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STATUTORY INSTRUMENTS

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**1987 No. 2024**

**The Non-Contentious Probate Rules 1987**

**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.