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*Status:* This version of this part contains provisions that are prospective.  
**Changes to legislation:** There are currently no known outstanding effects for the Mental Capacity (Amendment) Act 2019, Paragraph 5. (See end of Document for details)

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PROSPECTIVE

## SCHEDULES

### SCHEDULE 2

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### PART 1

###### AMENDMENTS TO THE MENTAL CAPACITY ACT 2005

- 5 (1) Section 38 (provision of accommodation by NHS body) is amended as follows.
- (2) For subsection (2A) substitute—
- “(2A) And this section does not apply if—
- (a) an independent mental capacity advocate is appointed under paragraph 42 of Schedule AA1 to represent and support P, and
  - (b) the arrangements which are authorised or proposed under Schedule AA1 in respect of P include arrangements for P to be accommodated in the hospital or care home referred to in this section.”
- (3) In subsection (3), in the opening words, after “arrangements” insert “ mentioned in subsection (1) ”.
- (4) Omit subsection (10).

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity (Amendment) Act 2019, Paragraph 5.