

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Procedure after instruction of independent mental capacity advocate is up to date with all changes known to be in force on or before 06 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*



2016 CHAPTER 18

PART 4

INDEPENDENT MENTAL CAPACITY ADVOCATES

PROSPECTIVE

Procedure after instruction of independent mental capacity advocate

Right of person to discontinue involvement of independent mental capacity advocate

93.—(1) Where an independent mental capacity advocate has been instructed under section 91 to represent and provide support to a person in a matter, the person may (at any time when the person has capacity to do so) declare that he or she does not wish to continue to have the services of an independent mental capacity advocate in the matter.

(2) Where a declaration is made, the HSC trust that instructed the independent mental capacity advocate must withdraw the instruction.

(3) A declaration may be revoked by the person at any time when the person has capacity to do so.

(4) A declaration, or a revocation of a declaration, is valid only if it is in writing and the conditions of section 95 (formalities) are met.

(5) In this section “declaration” means a declaration under this section.

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Continuing duty of trust in relation to independent mental capacity advocate

94.—(1) The duty of an HSC trust under section 91 is to be taken to include a duty to instruct a new independent mental capacity advocate to represent and provide support to P in the matter in question if for any reason an independent mental capacity advocate previously instructed under that section to represent and provide support to P in that matter ceases to be able to do so.

(2) But this does not apply where—

- (a) the reason why the independent mental capacity advocate previously instructed is no longer able to represent and provide support to P in the matter is that P has made a declaration under section 93; and
- (b) that declaration has not been revoked.

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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\(b\)](#)