

*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 8 – Research

Section 135 – Requirement to consult nominated person, carer etc

Before a research project can be undertaken, this section requires the person conducting the research project (“R”) to identify a person close to P who is prepared to be consulted about P’s involvement. This could include an attorney appointed under a lasting power of attorney or enduring power of attorney, P’s deputy or nominated person, but not someone acting in a professional capacity. If there is no such person, R must appoint a person independent of the research and who is prepared to be consulted, in accordance with Departmental guidance.

R must give the consultee information about the research and seek his or her advice as to whether P should take part and what, in his or her opinion, P’s wishes and feelings would be about taking part if P had capacity in relation to it. If at any time the consultee advises that it is likely P would decline to take part, R must either ensure that P does not take part in the project, or if the research is already underway, that P is withdrawn from it. Where the latter applies, P may still receive treatment if it can be lawfully carried out despite no longer being part of the project.