



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Independent mental capacity advocate service*

#### **39C Person unrepresented whilst subject to Schedule A1**

[<sup>F1</sup>(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.]

---

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

---

**Textual Amendments**

- F1** Ss. 39A-39E omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 2 para. 7](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 39C.