

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 122 is up to date with all changes known to be in force on or before 08 April 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*



2016 CHAPTER 18

PART 6

HIGH COURT POWERS: DECISIONS AND DEPUTIES

Practice and procedure

PROSPECTIVE

Applications to the court

122.—(1) No leave is required for an application to the court for the exercise of any of its powers under this Part—

- (a) by a person who lacks, or is alleged to lack, capacity;
- (b) if such a person is under 18, by anyone with parental responsibility for that person;
- (c) where the application relates to a lasting power of attorney or enduring power of attorney and the application is made by the donor or any person who is an attorney under the power;
- (d) by a deputy appointed by the court for a person to whom the application relates;
- (e) by a person named in an existing order of the court, if the application relates to the order; or
- (f) where the application is made by virtue of section 129 (proceedings following inquiry by Public Guardian).

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(2) But, subject to rules of court and to paragraph 21(2) of Schedule 9 (declarations relating to private international law), leave is required for any other application to the court for the exercise of any of its powers under this Act.

(3) In deciding whether to grant leave the court must (in particular) have regard to—

- (a) the applicant's connection with the person to whom the application relates;
- (b) the reasons for the application;
- (c) the benefit to the person to whom the application relates of a proposed order or directions; and
- (d) whether the benefit can be achieved in any other way.

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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\(b\)](#)