



## 2016 CHAPTER 18

### PART 1

#### PRINCIPLES

##### *Establishing whether a person has capacity*

##### **Meaning of “lacks capacity”**

**3.—**(1) For the purposes of this Act, a person who is 16 or over lacks capacity in relation to a matter if, at the material time, the person is unable to make a decision for himself or herself about the matter (within the meaning given by section 4) because of an impairment of, or a disturbance in the functioning of, the mind or brain.

(2) It does not matter—

- (a) whether the impairment or disturbance is permanent or temporary;
- (b) what the cause of the impairment or disturbance is.

(3) In particular, it does not matter whether the impairment or disturbance is caused by a disorder or disability or otherwise than by a disorder or disability.

##### **Commencement Information**

- I1** S. 3 in operation at 1.10.2019 for specified purposes by [S.R. 2019/163, art. 2\(1\)](#), [Sch. Pt. 1](#) (with [art. 3](#)) (as amended by [S.R. 2019/190, art. 2](#))
- I2** S. 3 in operation at 2.12.2019 for specified purposes by [S.R. 2019/163, art. 2\(3\)](#), [Sch. Pt. 3](#) (as amended by [S.R. 2019/190, art. 2](#))

**Changes to legislation:**

Mental Capacity Act (Northern Ireland) 2016, Section 3 is up to date with all changes known to be in force on or before 13 June 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.

[View outstanding changes](#)

**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\(b\)](#)