

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

# MENTAL CAPACITY ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1: Persons Who Lack Capacity**

##### **Research**

##### ***Section 34: Loss of capacity during research project***

107. This section provides for a transitional regulation-making power to cover research started before [section 30](#) comes into force and which involves people who had capacity when enrolled but who lose capacity before the end of the project. The regulations will lay down the conditions on which such research may continue; the research must meet prescribed requirements, the information or material used in the research must have been obtained before the loss of capacity and certain steps must be taken to protect the person participating (*subsection (2)*).
108. The regulations will set out these requirements and steps and may include safeguards similar to those provided for in [sections 31 to 33](#) but with any necessary alterations to the requirements for approval by an appropriate body, consultation with carers or the additional safeguards (*subsection (3)*). Regulations made by the Secretary of State will be subject to the affirmative procedure in Parliament (see [section 65](#)).