

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Mental Capacity Act 2005, Cross Heading: P within scope of Mental Health Act is up to date with all changes known to be in force on or before 22 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)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1A

#### PERSONS INELIGIBLE TO BE DEPRIVED OF LIBERTY BY THIS ACT

##### Textual Amendments

- F1** Sch. 1A inserted (1.4.2009) by Mental Health Act 2007 (c. 12), ss. 50, 56, Sch. 8 (with s. 50(8)-(13)); S.I. 2009/139, art. 2(d) (with art. 3)

#### PART 2

##### INTERPRETATION

###### *P within scope of Mental Health Act*

- 12 (1) P is within the scope of the Mental Health Act if—
- (a) an application in respect of P could be made under section 2 or 3 of the Mental Health Act, and
  - (b) P could be detained in a hospital in pursuance of such an application, were one made.
- (2) The following provisions of this paragraph apply when determining whether an application in respect of P could be made under section 2 or 3 of the Mental Health Act.
- (3) If the grounds in section 2(2) of the Mental Health Act are met in P's case, it is to be assumed that the recommendations referred to in section 2(3) of that Act have been given.
- (4) If the grounds in section 3(2) of the Mental Health Act are met in P's case, it is to be assumed that the recommendations referred to in section 3(3) of that Act have been given.
- (5) In determining whether the ground in section 3(2)(c) of the Mental Health Act is met in P's case, it is to be assumed that the treatment referred to in section 3(2)(c) cannot be provided under this Act.]

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