



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION  
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 1

PROTECTION FROM LIABILITY, AND GENERAL SAFEGUARDS

**General limitations on section 9**

10.—(1) Section 9 does not exclude—

- (a) civil liability for loss or damage resulting from a person's negligence in doing an act; or
- (b) criminal liability resulting from such negligence.

(2) Section 9 does not apply in relation to an act which is, or is done in the course of, psychosurgery.

(3) Section 9 does not apply in relation to an act that conflicts with a decision concerning the care, treatment or personal welfare of a person ("P") which—

- (a) is made in accordance with this Act by an attorney under a lasting power of attorney granted by P and is within the scope of the attorney's authority; or
- (b) is made in accordance with this Act by a deputy appointed for P by the court and is within the scope of the deputy's authority.

(4) Nothing in subsection (3) prevents a person from—

- (a) providing life-sustaining treatment, or
- (b) doing an act which the person reasonably believes to be necessary to prevent a serious deterioration in P's condition,

while a decision as respects any relevant issue is sought from the court.

(5) The Department may by regulations amend subsection (2) so as to extend the descriptions of treatment to which section 9 does not apply.