



# **Mental Capacity Act (Northern Ireland) 2016**

## CHAPTER 18

### MENTAL CAPACITY ACT (NORTHERN IRELAND) 2016

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*Relationship with other conditions*

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*Who may make application*

3. (1) Any application under this Schedule must be made by...

*Contents of application*

4. (1) An application under this Schedule must—

*Medical report*

5. (1) The medical report must be in the prescribed form...

*Care plan*

6. The care plan must be in the prescribed form and...

*Panel to consider application*

7. (1) Where the relevant trust receives an application duly made...

*Decision on application*

8. (1) Having considered the application, the panel must either—

*Time limit for panel's decision, and duty to notify decision*

9. (1) The panel must comply with paragraph 8(1) as soon...

SCHEDULE 4 — Lasting powers of attorney: formalities

Part 1 — Making instruments

*General requirements as to making instruments*

1. (1) An instrument is made in accordance with this Schedule...

*Requirements as to content of instruments*

2. (1) The instrument must include— (a) the prescribed information about...

*Failure to comply with required form*

3. (1) If an instrument differs in an immaterial respect in...  
Part 2 — Registration

*Applications and procedure for registration*

4. (1) An application to the Public Guardian for the registration...
5. Subject to paragraphs 10 to 14, on an application under...

*Notification requirements*

6. A person (or persons) about to make an application under...
7. (1) As soon as practicable after receiving an application under...
8. (1) A notice under paragraph 6 must be in a...

*Power to dispense with notification requirements*

9. (1) A person proposing to make an application under paragraph...

*Instrument not properly made*

10. If it appears to the Public Guardian that an instrument...

*Instrument containing ineffective provision*

11. (1) Sub-paragraph (2) applies if it appears to the Public...

*Deputy already appointed*

12. (1) Sub-paragraph (2) applies if it appears to the Public...

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*Objection by attorney, replacement attorney or named person*

13. (1) Sub-paragraph (2) applies if a person other than the...

*Objection by donor*

14. (1) This paragraph applies if the donor—

*Notification of registration*

15. Where an instrument is registered under this Schedule, the Public...

*Evidence of registration*

16. (1) A document purporting to be an office copy of...  
Part 3 — Cancellation of registration and notification of severance

*Cancellation of registration by Public Guardian following revocation*

17. The Public Guardian must cancel the registration of an instrument...

*Court to require Public Guardian to cancel registration in certain cases*

18. The court must direct the Public Guardian to cancel the...

*Notification by court of ineffective provision etc in instrument*

19. (1) Sub-paragraph (2) applies if the court determines under section...

*Notification on cancellation*

20. If the Public Guardian cancels the registration of an instrument...

*Delivery up of instrument on cancellation*

21. On the cancellation of the registration of an instrument, the...  
Part 4 — Records of alterations in registered powers

*Partial revocation or suspension of power as a result of bankruptcy*

22. If in the case of a registered instrument it appears...

*Termination of appointment of attorney which does not revoke power*

23. If in the case of a registered instrument it appears...



*Replacement of attorney*

24. If in the case of a registered instrument it appears...

*Severance of ineffective provisions*

25. If in the case of a registered instrument the court...

*Notification of alterations*

26. If the Public Guardian attaches a note to an instrument...

SCHEDULE 5 — Property and affairs: supplementary provisions

*Wills: introductory*

1. Paragraphs 2 to 4 apply in relation to the execution...

*Provision that may be made in will*

2. The will may make any provision (whether by disposing of...

*Wills: requirements relating to execution*

3. (1) Sub-paragraph (2) applies if under section 113 the court...

*Wills: effect of execution*

4. (1) This paragraph applies where a will is executed in...

*Vesting orders ancillary to settlement etc*

5. (1) If provision is made by virtue of section 115...

*Variation of settlements*

6. (1) If a settlement has been made by virtue of...

*Transfer of stock to appointee outside Northern Ireland*

7. (1) Sub-paragraph (2) applies if the court is satisfied—

*Preservation of interests in property disposed  
of on behalf of person lacking capacity*

8. (1) Sub-paragraphs (2) and (3) apply if—  
9. (1) Sub-paragraph (2) applies if the court has ordered or...

SCHEDULE 6 — Extension by panel of public protection order without restrictions

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*Preliminary*

1. In this Schedule, in relation to a public protection order...

*Applications for extension of public protection order without restrictions*

2. (1) An application under this Schedule may be made where  
—...

*Who may make application*

3. (1) Any application under this Schedule must be made by...

*Contents of application*

4. An application under this Schedule must— (a) be in the...

*Medical report*

5. (1) The medical report must be in the prescribed form...

*Care plan*

6. The care plan must be in the prescribed form and...

*Panel to consider application*

7. (1) Where the relevant trust receives an application duly made...

*Decision on application*

8. (1) Having considered the application, the panel must do one...

*Time limit for panel's decision, and duty to notify decision*

9. (1) The panel must comply with paragraph 8(1) as soon...

SCHEDULE 7 — Supervision and assessment orders

Part 1 — Introductory

*Introductory*

1. (1) In this Part a “supervision and assessment order” is...  
Part 2 — Making and contents of order

*Conditions which must be satisfied before order can be made*

2. (1) A court may make a supervision and assessment order...

*Supervision element*

3. (1) A supervision element is a requirement that the supervised...

*Assessment element*

4. (1) An assessment element is a requirement that, during a...

*Residence element*

5. (1) A residence element is any requirement as to the...

*Procedural requirements relating to the making of the order*

6. (1) Before making a supervision and assessment order, the court...

Part 3 — Effect of order

7. Where an order is made, the supervised person must (as...

Part 4 — Amendment or revocation of order

*Amendment of order: general*

8. (1) A court of summary jurisdiction may, on the application...

*Amendment of order: change of area of residence*

9. (1) This paragraph applies where— (a) a supervision and assessment...

*Medical reports*

10. (1) In this paragraph “relevant medical practitioner” means a medical...

*Revocation of order*

11. (1) A court that has made a supervision and assessment...

*Procedural requirements on amendment or revocation of order*

12. (1) On the making under any of paragraphs 8 to...

Part 5 — Breach of order

13. (1) This paragraph applies where— (a) a supervision and assessment...

Part 6 — Supplementary

*Power to vary period for which supervision element may be made*

14. (1) The Department of Justice may make regulations substituting, for...

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*Transitional provision relating to the abolition of petty sessions districts*

15. (1) Until the day on which section 1 of the...

SCHEDULE 8 — Amendments of Mental Health Order

1. The Mental Health Order is amended as follows.
2. Before Article 2 insert— “ Interpretation of Order ”.
3. (1) Article 2 (interpretation) is amended as follows.
4. After Article 3 insert— General provisions about patients under 16...
5. In the heading of Part 2 for “AND GUARDIANSHIP” substitute...
6. (1) Article 4 (admission for assessment) is amended as follows....
7. In Article 8 (effect of application for assessment) omit paragraph...
8. In Article 12 (detention for treatment) omit paragraph (3).
9. In Article 13(1) (renewal of authority for detention) after “discharged”...
10. After Article 14 insert— Liability to detention under Part 2...
11. Omit Articles 18 to 26 (guardianship).
12. In the italic heading before Article 27 omit “or guardianship”....
13. (1) Article 27 (duty of authority to give information to...
14. In Article 28 (transfer of patients) omit—
15. In Article 29 (return and readmission of patients absent without...
16. (1) Article 30 (special provisions as to patients absent without...
17. (1) Article 31 is amended as follows.
18. In Article 32(3) (definition of “nearest relative”) omit “or his...
19. In Article 33 (children and young persons in care) omit...
20. (1) Article 34 (minors under guardianship, etc) is amended as...
21. In Article 35(1) (assignment of functions by nearest relative) omit...
22. (1) Article 36 (appointment by county court of acting nearest...
23. (1) Article 37 (discharge and variation of orders under Article...
24. In Article 39 (special provision as to wards of court)...
25. In Article 40 (duty of approved social worker to make...
26. In Article 41 (applications, recommendations and reports under Part 2)...
27. Omit Part 3 (patients concerned in criminal proceedings or under...
28. In the heading of Part 4, at the end insert...

29. For Article 62 substitute— Patients to whom the provisions of...
30. (1) Article 63 (treatment requiring consent and a second opinion)...
31. After Article 63 insert— Treatment within Article 63: procedure where...
32. In Article 64(1)(b) (treatment requiring consent or second opinion) after...
33. In Article 65 (plans of treatment)— (a) for “Article 63...
34. In Article 66(1) (withdrawal of consent) after “63” insert “...  
35. (1) Article 67 (review of treatment) is amended as follows....
36. (1) Article 68 (urgent treatment) is amended as follows.
37. In Article 69 (treatment not requiring consent) after “63” insert...
38. For the heading of Part 5 substitute— “ THE REVIEW...
39. In Article 70(1) (constitution of the Review Tribunal) for “Mental...
40. (1) Article 71 (applications to the tribunal under Part 2)...
41. In Article 72(1) (reference of cases of Part 2 patients)...
42. (1) Article 73 (duty on Boards to refer cases to...
43. Omit Articles 74 to 76 (applications and references concerning Part...
44. (1) Article 77 (power to discharge patients other than restricted...
45. Omit Articles 78 to 80 (discharge of restricted patients etc)....
46. In Article 81 (visiting and examination of patients) omit “or...
47. For Article 82 substitute— Applications to the tribunal (1) Applications to the Review Tribunal may be made only...
48. (1) Article 83 (procedure of Tribunal) is amended as follows....
49. Omit Article 84 (interpretation of Part 5).
50. Omit Part 6 (functions of RQIA).
51. In Article 90 (registration of private hospitals) omit paragraph (1)....
52. Omit Articles 91 to 94 (provisions about registration and inspections)....
53. Omit Article 96 (offences under Part 7).
54. Omit Part 8 (management of property and affairs of patients)....
55. In Article 111(1) (code of practice)— (a) in sub-paragraph (a)...
56. In Article 113(1) (miscellaneous powers of the Board etc) omit...
57. (1) Article 116 (powers of the Board etc in relation...
58. (1) Article 118 (provision information by Department etc) is amended...

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59. (1) Article 120 (unlawful detention of patients) is amended as...
60. (1) Article 121 (ill-treatment of patients) is amended as follows....
61. In Article 124(1)(a) (assist patients to absent themselves without leave)...
62. In Article 127 (voluntary use of services) omit paragraph (2)....
63. Omit Article 128 (pay, pensions etc of patients).
64. (1) Article 129 (warrants) is amended as follows.
65. Omit Article 130 (mentally disordered persons found in public places)....
66. In Article 131(1) (custody, conveyance and detention) for “a place...
67. (1) Article 132 (retaking of patients escaping from custody) is...
68. (1) Article 133 (protection for acts done in pursuance of...
69. Omit Schedule 2 (application of Part 2 to patients detained...
70. Omit Schedule 2A (supervision and treatment orders).
71. (1) Schedule 3 (the Tribunal) is amended as follows.

SCHEDULE 9 — International protection of adults  
Part 1 — Preliminary

*Introduction*

1. Paragraphs 2 to 5 apply for the purposes of this...

*The Convention*

2. (1) “Convention” means the Convention on the International Protection of...

*Countries, territories and nationals*

3. (1) “Country” includes a territory which has its own system...

*Adults with incapacity*

4. “Adult” means a person who— (a) as a result of...

*Protective measures*

5. (1) “Protective measure” means a measure directed to the protection...

*Application of this Schedule*

6. (1) This Schedule does not apply to a relevant person...

### *Central Authority*

7. (1) Any function under the Convention of a Central Authority...  
Part 2 — Jurisdiction

### *Scope of jurisdiction*

8. (1) The court may exercise its functions under this Act...
9. (1) The court may also exercise its functions under this...

### *Exercise of jurisdiction*

10. (1) This paragraph applies where jurisdiction is exercisable under this...
11. A reference in this Schedule to the exercise of jurisdiction...  
Part 3 — Applicable law

### *Applicable law*

12. In exercising jurisdiction under this Schedule, the court may, if...
13. Where a protective measure is taken in one country but...

### *Lasting powers of attorney, etc*

14. (1) If the donor of a lasting power is habitually...
15. (1) Where a lasting power is not exercised in a...
16. Regulations may provide for Schedule 4 (lasting powers of attorney):...

### *Protection of third parties*

17. (1) This paragraph applies where a person (a “representative”) in...

### *Mandatory rules*

18. Where the court is entitled to exercise jurisdiction under this...

### *Public policy*

19. Nothing in this Part requires or enables the application in...  
Part 4 — Recognition and enforcement

### *Recognition*

20. (1) A protective measure taken in relation to an adult...
21. (1) An interested person may apply to the court for...
22. For the purposes of paragraphs 20 and 21, any finding...

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### *Enforcement*

23. (1) An interested person may apply to the court for...

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

24. (1) This paragraph applies where— (a) provision giving effect to,...

### *Supplementary*

25. The court may not review the merits of a measure...  
Part 5 — Co-operation

### *Proposal for cross-border placement*

26. (1) This paragraph applies where a public authority proposes to...  
27. A proposal received by a public authority under Article 33...

### *Adult in danger etc*

28. (1) This paragraph applies if a public authority is told...  
29. A public authority may not request from, or send to,...  
Part 6 — General

### *Certificate*

30. A certificate given under Article 38 by an authority in...

### *Powers to make further provision as to private international law*

31. (1) Regulations may make provision— (a) giving further effect to...

### *Exceptions*

32. Nothing in this Schedule applies, and no provision made under...

## SCHEDULE 10 — Consequential amendments

### *Judicature (Northern Ireland) Act 1978 (c. 23)*

1. In section 116(1) (fees) after “Enforcement of Judgments Office” insert...
2. (1) In Schedule 1 (appeals to Supreme Court in certain...



*Criminal Appeal (Northern Ireland) Act 1980 (c. 47)*

3. (1) Section 7 (supplementary provisions as to retrial) is amended...
4. In section 10(5) (appeals against interim hospital orders) for “interim...
5. In section 11 (appeal against conviction: substitution of finding of...
6. In section 12(1) (appeal against finding of not guilty on...
7. (1) Section 13 (disposal of appeal allowed under section 12)...
8. (1) Section 13A (appeal against finding of unfitness to be...
9. (1) Section 29A (effect of interim hospital orders) is amended...
10. (1) Section 30(1) (interpretation of Part 1) is amended as...
11. (1) Section 36 (detention of defendant pending appeal by the...
12. In section 45(3ZA) (powers of court exercisable by single judge)...
13. (1) Section 50 (interpretation) is amended as follows.
14. Omit Schedule 2 (consequences and effect of order under section...

*County Courts (Northern Ireland) Order 1980 (NI 3)*

15. (1) Article 28 (appeals and applications to county courts) is...

*Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)*

16. In Article 140 (appeals against conviction, sentence etc) after paragraph...

SCHEDULE 11 — Repeals

**Changes to legislation:**

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[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 1 applied by 2002 c. 6 (N.I.), s. 8(2E) (as inserted) by [2016 c. 18 \(N.I.\) s. 282\(2\)](#)
- s. 5 applied by 2002 c. 6 (N.I.), s. 8(2E) (as inserted) by [2016 c. 18 \(N.I.\) s. 282\(2\)](#)
- s. 146(1) words substituted (temp.) by [2020 c. 7 Sch. 11 para. 11](#)
- s. 162(1) modified (temp.) by [2020 c. 7 Sch. 11 para. 13](#)
- s. 162(5) words omitted (temp.) by [2020 c. 7 Sch. 11 para. 12](#)
- s. 167(2) modified (temp.) by [2020 c. 7 Sch. 11 para. 14](#)
- s. 174 modified (temp.) by [2020 c. 7 Sch. 11 para. 15](#)
- s. 177(2) modified (temp.) by [2020 c. 7 Sch. 11 para. 14](#)
- s. 178(6) applied (with modifications) by 1978 c. 23, Sch. 1 para. 4(3A)(c) (as substituted) by [2016 c. 18 \(N.I.\) Sch. 10 para. 2\(3\)\(c\)](#)
- s. 178(6) applied (with modifications) by 1980 c. 47, s. 36(3A)(c) (as substituted) by [2016 c. 18 \(N.I.\) Sch. 10 para. 11\(3\)\(c\)\(ii\)](#)
- s. 183(3) words substituted (temp.) by [2020 c. 7 Sch. 11 para. 16\(a\)](#)
- s. 183(3) words substituted (temp.) by [2020 c. 7 Sch. 11 para. 16\(b\)](#)
- s. 204 modified (temp.) by [2020 c. 7 Sch. 11 para. 14](#)
- s. 206 modified (temp.) by [2020 c. 7 Sch. 11 para. 14](#)
- s. 211(1) modified (temp.) by [2020 c. 7 Sch. 11 para. 17](#)
- s. 214(1) modified (temp.) by [2020 c. 7 Sch. 11 para. 17](#)
- s. 217(1) modified (temp.) by [2020 c. 7 Sch. 11 para. 17](#)
- s. 220(1) modified (temp.) by [2020 c. 7 Sch. 11 para. 17](#)
- s. 224(2)(b) words substituted (temp.) by [2020 c. 7 Sch. 11 para. 18](#)
- s. 285(1)(e) words substituted by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(a\)](#)

**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\(b\)](#)