



2016 CHAPTER 18

PART 1

PRINCIPLES

Principles

Principles: capacity

1.—(1) The principles in subsections (2) to (5) must be complied with where for any purpose of this Act a determination falls to be made of whether a person who is 16 or over lacks capacity in relation to a matter.

(2) The person is not to be treated as lacking that capacity unless it is established that the person lacks capacity in relation to the matter within the meaning given by section 3.

(3) Whether the person is, or is not, able to make a decision for himself or herself about the matter—

- (a) is to be determined solely by reference to whether the person is or is not able to do the things mentioned in section 4(1)(a) to (d); and
- (b) accordingly, is not to be determined merely on the basis of any condition that the person has, or any other characteristic of the person, which might lead others to make unjustified assumptions about his or her ability to make a decision.

(4) The person is not to be treated as unable to make a decision for himself or herself about the matter unless all practicable help and support to enable the person to make a decision about the matter have been given without success (see section 5).

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 1 is up to date with all changes known to be in force on or before 19 March 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*

(5) The person is not to be treated as unable to make a decision for himself or herself about the matter merely because the person makes an unwise decision.

(6) Nothing in subsections (1) to (5) removes any obligation that a person may be under in a particular situation to take steps to establish whether another person has capacity in relation to a matter.

Commencement Information

- I1** S. 1 in operation at 1.10.2019 by S.R. 2019/163, art. 2(1), **Sch. Pt. 1** (with art. 3) (as amended by S.R. 2019/190, art. 2)
- I2** S. 1 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(3), **Sch. Pt. 3** (as amended by S.R. 2019/190, art. 2)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 1 applied by 2002 c. 6 (N.I.), s. 8(2E) (as inserted) by [2016 c. 18 \(N.I.\) s. 282\(2\)](#)

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\(b\)](#)