as always having had effect, as if it had not expired by virtue of the relevant paragraph.

(5) Nothing in this paragraph limits the application of paragraph 20.

(6) In this paragraph—

“the managing authority” has the same meaning as in paragraph 21;

“the permitted period” has the same meaning as in paragraph 20.’

Minister of Health, Social Services and Public Safety

Amendment 458 [Made]

Schedule 3, Page 180, Line 19

Leave out ‘would be likely to lack’ and insert ‘would lack (or would probably lack)’

Minister of Health, Social Services and Public Safety

Amendment 459 [Not called]

Schedule 3, Page 180, Line 24

Leave out ‘medical’ and insert ‘clinical’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 460 [Not called]

Schedule 3, Page 180, Line 25

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 461 [Not called]

Schedule 3, Page 180, Line 27

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 462 [Not called]

Schedule 3, Page 180, Line 31

After ‘practitioner’ insert ‘or approved clinician’

*Ms Rosaleen McCorley
Mr Raymond McCartney
Mr Seán Lynch*

Amendment 463 [Made]

Schedule 3, Page 180, Line 34

After ‘independent’ insert ‘mental capacity’

Minister of Health, Social Services and Public Safety

Amendment 464 [Made]

Schedule 3, Page 182, Line 8

Leave out ‘likely to lack’ and insert ‘lacks, or probably lacks,’

Minister of Health, Social Services and Public Safety

Amendment 465 [Made]

Schedule 4, Page 186, Line 32

Leave out ‘give notice of the fact in the prescribed form to’ and insert ‘notify’

Minister of Health, Social Services and Public Safety

Amendment 466 [Made]

Schedule 4, Page 187, Line 9

After ‘revoked’ insert ‘or has otherwise come to an end’

Minister of Health, Social Services and Public Safety

Amendment 467 [Made]

Schedule 4, Page 187, Line 10

Leave out sub-paragraph (2)

Minister of Health, Social Services and Public Safety

Amendment 468 [Made]

Schedule 4, Page 187, Line 31

At end insert -

'Notification on cancellation

19A. If the Public Guardian cancels the registration of an instrument as a lasting power of attorney, the Public Guardian must notify—

- (a) the donor;
- (b) each person appointed as attorney; and
- (c) each person (if any) appointed as replacement attorney.'

Minister of Health, Social Services and Public Safety

Amendment 469 [Made]

Schedule 5, Page 201, Line 36

Leave out sub-paragraph (2)

Minister of Health, Social Services and Public Safety

Schedule 5 [Question that Schedule 5 stand part negatived]

The Member listed below gives notice of his intention to oppose the question that Schedule 5 stand part of the Bill.

Chair, Ad Hoc Joint Committee on the Mental Capacity Bill

Amendment 470 [Made]

New Schedule

After schedule 7 insert -

‘SCHEDULE 7A

Section 205.

SUPERVISION AND ASSESSMENT ORDERS

PART 1

INTRODUCTORY

Introductory

1.—(1) In this Part a “supervision and assessment order” is an order made in respect of a person (“the supervised person”) containing—

- (a) a supervision element (see paragraph 3), and
- (b) an assessment element (see paragraph 4).

(2) A supervision and assessment order may also include a residence element (see paragraph 5).

(3) In this Schedule, references to the commission of offences by a person include the commission of offences in the circumstances described in section 204 (finding that person not guilty on the ground of insanity).

PART 2

MAKING AND CONTENTS OF ORDER

Conditions which must be satisfied before order can be made

2.—(1) A court may make a supervision and assessment order only if the following four conditions are met.

(2) The first condition is that the court is satisfied, on the required medical evidence, that the supervised person has a disorder, or that there is reason to suspect that the supervised person has a disorder.

(3) The second condition is that the court is satisfied, on the required medical evidence, that examination of the supervised person (“S”) is necessary or desirable for the assessment of one or both of the following—

- (a) whether the disorder requires treatment;
- (b) whether consent to the giving of such treatment will be given by S, or by a person with authority to give consent on behalf of S, or whether such treatment will be capable of being given to S by virtue of Part 2 of this Act (or, if S is under 16, under the Mental Health Order).

(4) The third condition is that the court is satisfied that supervision under the order is desirable in the interests of—

- (a) securing the rehabilitation of the supervised person, or
- (b) protecting the public from harm from that person or preventing the commission by that person of offences.

(5) The fourth condition is that the court is satisfied that the making of such an order is the most suitable means of dealing with the supervised person.

(6) In this paragraph “the required medical evidence” means the written or oral evidence of at least two medical practitioners, including—

- (a) if the disorder is mental disorder, the oral evidence of an approved medical practitioner;
- (b) otherwise, the oral evidence of a medical practitioner who appears to the court to have special experience in the diagnosis or treatment of the disorder.

Supervision element

3.—(1) A supervision element is a requirement that the supervised person be under the supervision of—

- (a) a social worker, or
- (b) a probation officer,

for a period specified in the order (“the supervision period”), which must be not less than 6 months and not more than 3 years.

(2) The social worker or probation officer is referred to in this Schedule as “the supervising officer”.

(3) The court must not make a supervision and assessment order unless it is satisfied that the supervising officer is willing to undertake the supervision.

(4) If the supervising officer is a social worker—

- (a) the supervision and assessment order must specify the HSC trust for the area in which the supervised person resides or will reside, and
- (b) the social worker must be an approved social worker appointed as such by that trust.

Assessment element

4.—(1) An assessment element is a requirement that, during a specified period (“the assessment period”), the supervised person must—

- (a) attend at a specified place at a specified time or times, or
- (b) make himself or herself available at a specified place at a specified time or times,

for assessment by or under the direction of a medical practitioner.

(2) The assessment period may be the whole or any part of the supervision period.

(3) Assessment under sub-paragraph (1) is to be assessment of such of the following as the medical practitioner considers appropriate at the time of the assessment—

- (a) the supervised person’s condition;
- (b) either or both of the matters mentioned in paragraph 2(3)(a) and (b).

(4) In sub-paragraph (1) “specified” means specified in the order.

Residence element

5.—(1) A residence element is any requirement as to the residence of the supervised person during a period specified in the order (“the residence period”).

(2) The residence period may be the whole or any part of the supervision period.

(3) Before including a residence element, the court must consider the home surroundings of the supervised person.

(4) A residence element may not require the supervised person to reside as an in-patient or resident in a hospital or care home.

Procedural requirements relating to the making of the order

6.—(1) Before making a supervision and assessment order, the court must explain to the supervised person in ordinary language—

- (a) the effect of each of the elements included in the order, and
- (b) that a court of summary jurisdiction, and the court making the order, have power under paragraphs 8 to 10, 11 and 13 to review the order on the application either of the supervised person or the supervising officer.

(2) After making an order, the court must as soon as practicable—

- (a) give at least 2 copies of the order to the supervising officer, and
- (b) if the supervising officer is a social worker, send at least 1 copy of the order to the Probation Board.

(3) The supervising officer must give a copy of the order to the supervised person.

PART 3

EFFECT OF ORDER

7. Where an order is made, the supervised person must (as well as complying with the assessment element and any residence element) keep in touch with the supervising officer in accordance with such instructions as that officer may from time to time give, and must notify the supervising officer of any change of address.

PART 4

AMENDMENT OR REVOCATION OF ORDER

Amendment of order: general

8.—(1) A court of summary jurisdiction may, on the application of the supervised person or the supervising officer, amend a supervision and assessment order—

- (a) by cancelling any of the requirements of the order; or
- (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were the court by which the order was made and were then making it.

(2) The power of a court under sub-paragraph (1) does not include power to amend an order by extending any period specified in it beyond the end of 3 years from the date of the original order.

Amendment of order: change of area of residence

9.—(1) This paragraph applies where—

- (a) a supervision and assessment order requires the supervised person to be under the supervision of a social worker, and
- (b) (in accordance with paragraph 3(4)) the order specifies the HSC trust for the area in which the person resides (“the current trust”).

(2) If a court of summary jurisdiction is satisfied that the supervised person proposes to change, or has changed, his residence to the area of another HSC trust, the court may amend the order by substituting, for the current trust, the other HSC trust.

(3) The court must amend the order as mentioned in sub-paragraph (2) if the supervising officer applies for it to do so.

(4) Where—

- (a) the court amends a supervision and assessment order under this paragraph, and
- (b) the order contains requirements which in the opinion of the court cannot be complied with if the supervised person ceases to reside in the area of the current trust,

the court must either cancel those requirements or substitute for them other requirements which can be complied with if the supervised person ceases to reside in that area.

Medical reports

10.—(1) In this paragraph “relevant medical practitioner” means a medical practitioner by whom or under whose direction the supervised person—

- (a) has been assessed in pursuance of a supervision and assessment order, or
- (b) is being treated for a disorder in pursuance of such an order.

(2) Sub-paragraph (3) applies where any of the following conditions is met—

- (a) the order requires the supervised person to attend or make himself or herself available for assessment at specified intervals, but a relevant medical practitioner considers that assessment at longer intervals is sufficient for the purposes mentioned in paragraph 2(3)(a) and (b);
- (b) a relevant medical practitioner considers that it is necessary or desirable, for the purposes mentioned in paragraph 2(3)(a) and (b), to assess the supervised person more frequently than specified in the order;
- (c) a relevant medical practitioner considers that the supervised person no longer requires treatment for his or her disorder;
- (d) a relevant medical practitioner considers that the supervised person’s disorder is not (or is no longer) susceptible to treatment;
- (e) a relevant medical practitioner considers that the assessment period should be extended (subject to sub-paragraph (5));
- (f) a relevant medical practitioner is for any reason unwilling to continue to assess or treat, or direct the assessment or treatment of, the supervised person;
- (g) a relevant medical practitioner becomes aware that the supervised person has been admitted to hospital as an in-patient.

(3) The relevant medical practitioner must make a report in writing to that effect to the supervising officer.

(4) The supervising officer must—

- (a) in the case of a report made as mentioned in sub-paragraph (2)(a), inform the court which made the order;
- (b) in the case of a report made as mentioned in sub-paragraph (2)(b) to (f), apply to a court of summary jurisdiction for the order to be amended as the court considers appropriate (including by cancelling the assessment element);
- (c) in the case of a report made as mentioned in sub-paragraph (2)(g), apply to a court of summary jurisdiction for the assessment element to be suspended whilst the supervised person remains an in-patient.

(5) On an application made in the case of a report made as mentioned in sub-paragraph (2)(e)—

- (a) if the court considers it appropriate for the assessment period to end later than the end of the existing supervision period, the court may extend the supervision period;
- (b) the assessment period (as extended) must not end later than the end of the supervision period (as extended); and
- (c) neither period may be extended beyond the end of 3 years from the date of the original order.

Revocation of order

11.—(1) A court that has made a supervision and assessment order may, on the application of the supervised person or the supervising officer, revoke the order under this paragraph.

(2) The court may do so only if the court is satisfied that, having regard to circumstances which have arisen since the order was made, it would be in the interests of the health or welfare of the supervised person to revoke the order.

Procedural requirements on amendment or revocation of order

12.—(1) On the making under any of paragraphs 8 to 11 of an order amending or revoking a supervision and assessment order, the court must as soon as practicable give to the supervising officer at least 2 copies of the amending or revoking order.

(2) The supervising officer, when given copies under sub-paragraph (1), must give a copy of the amending or revoking order to—

- (a) the supervised person, and
- (b) if the supervised person is receiving in-patient treatment or is residing in a hospital, the person in charge of that hospital.

PART 5

BREACH OF ORDER

13.—(1) This paragraph applies where—

- (a) a supervision and assessment order is in force, and
- (b) the supervising officer applies to the court that made the order for the order to be revoked under this paragraph.

(2) If—

- (a) it is proved to the satisfaction of the court that the supervised person (“S”) has, without reasonable excuse, failed to comply with any of the requirements of the order, and
- (b) it appears to the court to be in the interests of justice to do so,

the court may revoke the order and deal with S, for the matter in respect of which the order was made, in any manner in which the court could deal with S if a finding mentioned in section 205(1) had just been recorded by it in respect of that matter.

(3) In doing so, the court must take into account the extent to which S has complied with the requirements of the order.

(4) In proceedings under this paragraph any question as to whether S has failed to comply with the requirements of the order is to be determined by the court and not by the verdict of a jury.

(5) Where the court proposes to exercise its powers under this paragraph, it must summon S to appear before the court and, if S does not appear in answer to the summons, may issue a warrant for the arrest of S.

PART 6

SUPPLEMENTARY

Power to vary period for which supervision element may be made

14.—(1) The Department of Justice may make regulations substituting, for the period of 3 years mentioned in paragraph 3(1), such other period (exceeding 6 months) as may be specified in the regulations.

(2) Regulations under sub-paragraph (1) may make in paragraph 8(2) any amendment which the Department thinks necessary in consequence of the substitution made by the regulations.

Transitional provision relating to the abolition of petty sessions districts

15.—(1) Until the day on which section 1 of the Justice (Northern Ireland) Act 2015 comes into operation, this Schedule is to be read with the following modifications.

(2) If the supervising officer is a probation officer—

- (a) the supervision and assessment order must specify the petty sessions district in which the supervised person resides or will reside, and
- (b) the supervising officer must be a probation officer appointed for or assigned to that district.

(3) If the supervising officer is a social worker—

- (a) paragraph 6(2)(b) does not apply, but
- (b) the court must, as soon as practicable after making the order, give to the probation officer assigned to the court at least 1 copy of the order.

(4) After making an order, the court must send to the clerk of petty sessions for the petty sessions district in which the supervised person resides or will reside—

- (a) a copy of the order; and
- (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that district in the exercise of its functions in relation to the order.

(5) The functions conferred by paragraphs 8 to 10 are to be exercised by a court for the petty sessions district in which the supervised person resides or will reside.

(6) In paragraph 9—

- (a) in sub-paragraph (1)(a), the reference to supervision by a social worker includes supervision by a probation officer appointed for or assigned to a petty sessions district;
- (b) the references to an HSC trust or to the area of such a trust include a petty sessions district.

(7) If the court amends a supervision and assessment order so as to substitute one petty session district for another, the court which amends the order must send to the clerk of petty sessions for the new petty sessions district—

- (a) at least 2 copies of the amending order; and
- (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that district in the exercise of its functions in relation to the order.

(8) The clerk of petty sessions for the new petty sessions district, when given copies under sub-paragraph (7), must give a copy of the amending order to the supervising officer.'

Minister of Health, Social Services and Public Safety

Amendment 471 [Made]

Schedule 8, Page 211, Line 17

Leave out ‘affects any liability of the patient to be’ and insert ‘prevents the patient from being’

Minister of Health, Social Services and Public Safety

Amendment 472 [Made]

Schedule 8, Page 218, Line 18

Leave out paragraphs 50 and 51 and insert -

‘50. Omit Part 6 (functions of RQIA).

51. In Article 90 (registration of private hospitals) omit paragraph (1).

51A. Omit Articles 91 to 94 (provisions about registration and inspections).

51B. Omit Article 96 (offences under Part 7).’

Minister of Health, Social Services and Public Safety

Amendment 473 [Made]

Schedule 8, Page 219, Line 9

Leave out sub-paragraphs (3) and (4) and insert -

‘(3) In paragraph (2) for the words from “facilities” to the end substitute “facilities to the Review Tribunal as are necessary for it to exercise its functions under this Order.”.

(4) In paragraph (3) for “and RQIA as are necessary for them to exercise their” substitute “as are necessary for it to exercise its”.’

Minister of Health, Social Services and Public Safety

Amendment 474 [Made]

Schedule 8, Page 219, Line 13

At end insert -

‘(4) After paragraph (3) insert—

“(4) Nothing in this Article applies in relation to a person detained by virtue of the 2016 Act.”’

Minister of Health, Social Services and Public Safety

Amendment 475 [Made]

Schedule 8, Page 219, Line 23

Leave out paragraph 61 and insert -

‘61. Omit Article 128 (pay, pensions etc of patients).’

Minister of Health, Social Services and Public Safety

Amendment 476 [Made]

Schedule 8, Page 219, Line 27

At end insert -

‘(b) for “a place of safety” substitute “an appropriate place”.’

Minister of Health, Social Services and Public Safety

Amendment 477 [Made]

Schedule 8, Page 219, Line 28

At end insert -

‘(4) In paragraph (5) for “a place of safety” substitute “an appropriate place”.

(5) In paragraph (7)—

(a) for ““place of safety”” substitute ““appropriate place””;

(b) omit “any police station.”.’

Minister of Health, Social Services and Public Safety

Amendment 478 [Made]

Schedule 8, Page 219, Line 30

Leave out ‘omit “or” and insert ‘for “a place of safety or’

Minister of Health, Social Services and Public Safety

Amendment 479 [Made]

Schedule 8, Page 219, Line 31

At end insert ‘substitute “an appropriate place (as defined by Article 129(7))”.’

Minister of Health, Social Services and Public Safety

Amendment 480 [Made]

Schedule 8, Page 219, Line 38

After '(3)' insert -

'—

(a) for "a place of safety" substitute "an appropriate place";

(b) '

Minister of Health, Social Services and Public Safety

Amendment 481 [Made]

Schedule 8, Page 220, Line 13

Leave out paragraph 67

Minister of Health, Social Services and Public Safety

Amendment 482 [Made]

Schedule 9, Page 226, Line 15

Leave out 'permission' and insert 'leave'

Minister of Health, Social Services and Public Safety

Amendment 483 [Made]

Schedule 10, Page 228, Line 17

At end insert -

'A1. In section 116(1) (fees) after "Enforcement of Judgments Office" insert "or the Public Guardian".'

Minister of Health, Social Services and Public Safety

Amendment 484 [Made]

Schedule 10, Page 231, Line 11

At end insert -

'(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)

15. 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.”’

Minister of Health, Social Services and Public Safety

Amendment 485 [Made]

Schedule 11, Page 234, Column 2

Leave out lines 19 to 34 and insert -

	Part 6. Article 90(1). Articles 91 to 94. Article 96.
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Minister of Health, Social Services and Public Safety

Amendment 486 [Made]

Schedule 11, Page 234, Column 2

Leave out line 41

Minister of Health, Social Services and Public Safety

Amendment 487 [Made]

Schedule 11, Page 235, Column 2

Leave out line 2 and insert -

	Article 128. In Article 129— (a) paragraph (3); (b) in paragraph (7) the words “any police station,”.
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Minister of Health, Social Services and Public Safety

Amendment 488 [Made]

Schedule 11, Page 235, Column 2

Leave out lines 4 and 5

Minister of Health, Social Services and Public Safety

Amendment 489 [Made]

Schedule 11, Page 235, Column 2

Leave out lines 17 to 28

Minister of Health, Social Services and Public Safety