

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Mental Capacity Act 2005, Paragraph 49 is up to date with all changes known to be in force on or before 18 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 A1

#### HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

##### Textual Amendments

- F1** Sch. A1 inserted (1.4.2008 for certain purposes and otherwise 1.4.2009) by [Mental Health Act 2007](#) (c. 12), ss. 50, 56, [Sch. 7](#); [S.I. 2008/745](#), [art. 4\(a\)](#); [S.I. 2009/139](#), [art. 2\(c\)](#) (with [art. 3](#), [Sch. paras. 3, 4](#))

#### PART 4

##### STANDARD AUTHORISATIONS

###### *Equivalent assessment already carried out*

- 49 (1) The supervisory body are not required by paragraph 33 to secure that a particular kind of assessment (“the required assessment”) is carried out in relation to the relevant person if the following conditions are met.
- (2) The first condition is that the supervisory body have a written copy of an assessment of the relevant person (“the existing assessment”) that has already been carried out.
- (3) The second condition is that the existing assessment complies with all requirements under this Schedule with which the required assessment would have to comply (if it were carried out).
- (4) The third condition is that the existing assessment was carried out within the previous 12 months; but this condition need not be met if the required assessment is an age assessment.
- (5) The fourth condition is that the supervisory body are satisfied that there is no reason why the existing assessment may no longer be accurate.
- (6) If the required assessment is a best interests assessment, in satisfying themselves as mentioned in sub-paragraph (5), the supervisory body must take into account any information given, or submissions made, by—
- (a) the relevant person's representative,
  - (b) any section 39C IMCA, or
  - (c) any section 39D IMCA.
- (7) It does not matter whether the existing assessment was carried out in connection with a request for a standard authorisation or for some other purpose.

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- (8) If, because of this paragraph, the supervisory body are not required by paragraph 33 to secure that the required assessment is carried out, the existing assessment is to be treated for the purposes of this Schedule—
- (a) as an assessment of the same kind as the required assessment, and
  - (b) as having been carried out under paragraph 33 in connection with the request for the standard authorisation.]

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