



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 6

EXTENSION OF PERIOD OF CERTAIN AUTHORISATIONS

Extensions of period of authorisation

Sections 37 and 38: extension reports

39.—(1) This section applies for the purposes of this Chapter.

(2) An “extension report”, in relation to an authorisation in respect of a person (“P”), is a report in the prescribed form which—

- (a) is made, within the reporting period, by an appropriate medical practitioner who has examined P within the reporting period and made the report as soon as practicable after that examination;
- (b) specifies the authorised measure (or, if more than one, each authorised measure) that is proposed to be continued after the end of the current period;
- (c) states that in the appropriate medical practitioner's opinion the criteria for continuation (see section 41) are met in respect of each specified measure;
- (d) includes a statement in the prescribed form, by the responsible person (see section 42), that in that person's opinion the criteria for continuation are met in respect of each specified measure; and
- (e) includes any prescribed information.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Section 39 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

(3) If—

- (a) the report specifies a measure within section 41(2)(b) or (d) (deprivation of liberty or community residence requirement), and
- (b) the appropriate medical practitioner is of the opinion that P lacks (or probably lacks) capacity in relation to whether an application under section 45 (applications to Tribunal) should be made in respect of the authorisation,

the report must contain a statement of that opinion.

(4) In this section—

“appropriate medical practitioner” means a medical practitioner who is unconnected with P and is permitted by regulations under section 300 to make the report;

“authorised measure” and “measure” have the meaning given by section 41;

“the current period” means—

- (a) in the case of an extension under section 37, the initial period;
- (b) in the case of an extension under section 38, the current extension period (within the meaning of that section);

“the reporting period” means—

- (a) in the case of an extension under section 37, the last month of the current period;
- (b) in the case of an extension under section 38, the last two months of the current period.

Commencement Information

- II** S. 39 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\(b\)](#)