



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION  
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 1

PROTECTION FROM LIABILITY, AND GENERAL SAFEGUARDS

**Advance decisions: effect on section 9**

**11.—**(1) Section 9(2) (protection from liability) does not apply if—

- (a) the act mentioned in section 9(1) is the carrying out or continuation of treatment of P; and
- (b) carrying out or continuing that treatment conflicts with an effective advance decision to refuse treatment which has been made by P.

(2) In this section “an effective advance decision to refuse treatment” means a decision which, under the common law relating to advance decisions, has the same effect as if at the material time P—

- (a) refused consent to the treatment’s being carried out or continued; and
- (b) had capacity to refuse that consent.

(3) In subsection (2) “the material time” means the time when the question arises whether the treatment should be carried out or continued.

(4) Nothing in this section 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.