

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 22 is up to date with all changes known to be in force on or before 14 May 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*



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 4

ADDITIONAL SAFEGUARD: AUTHORISATIONS ETC

Treatment with serious consequences

PROSPECTIVE

Sections 19 and 20: the prevention of serious harm condition

22.—(1) For the purposes of sections 19 and 20, the prevention of serious harm condition is that at the time the act mentioned in subsection (1)(a) of that section is done, D reasonably believes—

- (a) that failure to provide the treatment in question to P would create a risk of serious harm to P or of serious physical harm to other persons; and
- (b) that carrying out that treatment is a proportionate response to—
 - (i) the likelihood of harm to P, or of physical harm to other persons; and
 - (ii) the seriousness of the harm concerned.
- (2) Subsection (3) applies where there are one or more treatments (other than the treatment mentioned in subsection (1))—
 - (a) that are available and would be appropriate in P's case; and

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(b) the provision of which would not involve the doing of acts to which section 19 or 20 applies.

(3) In determining whether failure to provide the treatment mentioned in subsection (1) would create a risk of serious harm to P or of serious physical harm to other persons, it must be assumed that if that treatment were not provided, another treatment would be provided as soon as practicable.

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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\(b\)](#)