



## 2016 CHAPTER 18

### **PART 2**

#### LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

##### CHAPTER 4

##### ADDITIONAL SAFEGUARD: AUTHORISATIONS ETC

###### *Deprivation of liberty*

###### **Taking person to a place for deprivation of liberty**

**26.—**(1) This section applies where—

- (a) the act mentioned in section 9(1) is, or is done in the course of, taking P to a place; and
- (b) although taking P to that place does not itself involve a deprivation of liberty, it is done in order that P can be detained in circumstances amounting to a deprivation of liberty at that place.

(2) Section 9(2) (protection from liability) applies to the act only if—

- (a) the detention that is to be carried out is authorised; and
- (b) the prevention of serious harm condition (as well as the conditions of section 9(1)(c) and (d), and any other conditions that apply under this Part) is met.

(3) Subsection (2)(a) does not apply where the situation is an emergency (see section 65).

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**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 26 is up to date with all changes known to be in force on or before 04 April 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*

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(4) In this section “authorised” and “the prevention of serious harm condition” have the same meaning as in section 25(3) and (5), but for this purpose references there to “the act” are to be read as the act mentioned in subsection (1)(a) of this section.

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**Commencement Information**

- II** S. 26 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

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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\(b\)](#)