

Status: Point in time view as at 01/04/2008.

Changes to legislation: Mental Capacity Act 2005, Part 2 is up to date with all changes known to be in force on or before 22 May 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. (See end of Document for details)

SCHEDULE 3

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INTERNATIONAL PROTECTION OF ADULTS

PART 2

JURISDICTION OF COMPETENT AUTHORITY

Scope of jurisdiction

- 7 (1) The court may exercise its functions under this Act (in so far as it cannot otherwise do so) in relation to—
- (a) an adult habitually resident in England and Wales,
 - (b) an adult's property in England and Wales,
 - (c) an adult present in England and Wales or who has property there, if the matter is urgent, or
 - (d) an adult present in England and Wales, if a protective measure which is temporary and limited in its effect to England and Wales is proposed in relation to him.
- (2) An adult present in England and Wales is to be treated for the purposes of this paragraph as habitually resident there if—
- (a) his habitual residence cannot be ascertained,
 - (b) he is a refugee, or
 - (c) he has been displaced as a result of disturbance in the country of his habitual residence.
- 8 (1) The court may also exercise its functions under this Act (in so far as it cannot otherwise do so) in relation to an adult if sub-paragraph (2) or (3) applies in relation to him.
- (2) This sub-paragraph applies in relation to an adult if—
- (a) he is a British citizen,
 - (b) he has a closer connection with England and Wales than with Scotland or Northern Ireland, and
 - (c) Article 7 has, in relation to the matter concerned, been complied with.
- (3) This sub-paragraph applies in relation to an adult if the Lord Chancellor, having consulted such persons as he considers appropriate, agrees to a request under Article 8 in relation to the adult.

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Exercise of jurisdiction

- 9 (1) This paragraph applies where jurisdiction is exercisable under this Schedule in connection with a matter which involves a Convention country other than England and Wales.
- (2) Any Article on which the jurisdiction is based applies in relation to the matter in so far as it involves the other country (and the court must, accordingly, comply with any duty conferred on it as a result).
- (3) Article 12 also applies, so far as its provisions allow, in relation to the matter in so far as it involves the other country.
- 10 A reference in this Schedule to the exercise of jurisdiction under this Schedule is to the exercise of functions under this Act as a result of this Part of this Schedule.

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