
STATUTORY INSTRUMENTS

2017 No. 1035

The Court of Protection Rules 2017

PART 23

INTERNATIONAL PROTECTION OF ADULTS

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Applications in connection with Schedule 3 to the Act – general

23.1.—(1) This Part applies to applications made in connection with Schedule 3 to the Act.

(2) A practice direction may make additional or supplementary provision in respect of any of the matters in this Part.

Interpretation

23.2.—(1) Unless otherwise provided in a practice direction made under rule 23.1(2), and subject to paragraph (2), an expression which appears both in this Part and in Schedule 3 to the Act is to be construed in accordance with Schedule 3 to the Act, including, where required by paragraph 2(4) of Schedule 3, construing it in accordance with the Convention.

(2) Notwithstanding the provisions of paragraph 13(6) of Schedule 3 to the Act, “lasting power” does not include—

- (a) a lasting power of attorney within the meaning of section 9 of the Act; or
- (b) an enduring power of attorney within the meaning of Schedule 4 to the Act.

(3) In this Part, “Schedule 3 application” means an application made under this Part (whether or not additional declarations or orders under sections 15 and 16 of the Act are sought as part of such application).

Application of these Rules in relation to Schedule 3 applications

23.3.—(1) These Rules and accompanying practice directions apply in relation to Schedule 3 applications as if for “P” there were substituted “the adult”.

(2) For the purposes of rule 1.2(4) and Part 17, the question of whether the adult has capacity to conduct proceedings in relation to a Schedule 3 application is to be determined in accordance with Part 1 of the Act.

(3) The permission of the court is not required for a Schedule 3 application.

Applications for recognition and enforcement

23.4.—(1) An application for a declaration under paragraph 20 (recognition) or paragraph 22 (enforcement) of Schedule 3 to the Act is to be made in accordance with Part 9 and any practice direction made under rule 23.1(2).

(2) Without prejudice to its powers under Parts 6 (service) and 7 (notice), the court may dispense with service and notice where it thinks just to do so, having regard in particular to—

- (a) whether the adult or (as the case may be) any respondent to the application is within the jurisdiction; and
- (b) the need for applications for declarations of enforceability to be determined rapidly.

Applications in relation to lasting powers – disapplication or modification

23.5. An application under paragraph 14(1) of Schedule 3 to the Act for the court to disapply or modify a lasting power is to be made in accordance with Part 9 and any practice direction made under rule 23.1(2).

Applications in relation to lasting powers – declaration as to authority of donee of lasting power

23.6. An application for a declaration under section 15(1)(c) of the Act that a donee of a lasting power is acting lawfully when exercising authority under that lasting power is to be made in accordance with Part 9 and any practice direction made under rule 23.1(2).