



## 2016 CHAPTER 18

### **PART 3**

#### **NOMINATED PERSON**

##### *Powers of the Tribunal*

##### **Application to Tribunal for appointment of nominated person**

**80.—**(1) A qualifying person may apply to the Tribunal for an order under section 81 in relation to a person who is 16 or over (“P”) if the qualifying person reasonably believes that—

- (a) P lacks capacity to make decisions about who should be his or her nominated person; and
- (b) one of the conditions mentioned in subsection (2) is met.

(2) Those conditions are—

- (a) the person who is P's nominated person is not suitable to be so;
- (b) there is no-one who is P's nominated person;
- (c) it is not practicable to establish whether P has a nominated person;
- (d) someone is P's nominated person, but it is not practicable to establish who that is.

(3) The factors that may be taken into account in determining whether a person is not suitable to be P's nominated person include whether the person has behaved, is behaving or proposes to behave in a way that is not in P's best interests.

(4) An application may be made on the ground mentioned in subsection (2) (c) or (d) only if the applicant has taken reasonable steps to establish—

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**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 80 is up to date with all changes known to be in force on or before 20 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*

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- (a) whether P has a nominated person; or (as the case may be)
  - (b) who P's nominated person is.
- (5) In this section “a qualifying person” means any of the following—
- (a) an appropriate healthcare professional;
  - (b) if P is an in-patient in a hospital or care home, the managing authority of the hospital or care home;
  - (c) if P is living in a place of a prescribed description, a prescribed person;
  - (d) an attorney under a lasting power of attorney, or an enduring power of attorney, granted by P;
  - (e) a deputy appointed for P by the court;
  - (f) any relative of P;
  - (g) any person interested in P's welfare.
- (6) In this section “appropriate healthcare professional” means a person of a prescribed description.
- (7) Where the applicant is a person within subsection (5)(a) or (b), the applicant must send a copy of the application to RQIA as soon as practicable.

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**Commencement Information**

- II** S. 80(1)-(4)(5)(a)-(c)(f)(g)(6)(7) 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\(b\)](#)