



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 7

RIGHTS OF REVIEW OF AUTHORISATION

Applications to the Tribunal

Right to apply to Tribunal

45.—(1) Where an event mentioned in the first column of the following table occurs, a qualifying person may apply to the Tribunal within the period mentioned in the corresponding entry of the second column of the table.

<i>Event</i>	<i>Period for making application</i>
The grant of an authorisation under paragraph 15 of Schedule 1	The period of 6 months beginning with the date the authorisation is granted
The grant of an interim authorisation under paragraph 20 of that Schedule	The period of 28 days beginning with the date the interim authorisation is granted
The grant of an authorisation under Schedule 2	The period of 28 days beginning with the date of admission (as defined by paragraph 14(3) of Schedule 2)

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Applications to the Tribunal is up to date with all changes known to be in force on or before 03 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

The extension under Chapter 6 of the period of an authorisation under paragraph 15 of Schedule 1

The period—

- (a) beginning with the date when the period of the authorisation is extended; and
- (b) ending with the end of the period for which the authorisation is extended

(2) In this section “a qualifying person” means—

- (a) the person to whom the authorisation relates (“P”); or
- (b) subject to subsection (3), a person who is P's nominated person.

(3) If P has capacity in relation to whether an application under this section should be made, P's nominated person may make an application only with P's consent.

(4) No application under this section may be made in respect of an authorisation that—

- (a) has ceased to be effective by virtue of section 29(4) or 32(4) or paragraph 23 of Schedule 1 (effect on authorisation of discharge from detention etc); or
- (b) for any other reason is no longer in force.

Commencement Information

- I1** S. 45(1)-(3) 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](#))
- I2** S. 45(4) in operation at 2.12.2019 for specified purposes (but omitting "section 29(4) or 32(4) or") by [S.R. 2019/163, art. 2\(4\), Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190, art. 2](#))

Applications: visiting and examination

46.—(1) A medical practitioner who is authorised—

- (a) by or on behalf of a person (“P”) to whom an authorisation under Schedule 1 or 2 relates, or
- (b) by P's nominated person,

may, for a purpose mentioned in subsection (2), do anything within section 275 (visiting etc powers) in relation to P.

(2) The purposes are—

- (a) the purpose of advising whether an application to the Tribunal under section 45 should be made by or in respect of P;

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Applications to the Tribunal is up to date with all changes known to be in force on or before 03 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*

- (b) the purpose of providing information as to the condition of P for the purposes of an application.

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Commencement Information

- I3** S. 46 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: Applications to the Tribunal is up to date with all changes known to be in force on or before 03 April 2024.

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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\(b\)](#)