

SCHEDULES

SCHEDULE 9

AMENDMENTS RELATING TO NEW SECTION 4A OF, & SCHEDULE A1 TO, MENTAL CAPACITY ACT 2005

PART 1

OTHER AMENDMENTS TO MENTAL CAPACITY ACT 2005

Section 39: IMCAs and provision of accommodation by local authority

5 (1) Section 39 is amended as follows.

(2) After subsection (3) insert—

“(3A) And this section does not apply if—

- (a) an independent mental capacity advocate must be appointed under section 39A or 39C (whether or not by the local authority) to represent P, and
- (b) the place in which P is to be accommodated under the arrangements referred to in this section is the relevant hospital or care home under the authorisation referred to in that section.”

(3) [F1After subsection (6) insert—

“(7) 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.”]

Textual Amendments

F1 Sch. 9 para. 5(3) omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 2 para. 13](#)

Changes to legislation:

There are currently no known outstanding effects for the Mental Health Act 2007, Paragraph 5.