

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Cross Heading: Section 39A IMCA: restriction of functions. (See end of Document for details)*

# SCHEDULES<sup>1</sup>

## [<sup>F1</sup>SCHEDULE A1

### HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

#### PART 11

#### IMCAs

##### *Section 39A IMCA: restriction of functions*

- 161 (1) This paragraph applies if—
- (a) there is a section 39A IMCA, and
  - (b) a person is appointed under Part 10 to be the relevant person's representative (whether or not that person, or any person subsequently appointed, is currently the relevant person's representative).
- (2) The duties imposed on, and the powers exercisable by, the section 39A IMCA do not apply.
- (3) The duties imposed on, and the powers exercisable by, any other person do not apply, so far as they fall to be performed or exercised towards the section 39A IMCA.
- (4) But sub-paragraph (2) does not apply to any power of challenge exercisable by the section 39A IMCA.
- (5) And sub-paragraph (3) does not apply to any duty or power of any other person so far as it relates to any power of challenge exercisable by the section 39A IMCA.
- (6) Before exercising any power of challenge, the section 39A IMCA must take the views of the relevant person's representative into account.
- (7) A power of challenge is a power to make an application to the court to exercise its jurisdiction under section 21A in connection with the giving of the standard authorisation.]

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