

*Status: This version of this provision is prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-Contentious Probate Rules 1987. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## STATUTORY INSTRUMENTS

# 1987 No. 2024

## The Non-Contentious Probate Rules 1987

PROSPECTIVE

### Grants in case of mental incapacity

**35.—**(1) Unless a registrar otherwise directs, no grant shall be made under this rule unless all persons entitled in the same degree as the incapable person referred to in paragraph (2) below have been cleared off.

(2) Where a registrar is satisfied that a person entitled to a grant is by reason of mental incapacity incapable of managing his affairs, administration for his use and benefit, limited until further representation be granted or in such other way as the registrar may direct, may be granted in the following order of priority—

- (a) to the person authorised by the Court of Protection to apply for a grant;
- (b) where there is no person so authorised, to the lawful attorney of the incapable person acting under a registered enduring power of attorney;
- (c) where there is no such attorney entitled to act, or if the attorney shall renounce administration for the use and benefit of the incapable person, to the person entitled to the residuary estate of the deceased.

(3) Where a grant is required to be made to not less than two administrators, and there is only one person competent and willing to take a grant under the foregoing provisions of this rule, administration may, unless a registrar otherwise directs, be granted to such person jointly with any other person nominated by him.

(4) Notwithstanding the foregoing provisions of this rule, administration for the use and benefit of the incapable person may be granted to such two or more other persons as the registrar may by order direct.

(5) Notice of an intended application under this rule shall be given to the Court of Protection.

### Commencement Information

**II** Rule 35 in force at 1.1.1988, see [rule 1](#)

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**Changes and effects yet to be applied to :**

- Instrument am (exc rules 20, 22, 38, 46 and sch 1) by
- Instrument amended by
- Instrument amended by
- Instrument amended by
- Third Sch. inserted by [S.I. 2020/1059 rule 3\(4\)](#)
- Arrangement of Rules amended by [S.I. 1998/1903 rule 2](#)
- rule. 32(1)(a)(iii) words inserted by [S.I. 2005/3504 art. 4\(a\)](#)
- rule. 32(1)(ab) inserted by [S.I. 2005/3504 art. 4\(b\)](#)
- rule. 32(1)(ba)(bb) inserted by [S.I. 2005/3504 art. 4\(c\)](#)
- rule 35 Title words substituted by [S.I. 2007/1898 Sch. 1 para. 13\(3\)](#)
- rule 35(1) words substituted by [S.I. 2007/1898 Sch. 1 para. 13\(4\)](#)
- rule 35(2) words substituted by [S.I. 2007/1898 Sch. 1 para. 13\(5\)\(a\)](#)
- rule 35(2) words substituted by [S.I. 2007/1898 Sch. 1 para. 13\(5\)\(b\)](#)
- rule 35(2)(b) words inserted by [S.I. 2007/1898 Sch. 1 para. 13\(5\)\(c\)](#)
- rule 35(4) words substituted by [S.I. 2007/1898 Sch. 1 para. 13\(6\)](#)
- am (exc rule 27(1) substituted by

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Table of Contents words substituted by [S.I. 2003/185 rule 4](#) (This amendment not applied to legislation.gov.uk. The table of contents for this legislation will be updated dynamically when its provision are revised)
- Sch. FIRST coming into force by [S.I. 1987/2024 rule 1](#)
- Sch. SECOND coming into force by [S.I. 1987/2024 rule 1](#)
- Sch.I Forms 246 amended by
- Sch. 1 Form 3 amended by [S.I. 1998/1903 rule 16](#)
- Sch.1 Form 4 amended by [S.I. 1998/1903 rule 17](#)
- Sch.1 Form 5 amended by [S.I. 1998/1903 rule 18](#)
- Sch. 1 Form 6 words inserted by [S.I. 2005/2114 art. 2\(6\)Sch. 6 para. 2\(5\)](#)
- rule 2A inserted by [S.I. 2020/1059 rule 4\(2\)](#)
- rule 3A inserted by [S.I. 2020/1059 rule 2\(1\)](#)
- rule 4(1A) inserted by [S.I. 2017/1034 rule 2\(1\)](#)
- rule 4(1A) words substituted by [S.I. 2019/1057 rule 3](#)
- rule 4A inserted by [S.I. 2017/1034 rule 2\(2\)](#)
- rule 4A omitted by [S.I. 2020/1059 rule 3\(3\)](#)
- rule 4A substituted by [S.I. 2019/1057 rule 4](#)
- rule 4A(2) omitted by [S.I. 2018/1137 rule 3](#)
- rule 5(9) inserted by [S.I. 2016/972 rule 2\(1\)](#)
- rule 5(9) substituted by [S.I. 2018/1137 rule 4\(5\)](#)
- rule 5(10) inserted by [S.I. 2017/1034 rule 3\(1\)](#)
- rule 5(10) substituted by [S.I. 2018/1137 rule 4\(6\)](#)
- rule 5A inserted by [S.I. 2016/972 rule 2\(2\)](#)

- rule 5A heading substituted by [S.I. 2019/1057 rule 6](#)
- rule 5A heading words substituted by [S.I. 2018/1137 rule 6\(2\)](#)
- rule 5A(2) words inserted by [S.I. 2018/1137 rule 6\(3\)](#)
- rule 5A(3)(b) omitted by [S.I. 2018/1137 rule 6\(4\)](#)
- rule 5A(4) omitted by [S.I. 2018/1137 rule 6\(4\)](#)
- rule 5B inserted by [S.I. 2017/1034 rule 3\(2\)](#)
- rule 5B omitted by [S.I. 2018/1137 rule 7](#)
- rule 5ZA inserted by [S.I. 2018/1137 rule 5](#)
- rule 5ZA(1) word substituted by [S.I. 2019/1057 rule 5](#)
- rule 8(1)(a)(b) and words substituted for words in rule 8(1) by [S.I. 2018/1137 rule 8\(3\)](#)
- rule 27(1A) inserted by
- rule 27(1A) rev. in pt. by [S.I. 1998/1903 rule 7\(1\)](#)
- rule 32(1)(b) amended by [S.I. 1998/1903 rule 8\(2\)](#)
- rule 32(1)(c) added by [S.I. 1998/1903 rule 8\(3\)](#)
- rule 32(1)(aa) added by [S.I. 1998/1903 rule 8\(1\)](#)
- reg. 32(1)(aa) words substituted by [S.I. 2014/852 art. 3](#)
- rule 37(2A) added by [S.I. 1998/1903 rule 10](#)
- rule 43(1)(a)-(c) and word substituted for words in rule 43(1) by [S.I. 2018/1137 rule 13\(2\)](#)
- rule 44(2)(b)(i)(ii) and word substituted for words in rule 44(2)(b) by [S.I. 2018/1137 rule 14\(2\)](#)
- rule 44(3)(a)(i)-(iii) and word substituted for words in rule 44(3)(a) by [S.I. 2018/1137 rule 14\(3\)](#)
- rule 44(15) added by [S.I. 1998/1903 rule 11\(3\)](#)
- rule 61(5)(6) inserted by [S.I. 2018/1137 rule 17](#)
- rule 62A added by [S.I. 1998/1903 rule 14](#)
- rule 65(3) inserted by [S.I. 2003/185 rule 6](#)