

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Interested persons is up to date with all changes known to be in force on or before 23 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 A1 **E+W**

[^{F1}HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY]

Textual Amendments

- F1** Sch. A1 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 13 **E+W**

INTERPRETATION

Interested persons

- 185 Each of the following is an interested person—
- (a) the relevant person's spouse or civil partner;
 - [^{F2}(b) where the relevant person and another person are not married to each other, nor in a civil partnership with each other, but are living together as if they were a married couple [^{F3}or civil partners]: that other person;]
 - (d) the relevant person's children and step-children;
 - (e) the relevant person's parents and step-parents;
 - (f) the relevant person's brothers and sisters, half-brothers and half-sisters, and stepbrothers and stepsisters;
 - (g) the relevant person's grandparents;
 - (h) a deputy appointed for the relevant person by the court;
 - (i) a donee of a lasting power of attorney granted by the relevant person.

Textual Amendments

- F2** Sch. A1 paragraph 185(b) substituted for Sch. A1 paragraph 185(b)(c) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 30](#)
- F3** Words in [Sch. A1 para. 185\(b\)](#) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 28](#)

- 186 (1) An interested person consulted by the best interests assessor is any person whose name is stated in the relevant best interests assessment in accordance with paragraph 40 (interested persons whom the assessor consulted in carrying out the assessment).

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- (2) The relevant best interests assessment is the most recent best interests assessment carried out in connection with the standard authorisation in question (whether the assessment was carried out under Part 4 or Part 8).
- 187 Where this Schedule imposes on a person a duty towards an interested person, the duty does not apply if the person on whom the duty is imposed—
- (a) is not aware of the interested person's identity or of a way of contacting him, and
 - (b) cannot reasonably ascertain it.
- 188 The following table contains an index of provisions defining or otherwise explaining expressions used in this Schedule—

| | |
|---|-----------------------|
| age assessment | paragraph 34 |
| age requirement | paragraph 13 |
| age review assessment | paragraph 112(3) |
| appointment regulations | paragraph 138 |
| assessment under this Schedule | paragraph 127 |
| assessor (except in Part 9) | paragraph 33 |
| assessor (in Part 9) | paragraphs 33 and 128 |
| authorisation under this Schedule | paragraph 10 |
| best interests (determination of) | section 4 |
| best interests assessment | paragraph 38 |
| best interests requirement | paragraph 16 |
| best interests review assessment | paragraph 112(6) |
| care home | paragraph 178 |
| change of reason ground | paragraph 106 |
| complete (in relation to a review of a standard authorisation) | paragraph 118 |
| deprivation of a person's liberty | section 64(5) and (6) |
| deputy | section 16(2)(b) |
| detained resident | paragraph 6 |
| disposed of (in relation to a request for a standard authorisation) | paragraph 66 |
| eligibility assessment | paragraph 46 |
| eligibility requirement | paragraph 17 |
| eligibility review assessment | paragraph 112(7) |
| eligible person (in relation to paragraphs 68 to 73) | paragraph 68 |
| eligible person (in relation to Part 8) | paragraph 102(3) |

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| | |
|--|----------------------|
| expiry (in relation to an existing authorisation) | paragraph 125(b) |
| existing authorisation (in Part 8) | paragraph 125(a) |
| hospital | paragraph 175 |
| IMCA | paragraph 158 |
| in force (in relation to a standard authorisation) | paragraphs 63 and 64 |
| in force (in relation to an urgent authorisation) | paragraphs 88 and 89 |
| ineligible (in relation to the eligibility requirement) | Schedule 1A |
| interested person | paragraph 185 |
| interested person consulted by the best interests assessor | paragraph 186 |
| lack of capacity | section 2 |
| lasting power of attorney | section 9 |
| managing authority (in relation to a care home) | paragraph 179 |
| managing authority (in relation to a hospital) | paragraph 176 or 177 |
| maximum authorisation period | paragraph 42 |
| mental capacity assessment | paragraph 37 |
| mental capacity requirement | paragraph 15 |
| mental capacity review assessment | paragraph 112(5) |
| mental health assessment | paragraph 35 |
| mental health requirement | paragraph 14 |
| mental health review assessment | paragraph 112(4) |
| negative conclusion | paragraph 112(2)(a) |
| new supervisory body | paragraph 99(b) |
| no refusals assessment | paragraph 48 |
| no refusals requirement | paragraph 18 |
| no refusals review assessment | paragraph 112(8) |
| non-qualification ground | paragraph 105 |
| old supervisory body | paragraph 99(a) |
| positive conclusion | paragraph 112(2)(b) |
| purpose of a standard authorisation | paragraph 11(1) |
| purpose of an urgent authorisation | paragraph 11(2) |

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| | |
|--|---|
| qualifying requirements | paragraph 12 |
| refusal (for the purposes of the no refusals requirement) | paragraphs 19 and 20 |
| relevant care or treatment | paragraph 7 |
| relevant hospital or care home | paragraph 7 |
| relevant managing authority | paragraph 26(4) |
| relevant person | paragraph 7 |
| relevant person's representative | paragraph 137 |
| relevant procedure | paragraph 128 |
| review assessment | paragraph 112(1) |
| reviewable | paragraph 104 |
| section 39A IMCA | paragraph 155 |
| section 39C IMCA | paragraph 156 |
| section 39D IMCA | paragraph 157 |
| standard authorisation | paragraph 8 |
| supervisory body (except in Part 9) | paragraph 180, 181 or 182 |
| supervisory body (in Part 9) | paragraph 128 and paragraph 180, 181 or 182 |
| unauthorised deprivation of liberty (in relation to paragraphs 68 to 73) | paragraph 67 |
| urgent authorisation | paragraph 9 |
| variation of conditions ground | paragraph 107] |

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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\(b\)](#)