



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 7

RIGHTS OF REVIEW OF AUTHORISATION

Powers of the Tribunal

Powers of Tribunal in relation to authorisation under Schedule 1

51.—(1) Where an application or reference to the Tribunal is made under this Chapter in relation to an authorisation under Schedule 1, the Tribunal must do one of the following—

- (a) revoke the authorisation;
- (b) if the authorisation authorises more than one measure (as defined by subsection (4)), vary the authorisation by cancelling any provision of it which authorises a measure;
- (c) decide to take no action in respect of the authorisation.

(2) In the case of an authorisation under paragraph 15 of Schedule 1, the Tribunal—

- (a) may vary the authorisation only if satisfied that the criteria for authorisation are met in respect of each measure that will remain authorised by the authorisation;

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of the Tribunal is up to date with all changes known to be in force on or before 09 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) may decide as mentioned in subsection (1)(c) only if satisfied that the criteria for authorisation are met in respect of each measure that is authorised by the authorisation.
- (3) In the case of an interim authorisation under paragraph 20 of Schedule 1, the Tribunal—
- (a) may vary the authorisation only if satisfied that there is a good prospect of it being established that the criteria for authorisation are met in respect of each measure that will remain authorised by the authorisation;
- (b) may decide as mentioned in subsection (1)(c) only if satisfied that there is a good prospect of it being established that the criteria for authorisation are met in respect of each measure that is authorised by the authorisation.
- (4) For the purposes of this section each of the following is a “measure”—
- (a) the provision to P of treatment specified by the authorisation;
- (b) the detention of P in a place in circumstances amounting to a deprivation of liberty;
- (c) a requirement to attend at a particular place at particular times or intervals for the purpose of being given treatment specified by the authorisation;
- (d) a community residence requirement.
- (5) In this section “the criteria for authorisation”, in relation to a measure, means the criteria for authorisation for that measure as set out in Part 3 of Schedule 1.
- (6) In paragraphs 11(a) and 12(a) and (b) of that Schedule as they apply for the purposes of this section, the references to imposing a requirement include continuing the requirement.

Commencement Information

- II** S. 51(1)-(3)(4)(b)(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)

Powers of Tribunal in relation to authorisation under Schedule 2

52.—(1) Where an application or reference to the Tribunal is made under this Chapter in relation to an authorisation under Schedule 2, the Tribunal must either—

- (a) revoke the authorisation; or
- (b) decide to take no action in respect of the authorisation.

(2) The Tribunal may decide as mentioned in subsection (1)(b) only if it is satisfied that the condition in paragraph 12 of Schedule 2 is met.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of the Tribunal is up to date with all changes known to be in force on or before 09 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

Commencement Information

- I2** S. 52 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 51 and 52: additional powers of Tribunal

53.—(1) This section applies where, under section 51 or 52, the Tribunal decides to do anything other than revoke the authorisation.

(2) The Tribunal may, with a view to facilitating the ending at a future date of a measure still authorised by the authorisation—

- (a) recommend the taking of specified actions in relation to P; and
- (b) further consider P's case in the event of any recommendation not being complied with.

(3) Where the Tribunal further considers P's case under subsection (2)(b), section 51 or (as the case may be) section 52 applies.

Commencement Information

- I3** S. 53 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: Powers of the Tribunal is up to date with all changes known to be in force on or before 09 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.

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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\(b\)](#)