

---

*Status: Point in time view as at 23/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Part 1. (See end of Document for details)*

---

## SCHEDULES

### SCHEDULE 3

#### INTERNATIONAL PROTECTION OF ADULTS

##### PART 1

##### PRELIMINARY

###### *Introduction*

1 This Part applies for the purposes of this Schedule.

###### *The Convention*

- 2 (1) “Convention” means the Convention referred to in section 63.
- (2) “Convention country” means a country in which the Convention is in force.
- (3) A reference to an Article or Chapter is to an Article or Chapter of the Convention.
- (4) An expression which appears in this Schedule and in the Convention is to be construed in accordance with the Convention.

###### *Countries, territories and nationals*

- 3 (1) “Country” includes a territory which has its own system of law.
- (2) Where a country has more than one territory with its own system of law, a reference to the country, in relation to one of its nationals, is to the territory with which the national has the closer, or the closest, connection.

###### *Adults with incapacity*

- 4 <sup>F1</sup>(1<sup>F1</sup>) “Adult” means <sup>F2</sup>subject to sub-paragraph (2)<sup>F2</sup> a person who—
- (a) as a result of an impairment or insufficiency of his personal faculties, cannot protect his interests, and
  - (b) has reached 16.

<sup>F3</sup>(2) But “adult” does not include a child to whom either of the following applies—

- (a) the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996;
- (b) Council Regulation (EC) No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.<sup>F3</sup>

*Status: Point in time view as at 23/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Part 1. (See end of Document for details)*

### **Textual Amendments**

- F1** Sch. 3 para. 4 renumbered as Sch. 3 para. 4(1) (coming into force in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(S.I. 2010/1898\)](#), reg. 17, **Sch. para. 10(b)**
- F2** Words in Sch. 3 para. 4 inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(S.I. 2010/1898\)](#), reg. 17, **Sch. para. 10(a)**
- F3** Sch. 3 para. 4(2) inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(S.I. 2010/1898\)](#), reg. 17, **Sch. para. 10(b)**

### *Protective measures*

- 5 (1) “Protective measure” means a measure directed to the protection of the person or property of an adult; and it may deal in particular with any of the following—
- (a) the determination of incapacity and the institution of a protective regime,
  - (b) placing the adult under the protection of an appropriate authority,
  - (c) guardianship, curatorship or any corresponding system,
  - (d) the designation and functions of a person having charge of the adult's person or property, or representing or otherwise helping him,
  - (e) placing the adult in a place where protection can be provided,
  - (f) administering, conserving or disposing of the adult's property,
  - (g) authorising a specific intervention for the protection of the person or property of the adult.
- (2) Where a measure of like effect to a protective measure has been taken in relation to a person before he reaches 16, this Schedule applies to the measure in so far as it has effect in relation to him once he has reached 16.

### *Central Authority*

- 6 (1) Any function under the Convention of a Central Authority is exercisable in England and Wales by the Lord Chancellor.
- (2) A communication may be sent to the Central Authority in relation to England and Wales by sending it to the Lord Chancellor.

**Status:**

Point in time view as at 23/07/2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity Act 2005, Part 1.