2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 1

PROTECTION FROM LIABILITY, AND GENERAL SAFEGUARDS

PROSPECTIVE

Advance decisions: effect on section 9

11.—(1) Section 9(2) (protection from liability) does not apply if—

(a) the act mentioned in section 9(1) is the carrying out or continuation of treatment of P; and

(b) carrying out or continuing that treatment conflicts with an effective advance decision to refuse treatment which has been made by P.

(2) In this section "an effective advance decision to refuse treatment" means a decision which, under the common law relating to advance decisions, has the same effect as if at the material time P—

(a) refused consent to the treatment's being carried out or continued; and

(b) had capacity to refuse that consent.

(3) In subsection (2) "the material time" means the time when the question arises whether the treatment should be carried out or continued.

(4) Nothing in this section prevents a person from—

(a) providing life-sustaining treatment, or

Status: *This version of this provision is prospective.*
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 11 is up to date with all changes known to be in force on or before 25 September 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) doing an act which the person reasonably believes to be necessary to prevent a serious deterioration in P's condition,

while a decision as respects any relevant issue is sought from the court.

Status:
This version of this provision is prospective.

Changes to legislation:
Mental Capacity Act (Northern Ireland) 2016, Section 11 is up to date with all changes known to be in force on or before 25 September 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.
View outstanding changes

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)