
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide technical details for the Mental Capacity Act (Northern Ireland) 2016 and come into effect on 1st October 2019.

Part 1 provides definitions relevant to all the Regulations.

Part 2 provides details on the definition for the requirements of suitably qualified persons and notes that this can be a number of health and social care professions, with relevant experience and training approved by the Department. The Part also provides provisions for changes to the Act in situations where a person who has capacity is making a declaration, revocation or appointment of a nominated person but is physically unable to sign personally.

Part 3 provides details on information that is required during a detention amounting to a deprivation of liberty, authorisations and extensions of authorisations.

As required in section 57(4) Part 3 prescribes that P, the nominated person and any persons P has asked to be notified as soon as a detention occurs and that information about the detention, including under what provisions, the rights of P under the Act and how the Review Tribunal operates is provided. Part 3 also prescribes that P and any person P has asked to be notified is notified when P is discharged from detention. As allowed in section 58 Part 3 prescribes that this information must be made in writing and must be approved by the Department.

Part 3 also prescribes details about applications for trust panel authorisations, reports in respect of short-term detentions and extensions, including who can apply or make the reports and information that must be included in the application, care plan and medical report.

Part 3 also prescribes the Forms which must be used in respect of authorisations and the Forms can be found in the Schedule to the Regulations.

Part 4 provides the details on trust panels. It is prescribed in Part 4 the requirements on a person who is on a trust panel, how the panel operates and how the panel makes decisions.

Part 5 provides transitional arrangements for a person who is not 16 but where a detention amounting to a deprivation of liberty is proposed after the person's birthday. This will allow a seamless transition into the statutory framework of the Act by allowing safeguards and additional safeguards to be done in the month leading up to the 16th birthday. However, as it is noted in Part 5, allowing the safeguards to be put in place before a person is 16 does not allow a detention amounting to a deprivation of liberty by virtue of the Act before the person is 16.

Part 6 makes provisions for the managing authority of residential care and nursing homes to hold and manage money and valuables of a person who lacks capacity. Part 6 prescribes details on considerations that must be had and the formalities when holding money and valuables. Part 6 also provides who the appropriate body for approving research is.