



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *General powers of the court and appointment of deputies*

#### **20 Restrictions on deputies**

- (1) A deputy does not have power to make a decision on behalf of P in relation to a matter if he knows or has reasonable grounds for believing that P has capacity in relation to the matter.
- (2) Nothing in section 16(5) or 17 permits a deputy to be given power—
  - (a) to prohibit a named person from having contact with P;
  - (b) to direct a person responsible for P's health care to allow a different person to take over that responsibility.
- (3) A deputy may not be given powers with respect to—
  - (a) the settlement of any of P's property, whether for P's benefit or for the benefit of others,
  - (b) the execution for P of a will, or
  - (c) the exercise of any power (including a power to consent) vested in P whether beneficially or as trustee or otherwise.
- (4) A deputy may not be given power to make a decision on behalf of P which is inconsistent with a decision made, within the scope of his authority and in accordance with this Act, by the donee of a lasting power of attorney granted by P (or, if there is more than one donee, by any of them).
- (5) A deputy may not refuse consent to the carrying out or continuation of life-sustaining treatment in relation to P.

---

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 20. (See end of Document for details)*

---

- (6) The authority conferred on a deputy is subject to the provisions of this Act and, in particular, sections 1 (the principles) and 4 (best interests).
- (7) A deputy may not do an act that is intended to restrain P unless four conditions are satisfied.
- (8) The first condition is that, in doing the act, the deputy is acting within the scope of an authority expressly conferred on him by the court.
- (9) The second is that P lacks, or the deputy reasonably believes that P lacks, capacity in relation to the matter in question.
- (10) The third is that the deputy reasonably believes that it is necessary to do the act in order to prevent harm to P.
- (11) The fourth is that the act is a proportionate response to—
- (a) the likelihood of P's suffering harm, [<sup>F1</sup>and]<sup>F1</sup>
  - (b) the seriousness of that harm.
- (12) For the purposes of this section, a deputy restrains P if he—
- (a) uses, or threatens to use, force to secure the doing of an act which P resists, or
  - (b) restricts P's liberty of movement, whether or not P resists,
- or if he authorises another person to do any of those things.
- (13) <sup>F2</sup> .....

#### Textual Amendments

**F1** Word in s. 20(11)(a) substituted (1.10.2007) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 51, 56**; [S.I. 2007/2635](#), **art. 2**

**F2** S. 20(13) repealed (1.4.2009) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 50(4)(c), 55, 56**, **Sch. 11 Pt. 10**; [S.I. 2009/139](#), **art. 2(b)(f)** (with [art. 3](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 20.