
STATUTORY INSTRUMENTS

2007 No. 1744

The Court of Protection Rules 2007

PART 3

INTERPRETATION AND GENERAL PROVISIONS

Interpretation

6. In these Rules—

“the Act” means the Mental Capacity Act 2005;

“applicant” means a person who makes, or who seeks permission to make, an application to the court;

“application form” means the document that is to be used to begin proceedings in accordance with Part 9 of these Rules or any other provision of these Rules or the practice directions which requires the use of an application form;

“application notice” means the document that is to be used to make an application in accordance with Part 10 of these Rules or any other provision of these Rules or the practice directions which requires the use of an application notice;

“attorney” means the person appointed as such by an enduring power of attorney created, or purporting to have been created, in accordance with the regulations mentioned in paragraph 2 of Schedule 4 to the Act;

“business day” means a day other than—

(a) a Saturday, Sunday, Christmas Day or Good Friday; or

(b) a bank holiday in England and Wales, under the Banking and Financial Dealings Act 1971⁽¹⁾;

“child” means a person under 18;

“court” means the Court of Protection;

“deputy” means a deputy appointed under the Act;

“donee” means the donee of a lasting power of attorney;

“donor” means the donor of a lasting power of attorney, except where this expression is used in rule 68 or 201(5) (where it means the donor of an enduring power of attorney);

“enduring power of attorney” means an instrument created in accordance with such of the regulations mentioned in paragraph 2 of Schedule 4 to the Act as applied when it was executed;

“filing” in relation to a document means delivering it, by post or otherwise, to the court office;

“judge” means a judge nominated to be a judge of the court under the Act;

“lasting power of attorney” has the meaning given in section 9 of the Act;

“legal representative” means a barrister or a solicitor, solicitor’s employee or other authorised litigator (as defined in the Courts and Legal Services Act 1990(2)) who has been instructed to act for a party in relation to any application;

“LSC funded client” means an individual who receives services funded by the Legal Services Commission as part of the Community Legal Service within the meaning of Part I of the Access to Justice Act 1999(3);

“order” includes a declaration made by the court;

“P” means any person (other than a protected party) who lacks or, so far as consistent with the context, is alleged to lack capacity to make a decision or decisions in relation to any matter that is the subject of an application to the court and references to a person who lacks capacity are to be construed in accordance with the Act;

“party” is to be construed in accordance with rule 73;

“permission form” means the form that is to be used to make an application for permission to begin proceedings in accordance with Part 8 of these Rules;

“personal welfare” is to be construed in accordance with section 17 of the Act;

“President” and “Vice-President” refer to those judges appointed as such under section 46(3) (a) and (b) of the Act;

“property and affairs” is to be construed in accordance with section 18 of the Act;

“protected party” means a party or an intended party (other than P or a child) who lacks capacity to conduct the proceedings;

“respondent” means a person who is named as a respondent in the application form or notice, as the case may be;

“Senior Judge” means the judge who has been nominated to be Senior Judge under section 46(4) of the Act, and references in these Rules to a circuit judge include the Senior Judge;

“Visitor” means a person appointed as such by the Lord Chancellor under section 61 of the Act.

Court officers

7.—(1) Where these Rules permit or require the court to perform an act of a purely formal or administrative character, that act may be performed by a court officer.

(2) A requirement that a court officer carry out any act at the request of any person is subject to the payment of any fee required by a fees order for the carrying out of that act.

Computation of time

8.—(1) This rule shows how to calculate any period of time which is specified—

- (a) by these Rules;
- (b) by a practice direction; or
- (c) in an order or direction of the court.

(2) A period of time expressed as a number of days must be computed as clear days.

(3) In this rule “clear days” means that in computing the number of days—

- (a) the day on which the period begins; and

(2) 1990 c. 41.
(3) 1999 c. 22.

(b) if the end of the period is defined by reference to an event, the day on which that event occurs,

are not included.

(4) Where the specified period is 7 days or less, and would include a day which is not a business day, that day does not count.

(5) When the specified period for doing any act at the court office ends on a day on which the office is closed, that act will be done in time if done on the next day on which the court office is open.

Application of the Civil Procedure Rules

9. In any case not expressly provided for by these Rules or the practice directions made under them, the Civil Procedure Rules 1998(4) (including any practice directions made under them) may be applied with any necessary modifications, insofar as is necessary to further the overriding objective.