

**Changes to legislation:** There are currently no known outstanding effects for the Mental Capacity Act 2005, Cross Heading: Hospitals and their managing authorities. (See end of Document for details)

## SCHEDULES

### SCHEDULE A1

#### [<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 13

##### INTERPRETATION

###### *Hospitals and their managing authorities*

- 175 (1) “Hospital ” means—
- (a) an NHS hospital, or
  - (b) an independent hospital.
- (2) “NHS hospital ” means—
- (a) a health service hospital as defined by section 275 of the National Health Service Act 2006 or section 206 of the National Health Service (Wales) Act 2006, or
  - (b) a hospital as defined by section 206 of the National Health Service (Wales) Act 2006 vested in a Local Health Board.
- [<sup>F2</sup>(3) Independent hospital” —
- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not an NHS hospital; and
  - (b) in relation to Wales, means a hospital as defined by section 2 of the Care Standards Act 2000 that is not an NHS hospital.]<sup>F2</sup>

##### Textual Amendments

- F2** Sch. A1 para. 175(3) substituted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010](#) (S.I. 2010/813), [art. 17\(7\)\(b\)\(i\)](#)

- 176 (1) “Managing authority ”, in relation to an NHS hospital, means—
- (a) if the hospital—
    - (i) is vested in the appropriate national authority for the purposes of its functions under the National Health Service Act 2006 or of the National Health Service (Wales) Act 2006, or

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- (ii) consists of any accommodation provided by a local authority and used as a hospital by or on behalf of the appropriate national authority under either of those Acts,
- the<sup>F3</sup> ...<sup>F4</sup> ... Local Health Board or Special Health Authority responsible for the administration of the hospital;
- [<sup>F5</sup>(aa) in relation to England, if the hospital falls within paragraph (a)(i) or (ii) and no Special Health Authority has responsibility for its administration, the Secretary of State;]
- (b) if the hospital is vested in a<sup>F6</sup> ... National Health Service trust or NHS foundation trust, that trust;
- (c) if the hospital is vested in a Local Health Board, that Board.
- (2) For this purpose the appropriate national authority is—
- (a) in relation to England: the Secretary of State;
- (b) in relation to Wales: the National Assembly for Wales;
- (c) in relation to England and Wales: the Secretary of State and the National Assembly acting jointly.

#### Textual Amendments

- F3** Words in Sch. A1 para. 176(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 136\(2\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in Sch. A1 para. 176(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 136\(2\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Sch. A1 para. 176(1)(aa) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 136\(2\)\(c\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in Sch. A1 para. 176(1)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 136\(2\)\(d\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

- [<sup>F7</sup>177 “Managing authority”, in relation to an independent hospital, means—
- (a) in relation to England, the person registered, or required to be registered, under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of regulated activities (within the meaning of that Part) carried on in the hospital, and
- (b) in relation to Wales, the person registered, or required to be registered, under Part 2 of the Care Standards Act 2000 in respect of the hospital.]]<sup>F7</sup>

#### Textual Amendments

- F7** Sch. A1 para. 177 substituted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\), art. 17\(7\)\(b\)\(ii\)](#)

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