
DRAFT STATUTORY INSTRUMENTS

2006 No.

**The Mental Capacity Act 2005 (Loss of Capacity
during Research Project) (England) Regulations 2006**

Research which may be carried out despite a participant's loss of capacity

3. Despite P's loss of capacity, research for the purposes of the project may be carried out using information or material relating to him if—

- (a) that information or material was obtained before P's loss of capacity,
- (b) that information or material is either—
 - (i) data within the meaning given in section 1(1) of the Data Protection Act 1998⁽¹⁾, or
 - (ii) material which consists of or includes human cells or human DNA,
- (c) the project satisfies the requirements set out in Schedule 1, and
- (d) the person conducting the project ("R") takes in relation to P such steps as are set out in Schedule 2.

⁽¹⁾ 1998 c.29. Section 1(1) was amended by the Freedom of Information Act 2000 (c.36), section 68(1) and (2).