
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE THIRD GROUP OF PARTS

PART 7

COURT PROCEDURE AND PRACTICE

CHAPTER 7

PERSONS INCAPABLE OF MANAGING THEIR AFFAIRS

Introductory

7.43.—(1) The Rules in this Chapter apply where in insolvency proceedings it appears to the court that a person affected by the proceedings is one who is incapable of managing and administering his property and affairs either—

- (a) by reason of mental disorder within the meaning of the Mental Health Act 1983, or
- (b) due to physical affliction or disability.

(2) The person concerned is referred to as “the incapacitated person”.

Appointment of another person to act

7.44.—(1) The court may appoint such person as it thinks fit to appear for, represent or act for the incapacitated person.

(2) The appointment may be made either generally or for the purpose of any particular application or proceeding, or for the exercise of particular rights or powers which the incapacitated person might have exercised but for his incapacity.

(3) The court may make the appointment either of its own motion or on application by—

- (a) a person who has been appointed by a court in the United Kingdom or elsewhere to manage the affairs of, or to represent, the incapacitated person, or
- (b) any relative or friend of the incapacitated person who appears to the court to be a proper person to make the application, or
- (c) the official receiver, or
- (d) the person who, in relation to the proceedings, is the responsible insolvency practitioner.

(4) Application under paragraph (3) may be made *ex parte*; but the court may require such notice of the application as it thinks necessary to be given to the person alleged to be incapacitated, or any other person, and may adjourn the hearing of the application to enable the notice to be given.

Affidavit in support of application

7.45.—(1) Except where made by the official receiver, an application under Rule 7.44(3) shall be supported by an affidavit of a registered medical practitioner as to the mental or physical condition of the incapacitated person.

(2) In the excepted case, a report made by the official receiver is sufficient.

Service of notices following appointment

7.46. Any notice served on, or sent to, a person appointed under Rule 7.44 has the same effect as if it had been served on, or given to, the incapacitated person.