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STATUTORY INSTRUMENTS

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**2017 No. 1035**

The Court of Protection Rules 2017

PART 9

HOW TO START AND RESPOND TO  
PROCEEDINGS, AND PARTIES TO PROCEEDINGS

*Steps following issue of application form*

**Applicant to serve the application form on named respondents**

**9.6.—**(1) As soon as practicable and in any event within 14 days of the date on which the application form was issued, the applicant must serve a copy of the application form on any person who is named as a respondent in the application form, together with copies of any documents filed in accordance with rule 9.4 and a form for acknowledging service.

(2) The applicant must file a certificate of service within 7 days beginning with the date on which the documents were served.

**Applications relating to lasting powers of attorney**

**9.7.—**(1) Where the application concerns the powers of the court under section 22 or 23 of the Act (powers of the court in relation to the validity and operation of lasting powers of attorney) the applicant must serve a copy of the application form, together with copies of any documents filed in accordance with rule 9.4 and a form for acknowledging service—

- (a) unless the applicant is the donor or donee of the lasting power of attorney (“the power”), on the donor and every donee of the power;
- (b) if the applicant is the donor, on every donee of the power; or
- (c) if the applicant is a donee, on the donor and any other donee of the power,

but only if the persons mentioned in sub-paragraphs (a) to (c) have not been served or notified under any other rule.

(2) Where the application is solely in respect of an objection to the registration of the power, the requirements of rules 9.6 and 9.10 do not apply to an application made under this rule by—

- (a) a donee of the power; or
- (b) a person named in a statement made by the donor of the power in accordance with paragraph 2(1)(c)(i) of Schedule 1 to the Act.

(3) The applicant must comply with paragraph (1) as soon as practicable and in any event within 14 days of the date on which the application form was issued.

(4) The applicant must file a certificate of service with 7 days beginning with the date on which the documents were served.

(5) Where the applicant knows or has reasonable grounds to believe that the donor of the power lacks capacity to make a decision in relation to any matter that is the subject of the application, the applicant must notify the donor in accordance with Part 7.

**Applications relating to enduring powers of attorney**

**9.8.**—(1) Where the application concerns the powers of the court under paragraphs 2(9), 4(5)(a) and (b), 7(2), 10(c), 13, or 16(2), (3), (4) and (6) of Schedule 4 to the Act, the applicant must serve a copy of the application form, together with copies of any documents filed in accordance with rule 9.4 and a form for acknowledging service—

- (a) unless the applicant is the donor or attorney under the enduring power of attorney (“the power”), on the donor and every attorney under the power;
- (b) if the applicant is the donor, on every attorney under the power; or
- (c) if the applicant is an attorney, on the donor and any other attorney under the power,

but only if the persons mentioned in sub-paragraphs (a) to (c) have not been served or notified under any other rule.

(2) Where the application is solely in respect of an objection to the registration of the power, the requirements of rules 9.6 and 9.10 do not apply to an application made under this rule by—

- (a) an attorney under the power; or
- (b) a person listed in paragraph 6(1) of Schedule 4 to the Act.

(3) The applicant must comply with paragraph (1) as soon as practicable and in any event within 14 days of the date on which the application form was issued.

(4) The applicant must file a certificate of service within 7 days beginning with the date on which the documents were served.

(5) Where the applicant knows or has reasonable grounds to believe that the donor of the power lacks capacity to make a decision in relation to any matter that is the subject of the application, the applicant must notify the donor in accordance with Part 7.

**Applicant to notify P of an application**

**9.9.** P must be notified in accordance with Part 7 that an application form has been issued, unless the requirement to do so has been dispensed with under rule 7.11.

**Applicant to notify other persons of an application**

**9.10.**—(1) As soon as practicable and in any event within 14 days of the date on which the application form was issued, the applicant must notify the persons specified in the relevant practice direction—

- (a) that an application has been issued;
- (b) whether it relates to the exercise of the court’s jurisdiction in relation to P’s property and affairs, or P’s personal welfare, or to both; and
- (c) of the order or orders sought.

(2) Notification of the issue of the application form must be accompanied by a form for acknowledging notification.

(3) The applicant must file a certificate of notification within 7 days beginning with the date on which notification was given.

### **Requirements for certain applications**

**9.11.** A practice direction may make additional or different provision in relation to specified applications.