



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Miscellaneous and supplementary*

#### 44 Ill-treatment or neglect

- (1) Subsection (2) applies if a person (“D”)—
- (a) has the care of a person (“P”) who lacks, or whom D reasonably believes to lack, capacity,
  - (b) is the donee of a lasting power of attorney, or an enduring power of attorney (within the meaning of Schedule 4), created by P, or
  - (c) is a deputy appointed by the court for P.
- (2) D is guilty of an offence if he ill-treats or wilfully neglects P.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding [<sup>F1</sup>the general limit in a magistrates’ court] or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

#### Textual Amendments

- F1** Words in s. 44(3)(a) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), [Sch. Pt. 1](#) table

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 44.