



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

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

VALID FROM 01/04/2009

#### **[<sup>F1</sup>39E Limitation on duty to instruct advocate under section 39D**

- (1) This section applies if an advocate is already representing P in accordance with an instruction under section 39D.
- (2) Section 39D(2) does not require another advocate to be instructed, unless the following conditions are met.
- (3) The first condition is that the existing advocate was instructed—
  - (a) because of a request by R, or
  - (b) because the supervisory body had reason to believe one or more of the things in section 39D(5).
- (4) The second condition is that the other advocate would be instructed because of a request by P.]

#### **Textual Amendments**

**F1** Ss. 39A-39E inserted (1.4.2009) by [Mental Health Act 2007 \(c. 12\)](#), ss. 50, 56, [Sch. 9 para. 6](#); [S.I. 2009/139](#), [art. 2\(e\)](#) (with [art. 3](#))

**Status:**

Point in time view as at 03/11/2008. This version of this provision is not valid for this point in time.

**Changes to legislation:**

Mental Capacity Act 2005, Section 39E is up to date with all changes known to be in force on or before 23 March 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.