

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Paragraph 69. (See end of Document for details)*

# SCHEDULES<sup>1</sup>

## [<sup>F1</sup>SCHEDULE A1

### HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

#### PART 4

##### STANDARD AUTHORISATIONS

###### *Right of third party to require consideration of whether authorisation needed*

- 69 (1) This paragraph applies if an eligible person requests the supervisory body to decide whether or not there is an unauthorised deprivation of liberty.
- (2) The supervisory body must select and appoint a person to carry out an assessment of whether or not the relevant person is a detained resident.
- (3) But the supervisory body need not select and appoint a person to carry out such an assessment in either of these cases.
- (4) The first case is where it appears to the supervisory body that the request by the eligible person is frivolous or vexatious.
- (5) The second case is where it appears to the supervisory body that—
- (a) the question of whether or not there is an unauthorised deprivation of liberty has already been decided, and
  - (b) since that decision, there has been no change of circumstances which would merit the question being decided again.
- (6) The supervisory body must not select and appoint a person to carry out an assessment under this paragraph unless it appears to the supervisory body that the person would be—
- (a) suitable to carry out a best interests assessment (if one were obtained in connection with a request for a standard authorisation relating to the relevant person), and
  - (b) eligible to carry out such a best interests assessment.
- (7) The supervisory body must notify the persons specified in sub-paragraph (8)—
- (a) that the supervisory body have been requested to decide whether or not there is an unauthorised deprivation of liberty;
  - (b) of their decision whether or not to select and appoint a person to carry out an assessment under this paragraph;
  - (c) if their decision is to select and appoint a person, of the person appointed.
- (8) The persons referred to in sub-paragraph (7) are—
- (a) the eligible person who made the request under paragraph 68;

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- (b) the person to whom the request relates;
- (c) the managing authority of the relevant hospital or care home;
- (d) any section 39A IMCA.]

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