

*These notes refer to the Mental Capacity Act (Northern Ireland)  
2016 (c.18) which received Royal Assent on 9 May 2016*

# Mental Capacity Act (Northern Ireland) 2016

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 – Principles**

##### ***Section 4 – Meaning of “unable to make a decision”***

This section sets out the test for assessing whether a person is “unable to make a decision” about a matter. A person is unable to make a decision for him or herself if he or she is unable to do any one of the following: (a) understand the information relevant to the decision (which includes information about the reasonably foreseeable consequences of deciding one way or another or failing to make the decision (or an appropriate explanation of such)); (b) retain that information for the time required to make the decision; (c) appreciate the relevance of that information and use and weigh it as part of the decision making process; or (d) communicate his or her decision. The inclusion of the appreciation element in (c) will allow for things, such as lack of insight, delusional or distorted thinking, to be taken into account when assessing someone’s ability to make a decision. Section 4 also makes it clear that references in the Act to enabling or helping a person to make a decision include enabling or helping a person to do all or any one of the things listed in paragraphs (a) to (d) of subsection (1).