

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: Mental Capacity Act 2005, Cross Heading: Interested persons is up to date with all changes known to be in force on or before 04 December 2023. 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

### SCHEDULE A1

#### [<sup>F1</sup>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\(c\)](#)

#### [<sup>F1</sup>PART 13

##### INTERPRETATION

##### *Interested persons*

- 185 Each of the following is an interested person—
- (a) the relevant person's spouse or civil partner;
  - [<sup>F2</sup>(b) where the relevant person and another person are not married to each other, nor in a civil partnership with each other, but are living together as if they were a married couple [<sup>F3</sup>or civil partners]: that other person;]
  - (d) the relevant person's children and step-children;
  - (e) the relevant person's parents and step-parents;
  - (f) the relevant person's brothers and sisters, half-brothers and half-sisters, and stepbrothers and stepsisters;
  - (g) the relevant person's grandparents;
  - (h) a deputy appointed for the relevant person by the court;
  - (i) a donee of a lasting power of attorney granted by the relevant person.

##### Textual Amendments

- F2** Sch. A1 paragraph 185(b) substituted for Sch. A1 paragraph 185(b)(c) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014](#) (S.I. 2014/560), art. 1(2), [Sch. 1 para. 30](#)
- F3** Words in [Sch. A1 para. 185\(b\)](#) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019](#) (S.I. 2019/1458), reg. 1(2), [Sch. 3 para. 28](#)

- 186 (1) An interested person consulted by the best interests assessor is any person whose name is stated in the relevant best interests assessment in accordance with paragraph 40 (interested persons whom the assessor consulted in carrying out the assessment).

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- (2) The relevant best interests assessment is the most recent best interests assessment carried out in connection with the standard authorisation in question (whether the assessment was carried out under Part 4 or Part 8).
- 187 Where this Schedule imposes on a person a duty towards an interested person, the duty does not apply if the person on whom the duty is imposed—
- (a) is not aware of the interested person's identity or of a way of contacting him, and
  - (b) cannot reasonably ascertain it.
- 188 The following table contains an index of provisions defining or otherwise explaining expressions used in this Schedule—

age assessment	paragraph 34
age requirement	paragraph 13
age review assessment	paragraph 112(3)
appointment regulations	paragraph 138
assessment under this Schedule	paragraph 127
assessor (except in Part 9)	paragraph 33
assessor (in Part 9)	paragraphs 33 and 128
authorisation under this Schedule	paragraph 10
best interests (determination of)	section 4
best interests assessment	paragraph 38
best interests requirement	paragraph 16
best interests review assessment	paragraph 112(6)
care home	paragraph 178
change of reason ground	paragraph 106
complete (in relation to a review of a standard authorisation)	paragraph 118
deprivation of a person's liberty	section 64(5) and (6)
deputy	section 16(2)(b)
detained resident	paragraph 6
disposed of (in relation to a request for a standard authorisation)	paragraph 66
eligibility assessment	paragraph 46
eligibility requirement	paragraph 17
eligibility review assessment	paragraph 112(7)
eligible person (in relation to paragraphs 68 to 73)	paragraph 68
eligible person (in relation to Part 8)	paragraph 102(3)

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expiry (in relation to an existing authorisation)	paragraph 125(b)
existing authorisation (in Part 8)	paragraph 125(a)
hospital	paragraph 175
IMCA	paragraph 158
in force (in relation to a standard authorisation)	paragraphs 63 and 64
in force (in relation to an urgent authorisation)	paragraphs 88 and 89
ineligible (in relation to the eligibility requirement)	Schedule 1A
interested person	paragraph 185
interested person consulted by the best interests assessor	paragraph 186
lack of capacity	section 2
lasting power of attorney	section 9
managing authority (in relation to a care home)	paragraph 179
managing authority (in relation to a hospital)	paragraph 176 or 177
maximum authorisation period	paragraph 42
mental capacity assessment	paragraph 37
mental capacity requirement	paragraph 15
mental capacity review assessment	paragraph 112(5)
mental health assessment	paragraph 35
mental health requirement	paragraph 14
mental health review assessment	paragraph 112(4)
negative conclusion	paragraph 112(2)(a)
new supervisory body	paragraph 99(b)
no refusals assessment	paragraph 48
no refusals requirement	paragraph 18
no refusals review assessment	paragraph 112(8)
non-qualification ground	paragraph 105
old supervisory body	paragraph 99(a)
positive conclusion	paragraph 112(2)(b)
purpose of a standard authorisation	paragraph 11(1)
purpose of an urgent authorisation	paragraph 11(2)

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qualifying requirements	paragraph 12
refusal (for the purposes of the no refusals requirement)	paragraphs 19 and 20
relevant care or treatment	paragraph 7
relevant hospital or care home	paragraph 7
relevant managing authority	paragraph 26(4)
relevant person	paragraph 7
relevant person's representative	paragraph 137
relevant procedure	paragraph 128
review assessment	paragraph 112(1)
reviewable	paragraph 104
section 39A IMCA	paragraph 155
section 39C IMCA	paragraph 156
section 39D IMCA	paragraph 157
standard authorisation	paragraph 8
supervisory body (except in Part 9)	paragraph 180, 181 or 182
supervisory body (in Part 9)	paragraph 128 and paragraph 180, 181 or 182
unauthorised deprivation of liberty (in relation to paragraphs 68 to 73)	paragraph 67
urgent authorisation	paragraph 9
variation of conditions ground	paragraph 107]

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