

Status: Point in time view as at 01/10/2009.

Changes to legislation: Mental Capacity Act 2005, Part 1 is up to date with all changes known to be in force on or before 16 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

[^{F1}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 1

AUTHORISATION TO DEPRIVE RESIDENTS OF LIBERTY ETC

Application of Part

- 1 (1) This Part applies if the following conditions are met.
- (2) The first condition is that a person (“P”) is detained in a hospital or care home — for the purpose of being given care or treatment — in circumstances which amount to deprivation of the person's liberty.
- (3) The second condition is that a standard or urgent authorisation is in force.
- (4) The third condition is that the standard or urgent authorisation relates—
- (a) to P, and
 - (b) to the hospital or care home in which P is detained.

Authorisation to deprive P of liberty

- 2 The managing authority of the hospital or care home may deprive P of his liberty by detaining him as mentioned in paragraph 1(2).

No liability for acts done for purpose of depriving P of liberty

- 3 (1) This paragraph applies to any act which a person (“D”) does for the purpose of detaining P as mentioned in paragraph 1(2).
- (2) D does not incur any liability in relation to the act that he would not have incurred if P—
- (a) had had capacity to consent in relation to D's doing the act, and
 - (b) had consented to D's doing the act.

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No protection for negligent acts etc

- 4
- (1) Paragraphs 2 and 3 do not exclude a person's civil liability for loss or damage, or his criminal liability, resulting from his negligence in doing any thing.
 - (2) Paragraphs 2 and 3 do not authorise a person to do anything otherwise than for the purpose of the standard or urgent authorisation that is in force.
 - (3) In a case where a standard authorisation is in force, paragraphs 2 and 3 do not authorise a person to do anything which does not comply with the conditions (if any) included in the authorisation.]

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