

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Supplementary provisions about extension is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 6

EXTENSION OF PERIOD OF CERTAIN AUTHORISATIONS

Supplementary provisions about extension

Meaning of “measure”, “authorised measure” and “the criteria for continuation”

- 41.—**(1) In this Chapter, in relation to an authorisation—
- “authorised measure” means a measure which is authorised by the authorisation and has begun; and
 - “measure” is to be read in accordance with subsection (2).
- (2) Each of the following is a “measure” for the purposes of this Chapter—
- (a) the provision to P of particular treatment specified by the authorisation;
 - (b) the detention of P in circumstances amounting to a deprivation of liberty in a place specified by the authorisation, for purposes so specified;
 - (c) a requirement to attend at a particular place at particular times or intervals for the purpose of being given treatment specified by the authorisation;
 - (d) a community residence requirement.

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(3) In this Chapter “the criteria for continuation”, in relation to a measure, means the criteria for authorisation for that measure as set out in Part 3 of Schedule 1.

(4) In paragraphs 11(a) and 12(a) and (b) of that Schedule as they apply for the purposes of this section, the references to imposing a requirement include continuing the requirement.

Commencement Information

- II** S. 41(1)(2)(b)(3)(4) in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), Sch. Pt. 4 (with art. 3) (as amended by S.R. 2019/190, art. 2)

Meaning of “the responsible person”

42.—(1) In this Chapter “the responsible person” means a person prescribed by regulations.

(2) Regulations under this section may in particular provide that—

- (a) in prescribed circumstances the responsible person is the approved social worker in charge of P's case;
- (b) in prescribed circumstances, the responsible person is a person of a prescribed description who is designated by the managing authority of a hospital or care home in which P is an in-patient or resident as a person who may make statements under this Chapter;
- (c) in prescribed circumstances, the responsible person is a person of a prescribed description who is designated by an appropriate person (as defined by the regulations) as a person who may make statements under this Chapter.

Commencement Information

- I2** S. 42 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), Sch. Pt. 4 (with art. 3) (as amended by S.R. 2019/190, art. 2)

Extension reports: further provision

43.—(1) This section contains further provision about extension reports.

(2) For the purposes of section 39 an extension report is made when the completed report is signed by the medical practitioner making it.

(3) See also sections 54 and 55 (involvement of nominated person and independent mental capacity advocate).

(4) A medical practitioner who makes an extension report must give it to the relevant trust as soon as practicable.

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(5) Where an extension report is given to the relevant trust, that trust must as soon as practicable—

- (a) give prescribed information to P and any prescribed person; and
- (b) give RQIA a copy of the report.

(6) Regulations under subsection (5) must ensure that the Attorney General is given notice in any case where the report contains the statement mentioned in section 39(3) (statement that P lacks, or probably lacks, capacity in relation to making of Tribunal application).

(7) In this section “the relevant trust” means—

- (a) where the extension made by the report is wholly or partly for the purposes of continuing P's detention in a place, the HSC trust in whose area that place is situated;
- (b) where the extension made by the report is wholly or partly for the purposes of continuing the provision to P of treatment specified by the authorisation or a requirement to attend for such treatment, and paragraph (a) does not apply, the HSC trust in whose area the treatment is provided;
- (c) where the extension made by the report is for the purposes of continuing a community residence requirement and paragraph (b) does not apply, the HSC trust in whose area the place where P is required by the community residence requirement to live is situated.

Commencement Information

- I3** S. 43(1)-(6)(7)(a) in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

Effect of extension on authorisation where authorised measure unused etc

44.—(1) This section applies where—

- (a) an authorisation has been granted;
- (b) the period of the authorisation is extended under section 37 or 38; and
- (c) when the extension report is made, there is a measure authorised by the authorisation which is not specified by the report as a measure that is proposed to be continued after the end of the current period (as defined by section 39).

(2) From the time immediately after the end of the current period, the provision of the authorisation which authorises that measure is to be treated as cancelled.

(3) See section 41 for the meaning of “measure”.

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Commencement Information

- I4** [S. 44](#) in operation at 2.12.2019 for specified purposes by [S.R. 2019/163](#), art. 2(4), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), art. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)