

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act (Northern Ireland) 2016, Part 4 . (See end of Document for details)

PROSPECTIVE

SCHEDULES

SCHEDULE 1

Authorisation by panel of certain serious interventions

Part 4

Decision on application

Panel to consider application

14.—(1) Where the relevant trust receives an application duly made under this Schedule, it must as soon as practicable—

- (a) give prescribed information to P and any prescribed person; and
 - (b) constitute a panel to consider the application.
- (2) See also section 297 (general provision about panels).

Decision on application

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

- (a) authorise the measure mentioned in paragraph 2(2)(a) to (d) for which the application requests authorisation (or, if the application requests authorisation of more than one such measure, authorise each of those measures or such one or more of them as may be specified in the authorisation); or
 - (b) refuse to grant an authorisation under this paragraph.
- (2) If a measure authorised under sub-paragraph (1)(a) is the provision to P of particular treatment, the authorisation may also include authorisation of a measure mentioned in paragraph 2(2)(b) to (d) authorisation of which was not requested by the application.
- (3) Sub-paragraph (2) applies whether or not the application requested authorisation of any other measure mentioned in paragraph 2(2)(b) to (d).
- (4) Paragraphs 16 to 18 contain provision supplementing this paragraph.

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(5) The panel may authorise a measure under this paragraph only if it considers that the criteria for authorisation are met in relation to that measure.

(6) An authorisation granted under this paragraph—

- (a) takes effect from the time when the authorisation is granted; and
- (b) expires (unless previously revoked) at the end of the period of 6 months beginning with the date when the authorisation is granted;

but this is subject to Chapter 6 of Part 2 of this Act (extension of period of authorisation).

(7) An authorisation under this paragraph may be expressed so as to authorise a measure to be carried out if circumstances specified in the authorisation arise.

Specifying detention amounting to deprivation of liberty

16.—(1) This paragraph applies where an authorisation under paragraph 15 authorises P's detention in a place in circumstances amounting to a deprivation of liberty.

(2) The authorisation must specify—

- (a) the purposes for which P may be detained in circumstances amounting to a deprivation of liberty; and
- (b) the place in which P may be so detained.

(3) The authorisation may authorise P to be detained for a specified purpose in one place and for other specified purposes in another place.

(4) Any purpose specified under this paragraph must relate to the risk mentioned in paragraph 10(b) (for example, if that risk is of serious harm to P from a disorder, a purpose specified may be the purpose of ensuring that P receives treatment for the disorder).

Specifying requirement to attend for treatment

17. Where an authorisation under paragraph 15 authorises the imposition on P of a requirement to attend at a particular place at particular times or intervals for the purpose of being given specified treatment, the authorisation—

- (a) may either specify the place or authorise it to be such place as the medical practitioner in charge of the treatment may direct;
- (b) may either specify the times or intervals or authorise them to be such times or intervals as that medical practitioner may direct.

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Specifying community residence requirement

18.—(1) This paragraph applies where an authorisation under paragraph 15 authorises the imposition on P of a community residence requirement.

(2) A community residence requirement which is in accordance with the authorisation may (subject to the provisions of this Act) be imposed on P by the HSC trust to which the application under this Schedule was made (“the trust”).

(3) The authorisation must specify, in accordance with the following provisions of this paragraph, the terms of the community residence requirement that may be imposed by the trust under the authorisation.

(4) The authorisation must provide either—

- (a) that the trust may require P to live at a place specified by the authorisation; or
- (b) that the trust may require P to live at such place as may be specified by the trust.

(5) The authorisation may include either or both of the following provisions—

- (a) provision that if the trust imposes the requirement authorised under sub-paragraph (4), the trust may also require P to allow a healthcare professional specified by the trust access to P, at reasonable times required by that professional, at a place where P is living;
- (b) provision that if the trust imposes the requirement authorised under sub-paragraph (4), the trust may also require P to attend at particular places and times or intervals for the purpose of training, education, occupation or treatment.

(6) Where by virtue of sub-paragraph (5)(b) the authorisation includes provision authorising a requirement for P to attend at a particular place at particular times or intervals, the authorisation—

- (a) may either specify the place or authorise it to be such place as the trust may specify; and
- (b) may either specify the times or intervals or authorise them to be such times or intervals as the trust may specify.

(7) In this paragraph—

“healthcare professional” means a person of a description prescribed under section 31(3);

“treatment” is to be read in accordance with section 31(4).

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

19.—(1) The panel must comply with paragraph 15(1) as soon as practicable and in any case no later than the end of the permitted period.

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(2) The “permitted period” is (subject to paragraph 20) the period of 7 working days beginning with the day on which the application is received by the trust (or, if that day is not a working day, beginning with the first working day after that).

(3) As soon as practicable after granting or refusing an authorisation under paragraph 15, the panel must give to P and any prescribed person—

- (a) written notice of the grant or refusal; and
- (b) any prescribed information.

(4) Regulations under sub-paragraph (3) must ensure that the Attorney General is given notice in any case where—

- (a) the panel grants an authorisation that authorises a measure within paragraph 2(2)(b) or (d) (deprivation of liberty or community residence requirement); and
- (b) the application under this Schedule contained the statement mentioned in paragraph 6(2) (statement that P lacks, or probably lacks, capacity in relation to making of Tribunal application).

Interim authorisations

20.—(1) If at any time before the end of the period mentioned in paragraph 19(2) the panel considers—

- (a) that it will not be possible within that period to decide whether the criteria for authorisation are met in respect of a measure proposed in the application, but
- (b) that there is a good prospect of it being established that the criteria for authorisation are met in respect of the measure,

the panel may grant an interim authorisation.

(2) The power of the panel to grant an interim authorisation is power to grant an authorisation which—

- (a) does as mentioned in paragraph 15(1)(a); but
- (b) is expressed to have effect only until the end of the period of 28 days beginning with the date on which the interim authorisation is granted.

(3) Accordingly, an interim authorisation—

- (a) takes effect from the time when the authorisation is granted; and
- (b) expires (unless previously revoked) at the end of the period of 28 days beginning with the date on which it is granted.

(4) Paragraphs 15(2), (3) and (7) and 16 to 18 apply in relation to an interim authorisation as they apply in relation to an authorisation under paragraph 15.

(5) Where the panel grants an interim authorisation in relation to an application under this Schedule—

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- (a) the period within which the panel must grant or refuse an authorisation under paragraph 15 in respect of the application is 28 days beginning with the date on which the interim authorisation is granted; and
 - (b) the grant or refusal of an authorisation under paragraph 15 in respect of the application revokes the interim authorisation.
- (6) As soon as practicable after granting an interim authorisation, the panel must give written notice of the grant, and any prescribed information, to P and any prescribed person.
- (7) Regulations under sub-paragraph (6) must ensure that the Attorney General is given notice in any case where—
- (a) the panel grants an interim authorisation that authorises a measure within paragraph 2(2)(b) or (d) (deprivation of liberty or community residence requirement); and
 - (b) the application under this Schedule contained the statement mentioned in paragraph 6(2) (statement that P lacks, or probably lacks, capacity in relation to making of Tribunal application).

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