



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Preliminary

4B [^{F1}Deprivation of liberty necessary for life-sustaining treatment etc][^{F1}Deprivation of liberty necessary for life-sustaining treatment or vital act]

- [^{F1}(1) If Conditions 1 to 4 are met, D is authorised to take steps which deprive P of liberty.
- (2) Condition 1 is that the steps—
- (a) are wholly or partly for the purpose of giving P life-sustaining treatment or doing any vital act, or
 - (b) consist wholly or partly of giving P life-sustaining treatment or doing any vital act.
- (3) A vital act is any act which the person doing it reasonably believes to be necessary to prevent a serious deterioration in P's condition.
- (4) Condition 2 is that the steps are necessary in order to give the life-sustaining treatment or do the vital act.
- (5) Condition 3 is that D reasonably believes that P lacks capacity to consent to D taking the steps.
- (6) Condition 4 is that—
- (a) subsection (7) applies, or
 - (b) there is an emergency.
- (7) This subsection applies if—
- (a) a decision relevant to whether D is authorised to deprive P of liberty is being sought from the court, or

Status: Point in time view as at 31/07/2019.

Changes to legislation: Mental Capacity Act 2005, Section 4B is up to date with all changes known to be in force on or before 21 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)

- (b) a responsible body is carrying out functions under Schedule AA1 with a view to determining whether to authorise arrangements that give rise to a deprivation of P’s liberty.
- (8) In subsection (7) it does not matter—
- (a) whether the decision mentioned in paragraph (a) relates to the steps mentioned in subsection (1);
 - (b) whether the arrangements mentioned in paragraph (b) include those steps.
- (9) There is an emergency if D reasonably believes that—
- (a) there is an urgent need to take the steps mentioned in subsection (1) in order to give the life-sustaining treatment or do the vital act, and
 - (b) it is not reasonably practicable before taking those steps—
 - (i) to make an application for P to be detained under Part 2 of the Mental Health Act,
 - (ii) to make an application within subsection (7)(a), or
 - (iii) to secure that action within subsection (7)(b) is taken.]

Textual Amendments

- F1** S. 4B substituted (16.5.2019 for specified purposes) by [Mental Capacity \(Amendment\) Act 2019](#) (c. 18), **ss. 2, 6(3)**

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