

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Determining ineligibility is up to date with all changes known to be in force on or before 25 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) View outstanding changes

SCHEDULES

SCHEDULE 1A **E+W**

[^{F1}PERSONS INELIGIBLE TO BE DEPRIVED OF LIBERTY BY THIS ACT]

Textual Amendments

- F1** Sch. 1A omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019](#) (c. 18), s. 6(3), [Sch. 2 para. 2\(c\)](#)

[^{F1}PART 1 **E+W**

INELIGIBLE PERSONS

Determining ineligibility

- 2 A person (“P”) is ineligible to be deprived of liberty by this Act (“ineligible”) if—
- P falls within one of the cases set out in the second column of the following table, and
 - the corresponding entry in the third column of the table—or the provision, or one of the provisions, referred to in that entry—provides that he is ineligible.

| | <i>Status of P</i> | <i>Determination of ineligibility</i> |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| <i>Case A</i> | P is— <ol style="list-style-type: none">subject to the hospital treatment regime, anddetained in a hospital under that regime. | P is ineligible. |
| <i>Case B</i> | P is— <ol style="list-style-type: none">subject to the hospital treatment regime, butnot detained in a hospital under that regime. | See paragraphs 3 and 4. |

Changes to legislation: *Mental Capacity Act 2005, Cross Heading: Determining ineligibility is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

| | | |
|---------------|---------------------------------------------------------------------------------------------------------------------|-------------------------|
| <i>Case C</i> | P is subject to the community treatment regime. | See paragraphs 3 and 4. |
| <i>Case D</i> | P is subject to the guardianship regime. | See paragraphs 3 and 5. |
| <i>Case E</i> | P is— (a) within the scope of the Mental Health Act, but (b) not subject to any of the mental health regimes. | See paragraph 5.] |

Changes to legislation:

Mental Capacity Act 2005, Cross Heading: Determining ineligibility is up to date with all changes known to be in force on or before 25 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.

[View outstanding changes](#)

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\(b\)](#)