

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Part 4 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*

## SCHEDULES

PROSPECTIVE

### SCHEDULE 9

#### International protection of adults

#### **Part 4**

#### Recognition and enforcement

##### *Recognition*

**20.**—(1) A protective measure taken in relation to an adult under the law of a country other than Northern Ireland is to be recognised in Northern Ireland if it was taken on the ground that the adult is habitually resident in the other country.

(2) A protective measure taken in relation to an adult under the law of a Convention country other than Northern Ireland is to be recognised in Northern Ireland if it was taken on a ground mentioned in Chapter 2 (jurisdiction).

(3) But the court may disapply this paragraph in relation to a measure if it considers that—

- (a) the case in which the measure was taken was not urgent;
- (b) the adult was not given an opportunity to be heard; and
- (c) that omission amounted to a breach of natural justice.

(4) The court may also disapply this paragraph in relation to a measure if it considers that—

- (a) recognition of the measure would be manifestly contrary to public policy;
- (b) the measure would be inconsistent with a mandatory provision of the law of Northern Ireland; or
- (c) the measure is inconsistent with one subsequently taken, or recognised, in Northern Ireland in relation to the adult.

(5) The court may also disapply this paragraph in relation to a measure taken under the law of a Convention country in a matter to which Article 33 applies, if the court considers that that Article has not been complied with in connection with that matter.

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**21.**—(1) An interested person may apply to the court for a declaration as to whether a protective measure taken under the law of a country other than Northern Ireland is to be recognised in Northern Ireland.

(2) No leave is required for an application to the court under this paragraph.

**22** For the purposes of paragraphs 20 and 21, any finding of fact in relation to jurisdiction relied on when the measure was taken is conclusive.

#### *Enforcement*

**23.**—(1) An interested person may apply to the court for a declaration as to whether a protective measure taken under the law of, and enforceable in, a country other than Northern Ireland is enforceable, or to be registered, in Northern Ireland.

(2) The court must make the declaration if—

- (a) the measure comes within sub-paragraph (1) or (2) of paragraph 20; and
- (b) the paragraph is not disapplied in relation to it as a result of sub-paragraph (3), (4) or (5) of that paragraph.

(3) A measure to which a declaration under this paragraph relates is enforceable in Northern Ireland as if it were a measure of like effect taken by the court.

#### *Measures taken in relation to under 16s*

**24.**—(1) This paragraph applies where—

- (a) provision giving effect to, or otherwise deriving from, the Convention in a country other than Northern Ireland applies in relation to a person who is under 16; and
- (b) a measure is taken in relation to that person in reliance on that provision.

(2) This Part applies in relation to that measure as it applies in relation to a protective measure taken in relation to an adult under the law of a Convention country other than Northern Ireland.

#### *Supplementary*

**25** The court may not review the merits of a measure taken outside Northern Ireland except to establish whether the measure complies with this Schedule in so far as it is, as a result of this Schedule, required to do so.

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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\(b\)](#)