



Mental Capacity (Amendment) Act 2019

2019 CHAPTER 18

Safeguards

2 Deprivation of liberty: authorisation of steps necessary for life-sustaining treatment or vital act

For section 4B of the Mental Capacity Act 2005 substitute—

“4B Deprivation of liberty necessary for life-sustaining treatment or vital act

- (1) If Conditions 1 to 4 are met, D is authorised to take steps which deprive P of liberty.
- (2) Condition 1 is that the steps—
 - (a) are wholly or partly for the purpose of giving P life-sustaining treatment or doing any vital act, or
 - (b) consist wholly or partly of giving P life-sustaining treatment or doing any vital act.
- (3) A vital act is any act which the person doing it reasonably believes to be necessary to prevent a serious deterioration in P’s condition.
- (4) Condition 2 is that the steps are necessary in order to give the life-sustaining treatment or do the vital act.
- (5) Condition 3 is that D reasonably believes that P lacks capacity to consent to D taking the steps.
- (6) Condition 4 is that—
 - (a) subsection (7) applies, or
 - (b) there is an emergency.
- (7) This subsection applies if—
 - (a) a decision relevant to whether D is authorised to deprive P of liberty is being sought from the court, or

Status: Prospective version(s) available.

Status: This is the original version (as it was originally enacted).

- (b) a responsible body is carrying out functions under Schedule AA1 with a view to determining whether to authorise arrangements that give rise to a deprivation of P's liberty.
- (8) In subsection (7) it does not matter—
- (a) whether the decision mentioned in paragraph (a) relates to the steps mentioned in subsection (1);
 - (b) whether the arrangements mentioned in paragraph (b) include those steps.
- (9) There is an emergency if D reasonably believes that—
- (a) there is an urgent need to take the steps mentioned in subsection (1) in order to give the life-sustaining treatment or do the vital act, and
 - (b) it is not reasonably practicable before taking those steps—
 - (i) to make an application for P to be detained under Part 2 of the Mental Health Act,
 - (ii) to make an application within subsection (7)(a), or
 - (iii) to secure that action within subsection (7)(b) is taken.”