



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION  
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 6

EXTENSION OF PERIOD OF CERTAIN AUTHORISATIONS

*Extensions of period of authorisation*

**First extension of period of authorisation**

**37.—**(1) This section applies where—

- (a) an authorisation has been granted (and has not been revoked); and
- (b) the initial period of the authorisation has not ended.

(2) The period of the authorisation may be extended for a period of 6 months beginning immediately after the end of the initial period, by the making of an extension report (see section 39).

(3) In this Chapter—

“authorisation” means an authorisation under paragraph 15 of Schedule 1;

“the initial period” of an authorisation means the period of 6 months beginning with the date the authorisation is granted (see paragraph 15(6) of Schedule 1);

“the period” of an authorisation means the period at the end of which the authorisation (unless previously revoked) expires.

**Subsequent extensions**

**38.**—(1) This section applies where—

- (a) an authorisation has been granted (and has not been revoked);
- (b) the period of the authorisation has been extended for a period (“the current extension period”) under a relevant provision; and
- (c) the current extension period has not ended.

(2) The period of the authorisation may be further extended, for a period of one year beginning immediately after the end of the current extension period, by the making of an extension report (see section 39).

(3) In subsection (1)(b) “relevant provision” means—

- (a) section 37 (first extension);
- (b) this section (subsequent extensions); or
- (c) paragraph 8(2) of Schedule 3 (extension where responsible person is not of the opinion that the criteria for continuation are met).

**Sections 37 and 38: extension reports**

**39.**—(1) This section applies for the purposes of this Chapter.

(2) An “extension report”, in relation to an authorisation in respect of a person (“P”), is a report in the prescribed form which—

- (a) is made, within the reporting period, by an appropriate medical practitioner who has examined P within the reporting period and made the report as soon as practicable after that examination;
- (b) specifies the authorised measure (or, if more than one, each authorised measure) that is proposed to be continued after the end of the current period;
- (c) states that in the appropriate medical practitioner’s opinion the criteria for continuation (see section 41) are met in respect of each specified measure;
- (d) includes a statement in the prescribed form, by the responsible person (see section 42), that in that person’s opinion the criteria for continuation are met in respect of each specified measure; and
- (e) includes any prescribed information.

(3) If—

- (a) the report specifies a measure within section 41(2)(b) or (d) (deprivation of liberty or community residence requirement), and
- (b) the appropriate medical practitioner is of the opinion that P lacks (or probably lacks) capacity in relation to whether an application under section 45 (applications to Tribunal) should be made in respect of the authorisation,

the report must contain a statement of that opinion.

(4) In this section—

“appropriate medical practitioner” means a medical practitioner who is unconnected with P and is permitted by regulations under section 300 to make the report;

“authorised measure” and “measure” have the meaning given by section 41;

“the current period” means—

- (a) in the case of an extension under section 37, the initial period;
- (b) in the case of an extension under section 38, the current extension period (within the meaning of that section);

“the reporting period” means—

- (a) in the case of an extension under section 37, the last month of the current period;
- (b) in the case of an extension under section 38, the last two months of the current period.

#### **Extension of period where responsible person not of the requisite opinion**

**40.** Schedule 3 makes provision for cases where it is proposed to make an extension under section 37 or 38 but the responsible person is not of the opinion that the criteria for continuation are met.

#### *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.

(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.

### **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.

### **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.

(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.

**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”.