



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Miscellaneous and supplementary*

#### 44 Ill-treatment or neglect

- (1) Subsection (2) applies if a person (“D”)—
- (a) has the care of a person (“P”) who lacks, or whom D reasonably believes to lack, capacity,
  - (b) is the donee of a lasting power of attorney, or an enduring power of attorney (within the meaning of Schedule 4), created by P, or
  - (c) is a deputy appointed by the court for P.
- (2) D is guilty of an offence if he ill-treats or wilfully neglects P.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding [<sup>F1</sup>the general limit in a magistrates’ court] or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

#### Textual Amendments

- F1** Words in s. 44(3)(a) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1** table

**Status:**

Point in time view as at 07/02/2023.

**Changes to legislation:**

Mental Capacity Act 2005, Section 44 is up to date with all changes known to be in force on or before 19 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.