



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 9

DEFINITIONS FOR PURPOSES OF PART 2

Meaning of “serious intervention”

“Serious intervention”

63.—(1) In this Part “serious intervention” means an intervention in connection with the care, treatment or personal welfare of P which (or any part of which)—

- (a) consists of or involves major surgery;
- (b) causes P serious pain, serious distress, or serious side-effects;
- (c) affects seriously the options that will be available to P in the future, or has a serious impact on P's day-to-day life; or
- (d) in any other way has serious consequences for P, whether physical or non-physical.

(2) Without prejudice to subsection (1), and to avoid any doubt, each of the following is a serious intervention for the purposes of this Part—

- (a) any deprivation of liberty;

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Meaning of “serious intervention” is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) the imposition of a requirement mentioned in section 28(1)(a) (requirements to attend at particular times or intervals for certain treatment);
 - (c) the imposition of a community residence requirement (see section 31).
- (3) Regulations may provide that a prescribed intervention (except one mentioned in subsection (2))—
- (a) is to be regarded as an intervention falling within a particular paragraph of subsection (1); or
 - (b) is not to be regarded as such an intervention.
- (4) If—
- (a) the act mentioned in section 9(1) is, or is part of, an intervention which turns out to be a serious intervention, but
 - (b) at the time the act is done D reasonably believes that the risk that the intervention will turn out to be a serious intervention is negligible,
- that act is to be treated for the purposes of this Part as if the intervention were not a serious intervention.

Commencement Information

- II** S. 63(2)(a) in operation at 2.12.2019 for specified purposes by [S.R. 2019/163](#), art. 2(4), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), art. 2)

Acts that are “part of” serious interventions

64.—(1) This section applies where, for any purpose of this Part, a question arises whether a particular act is part of an intervention which is a serious intervention.

- (2) Where an act is done which—
- (a) is a use of force or a threat to use force, and
 - (b) is done with the intention of securing the doing of another act in connection with the care, treatment or personal welfare of a person which that person resists,

the act mentioned in paragraph (a) is to be taken to be part of the same intervention as the act mentioned in paragraph (b).

(3) Nothing in this section limits the acts that are to be regarded as part of a particular intervention.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Meaning of “serious intervention” is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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Commencement Information

- I2** [S. 64](#) in operation at 2.12.2019 for specified purposes by [S.R. 2019/163](#), art. 2(4), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), art. 2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)