
STATUTORY INSTRUMENTS

2015 No. 62

**The Special Educational Needs and Disability
(Detained Persons) Regulations 2015**

PART 5

Appropriate persons and detained persons lacking capacity

Where a child's parent lacks capacity

31.—(1) If the appropriate person is the child's parent and the parent lacks capacity at the relevant time, references in—

- (a) Part 3 of the Act, and
- (b) these Regulations,

to the appropriate person are to be read as references to a representative of the parent.

(2) If the child's parent lacks capacity at the relevant time references to a child's parent in these regulations, except the reference in regulation 6(1)(b)(iv), are to be read as references to a representative of the parent.

Where a young person lacks capacity

32.—(1) If the appropriate person is a young person and the young person lacks capacity at the relevant time, references in—

- (a) Part 3 of the Act, and
- (b) these Regulations

to the appropriate person are to be read as references to the alternative person.

(2) If the detained person is a young person and the young person lacks capacity at the relevant time—

- (a) references to a detained person in the regulations listed in Part 1 of the Schedule are to be read as references to both the detained person and the alternative person, and
 - (b) references to a detained person in the regulation listed in Part 2 of the Schedule are to be read as references to the alternative person instead of the detained person.
- (3) For the purposes of this regulation, “the alternative person” means—
- (a) a representative of the detained person;
 - (b) the detained person's parent, where the detained person does not have a representative;
 - (c) a representative of the detained person's parent, where the detained person's parent also lacks capacity at the relevant time and the young person does not have a representative.

Changes to legislation: There are currently no known outstanding effects for the The Special Educational Needs and Disability (Detained Persons) Regulations 2015, Cross Heading: Appropriate persons and detained persons lacking capacity. (See end of Document for details)

Mental Capacity Act 2005

33. Regulations 31 and 32 have effect in spite of section 27(1)(g) of the Mental Capacity Act 2005 ^{M1}.

Marginal Citations

M1 [2005 c.9](#). Section 27(1)(g) does not permit decisions discharging parental responsibilities in matters not relating to a child's property to be made on a person's behalf.

Changes to legislation:

There are currently no known outstanding effects for the The Special Educational Needs and Disability (Detained Persons) Regulations 2015, Cross Heading: Appropriate persons and detained persons lacking capacity.