

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Paragraph 69. (See end of Document for details)

SCHEDULES

SCHEDULE A1

[^{F1}HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY]

Textual Amendments

- F1** Sch. A1 omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019](#) (c. 18), s. 6(3), [Sch. 2 para. 2\(c\)](#)

[^{F1}PART 4

STANDARD AUTHORISATIONS

Right of third party to require consideration of whether authorisation needed

- 69 (1) This paragraph applies if an eligible person requests the supervisory body to decide whether or not there is an unauthorised deprivation of liberty.
- (2) The supervisory body must select and appoint a person to carry out an assessment of whether or not the relevant person is a detained resident.
- (3) But the supervisory body need not select and appoint a person to carry out such an assessment in either of these cases.
- (4) The first case is where it appears to the supervisory body that the request by the eligible person is frivolous or vexatious.
- (5) The second case is where it appears to the supervisory body that—
- the question of whether or not there is an unauthorised deprivation of liberty has already been decided, and
 - since that decision, there has been no change of circumstances which would merit the question being decided again.
- (6) The supervisory body must not select and appoint a person to carry out an assessment under this paragraph unless it appears to the supervisory body that the person would be—
- suitable to carry out a best interests assessment (if one were obtained in connection with a request for a standard authorisation relating to the relevant person), and
 - eligible to carry out such a best interests assessment.
- (7) The supervisory body must notify the persons specified in sub-paragraph (8)—
- that the supervisory body have been requested to decide whether or not there is an unauthorised deprivation of liberty;

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- (b) of their decision whether or not to select and appoint a person to carry out an assessment under this paragraph;
 - (c) if their decision is to select and appoint a person, of the person appointed.
- (8) The persons referred to in sub-paragraph (7) are—
 - (a) the eligible person who made the request under paragraph 68;
 - (b) the person to whom the request relates;
 - (c) the managing authority of the relevant hospital or care home;
 - (d) any section 39A IMCA.]

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