

Status: Point in time view as at 01/04/2018.

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Supervisory body to select assessor is up to date with all changes known to be in force on or before 05 May 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)

SCHEDULES

[^{F1}SCHEDULE A1

HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

Textual Amendments

- F1** Sch. A1 inserted (1.4.2008 for certain purposes and otherwise 1.4.2009) by [Mental Health Act 2007](#) (c. 12), ss. 50, 56, [Sch. 7](#); [S.I. 2008/745](#), [art. 4\(a\)](#); [S.I. 2009/139](#), [art. 2\(c\)](#) (with [art. 3](#), [Sch. paras. 3, 4](#))

PART 9

ASSESSMENTS UNDER THIS SCHEDULE

Supervisory body to select assessor

- 129 (1) It is for the supervisory body to select a person to carry out an assessment under this Schedule.
- (2) The supervisory body must not select a person to carry out an assessment unless the person—
- (a) appears to the supervisory body to be suitable to carry out the assessment (having regard, in particular, to the type of assessment and the person to be assessed), and
 - (b) is eligible to carry out the assessment.
- (3) Regulations may make provision about the selection, and eligibility, of persons to carry out assessments under this Schedule.
- (4) Sub-paragraphs (5) and (6) apply if two or more assessments are to be obtained for the purposes of the relevant procedure.
- (5) In a case where the assessments to be obtained include a mental health assessment and a best interests assessment, the supervisory body must not select the same person to carry out both assessments.
- (6) Except as prohibited by sub-paragraph (5), the supervisory body may select the same person to carry out any number of the assessments which the person appears to be suitable, and is eligible, to carry out.
- 130 (1) This paragraph applies to regulations under paragraph 129(3).
- (2) The regulations may make provision relating to a person's—
- (a) qualifications,
 - (b) skills,

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- (c) training,
- (d) experience,
- (e) relationship to, or connection with, the relevant person or any other person,
- (f) involvement in the care or treatment of the relevant person,
- (g) connection with the supervisory body, or
- (h) connection with the relevant hospital or care home, or with any other establishment or undertaking.

[In relation to England—

- ^{F2}(2A) (a) the provision that the regulations may make in relation to a person's training in connection with best interests assessments includes provision for particular training to be specified by Social Work England or the Secretary of State otherwise than in the regulations;
- (b) the provision that the regulations may make in relation to a person's training in connection with other assessments includes provision for particular training to be specified by the Secretary of State otherwise than in the regulations.

(2B) The regulations may give Social Work England power to charge fees for specifying any training as mentioned in sub-paragraph (2A)(a).

(2C) If the regulations give Social Work England power to charge fees, section 50(2) to (7) of the Children and Social Work Act 2017 apply for the purposes of sub-paragraph (2B) as they apply for the purposes of that section.]

(3) [^{F3}In relation to Wales] the provision that the regulations may make in relation to a person's training may provide for particular training to be specified by [^{F4}the Welsh Ministers] otherwise than in the regulations.

^{F5}(4)

(5) The regulations may make provision requiring a person to be insured in respect of liabilities that may arise in connection with the carrying out of an assessment.

(6) In relation to cases where two or more assessments are to be obtained for the purposes of the relevant procedure, the regulations may limit the number, kind or combination of assessments which a particular person is eligible to carry out.

(7) Sub-paragraphs (2) to (6) do not limit the generality of the provision that may be made in the regulations.]

Textual Amendments

- F2** Sch. A1 para. 130(2A)-(2C) inserted (1.4.2018) by [Children and Social Work Act 2017 \(c. 16\), ss. 49\(2\), 70\(2\); S.I. 2018/346, reg. 4\(q\)](#)
- F3** Words in Sch. A1 para. 130(3) inserted (1.4.2018) by [Children and Social Work Act 2017 \(c. 16\), ss. 49\(3\)\(a\), 70\(2\); S.I. 2018/346, reg. 4\(q\)](#)
- F4** Words in Sch. A1 para. 130(3) substituted (1.4.2018) by [Children and Social Work Act 2017 \(c. 16\), ss. 49\(3\)\(b\), 70\(2\); S.I. 2018/346, reg. 4\(q\)](#)
- F5** Sch. A1 para. 130(4) omitted (1.4.2018) by virtue of [Children and Social Work Act 2017 \(c. 16\), ss. 49\(4\), 70\(2\); S.I. 2018/346, reg. 4\(q\)](#)

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