

*Status: Point in time view as at 16/05/2019.*

*Changes to legislation: Mental Capacity Act 2005, Paragraph 43 is up to date with all changes known to be in force on or before 02 August 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 AA1

#### DEPRIVATION OF LIBERTY: AUTHORISATION OF ARRANGEMENTS ENABLING CARE AND TREATMENT

##### Textual Amendments

- F1** Sch. AA1 inserted (16.5.2019 for specified purposes) by [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 1](#)

### PART 5

#### APPOINTMENT OF IMCA

##### *Appointment of Independent Mental Capacity Advocate*

- 43 (1) If the cared-for person has an appropriate person, the responsible body must take all reasonable steps to appoint an IMCA to support the appropriate person if—
- (a) sub-paragraph (2) or (3) provides that an IMCA should be appointed, and
  - (b) sub-paragraph (4) does not apply.
- (2) An IMCA should be appointed if the appropriate person—
- (a) has capacity to consent to being supported by an IMCA, and
  - (b) makes a request to the responsible body for an IMCA to be appointed.
- (3) An IMCA should be appointed if—
- (a) the appropriate person lacks capacity to consent to being supported by an IMCA, and
  - (b) the responsible body is satisfied the appropriate person's being supported by an IMCA would be in the cared-for person's best interests.
- (4) This paragraph does not apply if an IMCA has been appointed under this paragraph and the appointment has not ceased to have effect.]

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