

*These notes refer to the Mental Capacity Act 2005
(c.9) which received Royal Assent on 7 April 2005*

MENTAL CAPACITY ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: the Court of Protection and the Public Guardian

Practice and procedure

Section 53: Rights of appeal

139. This section concerns appeals from the Court of Protection and will be supplemented by Court of Protection Rules. Subject to such rules, an appeal will lie from any decision of the court to the Court of Appeal. However, the Court of Protection will comprise a range of judges at different levels. It is therefore intended to make provision by rules of court, by virtue of *subsection (2)*, so that decisions made at a lower level of the Court of Protection are appealed to a higher judge within the Court of Protection. Rules may make further detailed provision as to permission to appeal and may provide that where an appeal has already been made to a higher judge of the Court of Protection no appeal may be made to the Court of Appeal from that decision unless the Court of Appeal considers that the appeal would raise an important point of principle or practice or there is some other compelling reason to hear the appeal. This matches the “2nd appeal” test in the Civil Procedures Rules 1998, Rule 52.13.