



# Mental Health Act 2007

## 2007 CHAPTER 12

### PART 2

#### AMENDMENTS TO OTHER ACTS

### CHAPTER 2

#### AMENDMENTS TO MENTAL CAPACITY ACT 2005

#### **49 Independent mental capacity advocacy service: exceptions**

For section 40 of the Mental Capacity Act 2005 (c. 9) (independent mental capacity advocacy service: exceptions) substitute—

#### **“40 Exceptions**

The duty imposed by section 37(3), 38(3) or (4) or 39(4) or (5) does not apply where there is—

- (a) a person nominated by P (in whatever manner) as a person to be consulted on matters to which that duty relates,
- (b) a donee of a lasting power of attorney created by P who is authorised to make decisions in relation to those matters, or
- (c) a deputy appointed by the court for P with power to make decisions in relation to those matters.”

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Health Act 2007, Section 49.