



Mental Capacity (Amendment) Act 2019

2019 CHAPTER 18

Safeguards

1 Deprivation of liberty: authorisation of arrangements enabling care and treatment

(1) The Mental Capacity Act 2005 is amended as follows.

(2) In section 4A (restriction on deprivation of liberty) for subsection (5) substitute—

“(5) D may deprive P of liberty if, by doing so, D is carrying out arrangements authorised under Schedule AA1 (arrangements enabling the care and treatment of persons who lack capacity).”

(3) After section 4B insert—

“4C Carrying out of authorised arrangements giving rise to deprivation of liberty

(1) This section applies to an act that a person (“D”) does in carrying out arrangements authorised under Schedule AA1.

(2) D does not incur any liability in relation to the act that would not have been incurred if the cared-for person—

- (a) had had capacity to consent in relation to D doing the act, and
- (b) had consented to D doing the act.

(3) Nothing in this section excludes a person’s civil liability for loss or damage, or a person’s criminal liability, resulting from that person’s negligence in doing the act.

(4) Paragraph 31 of Schedule AA1 applies if an authorisation ceases to have effect in certain cases.

(5) “Cared-for person” has the meaning given by paragraph 2(1) of that Schedule.”

Status: *Prospective version(s) available.*
Status: *This is the original version (as it was originally enacted).*

(4) Before Schedule 1 insert the Schedule AA1 set out in Schedule 1 to this Act.