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STATUTORY INSTRUMENTS

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**2017 No. 1035**

**The Court of Protection Rules 2017**

**PART 2**

**INTERPRETATION AND GENERAL PROVISIONS**

**Interpretation**

**2.1.** In these Rules—

“the Act” means the Mental Capacity Act 2005;

“accredited legal representative” means a legal representative authorised pursuant to a scheme of accreditation approved by the President to represent persons meeting the definition of “P” in this rule in proceedings before the court;

“applicant” means a person who makes, or who seeks permission to make, an application to the court;

“application form” means the document that is to be used to begin proceedings in accordance with Part 9 of these Rules or any other provision of these Rules or the practice directions which requires the use of an application form;

“application notice” means the document that is to be used to make an application in accordance with Part 10 of these Rules or any other provision of these Rules or the practice directions which requires the use of an application notice;

“attorney” means the person appointed as such by an enduring power of attorney created, or purporting to have been created, in accordance with the regulations mentioned in paragraph 2 of Schedule 4 to the Act;

“business day” means a day other than—

- (a) a Saturday, Sunday, Christmas Day or Good Friday; or
- (b) a bank holiday in England and Wales, under the Banking and Financial Dealings Act 1971<sup>(1)</sup>;

“child” means a person under 18;

“civil restraint order” means an order restraining a party—

- (a) from making any further applications in current proceedings (a limited civil restraint order);
- (b) from making certain applications in the Court of Protection (an extended civil restraint order); or
- (c) from making any application in the Court of Protection (a general civil restraint order);

“court” means the Court of Protection;

“deputy” means a deputy appointed under the Act;

“donee” means the donee of a lasting power of attorney;

“donor” means the donor of a lasting power of attorney, except where the expression is used in rule 9.8 or 24.4(5) (where it means the donor of an enduring power of attorney);

“enduring power of attorney” means an instrument created in accordance with such of the regulations mentioned in paragraph 2 of Schedule 4 to the Act as applied when it was executed;

“filing” in relation to a document means delivering it, by post or otherwise, to the court office;

“hearing” includes a hearing conducted by telephone, video link, or any other method permitted or directed by the court;

“judge” means a judge nominated to be a judge of the court under the Act;

“lasting power of attorney” has the meaning given in section 9 of the Act;

“legal representative” means a—

- (a) barrister;
- (b) solicitor;
- (c) solicitor’s employee;
- (d) manager of a body recognised under section 9 of the Administration of Justice Act 1985(2); or
- (e) person who, for the purposes of the Legal Services Act 2007(3), is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act),

who has been instructed to act for a party in relation to any application;

“legally aided person” means a person to whom civil legal services (within the meaning of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(4)) have been made available under arrangements made for the purposes of Part 1 of that Act;

“order” includes a declaration made by the court;

“P” means—

- (a) any person (other than a protected party) who lacks or, so far as consistent with the context, is alleged to lack capacity to make a decision or decisions in relation to any matter that is the subject of an application to the court; and
- (b) a relevant person as defined by paragraph 7 of Schedule A1 to the Act,

and references to a person who lacks capacity are to be construed in accordance with the Act;

“party” is to be construed in accordance with rule 9.13;

“personal welfare” is to be construed in accordance with section 17 of the Act;

“President” and “Vice-President” refer to those judges appointed as such under section 46(3) (a) and (b) of the Act;

“property and affairs” is to be construed in accordance with section 18 of the Act;

“protected party” means a party or an intended party (other than P or a child) who lacks capacity to conduct the proceedings;

“representative” means a person appointed under rule 1.2(2)(c), except where the context otherwise requires;

“respondent” means a person who is named as a respondent in the application form or notice, as the case may be;

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(2) 1985 c. 61.  
(3) 2007 c. 29.  
(4) 2012 c. 10.

“rule 1.2 representative” means a representative or an accredited legal representative;

“Senior Judge” means the judge who has been nominated to be Senior Judge under section 46(4) of the Act, and references in these Rules to a circuit judge include the Senior Judge;

“Tier 1 Judge” means any judge nominated to act as a judge of the Court of Protection under section 46 of the Act who is neither a Tier 2 Judge nor a Tier 3 Judge;

“Tier 2 Judge” means—

- (a) the Senior Judge; and
- (b) such other judges nominated to act as a judge of the Court of Protection under section 46 of the Act as may be set out in the relevant practice direction;

“Tier 3 Judge” means—

- (a) the President;
- (b) the Vice-President; and
- (c) such other judges nominated to act as a judge of the Court of Protection under section 46 of the Act as may be set out in the relevant practice direction;

“Visitor” means a person appointed as such by the Lord Chancellor under section 61 of the Act.