

*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 13 – Offences**

##### ***Section 269 – Unlawful detention of persons lacking capacity etc***

This section makes it an offence for a person (“R”) to knowingly detain a person (“P”) who is over 16 and lacks capacity, in circumstances amounting to a deprivation of liberty and there is no authority to do so under the Act or any other statutory provision. R also commits an offence if R intentionally detains P in circumstances amounting to a deprivation of liberty; R does so in purported reliance on Part 9 or 10; and P is not liable to be detained by virtue of that Part. It also makes it an offence to continue to detain someone who has been detained in any place under the Act after their liability to be so detained by virtue of the Act or any other statutory provision ceases. Conviction can result in a fine, prison term or both. However, no offence under this section is committed where the person who is detained is under 18 and the detention gives effect to a decision made by a parent or guardian of the person. Nor does this new offence replace or in any way interfere with the common law offence of false imprisonment.