



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Independent mental capacity advocate service

[^{F1}39C Person unrepresented whilst subject to Schedule A1

- (1) This section applies if—
 - (a) an authorisation under Schedule A1 is in force in relation to a person (“P”),
 - (b) the appointment of a person as P’s representative ends in accordance with regulations made under Part 10 of Schedule A1, and
 - (c) the managing authority of the relevant hospital or care home are satisfied that there is no person, other than one engaged in providing care or treatment for P in a professional capacity or for remuneration, whom it would be appropriate to consult in determining what would be in P’s best interests.
- (2) The managing authority must notify the supervisory body that this section applies.
- (3) The supervisory body must instruct an independent mental capacity advocate to represent P.
- (4) Paragraph 159 of Schedule A1 makes provision about the role of an independent mental capacity advocate appointed under this section.
- (5) The appointment of an independent mental capacity advocate under this section ends when a new appointment of a person as P’s representative is made in accordance with Part 10 of Schedule A1.
- (6) For the purposes of subsection (1), a person appointed under Part 10 of Schedule A1 to be P’s representative is not, by virtue of that appointment, engaged in providing care or treatment for P in a professional capacity or for remuneration.]

Status: Point in time view as at 01/04/2009. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 39C. (See end of Document for details)

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Textual Amendments

- F1** Ss. 39A-39E inserted (1.4.2009) by [Mental Health Act 2007 \(c. 12\)](#), ss. 50, 56, [Sch. 9 para. 6](#); [S.I. 2009/139](#), [art. 2\(e\)](#) (with [art. 3](#))

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