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STATUTORY INSTRUMENTS

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**2008 No. 1315**

**The Mental Capacity (Deprivation of Liberty: Appointment of Relevant Person's Representative) Regulations 2008**

**PART 1**

**Selection of representatives**

**Selection by the supervisory body**

**9.—(1)** Where a supervisory body is given notice under regulation 8(5), it may select a person to be the representative, who—

- (a) would be performing the role in a professional capacity;
- (b) has satisfactory skills and experience to perform the role;
- (c) is not a family member, friend or carer of the relevant person;
- (d) is not employed by, or providing services to, the relevant person's managing authority, where the relevant person's managing authority is a care home;
- (e) is not employed to work in the relevant person's managing authority in a role that is, or could be, related to the relevant person's case, where the relevant person's managing authority is a hospital; and
- (f) is not employed to work in the supervisory body that is appointing the representative in a role that is, or could be, related to the relevant person's case.

**(2)** The supervisory body must be satisfied that there is in respect of the person—

- (a) an enhanced criminal record certificate issued pursuant to section 113B of the Police Act 1997<sup>(1)</sup>(enhanced criminal record certificates);or
- (b) if the purpose for which the certificate is required is not one prescribed under subsection (2) of that section, a criminal record certificate issued pursuant to section 113A of that Act<sup>(2)</sup> (criminal record certificates).

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<sup>(1)</sup> 1997 (c.50). Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15).

<sup>(2)</sup> Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005.