

Status: Point in time view as at 01/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Cross Heading: Duty to keep records and give copies. (See end of Document for details)

SCHEDULES¹

[^{F1}SCHEDULE A1

HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

PART 9

ASSESSMENTS UNDER THIS SCHEDULE

Duty to keep records and give copies

- 134 (1) This paragraph applies if an assessor has carried out an assessment under this Schedule (whatever conclusions the assessment has come to).
- (2) The assessor must keep a written record of the assessment.
- (3) As soon as practicable after carrying out the assessment, the assessor must give copies of the assessment to the supervisory body.
- 135 (1) This paragraph applies to the supervisory body if they are given a copy of an assessment under this Schedule.
- (2) The supervisory body must give copies of the assessment to all of the following—
- (a) the managing authority of the relevant hospital or care home;
 - (b) the relevant person;
 - (c) any section 39A IMCA;
 - (d) the relevant person's representative.
- (3) If—
- (a) the assessment is obtained in relation to a request for a standard authorisation, and
 - (b) the supervisory body are required by paragraph 50(1) to give the standard authorisation,
- the supervisory body must give the copies of the assessment when they give copies of the authorisation in accordance with paragraph 57.
- (4) If—
- (a) the assessment is obtained in relation to a request for a standard authorisation, and
 - (b) the supervisory body are prohibited by paragraph 50(2) from giving the standard authorisation,
- the supervisory body must give the copies of the assessment when they give notice in accordance with paragraph 58.

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- (5) If the assessment is obtained in connection with the review of a standard authorisation, the supervisory body must give the copies of the assessment when they give notice in accordance with paragraph 120.
- 136 (1) This paragraph applies to the supervisory body if—
- (a) they are given a copy of a best interests assessment, and
 - (b) the assessment includes, in accordance with paragraph 44(2), a statement that it appears to the assessor that there is an unauthorised deprivation of liberty.
- (2) The supervisory body must notify all of the persons listed in sub-paragraph (3) that the assessment includes such a statement.
- (3) Those persons are—
- (a) the managing authority of the relevant hospital or care home;
 - (b) the relevant person;
 - (c) any section 39A IMCA;
 - (d) any interested person consulted by the best interests assessor.
- (4) The supervisory body must comply with this paragraph when (or at some time before) they comply with paragraph 135.]

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