
STATUTORY INSTRUMENTS

2007 No. 1744

The Court of Protection Rules 2007

PART 22

TRANSITORY AND TRANSITIONAL PROVISIONS

Transitory provision: applications by former receivers

195.—(1) This rule and rule 196—

- (a) apply in any case where a person becomes a deputy by virtue of paragraph 1(2) of Schedule 5 to the Act; but
- (b) shall cease to have effect at the end of the period specified in the relevant practice direction.

(2) The deputy may make an application to the court in connection with—

- (a) any decision in connection with the day-to-day management of P's property and affairs; or
- (b) any supplementary decision which is necessary to give full effect to any order made, or directions given, before 1st October 2007 under Part 7 of the Mental Health Act 1983⁽¹⁾.

(3) Decisions within paragraph (2) include those that may be specified in the relevant practice direction.

(4) An application—

- (a) may relate only to a particular decision or decisions to be made on P's behalf;
- (b) must specify details of the decision or decisions to be made; and
- (c) must be made using the application form set out in the relevant practice direction.

Transitory provision: dealing with applications under rule 195

196.—(1) The court may, in determining an application under rule 195, treat the application as if it were an application to vary the functions of the deputy which is made in accordance with the relevant practice direction made under rule 71, and dispose of it accordingly.

(2) In any other case, an application under rule 195 may be determined by an order made or directions given by—

- (a) the court; or
- (b) a person nominated under paragraph (3).

(3) The Senior Judge or the President may nominate an officer or officers of the court for the purpose of determining applications under rule 195.

(4) Where an officer has been nominated under paragraph (3) to determine an application, he may refer to a judge any proceedings or any question arising in any proceedings which ought, in the officer's opinion, to be considered by a judge.

(1) 1983, c. 20.

Appeal against a decision of a nominated officer

197.—(1) This rule applies in relation to decisions made under rules 195 and 196 by a nominated officer.

(2) An appeal from a decision to which this rule applies lies to a judge of the court nominated by virtue of section 46(2)(e) of the Act.

(3) No permission is required for an appeal under paragraph (2).

(4) A judge determining an appeal under paragraph (2) has all the powers that an appeal judge on appeal has by virtue of rule 178.

(5) An appeal from a decision made under paragraph (2) (“a second appeal”) lies to a judge of the court nominated by virtue of section 46(2)(d) of the Act.

(6) A second appeal may be made from a decision of a nominated officer, and a judge to whom such an appeal is made may, if he considers the matter is one which ought to be heard by a judge of the court nominated by virtue of section 46(2)(a) to (c), transfer the matter to such a judge.

(7) An appeal from a decision made on a second appeal lies to the Court of Appeal.

Application of Rules to proceedings within paragraphs 3 and 12 of Schedule 5 to the Act

198.—(1) In this rule, “pending proceedings” means proceedings on an application within paragraph 3 or 12 of Schedule 5 to the Act.

(2) A practice direction shall make provision for the extent to which these Rules shall apply to pending proceedings.

Practice direction

199. A practice direction may make additional or different provision in relation to transitory and transitional matters.