

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Expenditure etc is up to date with all changes known to be in force on or before 14 May 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



2016 CHAPTER 18

PART 14

MISCELLANEOUS

Expenditure etc

Power to make regulations about dealing with money and valuables

276.—(1) In this section “P” means a person who—

- (a) is 16 or over;
- (b) lacks capacity in relation to the management of his or her property or affairs; and
- (c) is an in-patient or resident in—
 - (i) a hospital;
 - (ii) a care home; or
 - (iii) an establishment of a prescribed description.

(2) Regulations may—

- (a) permit the relevant authority to receive and hold money and valuables on behalf of P;
- (b) permit the relevant authority to spend that money or dispose of those valuables for the benefit of P;
- (c) impose requirements as to the way in which money or valuables received under the regulations is to be held;
- (d) require the relevant authority to keep prescribed accounts and records in relation to the management of P's money and valuables;

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- (e) require the relevant authority to make an annual return containing prescribed information to RQIA.
- (3) Regulations under subsection (2) may not—
- (a) permit the relevant authority to receive or hold on behalf of any one person money or valuables exceeding £20,000 in total without the consent of RQIA;
 - (b) permit the relevant authority to receive from a person (“B”), and hold on P's behalf, money or valuables which B does not have power to give to the relevant authority to hold on P's behalf;
 - (c) permit the relevant authority to do anything which is inconsistent with a relevant decision.
- (4) The Department may by regulations amend subsection (3)(a) so as to alter the sum mentioned there.
- (5) In consequence of this section, the following are not acts to which section 9 (protection from certain liability) applies—
- (a) the receiving and holding by a relevant authority of money and valuables on behalf of P;
 - (b) the spending of that money, or the disposing of those valuables, by a relevant authority for the benefit of P.
- (6) In this section—
- “relevant authority” means—
- (a) in relation to a person in a hospital or care home, the managing authority of the hospital or care home;
 - (b) in relation to a person in an establishment of a description prescribed under subsection (1)(c)(iii), the prescribed person.
- “relevant decision” means a decision concerning P's property or affairs which—
- (a) is made by the court on P's behalf under section 113(2)(a);
 - (b) is made in accordance with this Act by an attorney under a lasting power of attorney granted by P and is within the scope of the attorney's authority;
 - (c) is made in accordance with the Enduring Powers of Attorney (Northern Ireland) Order 1987 by an attorney under an enduring power of attorney granted by P, and is within the scope of the attorney's authority; or
 - (d) is made in accordance with this Act by a deputy appointed for P by the court and is within the scope of the deputy's authority.

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Commencement Information

- II** S. 276 in operation at 2.12.2019 by S.R. 2019/163, art. 2(2), **Sch. Pt. 2** (with art. 3) (as amended by S.R. 2019/190, art. 2)

PROSPECTIVE

Contravention of regulations under section 276(2)

277.—(1) Regulations under section 276(2) may provide that a contravention of any prescribed provision of the regulations is an offence.

(2) A person guilty of an offence under the regulations is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) Proceedings in respect of an offence under the regulations may be brought only—

- (a) by RQIA; or
- (b) by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

(4) Proceedings for an offence under the regulations may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecution to warrant the proceedings came to its knowledge; but no proceedings may be brought by virtue of this subsection more than 3 years after the commission of the offence.

PROSPECTIVE

Expenditure

278.—(1) This section applies where—

- (a) an act mentioned in section 9(1) is (because of compliance with section 9(1)(c) and (d) and any of the additional safeguard provisions that are relevant) an act to which section 9(2) applies; and
- (b) the act involves expenditure.

(2) It is lawful for D—

- (a) to pledge P's credit for the purpose of the expenditure; and
- (b) to apply money in P's possession for meeting the expenditure.

(3) If the expenditure is borne for P by D, it is lawful for D—

- (a) to reimburse himself or herself out of money in P's possession; or

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(b) to be otherwise indemnified by P.

(4) Subsections (1) to (3) do not affect any power under which (apart from those subsections) a person—

- (a) has lawful control of P's money or other property; and
- (b) has power to spend money for P's benefit.

(5) In this section “additional safeguard provisions” has the same meaning as in section 9.

PROSPECTIVE

Payment for necessary goods and services

279.—(1) If necessary goods or services are supplied to a person who lacks capacity to contract for the supply, that person must pay a reasonable price for them.

(2) In subsection (1) “necessary” means suitable to a person's condition in life and to that person's actual requirements at the time when the goods or services are supplied.

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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\(b\)](#)