EXPLANATORY MEMORANDUM TO

The Mental Health (Nurses, Guardianship, Consent to Treatment and Prescribed Forms) (Amendment) Regulations (Northern Ireland) 2020

SR 2020 No. 146

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 64(1)(b) and 135(1) of the Mental Health (Northern Ireland) Order 1986 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of this Regulation is to replace two statutory forms (form 10 and 23) in relationt to decisions made under the Mental Health (Northern Ireland) Order 1986.

3. Background

3.1. The Regulations substitutes two statutory forms (form 10 and 23) for decision made under the Mental Health (Northern Ireland) Order 1986.

3.2. Form 10 relates to detention for treatment under Article 12 of the Mental Health (Northern Ireland) Order 1986. The changes to the form make the form clearer as to the requirements needed to detain a person for treatment. The changes to the form do not change the requirements for detention for treatment.

3.3. Form 23 relates to second opinions under Part IV of the Mental Health (Northern Ireland) Order 1986. The changes makes it explicit on the form that in normal circumstances a Part IV medical practitioner must make the second opinion, and only in exceptional circumstances can this be made by a Part II medical practitioner. This is in line with Department of Health (NI) circular HSC/MHU 1/14.

4. Consultation

4.1. The Department has consulted with the HSC Trusts, the HSC Board, PHA, professional bodies and others. The meetings and consultation did not raise any significant issues that required changes to the overall approach.

5. Equality Impact

5.1. In accordance with guidance produced by the Equality Commission for Northern Ireland and in keeping with Regulation 75 of the Northern Ireland Act 1998, the proposals for the Regulations have been screened for equality impact and it is concluded that a full Equality Impact Assessment is not required.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment (RIA) screening was carried out prior to consultation. The screening concluded that the Statutory Rule will have negligible cost impact on businesses, charities, social economy enterprises or the voluntary sector in Northern Ireland and will not otherwise adversely affect these groups. The Department considers that a full RIA is not required.

7. Financial Implications

7.1. There will be no cost impact on businesses, charities, social economy enterprises or the voluntary sector in Northern Ireland.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Statutory Rule is not deemed to breach Section 24 of the Northern Ireland Act 1998 as it is considered to be compatible with any of the Convention rights or community law and does not discriminate against a person on the grounds of religious belief or political opinion.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.