



2016 CHAPTER 18

PART 7

PUBLIC GUARDIAN AND COURT VISITORS

Public Guardian

Duty to notify the Public Guardian

128.—(1) Where a relevant authority is satisfied—

- (a) that a person with whom the authority is concerned lacks capacity in relation to a matter or matters relating to that person's care, treatment, personal welfare or property and affairs,
- (b) that any of the powers of the court under section 113 ought to be exercised with respect to that matter or matters, and
- (c) that arrangements in that behalf have not been made and are not being made,

it is the duty of that relevant authority to notify the Public Guardian of the situation.

(2) In this section a “relevant authority” means—

- (a) an HSC trust;
- (b) [^{F1}the Department] ;
- (c) RQIA;
- (d) the managing authority of an independent hospital;
- (e) the managing authority of a care home.

(3) In this section “a person with whom the authority is concerned” means—

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 128 is up to date with all changes known to be in force on or before 18 March 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*

- (a) in relation to an HSC trust, a person within the area of the trust;
- (b) in relation to [^{F2}the Department] , any person;
- (c) in relation to RQIA, any person;
- (d) in relation to the managing authority of an independent hospital or of a care home, an in-patient or resident in the hospital or care home.

Textual Amendments

- F1** Words in s. 128(2)(b) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 252\(5\)](#); S.R. 2022/102, art. 2(b)
- F2** Words in s. 128(3)(b) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 252\(5\)](#); S.R. 2022/102, art. 2(b)

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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\(b\)](#)