Mental Capacity Act 2005

2005 CHAPTER 9

PART 2 E+W

THE COURT OF PROTECTION AND THE PUBLIC GUARDIAN

Supplementary powers

47 General powers and effect of orders etc. E+W

(1) The court has in connection with its jurisdiction the same powers, rights, privileges and authority as the High Court.

(2) Section 204 of the Law of Property Act 1925 (c. 20) (orders of High Court conclusive in favour of purchasers) applies in relation to orders and directions of the court as it applies to orders of the High Court.

(3) Office copies of orders made, directions given or other instruments issued by the court and sealed with its official seal are admissible in all legal proceedings as evidence of the originals without any further proof.

48 Interim orders and directions E+W

The court may, pending the determination of an application to it in relation to a person ("P"), make an order or give directions in respect of any matter if—

(a) there is reason to believe that P lacks capacity in relation to the matter,

(b) the matter is one to which its powers under this Act extend, and

(c) it is in P's best interests to make the order, or give the directions, without delay.

49 Power to call for reports E+W

(1) This section applies where, in proceedings brought in respect of a person ("P") under Part 1, the court is considering a question relating to P.

Changes to legislation: *Mental Capacity Act 2005, Cross Heading: Supplementary powers is up to date with all changes known to be in force on or before 18 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) View outstanding changes*

(2) The court may require a report to be made to it by the Public Guardian or by a Court of Protection Visitor.

(3) The court may require a local authority, or an NHS body, to arrange for a report to be made—

(a) by one of its officers or employees, or

(b) by such other person (other than the Public Guardian or a Court of Protection Visitor) as the authority, or the NHS body, considers appropriate.

(4) The report must deal with such matters relating to P as the court may direct.

(5) Court of Protection Rules may specify matters which, unless the court directs otherwise, must also be dealt with in the report.

(6) The report may be made in writing or orally, as the court may direct.

(7) In complying with a requirement, the Public Guardian or a Court of Protection Visitor may, at all reasonable times, examine and take copies of—

(a) any health record,

(b) any record of, or held by, a local authority and compiled in connection with a social services function, and

(c) any record held by a person registered under Part 2 of the Care Standards Act 2000 (c. 14) **[**[F1], Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016**]**,

so far as the record relates to P.

(8) If the Public Guardian or a Court of Protection Visitor is making a visit in the course of complying with a requirement, he may interview P in private.

(9) If a Court of Protection Visitor who is a Special Visitor is making a visit in the course of complying with a requirement, he may if the court so directs carry out in private a medical, psychiatric or psychological examination of P's capacity and condition.

(10) "NHS body" has the meaning given in section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

(11) "Requirement" means a requirement imposed under subsection (2) or (3).

Textual Amendments

F1 Words in s. 49(7)(c) substituted (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), **regs. 2(1)**, 30

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(ca) inserted by 2023 c. 42 Sch. para. 10
- Sch. 1 para. 4A inserted by 2023 c. 42 Sch. para. 3
- Sch. 1 para. 10A and cross-heading inserted by 2023 c. 42 Sch. para. 6
- Sch. 1 para. 13A inserted by 2023 c. 42 Sch. para. 7(2)
- Sch. 1 para. 16(1A) inserted by 2023 c. 42 Sch. para. 8(b)