

*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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 14 – Miscellaneous

Sections 278 and 279 – Expenditure and payment for necessary goods and services

Section 278 ensures that, provided the applicable safeguards are met under Part 2, D can use cash in the possession of a person who lacks capacity or promise payment on his or her behalf to cover the expenditure involved. They can also be reimbursed should they choose instead to pay for the goods or services themselves.

Section 279 ensures that where a contract for necessary goods or services has been made on behalf of a person who lacks capacity, they must pay a reasonable price for them. “Necessary” is defined for this purpose as suitable to the person’s condition in life and to that person’s actual requirements at the time when the goods or services are supplied.

These rules do not however extend to accessing a person’s bank account or selling their property. A finance intervention of this kind can only be done under the legal authority conveyed to an attorney under a lasting power of attorney (or an EPA) or by application to the court or if the power to make decisions of this kind has been given to a deputy by the court.