



# Mental Health Act 1983

## 1983 CHAPTER 20

### [<sup>F1</sup>PART 4A

#### TREATMENT OF COMMUNITY PATIENTS NOT RECALLED TO HOSPITAL

VALID FROM 03/11/2008

#### [<sup>F1</sup> <sup>F2</sup>64D] **Adult community patients lacking capacity**

- (1) A person is authorised to give relevant treatment to a patient as mentioned in section 64C(2)(c) above if the conditions in subsections (2) to (6) below are met.
- (2) The first condition is that, before giving the treatment, the person takes reasonable steps to establish whether the patient lacks capacity to consent to the treatment.
- (3) The second condition is that, when giving the treatment, he reasonably believes that the patient lacks capacity to consent to it.
- (4) The third condition is that—
  - (a) he has no reason to believe that the patient objects to being given the treatment; or
  - (b) he does have reason to believe that the patient so objects, but it is not necessary to use force against the patient in order to give the treatment.
- (5) The fourth condition is that—
  - (a) he is the person in charge of the treatment and an approved clinician; or
  - (b) the treatment is given under the direction of that clinician.
- (6) The fifth condition is that giving the treatment does not conflict with—
  - (a) an advance decision which he is satisfied is valid and applicable; or
  - (b) a decision made by a donee or deputy or the Court of Protection.
- (7) In this section—

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*Status: Point in time view as at 28/10/2008. This version of this provision is not valid for this point in time.*

*Changes to legislation: Mental Health Act 1983, Section 64D is up to date with all changes known to be in force on or before 27 May 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)*

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- (a) reference to an advance decision is to an advance decision (within the meaning of the Mental Capacity Act 2005) made by the patient; and
- (b) “valid and applicable”, in relation to such a decision, means valid and applicable to the treatment in question in accordance with section 25 of that Act.]]

#### **Textual Amendments**

- F1** Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), arts. 2(d), 3(e); [S.I. 2008/1900](#), [art. 2\(k\)](#) (with art. 3, Sch.)
- F2** Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), [art. 2\(k\)](#) (with art. 3, Sch.)

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