

*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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – High Court Powers: Decisions and Deputies

Section 122 – Applications to the court

This section provides that no leave to apply to the court is required by P; anyone with parental responsibility for a person under the age of 18; a donor of a lasting power of attorney or an enduring power of attorney; an attorney under a lasting power of attorney or an enduring power of attorney; a deputy appointed by the court; or a person named in an existing court order if the application relates to that order. Nor is leave required for an application to the court under Schedule 9 paragraph 21(2) which relates to a declaration as to whether a measure taken to protect a person or his or her property in another jurisdiction is to be recognised in Northern Ireland.

Subject to court rules, any other application will require the leave of the court. In deciding whether to grant leave, the court must have regard to various factors, in particular, the applicant's connection with the person who is the subject of the application, the reasons for the application, the benefit to the person to whom the application relates, and whether that benefit can be achieved in another way.