

*These notes refer to the Mental Capacity Act (Northern Ireland)
2016 (c.18) which received Royal Assent on 9 May 2016*

Mental Capacity Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Lack of Capacity: Protection from Liability, and Safeguards

Chapter 8 – Supplementary

Section 59 – Failure by person other than D to take certain steps

Section 59 provides a defence for D in circumstances where supportive steps (i.e. helping P to make a decision for themselves) that would be considered practicable were not taken but due to no fault of D. It also provides that “E” – D’s employer – can be held liable under Part 2 rather than D where another employee of E is responsible for the unreasonable failure to take such steps. For the purposes of this section, a failure to take practicable supportive steps is unreasonable unless at the time the person believes that the steps can be as effectively taken later and that not taking the step immediately is reasonable in the circumstances.