

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 2

Authorisation of short-term detention in hospital for examination etc

Part 4

Supplementary provisions

Detention covered by authorisation

- 18.**—(1) This paragraph applies where a report is made under paragraph 2.
- (2) The authorisation granted by the making of the report authorises—
- (a) the detention (at any time when the authorisation is in force) of P in the hospital specified in the report for the purposes of examination, or of any treatment or care following examination;
 - (b) any related detention which may occur while the authorisation is in force.
- (3) In sub-paragraph (2) “related detention” means—
- (a) any detention of P while P is being taken to the hospital specified in the report;
 - (b) any detention of P while P is absent from the hospital, if the detention—
 - (i) is in pursuance of a condition imposed in accordance with section 27 (permission for absence from hospital); and
 - (ii) is for no longer than 7 days.
- (4) In sub-paragraphs (2) and (3) “detention” means detention in circumstances amounting to a deprivation of liberty.
- (5) Nothing in the authorisation or this paragraph affects the operation of this Part of this Act in relation to any detention of P in circumstances not amounting to a deprivation of liberty.

Relationship with other conditions

- 19.** For the avoidance of doubt, the fact that a particular measure is authorised by an authorisation under this Schedule does not affect the need for the other

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conditions of this Part of this Act that apply to be met in respect of any act which is, or is part of, that measure.

Rectification of reports: correction of administrative errors

20.—(1) Where a report under this Schedule is incorrect or defective in any respect as a result of an administrative error, the appropriate person may (subject to sub-paragraph (3)) amend the report for the purpose of correcting the error.

(2) “The appropriate person”, in relation to a report (“the relevant report”), means—

- (a) if the relevant report is a report under paragraph 2 and the amendment is to the medical report included in the relevant report, the person who signed the medical report;
- (b) otherwise, the person who signed the relevant report.

(3) An amendment under this paragraph may be made only—

- (a) with the consent of the managing authority of the hospital specified in the report; and
- (b) before the end of the permitted period.

(4) Where an amendment under this paragraph is made to a report, the report is to have effect, and to be treated as always having had effect, as if it had been originally made as so amended.

(5) In this paragraph “the permitted period” means the period of 28 days beginning with the date of admission (as defined by paragraph 14(3)).

Rectification of reports: substitution of medical reports

21.—(1) This paragraph applies where—

- (a) a report under paragraph 2 (“the authorisation report”) has been made; and
- (b) at any time before the end of the permitted period it appears to the managing authority that the medical report included in the authorisation report does not comply with the requirements of paragraph 4.

(2) The managing authority may, before the end of the permitted period, give notice in writing to that effect to the person who signed the authorisation report.

(3) Where any such notice is given, the medical report is to be disregarded.

(4) But if, before the end of the permitted period—

- (a) a fresh medical report is made in accordance with paragraph 4, and

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(b) the fresh report states that in the opinion of the person making the report the condition in paragraph 12 is met, and has been met at all times since the making of the medical report mentioned in sub-paragraph (1)(b), the authorisation report is valid, and is to be treated as always having been valid.

(5) Nothing in this paragraph limits the application of paragraph 20.

(6) In this paragraph—

“the managing authority” means the managing authority of the hospital specified in the authorisation report;

“the permitted period” has the same meaning as in paragraph 20.

22.—(1) This paragraph applies where—

(a) a report under paragraph 2 (“the authorisation report”) has been made in respect of a person (“P”); and

(b) at any time before the end of the permitted period, it appears to the managing authority that a report under paragraph 11, 13 or 14 made in respect of P (“the original report”) does not comply with the requirements of that paragraph (“the relevant paragraph”).

(2) The managing authority may, before the end of the permitted period, give notice in writing to that effect to the person who signed the authorisation report.

(3) Where any such notice is given, the original report is to be disregarded.

(4) But if, before the end of the permitted period—

(a) P is examined, and a fresh report is made, in accordance with the requirements of the relevant paragraph (except any requirements as to the timing of the examination or report), and

(b) the fresh report states that in the opinion of the person making the report the condition in paragraph 12 is met, and has been met at all times since the making of the original report,

the authorisation has effect, and is treated as always having had effect, as if it had not expired by virtue of the relevant paragraph.

(5) Nothing in this paragraph limits the application of paragraph 20.

(6) In this paragraph—

“the managing authority” has the same meaning as in paragraph 21;

“the permitted period” has the same meaning as in paragraph 20.

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