

Status: Point in time view as at 16/05/2019.

Changes to legislation: Mental Capacity Act 2005, Paragraph 40 is up to date with all changes known to be in force on or before 09 October 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

[^{F1}SCHEDULE AA1

DEPRIVATION OF LIBERTY: AUTHORISATION OF ARRANGEMENTS ENABLING CARE AND TREATMENT

Textual Amendments

- F1** Sch. AA1 inserted (16.5.2019 for specified purposes) by [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 1](#)

PART 4

APPROVED MENTAL CAPACITY PROFESSIONALS

- 40 (1) The appropriate authority may by regulations—
- (a) prescribe the criteria which must be met for a person to be eligible for approval as an Approved Mental Capacity Professional;
 - (b) prescribe matters which a local authority must or may take into account when deciding whether to approve a person as an Approved Mental Capacity Professional;
 - (c) provide for a prescribed body to approve training for persons who are, or who wish to become, Approved Mental Capacity Professionals.
- (2) Regulations under sub-paragraph (1)(a) may include criteria relating to qualifications, training or experience.
- (3) If regulations made by the Secretary of State under sub-paragraph (1)(c) provide for Social Work England to approve training, the regulations may—
- (a) give Social Work England power to charge fees for approval;
 - (b) give Social Work England power to make rules in relation to the charging of fees;
 - (c) make provision in connection with the procedure for making those rules (including provision requiring Social Work England to obtain the Secretary of State’s approval before making rules).
- (4) Section 50(2) to (7) of the Children and Social Work Act 2017 apply for the purposes of sub-paragraph (3) as they apply for the purposes of that section.
- (5) “Prescribed” means prescribed by the regulations.
- (6) The “appropriate authority” means—
- (a) the Secretary of State, in relation to the approval of a person by, or a person approved by, a local authority whose area is in England, and
 - (b) the Welsh Ministers, in relation to the approval of a person by, or a person approved by, a local authority whose area is in Wales.]

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