STATUTORY RULES OF NORTHERN IRELAND

2019 No. 200

MENTAL CAPACITY

The Mental Capacity (Money and Valuables) Regulations (Northern Ireland) 2019

Made - - - -	*7th November 2019*
Coming into operation	*2nd December 2019*

The Department of Health(**1**), in exercise of the powers conferred by section 276(2) of the Mental Capacity Act (Northern Ireland) 2016(**2**), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Capacity (Money and Valuables) Regulations (Northern Ireland) 2019 and shall come into operation on 2nd December 2019.

(2) In these Regulations—

"the Act" means the Mental Capacity Act (Northern Ireland) 2016;

"P" means a person who is over 16, an in-patient in a hospital or resident in a care home and lacks capacity in relation to managing their property or affairs; and

"relevant authority" has the same meaning as in section 276(6) of the Act.

Money and valuables

2. For the purposes of section 276 of the Act if it appears to a relevant authority that a person who is an in-patient or resident in the hospital or care home lacks capacity in relation to managing their property or affairs, the relevant authority may receive and hold money and valuables on behalf of that person.

3.—(1) The relevant authority must not receive or hold on behalf of any one person money or valuables exceeding the amount in section 276(3)(a) of the Act without the consent of RQIA.

(2) If the total combined value of money or valuables in relation to one person exceeds the value in paragraph (1), the RQIA must consent to the relevant authority receiving or holding the money or valuables.

(**1**) 2016 c. 5 (NI), s. 1(5)
(**2**) 2016 c. 18 (NI)

(3) When RQIA is considering whether consent under paragraph (2) should be provided, RQIA must have consideration to whether the money and valuables can be stored safely in the hospital or care home.

4. A receipt or discharge given by a relevant authority for such money or valuables should be treated as a valid receipt or discharge given by P.

5.—(1) Where a relevant authority holds money or valuables it may expend that money or dispose of those valuables for the benefit of P subject to paragraph (2).

(2) When a relevant authority expends money or disposes of valuables for the benefit of P the relevant authority must—

(a) have regard to the sentimental value any article may have for P, if P had capacity;

(b) consult P's nominated person (if one is appointed and if it is reasonable and practicable to do so) regarding the expenditure or disposal;

(c) ensure that the expenditure or disposal is not of such nature that P's future options will be limited, unless necessary due to a contractual commitment or to ensure P's best interests; and

(d) not use the money and valuables to pay for such things which would normally be included in the fees for the place of residence or to pay for such fees.

6.—(1) A relevant authority must hold the money and valuables in a safe and secure manner.

(2) Any loss of money and valuables, where the money is not expended or valuables disposed of under these Regulations and is not returned to P (if P has regained capacity) or a relevant person, is the responsibility of the relevant authority who has the obligation to replace lost money at full value and lost valuables at full monetary value.

7.—(1) A relevant authority must keep records of money and valuables kept for P.

(2) The records must include—

(a) who the money or valuables are kept for;

(b) the value of the money or description of valuables;

(c) where the money or valuables are kept;

(d) date and time the money or valuables were received, or if new money or valuables are received when they were received;

(e) who received the money and valuables;

(f) date and time money is expended or valuables disposed of;

(g) the value of money or description, including value and monetary equivalent received, of valuables, expended or disposed of;

(h) the reason for expenditure of money or disposal of valuables;

(i) how the conditions in regulation 55(1) have been met;

(j) who expended money or disposed of valuables;

(k) signature of person doing anything in sub-paragraph (a) to (j); and

(l) countersignature of another person witnessing the signature in sub-paragraph (k).

8. A relevant authority must, upon request from the RQIA, furnish annual returns to the RQIA containing the information in regulation 7(2).