

*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 2 – Lack of Capacity: Protection from Liability, and Safeguards

Chapter 7 – Rights of Review of Authorisation

Section 49 – References etc to Tribunal: persons formerly detained under the Mental Health Order

This section makes provision that if a person is liable to be detained under the Mental Health Order on the day before he or she turns 16 and on the day that he or she turns 16, there is an authorisation in force under Schedule 1 which authorises detention of the individual in circumstances amounting to a deprivation of liberty, any application or reference of the person's case to the Tribunal under Part 5 of the Mental Health Order that has not been dealt with by the day that he or she turns 16 will include consideration of whether the authorisation is appropriate.

The section also provides that the relevant HSC Trust must refer to the Tribunal the question of whether an authorisation is appropriate as soon as practicable if, on any date when the person is under 17 the authorisation is extended and any authority under Part 2 of the Mental Health Order for detention of the person or an authorisation under the Act is in force throughout the period of one year ending with that date and the Tribunal has not considered the person's case at any time during that period.