
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Part 3 is up to date with all changes known to be in force on or before 13 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*

SCHEDULES

SCHEDULE 2

Authorisation of short-term detention in hospital for examination etc

Part 3

Events terminating the authorisation

Expiry where failure to admit P within period required

9.—(1) If—

- (a) at the time when a report under paragraph 2 is made P is not already an in-patient in the hospital specified in the report, and
- (b) at the end of the period allowed for admission P has not been admitted to that hospital,

the expiry of that period is an event which terminates the authorisation.

(2) In this paragraph “the period allowed for admission” means—

- (a) two days beginning with the date when the medical report under paragraph 4 was made; or
- (b) such longer period, not exceeding 14 days beginning with that date, as a medical practitioner who meets prescribed conditions may (before the end of the period mentioned in head (a)) certify to be necessary because of exceptional circumstances.

(3) A certificate under sub-paragraph (2)(b) must be in the prescribed form and include prescribed information.

Commencement Information

- II** Sch. 2 para. 9 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)

Expiry where failure to give P certain information

10.—(1) This paragraph applies if—

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(a) pursuant to a report under paragraph 2, P is admitted to the hospital specified in the report; or

(b) P is treated under paragraph 1(5) as so admitted.

(2) If P is not given prescribed information by the managing authority of the hospital as soon as practicable after the admission or deemed admission, the failure to give P that information is an event which terminates the authorisation.

Commencement Information

I2 Sch. 2 para. 10 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)

Expiry where failure to examine and report on P on admission

11.—(1) This paragraph applies where—

(a) pursuant to a report under paragraph 2, P is admitted to the hospital specified in the report; or

(b) P is treated under paragraph 1(5) as so admitted.

(2) Immediately after being admitted or treated as admitted, P must be examined by a medical practitioner who—

(a) is within sub-paragraph (3); and

(b) did not make the medical report under paragraph 4.

(3) The medical practitioners are—

(a) the responsible medical practitioner;

(b) another medical practitioner who meets prescribed conditions; or

(c) any other medical practitioner who is on the staff of the hospital.

(4) A medical practitioner carrying out an examination under this paragraph must immediately make a report in the prescribed form of the examination.

(5) The report must include a statement by the person making the report as to whether, in that person's opinion, the condition in paragraph 12 is met.

(6) If the report states that in the opinion of the person making the report that condition is not met, the making of the report is an event which terminates the authorisation.

(7) A person who makes a report under this paragraph must immediately give the report to the managing authority of the hospital.

(8) If there is a failure to examine P in accordance with sub-paragraph (2), or to make a report in accordance with sub-paragraphs (4) and (5), the failure is an event which terminates the authorisation.

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Commencement Information

- I3** Sch. 2 para. 11 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)

The condition for detention

- 12.**—(1) This paragraph applies for the purposes of paragraphs 11, 13 and 14.
- (2) The condition referred to in those paragraphs is that—
- (a) failure to detain P in the hospital in circumstances amounting to a deprivation of liberty, for the purposes of further care, would create a risk of serious harm to P or of serious physical harm to other persons;
 - (b) detaining P in the hospital in circumstances amounting to a deprivation of liberty, for those purposes, is a proportionate response to—
 - (i) the likelihood of harm to P, or of physical harm to other persons; and
 - (ii) the seriousness of the harm concerned;
 - (c) P lacks capacity in relation to whether he or she should be so detained; and
 - (d) it would be in P's best interests for him or her to be so detained.
- (3) In sub-paragraph (2) “further care” means such one or more of the following as are appropriate in P's case—
- (a) further examination;
 - (b) the provision to P of other treatment or care.

Commencement Information

- I4** Sch. 2 para. 12 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)

Expiry where no examination and report by suitable medical practitioner within required time

- 13.**—(1) This paragraph applies where—
- (a) a report under paragraph 11 (an “admission report”) has been made;
 - (b) the admission report was not such as to terminate the authorisation; and
 - (c) the admission report was made by a practitioner within paragraph 11(3)(c) (and not within paragraph 11(3)(a) or (b)).
- (2) If, at the end of 48 hours from the time when the admission report was made, a suitable medical practitioner has not examined P and made a report in

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accordance with sub-paragraphs (4) and (5), the expiry of that period is an event which terminates the authorisation.

(3) In this paragraph “a suitable medical practitioner” means—

- (a) the responsible medical practitioner; or
- (b) if it is not practicable for that practitioner to carry out the examination under this paragraph, another medical practitioner who meets prescribed conditions.

(4) A medical practitioner carrying out an examination under this paragraph must immediately make a report in the prescribed form of the examination.

(5) The report must include a statement by the person making the report as to whether, in that person's opinion, the condition in paragraph 12 is met.

(6) If the report states that in the opinion of the person making the report that condition is not met, the making of the report is an event which terminates the authorisation.

(7) A person who makes a report under this paragraph must immediately give the report to the managing authority of the hospital.

Commencement Information

- I5** Sch. 2 para. 13 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)

Expiry where no further examination and report on P within 14 days

14.—(1) This paragraph applies where—

- (a) either of the following has been made—
 - (i) a report under paragraph 11 by a practitioner within paragraph 11(3) (a) or (b); or
 - (ii) a report under paragraph 13; and
- (b) the report was not such as to terminate the authorisation.

(2) If at the end of 14 days beginning with the date of admission a suitable medical practitioner has not examined P and made a further report in accordance with sub-paragraphs (5) and (6), the expiry of that period is an event which terminates the authorisation.

(3) In this paragraph “the date of admission” means the date when the report under paragraph 11 was made (whether or not that report was made as mentioned in sub-paragraph (1)(a)(i)).

(4) In this paragraph “a suitable medical practitioner” means—

- (a) the responsible medical practitioner; or

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(b) if it is not practicable for that practitioner to carry out the examination under this paragraph, another medical practitioner meeting prescribed conditions.

(5) A medical practitioner carrying out an examination under this paragraph must immediately make a report in the prescribed form of the examination.

(6) The report must include a statement by the person making the report as to whether, in that person's opinion, the condition in paragraph 12 is met.

(7) If the report states that in the opinion of the person making the report that condition is not met, the making of the report is an event which terminates the authorisation.

(8) A person who makes a report under this paragraph must immediately give the report to the managing authority of the hospital.

Commencement Information

I6 Sch. 2 para. 14 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)

Expiry 14 days after date of further report

15.—(1) This paragraph applies where a report under paragraph 14 has been made and the report was not such as to terminate the authorisation.

(2) The expiry of the remaining period allowed is an event which terminates the authorisation.

(3) “The remaining period allowed” is the period of 14 days beginning with the day after the date the report under paragraph 14 is made.

Commencement Information

I7 Sch. 2 para. 15 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)

Discharge

16.—(1) If—

(a) pursuant to a report under paragraph 2, P is admitted to the hospital specified in the report, or

(b) P is treated under paragraph 1(5) as so admitted,

and P is subsequently discharged from detention, that discharge is an event which terminates the authorisation.

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(2) For the purposes of this paragraph P is “discharged from detention” if P is informed in writing by the responsible medical practitioner that he or she is discharged from detention.

Commencement Information

18 Sch. 2 para. 16 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)

Unreasonable delay in taking certain steps

17.—(1) If—

- (a) pursuant to a report under paragraph 2, P is admitted to the hospital specified in the report, or
- (b) P is treated under paragraph 1(5) as so admitted,

and subsequently there is an unreasonable delay in taking a relevant step, the start of that delay is an event which terminates the authorisation.

(2) In this paragraph a “relevant step” means making an application under Schedule 1 where a measure that would need authorisation under that Schedule is proposed in relation to P.

Commencement Information

19 Sch. 2 para. 17 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)

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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\(b\)](#)