

*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 52: Practice directions

138. This section gives power to make practice directions. These are directions about a court's practices and procedures, issued for the assistance and guidance of litigants. They often support and add detail to rules of court. Practice directions for the Court of Protection will have to be made by the President with the approval of the Lord Chancellor or by another person (for example, the Vice-President) with the approval of the President and the Lord Chancellor. *Subsection (3)* provides that the Lord Chancellor need not approve any directions giving guidance about the law or the making of judicial decisions. *Section 51(3)* enables Court of Protection Rules, instead of providing for any matter, to refer to provision made or to be made by these directions. The intention is to make rules accompanied by practice directions, on the model of the Civil Procedure Rules 1998.