



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Preliminary

6 Section 5 acts: limitations

- (1) If D does an act that is intended to restrain P, it is not an act to which section 5 applies unless two further conditions are satisfied.
- (2) The first condition is that D reasonably believes that it is necessary to do the act in order to prevent harm to P.
- (3) The second is that the act is a proportionate response to—
 - (a) the likelihood of P's suffering harm, and
 - (b) the seriousness of that harm.
- (4) For the purposes of this section D 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.
- (5) But D does more than merely restrain P if he deprives P of his liberty within the meaning of Article 5(1) of the Human Rights Convention (whether or not D is a public authority).
- (6) Section 5 does not authorise a person to do an act which conflicts with a decision made, within the scope of his authority and in accordance with this Part, by—
 - (a) a donee of a lasting power of attorney granted by P, or
 - (b) a deputy appointed for P by the court.
- (7) But nothing in subsection (6) stops a person—
 - (a) providing life-sustaining treatment, or

Status: This is the original version (as it was originally enacted).

- (b) doing any act which he reasonably believes to be necessary to prevent a serious deterioration in P's condition,
while a decision as respects any relevant issue is sought from the court.