

SCHEDULES

SCHEDULE 9

AMENDMENTS RELATING TO NEW SECTION 4A OF, & SCHEDULE A1 TO, MENTAL CAPACITY ACT 2005

PART 1

OTHER AMENDMENTS TO MENTAL CAPACITY ACT 2005

Section 40: Exceptions to duty to appoint IMCAs

- 7 (1) Section 40 (as substituted by section 49 of this Act) is amended as follows.
- (2) The provision of section 40 becomes subsection (1) of section 40.
- (3) [^{F1}In subsection (1) for “or 39(4) or (5)” substitute “, 39(4) or (5), 39A(3), 39C(3) or 39D(2)”.]
- (4) [^{F1}After subsection (1) insert—
- “(2) A person appointed under Part 10 of Schedule A1 to be P’s representative is not, by virtue of that appointment, a person nominated by P as a person to be consulted in matters to which a duty mentioned in subsection (1) relates.”]

Textual Amendments

- F1** Sch. 9 para. 7(3)(4) omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 2 para. 13](#)

Changes to legislation:

There are currently no known outstanding effects for the Mental Health Act 2007, Cross
Heading: Section 40: Exceptions to duty to appoint IMCAs.