



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 6

EXTENSION OF PERIOD OF CERTAIN AUTHORISATIONS

Extensions of period of authorisation

First extension of period of authorisation

37.—(1) This section applies where—

- (a) an authorisation has been granted (and has not been revoked); and
- (b) the initial period of the authorisation has not ended.

(2) The period of the authorisation may be extended for a period of 6 months beginning immediately after the end of the initial period, by the making of an extension report (see section 39).

(3) In this Chapter—

“authorisation” means an authorisation under paragraph 15 of Schedule 1;

“the initial period” of an authorisation means the period of 6 months beginning with the date the authorisation is granted (see paragraph 15(6) of Schedule 1);

“the period” of an authorisation means the period at the end of which the authorisation (unless previously revoked) expires.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Extensions of period of authorisation is up to date with all changes known to be in force on or before 31 March 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

Commencement Information

- II** [S. 37](#) 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](#))

Subsequent extensions

38.—(1) This section applies where—

- (a) an authorisation has been granted (and has not been revoked);
- (b) the period of the authorisation has been extended for a period (“the current extension period”) under a relevant provision; and
- (c) the current extension period has not ended.

(2) The period of the authorisation may be further extended, for a period of one year beginning immediately after the end of the current extension period, by the making of an extension report (see section 39).

(3) In subsection (1)(b) “relevant provision” means—

- (a) section 37 (first extension);
- (b) this section (subsequent extensions); or
- (c) paragraph 8(2) of Schedule 3 (extension where responsible person is not of the opinion that the criteria for continuation are met).

Commencement Information

- I2** [S. 38](#) 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](#))

Sections 37 and 38: extension reports

39.—(1) This section applies for the purposes of this Chapter.

(2) An “extension report”, in relation to an authorisation in respect of a person (“P”), is a report in the prescribed form which—

- (a) is made, within the reporting period, by an appropriate medical practitioner who has examined P within the reporting period and made the report as soon as practicable after that examination;
- (b) specifies the authorised measure (or, if more than one, each authorised measure) that is proposed to be continued after the end of the current period;
- (c) states that in the appropriate medical practitioner's opinion the criteria for continuation (see section 41) are met in respect of each specified measure;

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- (d) includes a statement in the prescribed form, by the responsible person (see section 42), that in that person's opinion the criteria for continuation are met in respect of each specified measure; and
- (e) includes any prescribed information.

(3) If—

- (a) the report specifies a measure within section 41(2)(b) or (d) (deprivation of liberty or community residence requirement), and
- (b) the appropriate medical practitioner is of the opinion that P lacks (or probably lacks) capacity in relation to whether an application under section 45 (applications to Tribunal) should be made in respect of the authorisation,

the report must contain a statement of that opinion.

(4) In this section—

“appropriate medical practitioner” means a medical practitioner who is unconnected with P and is permitted by regulations under section 300 to make the report;

“authorised measure” and “measure” have the meaning given by section 41;

“the current period” means—

- (a) in the case of an extension under section 37, the initial period;
- (b) in the case of an extension under section 38, the current extension period (within the meaning of that section);

“the reporting period” means—

- (a) in the case of an extension under section 37, the last month of the current period;
- (b) in the case of an extension under section 38, the last two months of the current period.

Commencement Information

I3 [S. 39](#) 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)

Extension of period where responsible person not of the requisite opinion

40 Schedule3 makes provision for cases where it is proposed to make an extension under section 37 or 38 but the responsible person is not of the opinion that the criteria for continuation are met.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Extensions of period of authorisation is up to date with all changes known to be in force on or before 31 March 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*

Commencement Information

- I4** [S. 40](#) 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)

Changes to legislation:

Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Extensions of period of authorisation is up to date with all changes known to be in force on or before 31 March 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.

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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\(b\)](#)