



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Excluded decisions

27 Family relationships etc.

- (1) Nothing in this Act permits a decision on any of the following matters to be made on behalf of a person—
- (a) consenting to marriage or a civil partnership,
 - (b) consenting to have sexual relations,
 - (c) consenting to a decree of divorce being granted on the basis of two years' separation,
 - (d) consenting to a dissolution order being made in relation to a civil partnership on the basis of two years' separation,
 - (e) consenting to a child's being placed for adoption by an adoption agency,
 - (f) consenting to the making of an adoption order,
 - (g) discharging parental responsibilities in matters not relating to a child's property,
 - (h) giving a consent under the Human Fertilisation and Embryology Act 1990 (c. 37).
- (2) “Adoption order” means—
- (a) an adoption order within the meaning of the Adoption and Children Act 2002 (c. 38) (including a future adoption order), and
 - (b) an order under section 84 of that Act (parental responsibility prior to adoption abroad).

Status: Point in time view as at 01/04/2009.

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Excluded decisions is up to date with all changes known to be in force on or before 10 June 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)

28 Mental Health Act matters

- (1) Nothing in this Act authorises anyone—
- (a) to give a patient medical treatment for mental disorder, or
 - (b) to consent to a patient's being given medical treatment for mental disorder,
- if, at the time when it is proposed to treat the patient, his treatment is regulated by Part 4 of the Mental Health Act.

[^{F1}(1A) Subsection (1) does not apply in relation to any form of treatment to which section 58A of that Act (electro-convulsive therapy, etc.) applies if the patient comes within subsection (7) of that section (informal patient under 18 who cannot give consent).]

[^{F2F1}(1B) Section 5 does not apply to an act to which section 64B of the Mental Health Act applies (treatment of community patients not recalled to hospital).]

^{F2}(2) “Medical treatment”, “mental disorder” and “patient” have the same meaning as in that Act.

Textual Amendments

- F1** S. 28(1A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 28(10)**, 56; S.I. 2008/1900, **art. 2(g)** (with art. 3, Sch.)
- F2** S. 28(1B) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 35(5)**, 56; S.I. 2008/1900, **art. 2(k)** (with art. 3, Sch.)

29 Voting rights

- (1) Nothing in this Act permits a decision on voting at an election for any public office, or at a referendum, to be made on behalf of a person.
- (2) “Referendum” has the same meaning as in section 101 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

Status:

Point in time view as at 01/04/2009.

Changes to legislation:

Mental Capacity Act 2005, Cross Heading: Excluded decisions is up to date with all changes known to be in force on or before 10 June 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.