

*Status: Point in time view as at 18/09/2012.*

*Changes to legislation: Mental Capacity Act 2005, Paragraph 161 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)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1

#### HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

##### Textual Amendments

- F1** Sch. A1 inserted (1.4.2008 for certain purposes and otherwise 1.4.2009) by [Mental Health Act 2007](#) (c. 12), ss. 50, 56, [Sch. 7](#); [S.I. 2008/745](#), [art. 4\(a\)](#); [S.I. 2009/139](#), [art. 2\(c\)](#) (with [art. 3](#), [Sch. paras. 3, 4](#))

### PART 11

#### IMCAS

##### *Section 39A IMCA: restriction of functions*

- 161 (1) This paragraph applies if—
- (a) there is a section 39A IMCA, and
  - (b) a person is appointed under Part 10 to be the relevant person's representative (whether or not that person, or any person subsequently appointed, is currently the relevant person's representative).
- (2) The duties imposed on, and the powers exercisable by, the section 39A IMCA do not apply.
- (3) The duties imposed on, and the powers exercisable by, any other person do not apply, so far as they fall to be performed or exercised towards the section 39A IMCA.
- (4) But sub-paragraph (2) does not apply to any power of challenge exercisable by the section 39A IMCA.
- (5) And sub-paragraph (3) does not apply to any duty or power of any other person so far as it relates to any power of challenge exercisable by the section 39A IMCA.
- (6) Before exercising any power of challenge, the section 39A IMCA must take the views of the relevant person's representative into account.
- (7) A power of challenge is a power to make an application to the court to exercise its jurisdiction under section 21A in connection with the giving of the standard authorisation.]

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