



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Preliminary

3 Inability to make decisions

- (1) For the purposes of section 2, a person is unable to make a decision for himself if he is unable—
 - (a) to understand the information relevant to the decision,
 - (b) to retain that information,
 - (c) to use or weigh that information as part of the process of making the decision, or
 - (d) to communicate his decision (whether by talking, using sign language or any other means).
- (2) A person is not to be regarded as unable to understand the information relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).
- (3) The fact that a person is able to retain the information relevant to a decision for a short period only does not prevent him from being regarded as able to make the decision.
- (4) The information relevant to a decision includes information about the reasonably foreseeable consequences of—
 - (a) deciding one way or another, or
 - (b) failing to make the decision.

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 3. (See end of Document for details)

Modifications etc. (not altering text)

- C1** S. 3 applied (temp.) (1.4.2015) by [The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(S.I. 2014/2936\)](#), regs. 1(5)(6), **8(3)**

Commencement Information

- I1** S. 3 wholly in force at 1.10.2007; s. 3 not in force at Royal Assent see s. 68(1)-(3); s. 3 in force for certain purposes at 1.4.2007 by [S.I. 2007/563](#), arts. 1(2)(3), **2(2)(c)(3)** and s. 3 in force otherwise at 1.10.2007 by [S.I. 2007/1897](#), **art. 2(2)(c)**

Changes to legislation:

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 3.