

*These notes refer to the Mental Capacity Act 2005
(c.9) which received Royal Assent on 7 April 2005*

MENTAL CAPACITY ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Persons Who Lack Capacity

Research

Section 33: Additional safeguards

105. The purpose of *section 33* is to provide additional safeguards for the person participating in the research once the research has begun. It requires the researcher to respect any signs of resistance from the person (except where this would conflict with procedures designed to protect him from harm or injury), and not to involve the person in research that would be contrary to an advance decision or any other form of statement. The person's interests must be assumed to outweigh those of science and society (*subsection (3)*).
106. The person must be withdrawn from the project without delay if he indicates that he wishes to be withdrawn from it or if the researcher has reasonable grounds for believing that any of the requirements for approval of the project as set out at in *section 31(2)* to *(7)* are no longer met. As in *section 32*, the person may still receive treatment he was receiving during the research if withdrawal would create a significant risk to his health (*subsection (6)*).