

*These notes refer to the Mental Capacity Act 2005
(c.9) which received Royal Assent on 7 April 2005*

MENTAL CAPACITY ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Persons Who Lack Capacity

Excluded decisions

Section 28: Mental Health Act matters

94. This deals with the question of people who are detained for psychiatric treatment pursuant to the Mental Health Act 1983. The section ensures that the Mental Capacity Act does not apply to any treatment for mental disorder which is being given in accordance with the rules about compulsory treatment set out in Part 4 of the 1983 Act. The specific statutory safeguards which the 1983 Act gives in relation to compulsory psychiatric treatment must always be afforded to those patients to whom that Act applies.