

*These notes refer to the Mental Capacity Act (Northern Ireland)
2016 (c.18) which received Royal Assent on 9 May 2016*

Mental Capacity Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Lack of Capacity: Protection from Liability, and Safeguards

CHAPTER 4 – ADDITIONAL SAFEGUARD: AUTHORISATIONS ETC and CHAPTER 6 – EXTENSION OF PERIOD OF CERTAIN AUTHORISATIONS

Sections 37 – 44 - Extensions of period of authorisation

Sections 37 and 38 provide that, if the criteria for authorisation continue to be met, an authorisation granted under Schedule 1 can be extended initially for six months and yearly thereafter without referral back to the HSC trust panel. Such an extension is achieved by the making of a report. Section 39 requires this extension report to be made by an “appropriate medical practitioner” (also defined in section 39) within the last month before the initial authorisation ends for the first extension, and within the last 2 months for subsequent extension periods. The report must also contain a statement by “the responsible person” (to be defined in regulations - see section 42) that the criteria are met. Where the responsible person is not of the opinion that the criteria continue to be met, the matter must be referred to the HSC trust panel. The process for this referral is set out in Schedule 3.

Section 43 refers to requirements regarding the involvement of nominated persons and independent mental capacity advocates in extension reports (sections 54 to 56 provide more detail on this). These reports must also be given to the relevant HSC trust (as defined in section 43) as soon as practicable and the HSC trust must in turn give prescribed information to P and other persons and send a copy to the RQIA.

Section 44 provides that any measure authorised by the authorisation but not specified in the extension report will be treated as cancelled.