

Status: This version of this provision is prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Section 16 is up to date with all changes known to be in force on or before 13 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



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 3

ADDITIONAL SAFEGUARD: SECOND OPINION

PROSPECTIVE

Second opinion needed for certain treatment

16.—(1) This section applies where the act mentioned in section 9(1) is, or is done in the course of, the provision to P of any of the following treatment—

- (a) electro-convulsive therapy;
- (b) any treatment with serious consequences which is also treatment of a description specified for the purposes of this paragraph by regulations;
- (c) any treatment with serious consequences where, at the time of the act—
 - (i) the question whether it is in P's best interests to have the treatment is finely balanced; and
 - (ii) the circumstances are such as may be prescribed.

(2) Section 9(2) (protection from liability) applies to the act only if, at the time the act is done, a second opinion has been obtained (and the conditions of section 9(1)(c) and (d), and any other conditions that apply under this Part, are met in relation to the act).

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(3) The second opinion must have been obtained recently enough before the act is done for it to be reasonable in all the circumstances to rely on it.

(4) This section does not apply where the situation is an emergency (see section 65).

(5) In this section a “second opinion” means a relevant certificate (as defined by section 18) in respect of the treatment mentioned in subsection (1).

(6) For the purposes of subsection (1)(c)(i) it does not matter whether the choice is between—

(a) the treatment in question and no treatment; or

(b) the treatment in question and another treatment.

(7) For the meaning of “treatment with serious consequences” see section 21.

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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\(b\)](#)