
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 12

COURT PROCEDURE AND PRACTICE

CHAPTER 4

Making applications to court: specific applications

Sub-division C – persons unable to manage own property or affairs

Application and interpretation

12.23.—(1) This sub-division applies where it appears to the court in insolvency proceedings that a person affected by the proceedings is unable to manage and administer that person’s own property and affairs by reason of —

- (a) lacking capacity within the meaning of the Mental Capacity Act 2005(1);
- (b) suffering from a physical affliction; or
- (c) disability.

(2) Such a person is referred to in this sub-division as “the incapacitated person”.

Appointment of another person to act

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

(2) The appointment may be made either generally or for the purpose of a particular application or proceeding, or for the exercise of particular rights or powers which the incapacitated person might have exercised but for that person’s 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;
- (b) any person who appears to the court to be a suitable person to make the application;
- (c) the official receiver; or
- (d) the office-holder.

(4) An application may be made without notice to any other party.

(5) However the court may require such notice of the application as it thinks necessary to be delivered to the incapacitated person, or any other person, and may adjourn the hearing of the application to enable the notice to be delivered.

(1) 2005 c.9.

Witness statement in support of application

12.25. An application under rule 12.24(3) must be supported by a witness statement made by a registered medical practitioner as to the mental or physical condition of the incapacitated person.

Service of notices following appointment

12.26. Any notice served on, or sent to, a person appointed under rule 12.24 has the same effect as if it had been served on, or delivered to, the incapacitated person.