
STATUTORY INSTRUMENTS

2020 No. 103

The Victims' Payments Regulations 2020

PART 8

Miscellaneous provisions

Duty to notify the Public Guardian

49.—(1) Where a health care professional, after carrying out an assessment of a person, is satisfied—

- (a) that the person lacks capacity in relation to a matter or matters relating to that person's care, treatment, personal welfare or property and affairs;
- (b) that any of the powers of the court under section 113 of the Mental Capacity Act (Northern Ireland) 2016⁽¹⁾ ought to be exercised with respect of a relevant matter, and
- (c) that arrangements in that behalf under section 113 of that Act have not been made and are not being made;

it is the duty of the health care professional to notify the Public Guardian of the situation.

(2) In this regulation—

“lacks capacity” has the meaning given by section 3 of the Mental Capacity Act (Northern Ireland) 2016;

“Public Guardian” has the meaning given by section 125 of that Act (the Public Guardian).

(3) Until section 128 of the Mental Capacity Act (Northern Ireland) 2016 (duty to notify the Public Guardian) is in force for all purposes, this regulation has effect as if for paragraphs (1) and (2) there were substituted—

“(1) Where a health care professional, after carrying out an assessment of a person, is satisfied—

- (a) that the person by reason of mental disorder, of managing and administering their property and affairs;
- (b) that any of the powers of the court under Article 98 or 99 of the Mental Health (Northern Ireland) Order 1986⁽²⁾ ought to be exercised with respect to the property or affairs of that person;
- (a) that arrangements in that behalf have not been made and are not being made,

it is the duty of the health care professional to notify the Office of Care and Protection of those matters.

(2) In this regulation—

⁽¹⁾ 2016 c. 18; section 113 is not yet in force.

⁽²⁾ S.I. 1986 No. 595 (N.I. 4); article 99 was amended by sections 59(5) and 148(1) of, and paragraph 6 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

“mental disorder” has the meaning given in article 3 of the Mental Health (Northern Ireland) Order 1986;

“Office of Care and Protection” means the Office of Care and Protection of the Supreme Court of Judicature of Northern Ireland.”.