



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION FROM LIABILITY, AND SAFEGUARDS

CHAPTER 2

ADDITIONAL SAFEGUARDS FOR SERIOUS INTERVENTIONS

Formal capacity assessments etc

Formal assessment of capacity

13.—(1) This section applies where—

- (a) section 9(1)(a) and (b) apply; and
- (b) the act mentioned there is, or is part of, a serious intervention (see section 63).

(2) Where this section applies—

- (a) the condition in section 9(1)(c) is to be regarded as met only if, before the act is done, a formal capacity assessment is carried out; and
- (b) a belief by D, at the time the act is done, that P lacks capacity in relation to the matter in question is not to be regarded as a reasonable belief if no statement of incapacity has been made.

(3) The formal capacity assessment must have been carried out, and the statement of incapacity made, recently enough before the act is done for it to be reasonable in all the circumstances to rely on them.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 13 is up to date with all changes known to be in force on or before 14 May 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*

(4) This section does not apply where the situation is an emergency (see section 65).

(5) See section 14 for the meaning of “formal capacity assessment” and “statement of incapacity”.

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Commencement Information

- II** S. 13 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\(b\)](#)