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STATUTORY INSTRUMENTS

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**2007 No. 1897(C. 72)**

**MENTAL CAPACITY**

The Mental Capacity Act 2005  
(Commencement No. 2) Order 2007

Made - - - - 22nd June 2007

The Lord Chancellor makes the following Order, in exercise of the powers conferred upon him by section 68(1) and (3) of the Mental Capacity Act 2005<sup>(1)</sup>.

**Citation, application and interpretation**

1.—(1) This Order may be cited as the Mental Capacity Act 2005 (Commencement No. 2) Order 2007.

(2) In this Order, “the Act” means the Mental Capacity Act 2005.

**Appointed day**

2.—(1) The following provisions of the Act come into force on 1 October 2007—

- (a) sections 5 to 29;
- (b) sections 45 to 63;
- (c) sections 65 to 69; and
- (d) Schedules 1 to 7.

(2) The following provisions of the Act, which have already been commenced for limited purposes<sup>(2)</sup>, come into force on 1 October 2007 for all purposes—

- (a) section 1 (principles);
- (b) section 2 (people who lack capacity);
- (c) section 3 (inability to make decisions);
- (d) section 4 (best interests);
- (e) sections 42(4) and (5) (codes of practice); and
- (f) section 64 (interpretation).

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(1) 2005 c.9.

(2) By the Mental Capacity Act 2005 (Commencement No. 1) Order (2006/2814) (as amended by S.I. 2006/3473), the Mental Capacity Act 2005 (Commencement No. 1) (England and Wales) Order (2007/563) and the Mental Capacity Act 2005 (Commencement) (Wales) Order (2007/856).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Signed by authority of the Lord Chancellor

22nd June 2007

*Catherine Ashton*  
Parliamentary Under-Secretary of State  
Ministry of Justice

**EXPLANATORY NOTE***(This note is not part of the Order)*

This Order is the fourth commencement order under the Mental Capacity Act 2005.

The [Mental Capacity Act 2005 \(Commencement No. 1\) Order \(2006/2814\)](#) (as amended by [S.I. 2006/3473](#)), the [Mental Capacity Act 2005 \(Commencement No. 1\) \(England and Wales\) Order \(2007/563\)](#) and the [Mental Capacity Act 2005 \(Commencement\) \(Wales\) Order \(2007/856\)](#) brought or will bring provisions of the Act into force as follows—

	<i>Provision</i>	<i>Date of commencement</i>	<i>Application</i>
(a)	Sections 30 to 34 (in respect of any research carried out as part of a project begun on or after 1 October 2007).	01.10.2007	England
(b)	Sections 30 to 34 (for the purpose of enabling research applications to be made to, and determined by, an appropriate body).	01.07.2007	England
(c)	Sections 30 to 34 (where a research project has begun before 1 October 2007 and was approved before that date).	01.10.2008	England
(d)	Sections 35 to 41 (to enable the Secretary of State for Health to make arrangements to make independent mental capacity advocates available and to enable local authorities to approve independent mental capacity advocates).	01.11.2006	England
(e)	Sections 35 to 41 (fully into force).	01.04.2007	England
(f)	Sections 42(1), (2), (3), (6) and (7), 43 and 44 (fully into force).	01.04.2007	England and Wales
(g)	Sections 1 to 4, 42(4) and 42(5) (for purposes relating to the independent mental capacity advocate service).	01.04.2007	England
(h)	Sections 1 to 4, 42(4) and 42(5) (for the purposes of section 44).	01.04.2007	England and Wales
(i)	Section 64 (for the purposes of sections 1 to 4, 42, 43 and 44).	01.04.2007	England (g), England and Wales (f) and (h).
(j)	Sections 30 to 34 (in respect of any research carried out as part of a project begun on or after 1 October 2007).	01.10.2007	Wales
(k)	Sections 30 to 34 (for the purpose of enabling research applications to be made to, and determined by, an appropriate body).	01.07.2007	Wales

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	<i>Provision</i>	<i>Date of commencement</i>	<i>Application</i>
(l)	Sections 30 to 34 (where a research project has begun before 1 October 2007 and was approved before that date).	01.10.2008	Wales
(m)	Section 35 to 41 (fully into force).	01.10.2007	Wales

This Order brings into force on 1 October 2007 those provisions of the Mental Capacity Act 2005 (sections 5 to 29, 45 to 63, 65 to 69 and Schedules 1 to 7) which are not already in force.

This Order also brings into force on 1 October 2007 for all purposes those sections of the Mental Capacity Act 2005 (sections 1 to 4, 42(4), 42(5) and 64) which have already been commenced for limited purposes only.