

*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 11 – Transfer between Jurisdictions**

##### ***Sections 254 and 255 – Removal of persons detained under Part 2 from Northern Ireland to England or Wales or Scotland***

Section 254 establishes a framework for the transfer of patients detained in a hospital under Part 2 of the Act from Northern Ireland to England or Wales.

If P is detained in a hospital under a Schedule 1 authorisation, the Northern Ireland Department of Health may authorise his or her removal to England or Wales (and may give any necessary directions for P's conveyance there) provided the following conditions are met: (1) P lacks capacity in relation to the question of his or her removal to England or Wales; (2) it would be in P's best interests to remove P there; and (3) appropriate arrangements have been made for admitting P to a hospital in England or Wales in which appropriate care or treatment is available.

The effect of the section is that an authorisation granted in respect of P under Schedule 1 of the Act will cease to have effect once P is admitted to a hospital in England or Wales. At that point, the relevant law in England and Wales will apply (the Mental Health Act 1983).

Section 255 establishes the same framework for the transfer of patients detained in a hospital under Part 2 from Northern Ireland to Scotland. The effect of the section is that the authorisation granted in respect of P under Schedule 1 will cease to have effect once P is admitted to a hospital in Scotland or P's detention is authorised (in another way) under the Mental Health (Care and Treatment) Act 2003. At that point, the relevant law in Scotland will apply (the 2003 Act).