

*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 10 – Criminal Justice**

##### *Chapter 7 – Transfer from Prison Etc to Hospital*

##### *Section 223 - Conditions for transfer to hospital under section 214, 217 or 220*

This section makes provision for the conditions that are to be satisfied before the Department of Justice can make a hospital transfer direction in respect of civil prisoners, immigration detainees, persons who have been remanded in custody by a magistrates' court and "other detainees".

The Department of Justice has to be satisfied, on the basis of medical evidence, that the person urgently needs treatment for a disorder; that failure to provide treatment to the person as an in-patient would be more likely than not to result in serious physical or psychological harm to him or her or serious physical harm to other people; and that treatment that is appropriate for the person is available in the hospital concerned.

In addition, the section provides that the Department of Justice also has to consider that giving the hospital transfer direction is appropriate, having regard to all the circumstances. In particular, the Department of Justice has to consider other ways in which the person may become an in-patient and also the likelihood that consent will be obtained for treatment under Part 2 of the Act or if the person is under 16 years of age, the Mental Health Order.