



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 9

DEFINITIONS FOR PURPOSES OF PART 2

Meaning of “emergency”

Meaning of “emergency” in relation to safeguard provisions

65.—(1) This section applies in relation to sections 13, 15, 16, 17, 19, 20, 24, 26, 28 and 35 (provisions which contain additional safeguards, and which require a determination of whether the situation is an “emergency”).

(2) For the purposes of any one of those sections, the situation is an “emergency” if at the relevant time—

- (a) D knows that the safeguard in that section is not met, but reasonably believes that to delay until that safeguard is met would create an unacceptable risk of harm to P; or
- (b) D does not know whether that safeguard is met, but reasonably believes that to delay even until it is established whether it is met would create an unacceptable risk of harm to P.

(3) But the situation is not an “emergency” by virtue of falling within subsection (2) if the fact that the safeguard in question is not met by the relevant time is to any extent due to an unreasonable failure by D to take a step that

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it would have been practicable to take for the purposes of ensuring that the safeguard is met by the relevant time.

(4) Subsections (2) and (3) are to be read in accordance with section 66.

(5) For the purposes of any section mentioned in subsection (1), the situation is also an “emergency” if, at the time when the act mentioned in that section is done, D—

- (a) does not know of the effect of that section;
- (b) is not a person with expertise such that he or she could reasonably be expected to know of its effect; and
- (c) reasonably believes that it is necessary to do the act without delay to prevent harm to P.

Commencement Information

- I1** S. 65(1) in operation at 2.12.2019 for specified purposes (but omitting "16 to 20" and "28 and 35") by [S.R. 2019/163](#), [art. 2\(4\)](#), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), [art. 2](#))
- I2** S. 65(2)-(5) in operation at 2.12.2019 for specified purposes by [S.R. 2019/163](#), [art. 2\(4\)](#), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), [art. 2](#))

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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\(b\)](#)