

Status: Point in time view as at 01/08/2014.

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Best interests review assessment positive 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)

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 8

STANDARD AUTHORISATIONS: REVIEW

Best interests review assessment positive

- 115 (1) This paragraph applies in a case where—
- a best interests review assessment is carried out, and
 - the assessment comes to a positive conclusion.
- (2) The supervisory body must decide the following questions—
- whether or not the best interests requirement is reviewable on the change of reason ground;
 - whether or not the best interests requirement is reviewable on the variation of conditions ground;
 - if so, whether or not the change in the person's case is significant.
- (3) If the supervisory body decide that the best interests requirement is reviewable on the change of reason ground, they must vary the standard authorisation so that it states the reason why the relevant person now meets that requirement.
- (4) If the supervisory body decide that—
- the best interests requirement is reviewable on the variation of conditions ground, and
 - the change in the relevant person's case is not significant,
- they may vary the conditions to which the standard authorisation is subject in such ways (if any) as they think are appropriate in the circumstances.
- (5) If the supervisory body decide that—
- the best interests requirement is reviewable on the variation of conditions ground, and
 - the change in the relevant person's case is significant,

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they must vary the conditions to which the standard authorisation is subject in such ways as they think are appropriate in the circumstances.

- (6) If the supervisory body decide that the best interests requirement is not reviewable on—
- (a) the change of reason ground, or
 - (b) the variation of conditions ground,

this Part does not require the supervisory body to take any action in respect of the standard authorisation so far as the best interests requirement relates to it.]

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