WELSH STATUTORY INSTRUMENTS

2007 No. 837 (W.72)

MENTAL CAPACITY, WALES

The Mental Capacity Act 2005 (Loss of Capacity during Research Project) (Wales) Regulations 2007

Made - - - -	*13 March 2007*
Coming into force	
For the purpose mentioned	
in regulation 1(1)(a)	*1 July 2007*
For all other purposes	*1 October 2007*

The National Assembly for Wales makes the following Regulations in exercise of the power conferred upon it by sections 30(6), 34(1), (2) and (3), 64(1) and 65(1) of the Mental Capacity Act 2005(**1**).

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is as the Mental Capacity Act 2005 (Loss of Capacity during Research Project) (Wales) Regulations 2007 and they come into force on —

(a) 1 July 2007 for the purpose of enabling applications for approval for the purposes of Schedule 1 to be made to, and determined by, an appropriate body,

(b) 1 October 2007 for all other purposes.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

"the Act" ("*y Ddeddf*") means the Mental Capacity Act 2005;

"appropriate body" ("*corff priodol*") has the meaning given by section 30(4) of the Act and the Mental Capacity Act 2005 (Appropriate Body) (Wales) Regulations 2007(**2**).

"P" has the meaning given in regulation 2;

"R" has the meaning given in regulation 3.

(**1**) 2005 c. 9. Section 64(1) is cited because of the meaning there given to "prescribed".
(**2**) S.I.2007/833 (W.71).

Application

2. These Regulations apply where—

(a) a person ("P") has consented before 31 March 2008 to take part in a research project ("the project") begun before 1 October 2007; but

(b) before the conclusion of the project, P loses capacity to consent to continue to take part in it, and

(c) research for the purposes of the project in relation to P would, apart from these Regulations, be unlawful by virtue of section 30 of the Act.

Research which may be carried out despite a participant's loss of capacity

3. Despite P's loss of capacity, research for the purposes of the project may be carried out using information or material relating to P if—

(a) the project satisfies the requirements set out in Schedule 1;

(b) all the information or material relating to P which is used in the research was obtained before P's loss of capacity;

(c) that information or material is either—

(i) data within the meaning of section 1 of the Data Protection Act 1998, or

(ii) material which consists of and/or includes human cells or human DNA; and

(d) the person conducting the project ("R") takes in relation to P such steps as are set out in Schedule 2.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**3**).

D. Elis-Thomas
13 March 2007 The Presiding Officer of the National Assembly

(**3**) 1998 c. 38.