



2016 CHAPTER 18

PART 3

NOMINATED PERSON

Default nominated person

Section 73: the list

74.—(1) This section contains provisions about the list in section 73(3) (“the list”).

(2) A person within the list (“A”) is “higher” up the list than another person within the list (“B”) if A is within a paragraph of the list that comes before the paragraph which B is within.

(3) Where—

- (a) two or more persons are within the same paragraph of the list, and
- (b) there is no person higher up the list,

the default nominated person is the older (or oldest) of those persons (but this is subject to subsections (5) and (6)).

(4) In determining who is the default nominated person for P—

- (a) a stepchild of a person is to be treated as the child of that person; and
- (b) a relationship of the half-blood is to be treated as a relationship of the whole blood;

but this is subject to subsections (5) and (6).

(5) Subsection (6) applies where—

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 74 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*

- (a) P has two or more relatives within the same paragraph of the list (“the relevant paragraph”);
 - (b) there is no person higher up the list; and
 - (c) one or more of the relatives is within the relevant paragraph because of subsection (4).
- (6) In determining who is the default nominated person for P—
- (a) any relatives of the whole blood are to be preferred over the relatives who are within the relevant paragraph because of subsection (4);
 - (b) any relatives of the half-blood are to be preferred over any relatives who are within the relevant paragraph because of subsection (4)(a).
- (7) This section is subject to section 75.

Commencement Information

- II** [S. 74](#) 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:

Mental Capacity Act (Northern Ireland) 2016, Section 74 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.

[View outstanding changes](#)

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\(b\)](#)