



Mental Capacity Act (Northern Ireland) 2016

CHAPTER 18

MENTAL CAPACITY ACT (NORTHERN IRELAND) 2016

PART 1

PRINCIPLES

Principles

1. Principles: capacity
2. Principle: best interests

Establishing whether a person has capacity

3. Meaning of “lacks capacity”
4. Meaning of “unable to make a decision”
5. Supporting person to make decision
6. Compliance with section 1(2)

Establishing what is in a person’s best interests

7. Best interests
8. Compliance with section 2

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 1

PROTECTION FROM LIABILITY, AND GENERAL SAFEGUARDS

9. Protection from liability for acts in best interests of person lacking capacity
10. General limitations on section 9
11. Advance decisions: effect on section 9
12. Acts of restraint: condition that must be met

CHAPTER 2

ADDITIONAL SAFEGUARDS FOR SERIOUS INTERVENTIONS

Formal capacity assessments etc

13. Formal assessment of capacity
14. Section 13: formal capacity assessments and statements of incapacity

Nominated persons

15. Nominated person: need to have in place and consult

CHAPTER 3

ADDITIONAL SAFEGUARD: SECOND OPINION

16. Second opinion needed for certain treatment
17. Second opinion needed for continuation of medication
18. Second opinion: relevant certificates

CHAPTER 4

ADDITIONAL SAFEGUARD: AUTHORISATIONS ETC

Treatment with serious consequences

19. Treatment with serious consequences: objection from nominated person
20. Treatment with serious consequences: resistance by P etc
21. Meaning of “treatment with serious consequences”
22. Sections 19 and 20: the prevention of serious harm condition

23. Meaning of “subject to an additional measure”

Deprivation of liberty

24. Deprivation of liberty
25. Section 24: definitions
26. Taking person to a place for deprivation of liberty
27. Permission for absence

Requirements to attend for treatment with serious consequences

28. Requirements to attend for certain treatment
29. Duty to revoke requirement where criteria no longer met

Community residence requirements

30. Community residence requirements: authorisation etc
31. Meaning of “community residence requirement”
32. Duty to revoke community residence requirement where criteria no longer met
33. Duties in relation to people subject to community residence requirements
34. Community residence requirements: further provision

CHAPTER 5

ADDITIONAL SAFEGUARD: INDEPENDENT
MENTAL CAPACITY ADVOCATE

35. Independent mental capacity advocate: need to have in place and consult
36. Section 35: relevant acts

CHAPTER 6

EXTENSION OF PERIOD OF CERTAIN AUTHORISATIONS

Extensions of period of authorisation

37. First extension of period of authorisation
38. Subsequent extensions
39. Sections 37 and 38: extension reports
40. Extension of period where responsible person not of the requisite opinion

Status: This is the original version (as it was originally enacted).

Supplementary provisions about extension

41. Meaning of “measure”, “authorised measure” and “the criteria for continuation”
42. Meaning of “the responsible person”
43. Extension reports: further provision
44. Effect of extension on authorisation where authorised measure unused etc

CHAPTER 7

RIGHTS OF REVIEW OF AUTHORISATION

Applications to the Tribunal

45. Right to apply to Tribunal
46. Applications: visiting and examination

References to the Tribunal

47. Power of certain persons to refer case to Tribunal
48. Duty of HSC trust to refer case to Tribunal
49. References etc to Tribunal: persons formerly detained under the Mental Health Order
50. Duty of HSC trust to notify the Attorney General

Powers of the Tribunal

51. Powers of Tribunal in relation to authorisation under Schedule 1
52. Powers of Tribunal in relation to authorisation under Schedule 2
53. Sections 51 and 52: additional powers of Tribunal

CHAPTER 8

SUPPLEMENTARY

Medical reports: involvement of nominated person and independent mental capacity advocate

54. Medical reports: involvement of nominated person
55. Medical reports: involvement of independent mental capacity advocate
56. Sections 54 and 55: meaning of “emergency”

Provision of information

57. Provision of information

58. Ways in which information must be provided

Other supplementary provision

59. Failure by person other than D to take certain steps
60. Part 2 not applicable where other authority for act
61. Power to make further provision

Disregard of certain detention

62. Disregard of certain detention

CHAPTER 9

DEFINITIONS FOR PURPOSES OF PART 2

Meaning of “serious intervention”

63. “Serious intervention”
64. Acts that are “part of” serious interventions

Meaning of “emergency”

65. Meaning of “emergency” in relation to safeguard provisions
66. Section 65: definitions etc
67. Failure by persons other than D to take steps to ensure safeguard met

Other definitions for purposes of Part 2

68. Interpretation of Part 2: general

PART 3

NOMINATED PERSON

Nominated person

69. Nominated person

Appointment by person of his or her nominated person

70. Appointment of nominated person
71. Revocation of appointment
72. Resignation

Default nominated person

73. Default nominated person
74. Section 73: the list
75. Section 73: persons to be disregarded

76. Section 73: meaning of “carer”

Declarations etc

77. Declaration that particular person not to be nominated person
78. Notice declining to be a person’s nominated person

Formalities

79. Formalities for documents under Part 3

Powers of the Tribunal

80. Application to Tribunal for appointment of nominated person
81. Tribunal’s power to appoint nominated person
82. Tribunal’s power to disqualify person from being default nominated person
83. Revocation of Tribunal’s appointment where P regains capacity

Duties in relation to nominated person

84. Duties in relation to nominated person: supplementary
85. Determining who is nominated person

PART 4

INDEPENDENT MENTAL CAPACITY ADVOCATES

Independent mental capacity advocates

86. Independent mental capacity advocates
87. Functions of independent mental capacity advocates: provision of support, etc

Procedure for ensuring that an independent mental capacity advocate is instructed

88. Request for independent mental capacity advocate to be instructed
89. Steps to be taken before independent mental capacity advocate may be requested
90. Right to declare that no independent mental capacity advocate to be instructed
91. Instruction of independent mental capacity advocate
92. Powers of independent mental capacity advocates

Procedure after instruction of independent mental capacity advocate

- 93. Right of person to discontinue involvement of independent mental capacity advocate
- 94. Continuing duty of trust in relation to independent mental capacity advocate

Formalities

- 95. Formalities for declarations under Part 4

Power to adjust role of independent mental capacity advocates

- 96. Power to adjust role of independent mental capacity advocates

PART 5

LASTING POWERS OF ATTORNEY

Creation of lasting power of attorney

- 97. Lasting powers of attorney

Scope of lasting power of attorney

- 98. Restrictions on scope of lasting power of attorney
- 99. Relationship between advance decisions and lasting powers of attorney
- 100. Scope of lasting powers of attorney: gifts

Appointment of attorneys and replacements

- 101. Appointment of attorneys: requirements as respects attorneys
- 102. Appointment of two or more attorneys
- 103. Appointment of replacement attorneys
- 104. Appointment of two or more replacements for a single initial appointee
- 105. Replacement attorneys: position where two or more initial appointees
- 106. Revocation of lasting power etc by donor or on donor's bankruptcy
- 107. Revocation etc: events relating to the attorney

Protection of attorney and others

- 108. Protection of attorney and others if no power created or power revoked
- 109. Reliance on authority of attorney in relation to treatment etc

Powers of the court

- 110. Powers of court as to lasting powers of attorney
- 111. Powers of court as to operation of lasting powers of attorney

PART 6

HIGH COURT POWERS: DECISIONS AND DEPUTIES

Declarations

- 112. The court's power to make declarations

Decisions and deputies

- 113. The court's powers to make decisions and appoint deputies:
general
- 114. Section 113 powers: care, treatment and personal welfare
- 115. Section 113 powers: property and affairs
- 116. Appointment of deputies
- 117. Restrictions on deputies
- 118. Reliance on authority of deputy in relation to treatment etc

Ancillary powers of the court

- 119. Interim orders and directions
- 120. Power to call for reports
- 121. Powers of Public Guardian or Court Visitor in respect of
reports under section 120(2)

Practice and procedure

- 122. Applications to the court
- 123. Duty to notify Attorney General
- 124. Rules of court

PART 7

PUBLIC GUARDIAN AND COURT VISITORS

Public Guardian

- 125. The Public Guardian
- 126. Functions of the Public Guardian
- 127. Further powers of the Public Guardian
- 128. Duty to notify the Public Guardian
- 129. Notifications under section 128: procedure and effect

Court Visitors

- 130. Court Visitors

131. Powers of Court Visitors

PART 8

RESEARCH

Approved research projects

- 132. Research
- 133. Section 132: exception for clinical trials
- 134. Approval of research projects
- 135. Requirement to consult nominated person, carer etc
- 136. Section 135: exception for urgent treatment
- 137. Additional safeguards

Transitional cases

- 138. Loss of capacity during research project: transitional cases

PART 9

POWER OF POLICE TO REMOVE PERSON TO PLACE OF SAFETY

Power of police to remove person from public place to place of safety

- 139. Power of police to remove person from public place to place of safety
- 140. Information to be given on removal
- 141. Search of person on exercise of power to remove

Powers of police to detain person removed from public place

- 142. Power of police to detain in hospital a person removed from a public place
- 143. Power to detain in police station a person removed from a public place
- 144. Sections 142 and 143: the detention conditions
- 145. Transfer from one place of safety to another
- 146. Maximum period of detention under Part 9

Duties and powers of police where person removed to place of safety

- 147. Duty to inform certain persons where power of removal or transfer used
- 148. Section 147: meaning of “the required information” etc
- 149. Record of detention to be kept
- 150. Responsibilities of the appropriate officer
- 151. Review of detention
- 152. Access to legal advice
- 153. Searches of person following removal to place of safety

- 154. Searches and examination to ascertain identity
- 155. Intimate searches
- 156. Annual records

Supplementary

- 157. Principles applying for purposes of Part 9
- 158. Reasonable belief etc
- 159. Power of constable to use reasonable force
- 160. Definitions for purposes of Part 9
- 161. Relationship of Part 9 to other provisions

PART 10

CRIMINAL JUSTICE

CHAPTER 1

REMAND TO HOSPITAL

- 162. Remand to hospital
- 163. Section 162: meaning of “an accused person”
- 164. Section 162: the medical report condition
- 165. Section 162: the treatment condition
- 166. Effect of remand to hospital

CHAPTER 2

POWERS OF COURT ON CONVICTION

Public protection orders with and without restrictions

- 167. Public protection orders with and without restrictions
- 168. Section 167: the detention conditions
- 169. Section 167: the restriction condition
- 170. Further provision about making of public protection orders
- 171. Effect of public protection orders
- 172. Power to direct the ending of restrictions under a public protection order
- 173. Effect of ending of restrictions under a public protection order

Hospital directions

- 174. Hospital direction when passing custodial sentence
- 175. Conditions for giving hospital direction
- 176. Effect of hospital directions

Interim detention orders

- 177. Interim detention orders
- 178. Effect of interim detention orders

CHAPTER 3

DETENTION UNDER A PUBLIC PROTECTION
ORDER WITHOUT RESTRICTIONS

Detention and discharge

- 179. Detention under a public protection order without restrictions
- 180. Discharge from detention by responsible medical practitioner

Extension of the period of an order

- 181. First extension of period of order
- 182. Subsequent extensions
- 183. Sections 181 and 182: extension reports
- 184. Extension of period where responsible person not of the requisite opinion
- 185. The criteria for continuation
- 186. Extension reports: further provision

Permission for absence and transfers

- 187. Permission for absence
- 188. Transfers between hospitals etc

Effect of custodial sentence

- 189. Effect of custodial sentence

CHAPTER 4

DETENTION UNDER A PUBLIC
PROTECTION ORDER WITH RESTRICTIONS

- 190. Detention under a public protection order with restrictions
- 191. Discharge from detention by Department of Justice
- 192. Power to recall person who has been conditionally discharged
- 193. Reports by responsible medical practitioner
- 194. Direction for person to attend for purposes of justice etc
- 195. Permission for absence
- 196. Transfers between hospitals etc

CHAPTER 5

DETENTION UNDER A HOSPITAL DIRECTION

- 197. Detention under a hospital direction
- 198. Termination of hospital directions
- 199. Section 198: meaning of “release date”
- 200. Duties and powers to release from detention
- 201. Reports by responsible medical practitioner
- 202. Permission for absence etc
- 203. Transfers between hospitals

CHAPTER 6

UNFITNESS TO BE TRIED ETC

Procedure during trial on indictment

- 204. Procedure where question of fitness to be tried arises
- 205. Finding that the accused did the act or made the omission charged
- 206. Procedure in relation to finding of insanity
- 207. Powers to deal with person unfit to be tried or not guilty by reason of insanity
- 208. Remission for trial where person no longer unfit to be tried

Procedure of court of summary jurisdiction

- 209. Power to make order where the accused did the act or made the omission charged

Restraining orders

- 210. Power to make restraining order following finding of unfitness to plead etc

CHAPTER 7

TRANSFER FROM PRISON ETC TO HOSPITAL

Persons serving custodial sentences etc

- 211. Power to transfer person serving custodial sentence etc to hospital
- 212. Conditions for transfer under section 211
- 213. Effect of transfer under section 211

Civil prisoners and immigration detainees

- 214. Transfer of civil prisoner or immigration detainee to hospital
- 215. Detention in hospital on removal under section 214
- 216. Termination of direction under section 214

Persons remanded in custody by magistrates' court

- 217. Transfer to hospital of person remanded by magistrates' court
- 218. Detention in hospital on removal under section 217
- 219. Termination of direction under section 217 etc

Other detainees

- 220. Transfer of certain other detainees to hospital
- 221. Detention in hospital on removal under section 220
- 222. Termination of direction under section 220

Conditions for transfer to hospital under section 214, 217 or 220

- 223. Conditions for transfer to hospital under section 214, 217 or 220

General provisions about hospital transfer directions

- 224. General provisions about hospital transfer directions

CHAPTER 8

RIGHTS OF REVIEW OF DETENTION UNDER PART 10

Applications and references to Tribunal: general

- 225. Right to apply to Tribunal
- 226. Meaning of "a qualifying person"
- 227. Applications: visiting and examination
- 228. Power of certain persons to refer case to Tribunal
- 229. Duty of HSC trust to refer case to Tribunal
- 230. Duty to notify the Attorney General

Powers of Tribunal as to public protection orders

- 231. Powers of Tribunal as to public protection order without restrictions
- 232. Powers of Tribunal as to public protection order with restrictions
- 233. Sections 231 and 232: the prevention of serious harm condition
- 234. Sections 231 and 232: additional powers of Tribunal etc

Effect of conditional discharge from public protection order with restrictions

- 235. Effect of conditional discharge
- 236. Applications and references to Tribunal where person recalled
- 237. Applications to Tribunal where person has not been recalled

Powers of Tribunal as to hospital directions and hospital transfer directions

- 238. Powers of Tribunal as to hospital directions and hospital transfer directions
- 239. Section 238: additional powers of Tribunal
- 240. Section 238: procedure where prevention of serious harm condition is not met

CHAPTER 9

SUPPLEMENTARY

Provision of information

- 241. Provision of information
- 242. Ways in which information must be provided

Detention under Part 10: further provision

- 243. Section 20 may apply to person detained under Part 10
- 244. Absence without permission
- 245. Effect of court order or direction on previous authority for hospital detention

Appeals

- 246. Appeals: general
- 247. Appeals against orders made on finding of unfitness to be tried etc
- 248. Hospital directions: cases stated by magistrates' courts

Other supplementary provision

- 249. Requirements as to written evidence
- 250. Interpretation of Part 10: children
- 251. Interpretation of Part 10: impairment of or disturbance in the functioning of the mind or brain
- 252. Interpretation of Part 10: references to disorder
- 253. Interpretation of Part 10: general

PART 11

TRANSFER BETWEEN JURISDICTIONS

CHAPTER 1

REMOVAL OF PERSONS FROM NORTHERN IRELAND

Removal to other parts of UK of persons detained under Part 2

- 254. Removal of persons detained under Part 2 to England or Wales
- 255. Removal of persons detained under Part 2 to Scotland

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

- 256. Removal of certain persons detained under Part 10 to England or Wales
- 257. Removal of certain persons detained under Part 10 to Scotland

CHAPTER 2

PERSONS REMOVED FROM ENGLAND, WALES OR SCOTLAND TO NORTHERN IRELAND

Persons to be detained under Part 2

- 258. Persons to be detained under Part 2 after removal from England or Wales
- 259. Persons to be detained under Part 2 after removal from Scotland

Persons to be detained under Part 10

- 260. Persons to be detained under Part 10 after removal from England or Wales
- 261. Persons to be detained under Part 10 after removal from Scotland

CHAPTER 3

SUPPLEMENTARY

- 262. Removal or transfer from Northern Ireland: power to make further provision
- 263. Persons removed or transferred to Northern Ireland: power to make further provision
- 264. Interpretation of Part 11

Status: This is the original version (as it was originally enacted).

PART 12
CHILDREN

- 265. In-patients under 18: duties of hospital managers
- 266. Amendments of Mental Health Order: children etc

PART 13
OFFENCES

- 267. Ill-treatment or neglect
- 268. Forgery, false statements etc
- 269. Unlawful detention of persons lacking capacity etc
- 270. Assisting persons to absent themselves without permission
- 271. Assisting breach of community residence requirement
- 272. Obstruction
- 273. Offences by bodies corporate

PART 14
MISCELLANEOUS

The Review Tribunal

- 274. Renaming of Mental Health Review Tribunal
- 275. Visiting etc powers of medical practitioners in connection with the Tribunal

Expenditure etc

- 276. Power to make regulations about dealing with money and valuables
- 277. Contravention of regulations under section 276(2)
- 278. Expenditure
- 279. Payment for necessary goods and services

Miscellaneous functions of HSC trusts

- 280. Appointment of approved social workers
- 281. Miscellaneous functions of HSC trusts

Direct payments in place of provision of care services

- 282. Direct payments in place of provision of care services

International protection of adults

- 283. International protection of adults

Advance decisions to refuse treatment

284. Review of law relating to advance decisions

Matters excluded from Act

285. Family relationships etc
286. Voting rights

Declaratory provision

287. Relationship of Act with law relating to murder etc

PART 15

SUPPLEMENTARY

Codes of practice

288. Codes of practice
289. Effect of code

Provision of information and facilities

290. Provision of information by HSC trusts and the Department
291. Provision of facilities by HSC trusts and the Department

Warrants

292. Warrants
293. Warrants: persons liable to be detained under 1983 Act or 2005 Order

Custody, detention etc

294. Provisions as to custody, detention etc
295. Retaking of persons escaping from legal custody

Special accommodation

296. Special accommodation

Panels

297. Panels constituted to decide applications: general provision

Protection from proceedings

298. Protection for acts done in pursuance of Part 9 or 10

Other supplementary provision

299. Risk of serious physical harm to others

Status: This is the original version (as it was originally enacted).

- 300. Medical practitioners who may make certain medical reports
- 301. Documents appearing to be duly made
- 302. Regulations
- 303. Consequential amendments and repeals

Definitions

- 304. Persons “unconnected with” a person
- 305. Meaning of “mental disorder”
- 306. Definitions for purposes of Act

Final provisions

- 307. Commencement etc
- 308. Short title

SCHEDULES

SCHEDULE 1 — Authorisation by panel of certain serious interventions

Part 1 — Preliminary

- 1. (1) In this Schedule— “appropriate care or treatment”, in relation...

Part 2 — Applications for authorisation

Applications for authorisation

- 2. (1) An application under this Schedule may be made where...

Applications: supplementary

- 3. (1) An application may not be made for authorisation of...

Paragraph 2: meaning of “relevant treatment”

- 4. For the purposes of paragraph 2 treatment which is proposed...

Who may make application

- 5. (1) Any application under this Schedule must be made by...

Contents of application

- 6. (1) An application under this Schedule must—

Medical report

- 7. (1) The medical report must be in the prescribed form...

Care plan

8. The care plan must be in the prescribed form and...
Part 3 — The criteria for authorisation

Criteria for treatment

9. (1) In relation to the provision to P of particular...

Criteria for detention amounting to deprivation of liberty

10. In relation to detention of P in a place in...

Criteria for requirement to attend for treatment

11. In relation to the imposition on P of a requirement...

Criteria for community residence requirement

12. In relation to the imposition on P of a community...

Measures proposed to be carried out only if particular circumstances arise

13. In applying the criteria in this Part of this Schedule...
Part 4 — Decision on application

Panel to consider application

14. (1) Where the relevant trust receives an application duly made...

Decision on application

15. (1) Having considered the application, the panel must—

Specifying detention amounting to deprivation of liberty

16. (1) This paragraph applies where an authorisation under paragraph 15...

Specifying requirement to attend for treatment

17. Where an authorisation under paragraph 15 authorises the imposition on...

Specifying community residence requirement

18. (1) This paragraph applies where an authorisation under paragraph 15...

Status: This is the original version (as it was originally enacted).

Time limit for panel's decision, and duty to notify decision

19. (1) The panel must comply with paragraph 15(1) as soon...

Interim authorisations

20. (1) If at any time before the end of the...
Part 5 — Matters covered by authorisation etc

Treatment: what is covered by authorisation

21. (1) Sub-paragraph (2) applies where an authorisation under this Schedule...

Detention: what is covered by authorisation

22. (1) This paragraph applies where an authorisation under this Schedule...

Effect of discharge from detention

23. (1) Where— (a) an authorisation under this Schedule authorises the...

Power to vary or revoke requirements etc imposed under authorisation

24. Any power conferred by virtue of an authorisation under this...

Effect of authorisation on previous authorisations

25. (1) The grant of an interim authorisation under this Schedule...
26. (1) The grant of an authorisation under paragraph 15 (“the...

Relationship with other conditions

27. For the avoidance of doubt, the fact that a particular...

SCHEDULE 2 — Authorisation of short-term detention in hospital for examination etc

Part 1 — Preliminary

1. (1) In this Schedule— “the criteria for authorisation” has the...

Part 2 — The authorisation

Authorisation of detention in hospital for examination etc

2. (1) The detention of a person in a hospital in...

Who may make a report under paragraph 2

3. (1) In paragraph 2 “an appropriate healthcare professional” means a...

Medical report

4. (1) The medical report included in a report under paragraph...

Consultation required before report authorising detention is made

5. A person may make a report under paragraph 2 only...
6. (1) Where— (a) it is proposed to make a report...

Information to be given where report authorising detention is made

7. (1) Where a report under paragraph 2 is made, the...

Duration of authorisation: preliminary

8. (1) An authorisation granted by the making of a report...
Part 3 — Events terminating the authorisation

Expiry where failure to admit P within period required

9. (1) If— (a) at the time when a report under...

Expiry where failure to give P certain information

10. (1) This paragraph applies if— (a) pursuant to a report...

Expiry where failure to examine and report on P on admission

11. (1) This paragraph applies where— (a) pursuant to a report...

The condition for detention

12. (1) This paragraph applies for the purposes of paragraphs 11,...

*Expiry where no examination and report by
suitable medical practitioner within required time*

13. (1) This paragraph applies where— (a) a report under
paragraph...

Expiry where no further examination and report on P within 14 days

14. (1) This paragraph applies where— (a) either of the
following...

Expiry 14 days after date of further report

15. (1) This paragraph applies where a report under paragraph 14...

Discharge

16. (1) If— (a) pursuant to a report under paragraph 2,...

Status: This is the original version (as it was originally enacted).

Unreasonable delay in taking certain steps

17. (1) If— (a) pursuant to a report under paragraph 2,...
Part 4 — Supplementary provisions

Detention covered by authorisation

18. (1) This paragraph applies where a report is made under...

Relationship with other conditions

19. For the avoidance of doubt, the fact that a particular...

Rectification of reports: correction of administrative errors

20. (1) Where a report under this Schedule is incorrect or...

Rectification of reports: substitution of medical reports

21. (1) This paragraph applies where— (a) a report under paragraph...
22. (1) This paragraph applies where— (a) a report under paragraph...

SCHEDULE 3 — Extension by panel of period of authorisation

Preliminary

1. In this Schedule— “authorisation” is defined by section 37; “authorised...”

Applications for extension

2. (1) An application under this Schedule may be made where —...

Who may make application

3. (1) Any application under this Schedule must be made by...

Contents of application

4. (1) An application under this Schedule must—

Medical report

5. (1) The medical report must be in the prescribed form...

Care plan

6. The care plan must be in the prescribed form and...

Panel to consider application

7. (1) Where the relevant trust receives an application duly made...

Decision on application

8. (1) Having considered the application, the panel must either—

Time limit for panel's decision, and duty to notify decision

9. (1) The panel must comply with paragraph 8(1) as soon...

SCHEDULE 4 — Lasting powers of attorney: formalities

Part 1 — Making instruments

General requirements as to making instruments

1. (1) An instrument is made in accordance with this Schedule...

Requirements as to content of instruments

2. (1) The instrument must include— (a) the prescribed information about...

Failure to comply with required form

3. (1) If an instrument differs in an immaterial respect in...

Part 2 — Registration

Applications and procedure for registration

4. (1) An application to the Public Guardian for the registration...
5. Subject to paragraphs 10 to 14, on an application under...

Notification requirements

6. A person (or persons) about to make an application under...
7. (1) As soon as practicable after receiving an application under...
8. (1) A notice under paragraph 6 must be in a...

Power to dispense with notification requirements

9. (1) A person proposing to make an application under paragraph...

Instrument not properly made

10. If it appears to the Public Guardian that an instrument...

Status: This is the original version (as it was originally enacted).

Instrument containing ineffective provision

11. (1) Sub-paragraph (2) applies if it appears to the Public...

Deputy already appointed

12. (1) Sub-paragraph (2) applies if it appears to the Public...

Objection by attorney, replacement attorney or named person

13. (1) Sub-paragraph (2) applies if a person other than the...

Objection by donor

14. (1) This paragraph applies if the donor—

Notification of registration

15. Where an instrument is registered under this Schedule, the Public...

Evidence of registration

16. (1) A document purporting to be an office copy of...
Part 3 — Cancellation of registration and notification of severance

Cancellation of registration by Public Guardian following revocation

17. The Public Guardian must cancel the registration of an instrument...

Court to require Public Guardian to cancel registration in certain cases

18. The court must direct the Public Guardian to cancel the...

Notification by court of ineffective provision etc in instrument

19. (1) Sub-paragraph (2) applies if the court determines under section...

Notification on cancellation

20. If the Public Guardian cancels the registration of an instrument...

Delivery up of instrument on cancellation

21. On the cancellation of the registration of an instrument, the...
Part 4 — Records of alterations in registered powers

Partial revocation or suspension of power as a result of bankruptcy

22. If in the case of a registered instrument it appears...

Termination of appointment of attorney which does not revoke power

23. If in the case of a registered instrument it appears...

Replacement of attorney

24. If in the case of a registered instrument it appears...

Severance of ineffective provisions

25. If in the case of a registered instrument the court...

Notification of alterations

26. If the Public Guardian attaches a note to an instrument...

SCHEDULE 5 — Property and affairs: supplementary provisions

Wills: introductory

1. Paragraphs 2 to 4 apply in relation to the execution...

Provision that may be made in will

2. The will may make any provision (whether by disposing of...

Wills: requirements relating to execution

3. (1) Sub-paragraph (2) applies if under section 113 the court...

Wills: effect of execution

4. (1) This paragraph applies where a will is executed in...

Vesting orders ancillary to settlement etc

5. (1) If provision is made by virtue of section 115...

Variation of settlements

6. (1) If a settlement has been made by virtue of...

Transfer of stock to appointee outside Northern Ireland

7. (1) Sub-paragraph (2) applies if the court is satisfied—

Status: This is the original version (as it was originally enacted).

*Preservation of interests in property disposed
of on behalf of person lacking capacity*

8. (1) Sub-paragraphs (2) and (3) apply if—
9. (1) Sub-paragraph (2) applies if the court has ordered or...

SCHEDULE 6 — Extension by panel of public protection order without
restrictions

Preliminary

1. In this Schedule, in relation to a public protection order...

Applications for extension of public protection order without restrictions

2. (1) An application under this Schedule may be made where
—...

Who may make application

3. (1) Any application under this Schedule must be made by...

Contents of application

4. An application under this Schedule must— (a) be in the...

Medical report

5. (1) The medical report must be in the prescribed form...

Care plan

6. The care plan must be in the prescribed form and...

Panel to consider application

7. (1) Where the relevant trust receives an application duly
made...

Decision on application

8. (1) Having considered the application, the panel must do one...

Time limit for panel's decision, and duty to notify decision

9. (1) The panel must comply with paragraph 8(1) as soon...

SCHEDULE 7 — Supervision and assessment orders
Part 1 — Introductory

Introductory

1. (1) In this Part a “supervision and assessment order” is...
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...

Supervision element

3. (1) A supervision element is a requirement that the supervised...

Assessment element

4. (1) An assessment element is a requirement that, during a...

Residence element

5. (1) A residence element is any requirement as to the...

Procedural requirements relating to the making of the order

6. (1) Before making a supervision and assessment order, the court...

Part 3 — Effect of order

7. Where an order is made, the supervised person must (as...
Part 4 — Amendment or revocation of order

Amendment of order: general

8. (1) A court of summary jurisdiction may, on the application...

Amendment of order: change of area of residence

9. (1) This paragraph applies where— (a) a supervision and assessment...

Medical reports

10. (1) In this paragraph “relevant medical practitioner” means a medical...

Revocation of order

11. (1) A court that has made a supervision and assessment...

Procedural requirements on amendment or revocation of order

12. (1) On the making under any of paragraphs 8 to...
Part 5 — Breach of order

13. (1) This paragraph applies where— (a) a supervision and assessment...

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...

Transitional provision relating to the abolition of petty sessions districts

15. (1) Until the day on which section 1 of the...

SCHEDULE 8 — Amendments of Mental Health Order

1. The Mental Health Order is amended as follows.
2. Before Article 2 insert— Interpretation of Order .
3. (1) Article 2 (interpretation) is amended as follows.
4. After Article 3 insert— General provisions about patients under 16...
5. In the heading of Part 2 for “AND GUARDIANSHIP” substitute...
6. (1) Article 4 (admission for assessment) is amended as follows....
7. In Article 8 (effect of application for assessment) omit paragraph...
8. In Article 12 (detention for treatment) omit paragraph (3).
9. In Article 13(1) (renewal of authority for detention) after “discharged”...
10. After Article 14 insert— Liability to detention under Part 2...
11. Omit Articles 18 to 26 (guardianship).
12. In the italic heading before Article 27 omit “or guardianship”....
13. (1) Article 27 (duty of authority to give information to...
14. In Article 28 (transfer of patients) omit—
15. In Article 29 (return and readmission of patients absent without...
16. (1) Article 30 (special provisions as to patients absent without...
17. (1) Article 31 is amended as follows.
18. In Article 32(3) (definition of “nearest relative”) omit “or his...
19. In Article 33 (children and young persons in care) omit...
20. (1) Article 34 (minors under guardianship, etc) is amended as...
21. In Article 35(1) (assignment of functions by nearest relative) omit...
22. (1) Article 36 (appointment by county court of acting nearest...

23. (1) Article 37 (discharge and variation of orders under Article...
24. In Article 39 (special provision as to wards of court)...
25. In Article 40 (duty of approved social worker to make...
26. In Article 41 (applications, recommendations and reports under Part 2)...
27. Omit Part 3 (patients concerned in criminal proceedings or under...
28. In the heading of Part 4, at the end insert...
29. For Article 62 substitute— Patients to whom the provisions of...
30. (1) Article 63 (treatment requiring consent and a second opinion)...
31. After Article 63 insert— Treatment within Article 63: procedure where...
32. In Article 64(1)(b) (treatment requiring consent or second opinion) after...
33. In Article 65 (plans of treatment)— (a) for “Article 63...
34. In Article 66(1) (withdrawal of consent) after “63” insert “,...
35. (1) Article 67 (review of treatment) is amended as follows....
36. (1) Article 68 (urgent treatment) is amended as follows.
37. In Article 69 (treatment not requiring consent) after “63” insert...
38. For the heading of Part 5 substitute— THE REVIEW TRIBUNAL...
39. In Article 70(1) (constitution of the Review Tribunal) for “Mental...
40. (1) Article 71 (applications to the tribunal under Part 2)...
41. In Article 72(1) (reference of cases of Part 2 patients...
42. (1) Article 73 (duty on Boards to refer cases to...
43. Omit Articles 74 to 76 (applications and references concerning Part...
44. (1) Article 77 (power to discharge patients other than restricted...
45. Omit Articles 78 to 80 (discharge of restricted patients etc)....
46. In Article 81 (visiting and examination of patients) omit “or...
47. For Article 82 substitute— Applications to the tribunal (1) Applications to the Review Tribunal may be made only...
48. (1) Article 83 (procedure of Tribunal) is amended as follows....
49. Omit Article 84 (interpretation of Part 5).
50. Omit Part 6 (functions of RQIA).
51. In Article 90 (registration of private hospitals) omit paragraph (1)....

52. Omit Articles 91 to 94 (provisions about registration and inspections)....
53. Omit Article 96 (offences under Part 7).
54. Omit Part 8 (management of property and affairs of patients)....
55. In Article 111(1) (code of practice)— (a) in sub-paragraph (a)...
56. In Article 113(1) (miscellaneous powers of the Board etc) omit...
57. (1) Article 116 (powers of the Board etc in relation...
58. (1) Article 118 (provision information by Department etc) is amended...
59. (1) Article 120 (unlawful detention of patients) is amended as...
60. (1) Article 121 (ill-treatment of patients) is amended as follows....
61. In Article 124(1)(a) (assist patients to absent themselves without leave)...
62. In Article 127 (voluntary use of services) omit paragraph (2)....
63. Omit Article 128 (pay, pensions etc of patients).
64. (1) Article 129 (warrants) is amended as follows.
65. Omit Article 130 (mentally disordered persons found in public places)....
66. In Article 131(1) (custody, conveyance and detention) for “a place...
67. (1) Article 132 (retaking of patients escaping from custody) is...
68. (1) Article 133 (protection for acts done in pursuance of...
69. Omit Schedule 2 (application of Part 2 to patients detained...
70. Omit Schedule 2A (supervision and treatment orders).
71. (1) Schedule 3 (the Tribunal) is amended as follows.

SCHEDULE 9 — International protection of adults

Part 1 — Preliminary

Introduction

1. Paragraphs 2 to 5 apply for the purposes of this...

The Convention

2. (1) “Convention” means the Convention on the International Protection of...

Countries, territories and nationals

3. (1) “Country” includes a territory which has its own system...

Adults with incapacity

4. “Adult” means a person who— (a) as a result of...

Protective measures

5. (1) “Protective measure” means a measure directed to the protection...

Application of this Schedule

6. (1) This Schedule does not apply to a relevant person...

Central Authority

7. (1) Any function under the Convention of a Central Authority...
Part 2 — Jurisdiction

Scope of jurisdiction

8. (1) The court may exercise its functions under this Act...
9. (1) The court may also exercise its functions under this...

Exercise of jurisdiction

10. (1) This paragraph applies where jurisdiction is exercisable under this...
11. A reference in this Schedule to the exercise of jurisdiction...
Part 3 — Applicable law

Applicable law

12. In exercising jurisdiction under this Schedule, the court may, if...
13. Where a protective measure is taken in one country but...

Lasting powers of attorney, etc

14. (1) If the donor of a lasting power is habitually...
15. (1) Where a lasting power is not exercised in a...
16. Regulations may provide for Schedule 4 (lasting powers of attorney:...

Protection of third parties

17. (1) This paragraph applies where a person (a “representative”) in...

Mandatory rules

18. Where the court is entitled to exercise jurisdiction under this...

Public policy

19. Nothing in this Part requires or enables the application in...
Part 4 — Recognition and enforcement

Recognition

20. (1) A protective measure taken in relation to an adult...
21. (1) An interested person may apply to the court for...
22. For the purposes of paragraphs 20 and 21, any finding...

Enforcement

23. (1) An interested person may apply to the court for...

Measures taken in relation to under 16s

24. (1) This paragraph applies where— (a) provision giving effect to,...

Supplementary

25. The court may not review the merits of a measure...
Part 5 — Co-operation

Proposal for cross-border placement

26. (1) This paragraph applies where a public authority proposes to...
27. A proposal received by a public authority under Article 33...

Adult in danger etc

28. (1) This paragraph applies if a public authority is told...
29. A public authority may not request from, or send to,...
Part 6 — General

Certificate

30. A certificate given under Article 38 by an authority in...

Powers to make further provision as to private international law

31. (1) Regulations may make provision— (a) giving further effect to...

Exceptions

32. Nothing in this Schedule applies, and no provision made under...

SCHEDULE 10 — Consequential amendments

Judicature (Northern Ireland) Act 1978 (c. 23)

1. In section 116(1) (fees) after “Enforcement of Judgments Office” insert...
2. (1) In Schedule 1 (appeals to Supreme Court in certain...

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

3. (1) Section 7 (supplementary provisions as to retrial) is amended...
4. In section 10(5) (appeals against interim hospital orders) for “interim...
5. In section 11 (appeal against conviction: substitution of finding of...
6. In section 12(1) (appeal against finding of not guilty on...
7. (1) Section 13 (disposal of appeal allowed under section 12)...
8. (1) Section 13A (appeal against finding of unfitness to be...
9. (1) Section 29A (effect of interim hospital orders) is amended...
10. (1) Section 30(1) (interpretation of Part 1) is amended as...
11. (1) Section 36 (detention of defendant pending appeal by the...
12. In section 45(3ZA) (powers of court exercisable by single judge)...
13. (1) Section 50 (interpretation) is amended as follows.
14. Omit Schedule 2 (consequences and effect of order under section...

County Courts (Northern Ireland) Order 1980 (NI 3)

15. (1) Article 28 (appeals and applications to county courts) is...

Magistrates’ Courts (Northern Ireland) Order 1981 (NI 26)

16. In Article 140 (appeals against conviction, sentence etc) after paragraph...

SCHEDULE 11 — Repeals