



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Excluded decisions

27 Family relationships etc.

(1) Nothing in this Act permits a decision on any of the following matters to be made on behalf of a person—

- (a) consenting to marriage or a civil partnership,
- (b) consenting to have sexual relations,
- (c) consenting to a decree of divorce being granted on the basis of two years' separation,
- (d) consenting to a dissolution order being made in relation to a civil partnership on the basis of two years' separation,
- (e) consenting to a child's being placed for adoption by an adoption agency,
- (f) consenting to the making of an adoption order,
- (g) discharging parental responsibilities in matters not relating to a child's property,
- (h) giving a consent under the Human Fertilisation and Embryology Act 1990 (c. 37).

[^{F1}(i) giving a consent under the Human Fertilisation and Embryology Act 2008.]

^{F1}(2) “Adoption order” means—

- (a) an adoption order within the meaning of the Adoption and Children Act 2002 (c. 38) (including a future adoption order), and
- (b) an order under section 84 of that Act (parental responsibility prior to adoption abroad).

Status: Point in time view as at 06/04/2009.

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Excluded decisions is up to date with all changes known to be in force on or before 24 April 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)

Textual Amendments

- F1** S. 27(1)(i) inserted (6.4.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68, [Sch. 6 para. 40](#); S.I. 2009/479, [art. 6\(1\)\(d\)](#) (with transitional provisions in [art. 7 Sch. 1](#))

28 Mental Health Act matters

- (1) Nothing in this Act authorises anyone—
- (a) to give a patient medical treatment for mental disorder, or
 - (b) to consent to a patient's being given medical treatment for mental disorder,
- if, at the time when it is proposed to treat the patient, his treatment is regulated by Part 4 of the Mental Health Act.

[^{F2}(1A) Subsection (1) does not apply in relation to any form of treatment to which section 58A of that Act (electro-convulsive therapy, etc.) applies if the patient comes within subsection (7) of that section (informal patient under 18 who cannot give consent).]

[^{F3F2}(1B) Section 5 does not apply to an act to which section 64B of the Mental Health Act applies (treatment of community patients not recalled to hospital).]

^{F3}(2) “Medical treatment”, “mental disorder” and “patient” have the same meaning as in that Act.

Textual Amendments

- F2** S. 28(1A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. [28\(10\)](#), 56; S.I. 2008/1900, [art. 2\(g\)](#) (with [art. 3, Sch.](#))
- F3** S. 28(1B) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. [35\(5\)](#), 56; S.I. 2008/1900, [art. 2\(k\)](#) (with [art. 3, Sch.](#))

29 Voting rights

- (1) Nothing in this Act permits a decision on voting at an election for any public office, or at a referendum, to be made on behalf of a person.
- (2) “Referendum” has the same meaning as in section 101 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

Status:

Point in time view as at 06/04/2009.

Changes to legislation:

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