
STATUTORY INSTRUMENTS

2010 No. 658

The Health Protection (Part 2A Orders) Regulations 2010

Duty on local authorities to give notice of Part 2A applications

- 3.—(1) This regulation applies where a local authority is making a Part 2A application.
- (2) The local authority must make reasonable enquiries as to the existence and location of persons who fall within paragraphs (4) to (7) (as applicable).
- (3) Having made reasonable enquiries pursuant to paragraph (2), the local authority must give notice of the application to the persons specified in paragraphs (4) to (7) (as applicable) where such persons are known to the local authority and contactable by it.
- (4) In relation to an application for an order under section 45G(2) or (4) of the Act (power to order health measures in relation to persons), the persons specified are—
- (a) the person subject to the application (P);
 - (b) a person with parental responsibility for P, if P is a child; and
 - (c) P’s decision-maker (if any).
- (5) Subject to paragraph (6), in relation to an application for an order under section 45H(2) or (4) of the Act (power to order health measures in relation to things), the persons specified are—
- (a) the owner of the thing; and
 - (b) the person with custody or control of the thing.
- (6) In relation to an application for an order under section 45H(2) of the Act in respect of a dead body or human remains, the person specified is the deceased’s next of kin (or where the deceased has more than one next of kin, any one of those persons).
- (7) In relation to an application for an order under section 45I(2) or (4) (power to order health measures in relation to premises), the persons specified are—
- (a) the owner of the premises; and
 - (b) the occupier of the premises, if any.
- (8) The local authority is not required to give notice under paragraph (3) where P, in the reasonable view of the local authority, is likely to abscond or otherwise take steps to undermine the order applied for.
- (9) The local authority is not required to give notice under paragraph (3) to a person specified in paragraph (4)(b) where exceptional circumstances exist which mean that notifying such a person would not be in P’s best interests.
- (10) In this regulation—
- “next of kin” means the person accorded highest rank in the following list (but if two or more persons are accorded equal ranking then each of those persons is to be treated as next of kin)—
- (a) a person with parental responsibility for the deceased person (P);
 - (b) P’s husband, wife or civil partner;
 - (c) a person who had been living with P up to the time of P’s death as P’s husband, wife or civil partner;

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- (d) P's child where aged 18 years or over;
- (e) P's parent;
- (f) P's brother or sister where aged 18 years or over; and

"P's decision-maker" means P's donee of enduring power of attorney or lasting power of attorney under the Mental Capacity Act 2005(1) or a deputy appointed by the Court of Protection(2) in relation to P, where decisions in connection with Part 2A applications or orders are within the scope of that person's authority.

(1) 2005 c.9; in relation to lasting power of attorney, see section 9.
(2) See section 16 of the Mental Capacity Act 2005 (c.9).