

*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 8 – Supplementary

Sections 54-56 – Medical reports: involvement of nominated person and independent mental capacity advocate

Sections 54 and 55 require that a nominated person and an independent mental capacity advocate must be in place and, where practicable and appropriate, consulted and their views taken into account when a person making a medical report, required for the purposes of an authorisation under Schedule 1 or 2 or the extension of a period of authorisation under section 37, section 38 or Schedule 3, is determining what would be in P's best interests. This safeguard does not apply when the situation is an emergency. This is defined in section 56 for the purposes of these sections and requires the person making the report to weigh up the risks involved in delaying the making of the report to put in place this safeguard or to check if it is in place, against the risks of proceeding without putting the safeguard in place or checking if it is in place. If the risks involved in delaying are greater, the situation is an emergency. However, an unreasonable failure to take the necessary steps to meet the safeguard will not satisfy this test. It must be assumed for the purposes of this section that they will be taken as soon as practicable.