Changes to legislation: *Mental Capacity Act 2005, Paragraph 12 is up to date with all changes known to be in force on or before 20 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) View outstanding changes*

SCHEDULES

SCHEDULE 1A

[[F1]PERSONS INELIGIBLE TO BE DEPRIVED OF LIBERTY BY THIS ACT]

Textual Amendments

F1 Sch. 1A 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 2

INTERPRETATION

P within scope of Mental Health Act

12 (1) P is within the scope of the Mental Health Act if—

(a) an application in respect of P could be made under section 2 or 3 of the Mental Health Act, and

(b) P could be detained in a hospital in pursuance of such an application, were one made.

(2) The following provisions of this paragraph apply when determining whether an application in respect of P could be made under section 2 or 3 of the Mental Health Act.

(3) If the grounds in section 2(2) of the Mental Health Act are met in P's case, it is to be assumed that the recommendations referred to in section 2(3) of that Act have been given.

(4) If the grounds in section 3(2) of the Mental Health Act are met in P's case, it is to be assumed that the recommendations referred to in section 3(3) of that Act have been given.

(5) In determining whether the ground in section 3(2)(c) of the Mental Health Act is met in P's case, it is to be assumed that the treatment referred to in section 3(2)(c) cannot be provided under this Act.**]**

Changes to legislation:
Mental Capacity Act 2005, Paragraph 12 is up to date with all changes known to be in force on or before 20 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.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(ca) inserted by 2023 c. 42 Sch. para. 10
- Sch. 1 para. 4A inserted by 2023 c. 42 Sch. para. 3
- Sch. 1 para. 10A and cross-heading inserted by 2023 c. 42 Sch. para. 6
- Sch. 1 para. 13A inserted by 2023 c. 42 Sch. para. 7(2)
- Sch. 1 para. 16(1A) inserted by 2023 c. 42 Sch. para. 8(b)