



2016 CHAPTER 18

PART 3

NOMINATED PERSON

Declarations etc

Declaration that particular person not to be nominated person

77.—(1) A person who is 16 or over and has capacity to do so (“the declarer”) may make a declaration—

- (a) stating that a person specified in the declaration is not to be the declarer's nominated person;
- (b) specifying two or more persons and stating that neither (or none) of them is to be the declarer's nominated person;
- (c) stating that no person of a description specified in the declaration is to be the declarer's nominated person.

(2) Where a declaration has been made under subsection (1) and has not been revoked, any person who is specified, or of a description specified, in the declaration—

- (a) is to be disregarded in determining who is the default nominated person for the declarer under sections 73 to 76; and
- (b) may not be appointed by the Tribunal under section 81 as the declarer's nominated person (subject to subsection (3)).

(3) Subsection (2)(b) does not apply where there has been a change of circumstances since the declaration was made that, in the Tribunal's opinion, justifies appointing the person concerned.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Declarations etc is up to date with all changes known to be in force on or before 18 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*

(4) A declaration under this section remains effective even where, at a time after making the declaration, the declarer no longer has capacity to make decisions about the declaration.

(5) A declaration under this section may be revoked by the declarer at any time when the declarer has capacity to do so.

(6) A declaration, or revocation of a declaration, under this section is valid only if it is in writing and the conditions of section 79 (formalities) are met.

Commencement Information

- II** [S. 77](#) 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](#))

Notice declining to be a person's nominated person

78.—(1) A person may at any time decline to be the default nominated person for another person (“P”) by giving notice in writing to that effect to P.

(2) A person who has given notice under subsection (1) may at any time withdraw the notice by giving a further notice in writing to P.

Commencement Information

- I2** [S. 78](#) 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:

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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\(b\)](#)