



Northern Ireland
Assembly

Mental Capacity Bill

Annotated Marshalled List of Amendments
Further Consideration Stage
Monday 7 March 2016

Amendments tabled up to 9.30am Wednesday, 2 March 2016 and selected for debate

Amendment 1 [Made]

Clause 21, Page 13, Line 33

Leave out from ‘in’ to end of line 37 and insert -

‘where there are one or more treatments (other than the treatment mentioned in subsection (1))—

- (a) that are available and would be appropriate in P’s case; and
- (b) the provision of which would not involve the doing of acts to which section 19 or 22 applies.’

Minister of Health, Social Services and Public Safety

Amendment 2 [Made]

Clause 21, Page 13, Line 38

Leave out ‘in question to P’ and insert ‘mentioned in subsection (1)’

Minister of Health, Social Services and Public Safety

Amendment 3 [Made]

Clause 21, Page 13, Line 40

Leave out ‘the treatment in question’ and insert ‘that treatment’

Minister of Health, Social Services and Public Safety

Amendment 4 [Made]

Clause 97, Page 52, Line 15

Leave out ‘18’ and insert ‘16’

Minister of Health, Social Services and Public Safety

Amendment 5 [Made]

Clause 98, Page 53, Line 42

At end insert -

‘(7A) Where the donor of a lasting power of attorney was under 18 when he or she executed the instrument mentioned in section 97(2)(a)—

- (a) the lasting power of attorney has the same effect as it would have if the donor had been 18 or over when he or she executed the instrument; except that
- (b) at any time when the donor is under 18, the authority conferred by the lasting power does not extend to doing anything that the donor could not do at that time (even if the donor had capacity, within the meaning of Part 1, in relation to the matter in question).’

Minister of Health, Social Services and Public Safety

Amendment 6 [Made]

Clause 107, Page 58, Line 25

Leave out ‘or annulment’ and insert ‘, annulment or judicial separation’

Minister of Health, Social Services and Public Safety

Amendment 7 [Made]

Clause 107, Page 59, Line 9

Leave out ‘or annulment’ and insert ‘, annulment or judicial separation’

Minister of Health, Social Services and Public Safety

Amendment 8 [Made]

Clause 107, Page 59, Line 14

At end insert -

- ‘(11) In this section references to the “judicial separation” of a marriage or civil partnership include—
- (a) the making of a decree of judicial separation in respect of a marriage, and
 - (b) the making of a separation order in respect of a civil partnership.’

Minister of Health, Social Services and Public Safety

Amendment 9 [Made]

Clause 117, Page 65, Line 25

Leave out from ‘a’ to end of line 28 and insert -

‘—

- (a) a decision that is made in accordance with this Act by an attorney under a lasting power of attorney granted by P, and is within the scope of the attorney’s authority; or
- (b) a decision that is made in accordance with the Enduring Powers of Attorney (Northern Ireland) Order 1987 by an attorney under an enduring power of attorney granted by P, and is within the scope of the attorney’s authority.’

Minister of Health, Social Services and Public Safety

Amendment 10 [Made]

Clause 156, Page 85, Line 38

At end insert -

‘(2A) Regulations may provide that the records to be kept by virtue of subsection (1)(e) are records of such information, in respect of each child who ceases to be detained under this Part, as may be prescribed; and that subsection (2) is to be read accordingly.’

Minister of Health, Social Services and Public Safety

Amendment 11 [Made]

Clause 263, Page 149, Line 12

After ‘of’ insert ‘this Part or’

Minister of Health, Social Services and Public Safety

Amendment 12 [Made]

Clause 268, Page 151, Line 19

Leave out from ‘or’ to ‘powers’ on line 21 and insert ‘(application for registration of lasting power’

Minister of Health, Social Services and Public Safety

Amendment 13 [Made]

Clause 276, Page 156, Line 36

Leave out ‘, or an enduring power of attorney,’

Minister of Health, Social Services and Public Safety

Amendment 14 [Made]

Clause 276, Page 156, Line 37

At end insert -

‘(ba) is made in accordance with the Enduring Powers of Attorney (Northern Ireland) Order 1987 by an attorney under an enduring power of attorney granted by P, and is within the scope of the attorney’s authority; or’

Minister of Health, Social Services and Public Safety

Amendment 15 [Made]

Clause 285, Page 161, Line 37

After ‘divorce’ insert ‘or judicial separation’

Minister of Health, Social Services and Public Safety

Amendment 16 [Made]

Clause 285, Page 161, Line 39

After ‘order’ insert ‘or separation order’

Minister of Health, Social Services and Public Safety

Amendment 17 [Made]

Clause 303, Page 169, Line 33

After ‘provisions’ insert ‘(passed or made before, or in the same session as, this Act)’

Minister of Health, Social Services and Public Safety

Amendment 18 [Made]

Clause 306, Page 171, Line 14

Leave out ‘has the meaning given by Schedule’ and insert ‘means a power of attorney that is an enduring power within the meaning of the Enduring Powers of Attorney (Northern Ireland) Order 1987’

Minister of Health, Social Services and Public Safety

Amendment 19 [Made]

Clause 306, Page 172, Line 17

At end insert -

‘but paragraphs (b) and (c) are subject to any regulations made under subsection (5A).’

Minister of Health, Social Services and Public Safety

Amendment 20 [Made]

Clause 306, Page 173, Line 30

At end insert -

‘(5A) Regulations may provide that for the purposes of any prescribed provision of this Act, “the managing authority”, in relation to an independent hospital or a care home (“the establishment”)—

(a) means the person registered as the person who manages the establishment;

(b) means the person registered as the person who carries on the establishment; or

(c) means both the person mentioned in paragraph (a) and the person mentioned in paragraph (b).

“Registered” here means registered under Part 3 of the 2003 Order.’

Minister of Health, Social Services and Public Safety

Amendment 21 [Made]

Clause 307, Page 174, Line 6

At end insert -

‘(2A) Until the coming into operation of section 1 of the Departments Act (Northern Ireland) 2016—

- (a) any reference in this Act to the Department of Health is to be read as a reference to the Department of Health, Social Services and Public Safety;
- (b) any reference in this Act to the Department of Finance is to be read as a reference to the Department of Finance and Personnel.’

Minister of Health, Social Services and Public Safety

Amendment 22 [Made]

Schedule 9, Page 233, Line 5

Leave out ‘within the meaning of Schedule’ and insert ‘(as defined by section 306(1))’

Minister of Health, Social Services and Public Safety

Amendment 23 [Made]

Schedule 11, Page 244, Line 12

Leave out lines 12 to 16

Minister of Health, Social Services and Public Safety