



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 7

RIGHTS OF REVIEW OF AUTHORISATION

Applications to the Tribunal

Right to apply to Tribunal

45.—(1) Where an event mentioned in the first column of the following table occurs, a qualifying person may apply to the Tribunal within the period mentioned in the corresponding entry of the second column of the table.

| <i>Event</i> | <i>Period for making application</i> |
|--|--|
| The grant of an authorisation under paragraph 15 of Schedule 1 | The period of 6 months beginning with the date the authorisation is granted |
| The grant of an interim authorisation under paragraph 20 of that Schedule | The period of 28 days beginning with the date the interim authorisation is granted |
| The grant of an authorisation under Schedule 2 | The period of 28 days beginning with the date of admission (as defined by paragraph 14(3) of Schedule 2) |
| The extension under Chapter 6 of the period of an authorisation under paragraph 15 of Schedule 1 | The period— |

| <i>Event</i> | <i>Period for making application</i> |
|--------------|---|
| | (a) beginning with the date when the period of the authorisation is extended; and |
| | (b) ending with the end of the period for which the authorisation is extended |

(2) In this section “a qualifying person” means—

- (a) the person to whom the authorisation relates (“P”); or
- (b) subject to subsection (3), a person who is P’s nominated person.

(3) If P has capacity in relation to whether an application under this section should be made, P’s nominated person may make an application only with P’s consent.

(4) No application under this section may be made in respect of an authorisation that—

- (a) has ceased to be effective by virtue of section 29(4) or 32(4) or paragraph 23 of Schedule 1 (effect on authorisation of discharge from detention etc); or
- (b) for any other reason is no longer in force.

Applications: visiting and examination

46.—(1) A medical practitioner who is authorised—

- (a) by or on behalf of a person (“P”) to whom an authorisation under Schedule 1 or 2 relates, or
- (b) by P’s nominated person,

may, for a purpose mentioned in subsection (2), do anything within section 275 (visiting etc powers) in relation to P.

(2) The purposes are—

- (a) the purpose of advising whether an application to the Tribunal under section 45 should be made by or in respect of P;
- (b) the purpose of providing information as to the condition of P for the purposes of an application.