

SCHEDULES

SCHEDULE 9

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

PART 2

AMENDMENTS TO OTHER ACTS

National Assistance Act 1948 (c. 29)

- 12 (1) Section 47 of the National Assistance Act 1948 (removal to suitable premises of persons in need of care and attention) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) But this section does not apply to a person (“P”) in either of the following cases.
- (1B) The first case is where an order of the Court of Protection authorises the managing authority of a hospital or care home (within the meaning of Schedule A1 to the Mental Capacity Act 2005) to provide P with proper care and attention.
- (1C) The second case is where—
- (a) an authorisation under Schedule A1 to the Mental Capacity Act 2005 is in force, or
- (b) the managing authority of a hospital or care home are under a duty under paragraph 24 of that Schedule to request a standard authorisation, and
- P is, or would be, the relevant person in relation to the authorisation.”
- (3) This paragraph does not extend to Scotland.

Local Authority Social Services Act 1970 (c. 42)

- 13 (1) Schedule 1 to the Local Authority Social Services Act 1970 (Social Services functions of local authorities) is amended as follows.
- (2) In the entry relating to the Mental Capacity Act 2005 (c. 9), insert the following entries at the appropriate places—

“Section 39A

Instructing independent mental capacity advocate when giving an urgent authorisation, or making a request for a

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	standard authorisation, under Schedule A1 to the Act.”
“Section 39C	Instructing independent mental capacity advocate when no representative for relevant person under Part 10 of Schedule A1 to the Act.”
“Section 39D	Instructing independent mental capacity advocate when representative for relevant person under Part 10 of Schedule A1 to the Act is not being paid.”
“Schedule A1	Any functions.”

Changes to legislation:

There are currently no known outstanding effects for the Mental Health Act 2007, Part 2.