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STATUTORY INSTRUMENTS

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**2007 No. 563 (C. 24)**

**MENTAL CAPACITY, ENGLAND AND WALES**

The Mental Capacity Act 2005 (Commencement  
No. 1)(England and Wales) Order 2007

Made - - - - 23rd February 2007

The Lord Chancellor makes this Order in exercise of the powers conferred upon him by section 68(1) and (3) of the Mental Capacity Act 2005<sup>(1)</sup>:

**Citation and application**

1.—(1) This Order may be cited as the Mental Capacity Act 2005 (Commencement No. 1) (England and Wales) Order 2007.

(2) Article 2(1), 2(3) and 2(4)(a) and (c) of this Order apply in relation to England and Wales.

(3) Articles 2(2) and 2(4)(b) of this Order apply in relation to England.

(4) In this Order “the Act” means the Mental Capacity Act 2005.

**Appointed day**

2.—(1) The following provisions of the Act come into force on 1 April 2007—

(a) sections 42(1), (2), (3), (6) and (7) and 43 (codes of practice); and

(b) section 44 (ill-treatment or neglect).

(2) The following provisions of the Act come into force on 1 April 2007 for purposes relating to the independent mental capacity advocate service<sup>(2)</sup>—

(a) section 1 (principles);

(b) section 2 (people who lack capacity);

(c) section 3 (inability to make decisions);

(d) section 4 (best interests); and

(e) sections 42(4) and (5) (codes of practice).

(3) The provisions of the Act listed in Article 2(2) also come into force on 1 April 2007 for the purposes of section 44 (ill-treatment or neglect).

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(1) 2005 c.9

(2) The Mental Capacity Act 2005 (Commencement No.1) Order (2006/2814) (as amended by SI 2006/3473) brings sections 35 to 41 of the Act into force in England on 1 April 2007.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (4) Section 64 (interpretation) comes into force on 1 April 2007 for the purposes of —
- (a) Article 2(1);
  - (b) Article 2(2); and
  - (c) Article 2(3).

Signed by authority of the Lord Chancellor

23rd February 2007

*Cathy Ashton*  
Parliamentary Under Secretary of State,  
Department for Constitutional Affairs

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the second commencement order under the Mental Capacity Act 2005 (c.9).

The [Mental Capacity Act 2005 \(Commencement No. 1\) Order \(2006/2814\)](#) (as amended by [SI 2006/3473](#)) brought or brings the following provisions of the Act into force in England as follows—

<i>Provision</i>	<i>Date of commencement</i>
Sections 30 to 34 (in respect of any research carried out as part of a project begun on or after 1 October 2007).	01.10.2007
Sections 30 to 34 (for the purpose of enabling research applications to be made to, and determined by, an appropriate body).	01.07.2007
Sections 30 to 34 (where a research project has begun before 1 October 2007 and was approved before that date).	01.10.2008
Sections 35 to 41 (to enable the Secretary of State for Health to make arrangements to make independent mental capacity advocates available and to enable local authorities to approve independent mental capacity advocates).	01.11.2006
Sections 35 to 41 (fully into force).	01.04.2007

Article 2(1) of this Order brings sections 42(1), (2), (3), (6) and (7) (codes of practice), 43 (codes of practice: procedure) and 44 (ill-treatment or neglect) of the Act into force in relation to England and Wales on 1 April 2007.

Article 2(2) of this Order brings sections 1 (principles), 2 (people who lack capacity), 3 (inability to make decisions), 4 (best interests), 42(4) (duty to have regard to codes of practice) and 42(5) (relevance of codes of practice to criminal or civil proceedings) of the Act into force on 1 April 2007 for purposes relating to the independent mental capacity advocate service (sections 35 to 41). Article 2(2) applies to England only.

Article 2(3) of this Order brings sections 1 (principles), 2 (people who lack capacity), 3 (inability to make decisions), 4 (best interests), 42(4) (duty to have regard to codes of practice) and 42(5) (relevance of codes of practice to criminal or civil proceedings) of the Act into force on 1 April 2007 for the purposes of section 44 (ill-treatment or neglect). Article 2(3) applies to England and Wales.

Article 2(4) brings section 64 (interpretation) into force on 1 April 2007 for the purposes of Articles 2(1), 2(2) and 2(3). Articles 2(1) and 2(3) apply to England and Wales and Article 2(2) applies to England.