

*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 9 – Power of Police to Remove Person to Place of Safety**

##### *Section 157 - Principles applying for purposes of Part 9*

This section sets out the principles that should be complied with when making certain determinations under this Part.

When a determination is to be made about whether or not a person is unable to make a decision for themselves, that determination cannot be made solely on the basis of whether or not the person can do the things mentioned in section 4(1) (a) to (d) of the Act. Certain other principles apply, including ensuring that all practicable help and support has been provided to help the person make the decision, as well as not determining that the person is unable to make a decision because that person makes an unwise decision. The section requires that a determination about someone’s decision-making capability or best interests should not be made on the basis of their age or appearance, or any other condition that the person has which may lead to unjustified assumptions about their ability to make a decision for themselves.

This section also provides that when making a determination about a person’s best interests, the decision maker must take account of all relevant circumstances and take a series of steps. These steps include encouraging the person to participate in the determination of their best interests, and taking account of the person’s past and present wishes if possible. Where it is practicable the decision maker should also consult a “key person”, as defined within the section.

This section provides that where any removal, transfer or detention is being considered, the relevant officer must have regard to whether the purpose for which that action would be carried out can be as effectively achieved in a way that is less restrictive of R’s rights and freedom of action.

The principles within this section are specific to Part 9. Sections 1 to 3 and 5 to 8 of the Act do not apply for the purposes of this Part.