



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 3

#### MISCELLANEOUS AND GENERAL

##### *General*

#### 64 Interpretation

(1) In this Act—

“the 1985 Act” means the Enduring Powers of Attorney Act 1985 (c. 29),

“advance decision” has the meaning given in section 24(1),

[<sup>F1</sup> “authorisation under Schedule A1” means either—

(a) a standard authorisation under that Schedule, or

(b) an urgent authorisation under that Schedule.]

“the court” means the Court of Protection established by section 45,

“Court of Protection Rules” has the meaning given in section 51(1),

“Court of Protection Visitor” has the meaning given in section 61,

“deputy” has the meaning given in section 16(2)(b),

“enactment” includes a provision of subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),

[<sup>F2</sup> “health record” has the same meaning as in the Data Protection Act 2018 (see section 205 of that Act);]

“the Human Rights Convention” has the same meaning as “the Convention” in the Human Rights Act 1998 (c. 42),

“independent mental capacity advocate” has the meaning given in section 35(1),

“lasting power of attorney” has the meaning given in section 9,

“life-sustaining treatment” has the meaning given in section 4(10),

“local authority” [<sup>F3</sup>, except in [<sup>F4</sup>section 35(6A)(a) and][<sup>F5</sup>Schedule A1][<sup>F5</sup>Schedule AA1],] means—

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*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 64. (See end of Document for details)*

- (a) the council of a county in England in which there are no district councils,
  - (b) the council of a district in England,
  - (c) the council of a county or county borough in Wales,
  - (d) the council of a London borough,
  - (e) the Common Council of the City of London, or
  - (f) the Council of the Isles of Scilly,
- “Mental Health Act” means the Mental Health Act 1983 (c. 20),
- “prescribed”, in relation to regulations made under this Act, means prescribed by those regulations,
- “property” includes any thing in action and any interest in real or personal property,
- “public authority” has the same meaning as in the Human Rights Act 1998,
- “Public Guardian” has the meaning given in section 57,
- “purchaser” and “purchase” have the meaning given in section 205(1) of the Law of Property Act 1925 (c. 20),
- “social services function”<sup>[F6]</sup>—
- (a) in relation to England] has the meaning given in section 1A of the Local Authority Social Services Act 1970 (c. 42),
  - (b) [<sup>F7</sup>in relation to Wales, has the meaning given in section 143 of the Social Services and Well-being (Wales) Act 2014 (anaw 4).]
- “treatment” includes a diagnostic or other procedure,
- “trust corporation” has the meaning given in section 68(1) of the Trustee Act 1925 (c. 19), and
- “will” includes codicil.
- (2) In this Act, references to making decisions, in relation to a donee of a lasting power of attorney or a deputy appointed by the court, include, where appropriate, acting on decisions made.
- (3) In this Act, references to the bankruptcy of an individual include a case where a bankruptcy restrictions order under the Insolvency Act 1986 (c. 45) has effect in respect of him.
- [<sup>F8</sup>(3A) In this Act references to a debt relief order (under Part 7A of the Insolvency Act 1986) being made in relation to an individual include a case where a debt relief restrictions order under the Insolvency Act 1986 has effect in respect of him.]
- (4) “Bankruptcy restrictions order” includes an interim bankruptcy restrictions order.
- [<sup>F9</sup>(4A) “Debt relief restrictions order” includes an interim debt relief restrictions order.]
- [<sup>F10</sup>(5) In this Act, references to deprivation of a person's liberty have the same meaning as in Article 5(1) of the Human Rights Convention.
- (6) For the purposes of such references, it does not matter whether a person is deprived of his liberty by a public authority or not. ]

#### Textual Amendments

- F1** Words in s. 64(1) omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 2 para. 11\(a\)](#)

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- F2** Words in s. 64(1) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 108** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F3** Words in s. 64(1) inserted (1.4.2008) by Mental Health Act 2007 (c. 12), ss. 50, 56, **Sch. 9 para. 10(3)**; S.I. 2008/745, **art. 4(b)**
- F4** Words in s. 64(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 135**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F5** Words in s. 64(1) substituted (16.5.2019 for specified purposes) by Mental Capacity (Amendment) Act 2019 (c. 18), s. 6(3), **Sch. 2 para. 11(b)**
- F6** Words in s. 64(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **228(a)**
- F7** Words in s. 64(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **228(b)**
- F8** S. 64(3A) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 53(4)(a)** (with arts. 5, 6)
- F9** S. 64(4A) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 53(4)(b)** (with arts. 5, 6)
- F10** S. 64(5)(6) inserted (1.4.2008) by Mental Health Act 2007 (c. 12), ss. 50, 56, **Sch. 9 para. 10(4)**; S.I. 2008/745, **art. 4(b)**

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#### **Commencement Information**

- I1** S. 64 wholly in force at 1.10.2007; s. 64 not in force at Royal Assent see s. 68(1)-(3); s. 64 in force for certain purposes at 1.4.2007 by S.I. 2007/563, **art. 2(4)**; and s. 64 in force for all purposes at 1.10.2007 by S.I. 2007/1897, **art. 2(2)(f)**

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