



2016 CHAPTER 18

PART 1

PRINCIPLES

Establishing whether a person has capacity

Compliance with section 1(2)

6.—(1) In proceedings under this Act or any other statutory provision, any question whether a person who is 16 or over lacks capacity in relation to a matter (within the meaning of this Act) is to be decided on the balance of probabilities.

(2) Subsection (3) applies where, other than in such proceedings, it falls to a person to determine for any purpose of this Act whether another person who is 16 or over (“P”) lacks capacity in relation to a matter.

(3) If—

(a) the person making the determination has taken reasonable steps to establish whether P lacks capacity in relation to the matter,

(b) the person reasonably believes that P lacks capacity in relation to the matter, and

(c) the principles in section 1(3) to (5) and section 5 have been complied with, for the purposes of section 1(2) the person is to be taken to have sufficiently “established” that P lacks capacity in relation to the matter.

(4) In this section “proceedings” includes proceedings before a tribunal and proceedings of any panel constituted under Schedule 1 or 3.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 6 is up to date with all changes known to be in force on or before 21 March 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*

Commencement Information

- I1** S. 6 in operation at 1.10.2019 for specified purposes by S.R. 2019/163, art. 2(1), **Sch. Pt. 1** (with art. 3) (as amended by S.R. 2019/190, art. 2)
- I2** S. 6 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(3), **Sch. Pt. 3** (as amended by S.R. 2019/190, art. 2)

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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\(b\)](#)