

*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**

#### **General powers of the court and appointment of deputies**

#### *Section 15: Power to make declarations*

65. This gives the court power to make declarations, if necessary, about whether an individual has capacity, either in relation to a specific decision that needs to be made, or in relation to decisions on such matters as are described in the declaration. It also gives the court power to make declarations about whether an act or proposed act was or would be lawful. The Court of Protection would have this latter power as a superior court of record which, under *section 47*, has the same powers, rights, privileges and authority as the High Court, but it is considered helpful to spell this out. *Subsection (2)* confirms that the court can be asked to adjudicate on omissions to act (for example, the withholding or withdrawing of medical treatment) and a course of conduct.