



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Research

33 Additional safeguards

- (1) This section applies in relation to a person who is taking part in an approved research project even though he lacks capacity to consent to taking part.
- (2) Nothing may be done to, or in relation to, him in the course of the research—
 - (a) to which he appears to object (whether by showing signs of resistance or otherwise) except where what is being done is intended to protect him from harm or to reduce or prevent pain or discomfort, or
 - (b) which would be contrary to—
 - (i) an advance decision of his which has effect, or
 - (ii) any other form of statement made by him and not subsequently withdrawn,
of which R is aware.
- (3) The interests of the person must be assumed to outweigh those of science and society.
- (4) If he indicates (in any way) that he wishes to be withdrawn from the project he must be withdrawn without delay.
- (5) P must be withdrawn from the project, without delay, if at any time the person conducting the research has reasonable grounds for believing that one or more of the requirements set out in section 31(2) to (7) is no longer met in relation to research being carried out on, or in relation to, P.

Changes to legislation: *Mental Capacity Act 2005, Section 33 is up to date with all changes known to be in force on or before 28 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (6) But neither subsection (4) nor subsection (5) requires treatment that P has been receiving as part of the project to be discontinued if R has reasonable grounds for believing that there would be a significant risk to P's health if it were discontinued.

Commencement Information

- II** S. 33 wholly in force at 1.10.2008; s. 33 not in force at Royal Assent see s. 68(1)-(3); s. 33 in force for certain purposes at 1.7.2007 and 1.10.2007 and in force at 1.10.2008 in so far as not already in force by S.I. 2006/2814, **arts. 2, 3, 4** (as amended by S.I. 2006/3473, **art. 2**); S.I. 2007/856, **arts. 2, 3, 4**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(ca) inserted by [2023 c. 42 Sch. para. 10](#)
- Sch. 1 para. 4A inserted by [2023 c. 42 Sch. para. 3](#)
- Sch. 1 para. 10A and cross-heading inserted by [2023 c. 42 Sch. para. 6](#)
- Sch. 1 para. 13A inserted by [2023 c. 42 Sch. para. 7\(2\)](#)
- Sch. 1 para. 16(1A) inserted by [2023 c. 42 Sch. para. 8\(b\)](#)