

*These notes refer to the Mental Capacity Act (Northern Ireland)  
2016 (c.18) which received Royal Assent on 9 May 2016*

# Mental Capacity Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 10 – Criminal Justice**

#### ***Chapter 6 – Unfitness to Be Tried Etc***

#### ***Section 204 - Procedure where question of unfitness to be tried arises***

Where a person has been charged on indictment with an offence and the question arises whether he or she is fit to be tried, this section provides for procedures to be followed by the court.

The question of unfitness to be tried must be determined as soon as it arises. However, the court may postpone consideration of the question until any time up to the opening of the case for the defence if, having regard to the nature of the supposed condition of the accused, the court considers that the postponement is appropriate and in the interests of the accused. In addition, the section provides that if, before the question falls to be determined, the jury returns a verdict of acquittal on the count or each of the counts on which the accused is being tried, that question must not be determined.

The section also provides that the question of fitness to be tried is to be determined by the court without a jury. The court must not determine that the accused person is unfit to be tried unless it is satisfied on the medical evidence that this is the case.