Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Preliminary

6 Section 5 acts: limitations

(1) If D does an act that is intended to restrain P, it is not an act to which section 5 applies unless two further conditions are satisfied.

(2) The first condition is that D reasonably believes that it is necessary to do the act in order to prevent harm to P.

(3) The second is that the act is a proportionate response to—

(a) the likelihood of P's suffering harm, and
(b) the seriousness of that harm.

(4) For the purposes of this section D restrains P if he—

(a) uses, or threatens to use, force to secure the doing of an act which P resists, or
(b) restricts P's liberty of movement, whether or not P resists.

(5) F1 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(6) Section 5 does not authorise a person to do an act which conflicts with a decision made, within the scope of his authority and in accordance with this Part, by—

(a) a donee of a lasting power of attorney granted by P, or
(b) a deputy appointed for P by the court.

(7) But nothing in subsection (6) stops a person—

(a) providing life-sustaining treatment, or
(b) doing any act which he reasonably believes to be necessary to prevent a serious deterioration in P's condition,
while a decision as respects any relevant issue is sought from the court.

Textual Amendments
F1 S. 6(5) repealed (1.4.2009) by Mental Health Act 2007 (c. 12), ss. 50(4)(a), 55, 56, Sch. 11 Pt. 10; S.I. 2009/139, art. 2(b)(f) (with art. 3)
Changes to legislation:
There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 6.