

**Changes to legislation:** Mental Capacity Act 2005, Part 1 is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes

## SCHEDULES

### SCHEDULE A1 **E+W**

#### [<sup>F1</sup>HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY]

##### Textual Amendments

- F1** Sch. A1 omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019](#) (c. 18), s. 6(3), [Sch. 2 para. 2\(c\)](#)

### [<sup>F1</sup>PART 1 **E+W**

#### 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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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(ca) inserted by [2023 c. 42 Sch. para. 10](#)
- Sch. 1 para. 4A inserted by [2023 c. 42 Sch. para. 3](#)
- Sch. 1 para. 10A and cross-heading inserted by [2023 c. 42 Sch. para. 6](#)
- Sch. 1 para. 13A inserted by [2023 c. 42 Sch. para. 7\(2\)](#)
- Sch. 1 para. 16(1A) inserted by [2023 c. 42 Sch. para. 8\(b\)](#)