



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 7

RIGHTS OF REVIEW OF AUTHORISATION

References to the Tribunal

Duty of HSC trust to refer case to Tribunal

48.—(1) Where—

- (a) on any date (“the extension date”), the period of an authorisation under Schedule 1 is extended under section 38 or Schedule 3,
 - (b) the authorisation has been in force throughout the relevant period (see subsection (2)), and
 - (c) the Tribunal has not considered the person's case at any time in that period,
- the relevant trust must as soon as practicable refer the person's case to the Tribunal.

(2) The “relevant period” is—

- (a) if the person to whom the authorisation relates (“the person”) is under 18, the period of one year ending with the extension date;
- (b) otherwise, the period of two years ending with the extension date.

(3) For the purpose of providing information for the purposes of a reference under this section, any medical practitioner authorised by or on behalf of the

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Section 48 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

person may do anything within section 275 (visiting etc powers) in relation to the person.

(4) In this section—

“the person's case” means the question whether the authorisation is appropriate;

“the relevant trust” means—

- (a) where the extension is wholly or partly for the purposes of continuing the person's detention in a place, the HSC trust in whose area that place is situated;
- (b) where the extension is wholly or partly for the purposes of continuing the provision to the person of treatment specified by the authorisation or a requirement to attend for such treatment and paragraph (a) does not apply, the HSC trust in whose area the treatment is provided;
- (c) where the extension is for the purposes of continuing a community residence requirement and paragraph (b) does not apply, the HSC trust in whose area the place where the person is required by the community residence requirement to live is situated.

(5) The Department may by regulations amend subsection (2) so as to alter any period mentioned there.

Commencement Information

- II** S. 48 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\(b\)](#)