



2016 CHAPTER 18

**PART 2**

LACK OF CAPACITY: PROTECTION  
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 4

ADDITIONAL SAFEGUARD: AUTHORISATIONS ETC

*Deprivation of liberty*

**Section 24: definitions**

**25.—**(1) This section applies for the purposes of section 24.

(2) “Related detention” means—

- (a) the detention of P in circumstances amounting to a deprivation of liberty while P is being taken to a place in which care or treatment is available for P; or
- (b) the detention of P in circumstances amounting to a deprivation of liberty in pursuance of a condition imposed on P that relates to permission given to P to be absent from a relevant place (as defined by section 27).

(3) Detention is “authorised” if, at the time the act is done, there is in force an authorisation granted—

- (a) by a panel under Schedule 1, or
- (b) by the making of a report under paragraph 2 of Schedule 2 (authorisation of short-term detention for examination etc),

which authorises that detention.

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**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 25 is up to date with all changes known to be in force on or before 09 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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(4) See paragraph 22 of Schedule 1 or paragraph 18 of Schedule 2 (as the case may be) for provisions about the scope of an authorisation.

(5) The prevention of serious harm condition is that at the time the act is done D reasonably believes—

(a) that failure to detain P in circumstances amounting to a deprivation of liberty would create a risk of serious harm to P or of serious physical harm to other persons; and

(b) that the detention in question is a proportionate response to—

(i) the likelihood of harm to P, or of physical harm to other persons; and

(ii) the seriousness of the harm concerned.

(6) References in this section to “the act” are to the act mentioned in section 24(1).

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**Commencement Information**

- II** S. 25 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)

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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\(b\)](#)