



Department of Health and Social Care

Capacity Act 2023

Implementation Plan



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INTRODUCTORY STATEMENT BY THE MINISTER

The Capacity Act 2023, and its linked guidance and policy documents, aim to improve services and enhance safeguards for those who lack capacity.

Lacking capacity means being unable to make or communicate decisions about your property, finances, health, or welfare.

By implementing the Act, DHSC wants to put people at the heart of the decision-making process by supporting them to make their own decisions on their care. We want to empower people to make decisions for themselves wherever possible and protect people who lack capacity by providing a flexible forward-looking framework.

Currently, there is no legal framework for those who cannot make or communicate decisions, leaving the Isle of Man behind other jurisdictions. This Act provides a modern, clear, legal framework to shield the rights, dignity, and well-being of these individuals.

The Act applies to people involved in care, treatment and support of those aged 16 and over, who live in the Isle of Man. It's also there to support people who have capacity and want to plan ahead.

All decisions and acts carried out under this legislation are benchmarked against seven statutory principles, designed to protect and restore power to these vulnerable people, and support approved persons who are caring for them.

Seven key principles:

Principle 1 - A person must be assumed to have capacity unless it is established that the person lacks capacity.

Principle 2 - A person is not to be assumed to lack capacity because of that person's

- (a) age;
- (b) appearance;
- (c) condition (whether permanent or temporary);
- (d) behaviour (or an aspect of that behaviour).

Principle 3 - A person is not to be treated as unable to make a decision unless all practical steps to help that person to so have been taken without success.

Principle 4 - A person is not to be treated as unable to make a decision merely because that person makes or may make an unwise decision.

Principle 5 - An act done under the Act for or on behalf of a person who lacks capacity must be done in that person's best interests.

Principle 6 – A decision made under the Act for or on behalf of a person who lacks capacity must be done in that person's best interest.

Principle 7 – Before an act is done, or the decision made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Professionals in health and social care will have a duty to comply with the Code of Practice under the Capacity Act – which is also there to empower them to assess capacity themselves using a best interests test. Professional training here will be pivotal.

This plan sets out a timeline for implementation, which the Department will endeavor to deliver in collaboration with key stakeholders. Our goal is to create a more responsive and supportive system for those who lack capacity and the people involved in their lives.

The Capacity Act 2023 provides a welcome and much-needed update to our social care system. We look forward to delivering on our promise to Island residents.

Hon. Claire Christian, MHK.

Minister for the Department of Health and Social Care



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1. The Capacity Act 2023 – What's in it?

- 1.1 The Capacity Act 2023 ("the Act") is designed to protect and support people in making their own decisions. It also helps them plan for a future when they might not be able to make decisions themselves. The Act focuses on those people who can't make decisions, ensuring they are at the centre of every decision-making process and that their best interests are always considered, whether by family, caregivers, friends, or professionals.
- 1.2 The Act achieves this by setting out the overarching principles:
- a person must be assumed to have capacity unless it is established that they lack capacity;
 - assumptions should not be made about a person's capacity based upon their age, appearance, condition or behaviour;
 - a person is not to be treated as unable to make a decision unless all practicable steps to help them to do so are taken without success;
 - a person is not to be treated as unable to make a decision merely because they make an unwise decision;
 - an act done under this Act for or on behalf of a person who lacks capacity must be done or made in their best interests;
 - a decision made under this Act for or on behalf of a person who lacks capacity must be done or made in their best interests; and
 - when acting or making a decision on behalf of a person lacking capacity, the least restrictive course of action should always be considered.
- 1.3 The Act places these principles on a statutory footing along with the concepts of these being 'decision specific' and 'time specific'. This approach means that an assessment to determine capacity should be repeated or reviewed each time a decision has to be made. This supports a view that just because a person was deemed to lack capacity at one time or in one instance, they will not be automatically assumed to lack capacity in every instance thereafter. Additionally, the Act introduced safe mechanisms to ensure that adults are always empowered to be able to plan ahead for a time when they may lack capacity to make decisions for

themselves which is achieved by the Act's legal recognition of advanced decisions.

So where did we start?

- 1.4 In Autumn 2020, the Department ran an 8-week public consultation, the purpose of which was to seek views and, where relevant, evidence to support those views on the 'Capacity Policy Principles' that would shape the Island's new capacity laws. A total of 154 responses were received. Overall, there was strong support of the need for a modern and clear legal framework for people who may have lost the capacity to make decisions for themselves, and a general consensus as to what the overarching capacity principles should be in the Act.
- 1.5 Following analysis of responses, the Department published the first consultation feedback on 28 January 2021 and subsequently updated this on the 4 February ['Summary of Consultation Responses on Capacity Policy Principles'](#).
- 1.6 The Department then consulted on the draft Capacity Bill which closed on the 8 April 2023.
- 1.7 There was strong support confirming the need for a clear legal framework with robust safeguards for people who may have lost the capacity to make decisions for themselves.
- 1.8 In addition, a further consultation ran concurrently to the general consultation, that of the 'Hard to Reach' groups – who are those people unlikely to be able to contribute to the general consultation in the usual way, without additional support.
- 1.9 A copy of that Summary of Responses can be accessed via the [consultation hub](#).

2. What does the Act do?

- 2.1 The [Capacity Act 2023](#) modernises the Island's legislation and addresses, for the first time, issues that potentially affect everyone. A person's capacity to make some decisions may be impaired for a variety of reasons, such as having significant

learning difficulties or mental health problems, suffering a stroke or head injuries, or the onset of dementia. The Act enables and directs the need for the provision of services for people who may have lost the capacity to make decisions for themselves and that these steps are underpinned with a modern and clear legal framework which safeguards the individual's rights, dignity and wellbeing.

2.2 The Act acknowledges the difficulties faced by many people and thus provides a legal framework which is compatible with the Convention rights within the meaning of the [Humans Rights Act 2001](#), which permits the Acts clear and modern foundations of principle.

2.3 The Act sets out:

- 2.3.1 the overarching principles of mental capacity,
- 2.3.2 defines what is meant by "a person who lacks capacity",
- 2.3.3 prescribes the test for establishing whether a person is unable to make a decision,
- 2.3.4 specifies what is to be considered in determining what is in a person's best interests,
- 2.3.5 creates a new form of power of attorney: lasting power of attorney,
- 2.3.6 puts on a statutory footing advance decisions about future healthcare, in the event of a loss of capacity,
- 2.3.7 creates the criminal offences of the ill-treatment or wilful neglect of a person lacking capacity, and,
- 2.3.8 regulates what and the manner in which research can be carried out on, or in relation to, a person who lacks the capacity to consent.

2.4 The Act requires several sets of Regulations that provide detailed guidance on how the principles and provisions of the Act should be applied in practice. Regulations ensure the Act is implemented by outlining specific procedures and processes, ensuring those responsible for making decisions on behalf of others are held accountable.

3. What is in the Act?

3.1 The Act consists of 55 sections over 4 parts and contains 5 schedules. [The first set of Explanatory Notes](#) for the original set of clauses provides further information.

3.2 The Schedules and related Sections of the Act are:

Schedule 1: Lasting Powers of Attorney: Formalities – Section 12.

Schedule 2: Property and Finance Affairs: Supplementary Provisions – Section 25.

Schedule 3: Transitional Provisions and Savings – Section 54.

Schedule 4: Minor and Consequential Amendments – Section 1.

Schedule 5: Repeals – Section 2.

3.3 Briefly, the layout of the Act is as follows.

3.4 **Part 1 – Introduction**

Section 1: Short title.

Section 2: Commencement of the Act.

3.5 **Part 2 – Persons Who Lack Capacity**

Focuses on individuals who lack the capacity to make decisions for themselves. It establishes the principles and guidelines for determining when a person lacks capacity and outlines the procedures for making decisions on their behalf. This part also covers the creation and use of lasting powers of attorney, which allow individuals to appoint someone to make decisions for them if they lose capacity in the future.

3.6 Part 2, Section 3 of the Isle of Man Capacity Act 2023 outlines the fundamental principles that apply to the Act. These principles include:

3.6.1 **Assumption of Capacity:** A person must be assumed to have capacity unless it is established that they lack capacity.

3.6.2 **Right to Make Unwise Decisions:** A person is not to be treated as unable to make a decision merely because they make an unwise decision.

3.6.3 **Best Interests:** Any act done or decision made under the Act for or on behalf of a person who lacks capacity must be done or made in their best interests.

3.6.4 **Least Restrictive Option:** Before a decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

3.7 Provisions related to the financial affairs of individuals who lack capacity describes how family, caregivers or appointed individuals can manage the finances of those who are unable to do so themselves. This includes:

Expenditure (Section 10): Guidelines for families, caregivers or appointed persons on how to manage and incur expenses on behalf of the person lacking capacity, ensuring that these expenses are necessary and reasonable.

Payment for Necessary Goods and Services (Section 11): Ensures that families, caregivers or appointed persons can be reimbursed for reasonable expenses incurred in providing necessary goods and services for the person lacking capacity.

3.8 These sections aim to protect the financial interests of individuals who lack capacity, ensuring that their funds are used appropriately.

The **lasting power of attorney (LPA)** provisions in the Act allows individuals to appoint someone to make decisions on their behalf if they lose the capacity to do so themselves. This legal document ensures that the appointed person can manage the donor's financial affairs, health, and welfare decisions when they are no longer able to make these decisions independently.

The key purposes of the LPA include:

Empowerment: Allowing individuals to choose who will make decisions for them, providing peace of mind that their affairs will be managed according to their wishes.

Protection: Safeguarding the rights and interests of individuals who lack capacity, ensuring decisions are made in their best interests.

Clarity: Providing clear legal authority for the attorney to act, reducing potential conflicts or confusion among family members or the caregiver.

- 3.9 Division 3 of the Isle of Man Capacity Act 2023 focuses on the **general powers of the court and the appointment of delegates**. It outlines the authority of the court to make declarations, decisions, and appoint delegates to act on behalf of individuals who lack capacity. The key purposes include:

Court Declarations: The court has the power to make declarations regarding whether a person has or lacks capacity and the lawfulness of any act done or proposed to be done in relation to that person.

Decision-Making: The court can make decisions on behalf of individuals who lack capacity, ensuring that these decisions are in their best interests.

Appointment of Delegates: The court can appoint delegates to manage the affairs of individuals who lack capacity, providing a structured and legal framework for such appointments.

- 3.10 The supervisory functions in the Isle of Man Capacity Act 2023 are designed to ensure that the rights and interests of individuals who lack capacity are protected. These functions include:

Monitoring Compliance: Ensuring that those acting on behalf of individuals who lack capacity, such as caregivers and attorneys, comply with the principles and guidelines set out in the Act.

Investigating Concerns: Addressing any concerns or complaints about the way decisions are being made or how individuals who lack capacity are being treated.

Providing Guidance: Offering advice and support to those involved in the care and decision-making processes for individuals who lack capacity.

Enforcing Standards: Taking action when there are breaches of the Act, which may include legal proceedings or other measures to protect the individual's welfare.

3.11 **Sections 34 to 37** focus on advance decisions to refuse treatment including the validity and applicability of any advance decisions and its effect. **Sections 38 to 42** provide supplemental provisions relating to family matters, the Mental Health Act, voting rights, research and the ill-treatment or neglect of a person. The role of the Department in preparing and issuing a code of practice is also set out in the Act, including the procedure for approving the code through Tynwald, as set out in **sections 43 to 45**.

3.12 **Part 3 of the Act – Interim Order and Directions etc.**

Sections 46 to 47 cover interim orders and directions by the court if there is reason to believe a person lacks capacity and it is in their best interests to give directions without delay. Facilitating this permits the court to order the Department, Manx Care or another suitable person to seek and prepare a report that addresses any matter the court needs clarity on. **Sections 48 to 50** specify those who under the Act may make an application to the court, the High Court rules and the rights of appeals.

3.13 **Part 4 of the Act – Miscellaneous and General**

Part 4 provides for the miscellaneous and general provisions of the Act in **sections 51 to 55**. It sets out the application of Acts of the UK Parliament, the interpretation and explanation of some of the Act's terms, the regulation making powers, information relating to the existing receivers and enduring powers of attorney and the minor consequential amendments and repeals to the schedules in the Act.

4. Who contributes to the implementation?

4.1 The Department will lead a multi-agency Steering Group over the course of the implementation process, including representatives from:

- 4.1.1 Manx Care
- 4.1.2 Attorney General's Chambers
- 4.1.3 General Registry (Isle of Man Courts and Tribunals)
- 4.1.4 Department for Enterprise (i.e. Central Registry)

5. Key commitments

5.1 A clear framework for the Capacity Act 2023 to be delivered

Implementing the Act requires a clear framework to introduce the many provisions set out in the Act. This framework includes both the secondary legislation and statutory guidance (the code of practice) necessary to implement the Act and the establishment of new functions – similar to the Office of Public Guardian (OPG) in the UK, for the effective functioning of the Act.

5.2 An open dialogue with stakeholders

Throughout the implementation process, the Department is committed to open dialogue with relevant stakeholders and will engage with the public throughout the implementation process.

5.3 Clear and transparent communication about what is being done

Alongside this implementation plan, a communication and engagement plan will be developed to ensure awareness and appropriate information is available to help people understand how this legislation may affect them or those involved in their lives.

6. How is it being put into action?

- 6.1 Progression of this workstream has taken longer than anticipated, due to resource pressures with the Department. The Implementation Plan remains the Department's reference point, and work is actively progressing across the various strands.
- 6.2 The tables Appended to this document set out the various deliverables of the

implementation plan and should be considered as a 'living document' that will be subject to change as the work evolves.

- 6.3 At a high level, the Appendices set out the risks and challenges associated with each of the key deliverables.
- 6.4 As the project develops, the Department is working with relevant stakeholders to ensure the successful implementation of the Act
- 6.5 Any updates relevant to delivery will be published on the Government website.

7. How long will it take?¹

- 7.1 When the first version of this implementation plan was published in February 2025, the Department hoped to complete the initial work required to bring the Act into effect by the end of 2025. That timeframe incorporates the Code of Practice and the secondary legislation being published on the Register of Business and approved by Tynwald.
- 7.2 The Department now intends to bring forward a staged implementation of the Act:

Stage	Description	Target for Moving Before the Legislature	Target Commencement Date
1	Brings the day-to-day capacity assessment and <i>best interests</i> framework into force for health and social care, supported by the Code of Practice and workforce training.	July 2026	By April 2027
2	Introduces Lasting Powers of Attorney (LPAs), related court processes, and Division 4 (supervisory functions).	By April 2027	By April 2028

¹ For the purposes of this document, quoted quarters (Q1–Q4) refer to the Isle of Man financial year (April–March).

Glossary - Legal Definitions

Adult Safeguarding - Plans that are followed to make sure adults are kept safe.

Advance decision to refuse treatment - When a person with capacity says they want to refuse some types of care or treatment in the future.

Advocacy - When someone speaks up for another person.

Appointee - A person who is allowed to collect benefits or pensions for someone who lacks capacity. They must use the money to buy what the person who lacks capacity needs.

Appropriate Person - A person who is chosen to help and speak for someone who lacks capacity.

Best Interest and Best Interest Decisions - The best choices for someone's life when the person lacks capacity to make their own decision.

Capacity - Being able to make a decision about your life at the time when the decision needs to be made. If someone lacks capacity, they might not be able to make that decision.

Donee - A person who is chosen by a donor and their name is written in a Lasting Power of Attorney.

Donor - A person who makes a Lasting Power of Attorney.

Enduring power of attorney - An official form that lets a person choose someone they trust to make decisions about their life.

Family Division - High Court - An official place where decisions can be made about families, marriages and children.

Human Rights Act 2001 - A law in the Isle of Man about the basic human rights every person should have for their whole life, like fairness and being able to choose to do the things they want.

Legislative Process (Journey through Tynwald)

The table below highlights the various stages the Bill has been considered as it made its passage through the legislative process to become an Act.

First Reading in the House of Keys (HOK) took place on the 3 May 2022 .
Second Reading in HOK was on the 10 May 2022 .
The Clauses stage was debated in HOK on the 14 June 2022 .
The Consideration of Council Amendments were made on the 24 January 2023 .
Third Reading in HOK took place on the 28 June 2022 .
First Reading in the Legislative Council took place on the 25 October 2022 .
The Clauses stage was debated in the Legislative Council on the 22 November 2022 .
Third Reading in the Legislative Council took place on the 29 November 2022 .
Legislative Council Amendments were considered in HOK on the 24 January 2023 .
The Act received Royal Assent on the 25 April 2023 . ¹

Mental Capacity - Being able to make decisions about your life at the time when the decisions need to be made.

Property and affairs - The things a person owns, like buildings or cars, the money they have and any money they have to pay.

Restraint - When a person is stopped from moving freely, the law says that restraint can only be used if it is needed to keep someone safe,

Act – refers to the Isle of Man [Capacity Act 2023](#)

Explanatory Notes are documents that explain the purpose of a Bill, Act, or piece of secondary legislation. All legislation has an accompanying Explanatory Note.

Motions are a proposal, on any matter of policy or concern, made to the House by a Member. The Member putting forward the motion is known as the mover. A motion should state that Tynwald Court, the House of Keys or Legislative Council do something, order something to be done, or express an opinion with regard to some matter. Motions are tabled in advance and appear on the Order Paper.

Order Paper is where the business of the House and is prepared by the Clerk of

Tynwald, Secretary of the House of Keys, or the Clerk to the Legislative Council, and issued under the authority of the Presiding Officer.

Parts a typical Act can be placed in sections, and if the Act is long, also in parts such as interpretation and commencement sections; schedule providing information about repeals and amendments resulting from the Act.

Readings of the Act

First Reading of a Bill is the initial stage of its consideration. The first reading formally brings the Bill before the House. The Secretary reads the short title of the Bill and states the name of the Member taking the Bill through the House. There is no debate or vote.

Second Reading of the Bill takes place at a subsequent sitting of the House. At this stage the general principles and ideas behind the Bill are debated, and the Bill is voted on. After the motion 'that the Bill be now read a second time' is carried, the Bill, or some of its clauses, the Bill proceeds to the Clauses Stage.

Clauses Stage at this stage the House considers and debates the Bill clause by clause. Amendments may be moved to the clauses and new clauses added. In the House the clauses are considered either individually or in groups on a motion that the clause or clauses "stand part" of the Bill. When consideration of the clauses of the Bill has been completed, the Bill proceeds to the next stage, the Third Reading, at a subsequent sitting.

Third Reading the Bill, as then agreed by the House, is further debated on a motion 'that this Bill be now read a third time'. For this motion to be carried at least 13 members of the Keys must vote in favour. The Bill is then submitted to the Legislative Council for its consideration. The Bill goes through three Readings and a Clauses stage in the Council, which are similar to their counterparts in the House of Keys.

Register of Business the Register acts as a publicly visible list of upcoming business in Tynwald Court and enables Officers, Member and the public to have advanced notice or opportunity to consider items before they reach the Order Paper.

Secondary legislation Secondary legislation can be used for a wide range of purposes. It provides the technical details that make the primary legislation work in practice.

Appointed Day Order sets the date on which an Act of Tynwald comes into force.

Regulations A typical example is where primary legislation gives the powers or vires that permits something to be changed such as a fee or fine to be charged, such as, the amount to be charged will be specified in secondary legislation. Secondary legislation may also be in the form of Regulations. These tend to be in the form of rules and administrative codes and often include penalties for violations. UK legislation is usually applied to the Isle of Man by way of secondary legislation. These statutory instruments are known as Orders in Council.

Some secondary legislation requires the approval of Tynwald Court before it comes into force, and some does not. The process to be followed is set out in the primary legislation or enabling Act under which the secondary legislation was made.

Royal Assent following the Bill's completion in the Houses, it is submitted for Royal Assent. Historically this was given by the Monarch in Council but today most Bills are dealt with by the Lieutenant Governor who is advised by the Ministry of Justice. Once a Bill has received Royal Assent it becomes an Act of Tynwald.

Schedules are components of Bills and Acts. They appear at the end of legislation. Schedules are either amending or non-amending.

Statutory guidance sets out how a government Department, Body or Board will have to do to comply with the law. Statutory guidance must be followed without exception.

Tynwald Procedures

Tynwald procedure – negative Regulations must be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the Regulations are laid or at the next following sitting resolves that they are to be annulled, they cease to have effect. A Member would need to place a Motion on the Order Paper to accomplish this.

Tynwald Procedure - approval requires Tynwald to approve the statutory document at the sitting in which it is laid. Should Tynwald determine not to approve the legislation then it shall not come into effect. Unlike negative procedure, legislation using this procedure cannot be given legal effect prior to its approval.

Tynwald Procedure – Laid before is given effect at the Department's discretion and does not require approval in any form: legislation made under this procedure cannot be struck down by Tynwald.

Appendix 1 – Implementation - Key Deliverables and Risks

Complete	In progress	Yet to commence/ on hold	Delivery at risk	Overdue

Stage	Item	Key Deliverables	Risks/Challenges	Target Date	Status	Progress commentary
1	1	Establish a Capacity Steering Group to oversee the Code of Practice and secondary legislation.	Ensuring the right stakeholders are engaged and able to commit sufficient time and resource to drive implementation.	Complete		Complete The Steering Group was reactivated in October 2025 to oversee delivery of the Implementation Plan. A Working Group with operational stakeholders is also feeding into this.
1	2	Maintain and publish an Implementation Plan throughout delivery.	Delivery of actions relies on the Department and stakeholders identifying needs and allocating resources. Risk that delays in one area may impact overall timescales.	Q2 2026		Ongoing A staged commencement plan for the Act has been approved by the Steering Group and the Department. This document lays out the agreed milestones and deliverables. This timeline will be updated where appropriate, to provide a public view of timelines and deliverables. Next update shall be in July-September 2026.

1	3	Draft Code of Practice (CoP)	The CoP is a statutory requirement and central to implementation. Requires stakeholder engagement, Ministerial approval, and laying before Tynwald. Risk of delay if stakeholder feedback on the CoP is not addressed adequately or in a timely manner.	Q4 2025 (date to begin the workstream)		In Progress A draft has been prepared and is under review by the Steering Group. The aim is to lay the Code before Tynwald, by the July 2026 sitting of Tynwald.
1	4	Training	Training must cover statutory duties and be delivered across a wide range of sectors. Risk of under-resourcing and lack of funding.	By end of Q4 FY 2026 (March 2027), in advance of the Code of Practice taking effect		In Progress A training framework has been drafted and is under review by the Steering Group. Outreach to potential providers has begun, and training is expected to be underway before the Act commences.
1	5	Update and create Operational Policies and Procedures.	All stakeholders will need to explore and identify any existing policies that may need updating and any new documents that may be required to implement the Act.	Q2 2026		In Progress The Steering Group has begun a review of existing policies and associated documentation which may require change.
1	6	Communication Plan	The plan must provide clear and consistent information to the public and professionals, otherwise the implementation may be unsuccessful.	July 2026		In Progress A communications working group has begun to draft the communications plan to support implementation.

Stage	Item	Key Deliverables	Risks/Challenges	Target Date	Status	Progress commentary
2	7	Move required Secondary legislation before Tynwald	There must be a cohesive approach to the legislation that will permit the development and implementation of each area of the Act.	April 2027		Not started
2	8	Scope the Supervisory functions	The absence of any existing function, resources or systems to provide the supervisory functions described in the Act will need to be addressed. First stage before more comprehensive work is undertaken to implement this function.	Q2 2026		In Progress The Department has reviewed the requirements listed under Division 4 of the Act. The Department is working with key stakeholders, including the Attorney Generals Chambers, to agree the next steps to develop the function included any associated costs.
2	9	The Department may be required to generate several registers relating to the registration for Powers of Attorney and delegates.	These actions will require the Department to identify the resources needed to set up the new systems under the Act.	Q2 2026		Not started The Department is scoping resource requirements and will provide an update once Steering Group priorities are agreed. Linked to LPA/Delegates Regulations.

2	10	Data collection	The Department will need to consider what specific measures and data will be required under the new legislation.	Q3 2026		In Progress The Department is undertaking policy development work to support drafting the required secondary legislation.
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Appendix 2 – Secondary Legislation - Key Deliverables and Risks

Complete	In Progress	Yet to commence/ on hold	Delivery at risk	Overdue

Set	Title	Vires under Capacity Act 2023	Description	Target Date	Status	Progress Commentary
1a	Appointed Day Order (ADO 1)	2(1), 2(2), 2(3)	This is needed to set out what day the Act will come into operation for Stage 1. Tynwald procedure – laying only	July 2026		In Progress The Department is currently scoping the requirements of the ADO. <i>To be delivered: drafting instructions provided to the AGC, ADO drafted and reviewed/approved by all stakeholders. Approval from DHSC Minister and CoMin before taking to Tynwald.</i>
1b	Appointed Day Order (ADO 2)	2(1), 2(2), 2(3)	This is needed to set out what day the Act will come into operation for Stage 2 (LPA, related court processes and supervisory functions). Tynwald procedure – laying only	April 2027		In Progress The Department is currently scoping the requirements of the ADO.

2a	Process to be taken to assist a person deciding for themselves Regulations	5(5)	The Department may make regulations as to the steps to be taken to assist a person to make a decision for themselves. Tynwald procedure – negative	April 2027 Take effect in Q2 2028		Under review The Department is currently reviewing secondary legislation requirements.
2b	Restrictions on appointed donee of Lasting Powers of Attorney Regulations	13(10)	The Department may by regulations specify who may not be appointed as a donee of a lasting power of attorney. Tynwald procedure – negative	April 2027 Take effect in Q2 2028		Under review The Department is currently reviewing secondary legislation requirements.
3	Lasting Powers of Attorney and Register of Delegates Regulations	13 (1), 16 (4) Schedule 1.	The Department must make regulations to establish a register of delegations to be maintained by the Chief Registrar. Tynwald procedure – laying only	April 2027 Take effect in Q2 2028		Not started Based on the staged commencement plan for the Act, these regulations are not required at this stage.
4	Lasting Powers of Attorney Regulations	16(4)	The Department may by regulations specify who may not be appointed as a donee of a lasting power of attorney. Tynwald procedure – negative	April 2027 Take effect in Q2 2028		Not started Based on the staged commencement plan for the Act, these regulations are not required at this stage.
5	Transfer of functions of the Attorney General.	25(6)	The functions of the Attorney General under this Act may be transferred in accordance with the Government Departments Act 1987 and, for that purpose, Schedule 2 to that Act shall apply as if the Attorney General were a Government Department. Tynwald procedure – approval	April 2027 Take effect in Q2 2028		Not started Based on the staged commencement plan for the Act, these regulations are not required at this stage.

6	Supervisory Functions Regulations	33(1)	The Department may make regulations in connection with its functions under section 29 of the Act which relates to its supervisory functions. Tynwald procedure – negative	April 2027 Take effect in Q2 2028		Not started Based on the staged commencement plan for the Act, these regulations are not required at this stage.
7	Code of Practice	44(1) to (3), 45(1) to (3)	The Department must — (a) prepare and issue a code of practice (and may issue more than one), or (b) approve (with or without exceptions, adaptations and modifications) any such code issued under section 42 of the Mental 21 Capacity Act 2005 (an Act of Parliament), for the guidance of [list of persons] Tynwald procedure – laying only	July 2026 Take effect in April 2027		In Progress A draft CoP has been drafted and is under review by the Steering Group. <i>To be delivered: final code completed and reviewed/approved by Steering Group and wider stakeholders. Approval from DHSC Minister and CoMin before taking to Tynwald.</i>
8	Court Rules	47(4) and 49(2) to 49(4), 50(1) and (2)	Will apply to courts rules for procedural topics and including appeals. These are made under the High Court Act 1991. Tynwald procedure – negative	Q2 2028 (to have effect at the same time as the other LPA provisions)		Not started Based on the staged commencement plan for the Act, these Rules are not required at this stage.
9	Transitional Regulations	51(1) to (3), 53(1) and (2)	The Department may by order apply to the Island as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the order, any legislation of the United Kingdom to which this section applies. Tynwald procedure – negative			Not started Based on the staged commencement plan for the Act, these regulations are not required at this stage.
10	Capacity (Liberty Protection Safeguards) Regulations					In Progress The Department is exploring options to address this area of concern, noting the United Kingdom's progress with similar

						legislation. <i>To be delivered: policy decision and legislative approach agreed by Department and Steering Group. Drafting instructions provided to the AGC. Legislation drafted and reviewed/approved by all stakeholders. Approval from DHSC Minister and CoMin before taking to Tynwald.</i>
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Appendix 3 – Staged Commencement Plan

Capacity Act 2023 (Appointed Day) Order (No. 1) 2026 Capacity Act 2023 (Appointed Day) Order (Codes) (No. 1) 2026			
Provision to be commenced	Scope of provision	Target Tynwald Sitting	Target Commencement
Part 2, Division 1: sections 3 to 11	Core framework including principles and general provisions	July 2026	April 2027
Part 2, Division 6: sections 38, 39, 40	Supplemental provisions covering family matters, Mental Health Act and voting rights		
Part 2, Division 6: section 42	The offence of ill-treatment or neglect		
Part 2, Division 7: sections 43 to 45	Code of Practice		
Part 4: section 52	Interpretation		

Capacity Act 2023 (Appointed Day) Order (No. 2) 2027 Capacity Act 2023 (Appointed Day) Order (Codes) (No. 2) 2027			
Provision to be commenced	Scope of provision	Target Tynwald Sitting	Target Commencement
Part 2 Division 2: sections 12 to 20	LPAs and related Court powers including register of LPAs.		
Part 2 Division 3: sections 21 to 28	General Court powers and appointment of delegates, including register of delegates.		
Part 2 Division 4: sections 29 to 33	Supervisory functions		
Part 2, Division 5: sections 34 to 37	Advance Decisions to Refuse Treatment		
Part 2 Division 6: section 41	Research related to individuals who lack capacity		
Part 2 Division 7: section 44 (1) iii, iv, v and (5) a, b, c	Codes of practice related to LPAs and research		
Part 3: sections 46 to 50	Courts - interim orders, practice, procedure, appeals		
Part 4: sections 51, 53, 54 & 55	Existing receivers and enduring powers, plus minor and consequential amendments and repeals		
Schedules 1 to 5	LPA formalities, Property and financial affairs supplementary provisions, Transitional provisions, Minor and consequential amendments, Repeals		

This document can be provided in other accessible formats, such as audio or braille, on request.

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