

*Status: Point in time view as at 25/05/2018.*

*Changes to legislation: Mental Capacity Act 2005, Part 1 is up to date with all changes known to be in force on or before 13 July 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. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1

#### HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

##### Textual Amendments

- F1** Sch. A1 inserted (1.4.2008 for certain purposes and otherwise 1.4.2009) by [Mental Health Act 2007 \(c. 12\)](#), ss. 50, 56, [Sch. 7](#); [S.I. 2008/745](#), [art. 4\(a\)](#); [S.I. 2009/139](#), [art. 2\(c\)](#) (with [art. 3](#), [Sch. paras. 3, 4](#))

### PART 1

#### AUTHORISATION TO DEPRIVE RESIDENTS OF LIBERTY ETC

##### *Application of Part*

- 1 (1) This Part applies if the following conditions are met.
- (2) The first condition is that a person (“P”) is detained in a hospital or care home — for the purpose of being given care or treatment — in circumstances which amount to deprivation of the person's liberty.
- (3) The second condition is that a standard or urgent authorisation is in force.
- (4) The third condition is that the standard or urgent authorisation relates—
- (a) to P, and
  - (b) to the hospital or care home in which P is detained.

##### *Authorisation to deprive P of liberty*

- 2 The managing authority of the hospital or care home may deprive P of his liberty by detaining him as mentioned in paragraph 1(2).

##### *No liability for acts done for purpose of depriving P of liberty*

- 3 (1) This paragraph applies to any act which a person (“D”) does for the purpose of detaining P as mentioned in paragraph 1(2).
- (2) D does not incur any liability in relation to the act that he would not have incurred if P—
- (a) had had capacity to consent in relation to D's doing the act, and
  - (b) had consented to D's doing the act.

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*No protection for negligent acts etc*

- 4
- (1) Paragraphs 2 and 3 do not exclude a person's civil liability for loss or damage, or his criminal liability, resulting from his negligence in doing any thing.
  - (2) Paragraphs 2 and 3 do not authorise a person to do anything otherwise than for the purpose of the standard or urgent authorisation that is in force.
  - (3) In a case where a standard authorisation is in force, paragraphs 2 and 3 do not authorise a person to do anything which does not comply with the conditions (if any) included in the authorisation.]

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