
STATUTORY INSTRUMENTS

2017 No. 1035

The Court of Protection Rules 2017

PART 8

PERMISSION

Contents of this Part

General	Rule 8.1
Where the court's permission is not required	Rule 8.2
Permission - supplementary	Rule 8.3
Application for permission	Rule 8.4
Service of an order giving or refusing permission	Rule 8.5
Appeal against a permission decision following a hearing	Rule 8.6

General

8.1. Subject to these Rules and to section 50(1) of, and paragraph 20 of Schedule 3 to, the Act, the applicant must apply for permission to start proceedings under the Act.

(Section 50(1) of the Act specifies the persons who do not need to apply for permission. Paragraph 20 of Schedule 3 to the Act specifies an application for which permission is not needed.)

Where the court's permission is not required

8.2. The permission of the court is not required—

- (a) where an application is made by—
 - (i) the Official Solicitor; or
 - (ii) the Public Guardian;
- (b) where the application concerns—
 - (i) P's property and affairs;
 - (ii) a lasting power of attorney which is, or purports to be, created under the Act; or
 - (iii) an instrument which is, or purports to be, an enduring power of attorney;
- (c) where an application is made under section 21A of the Act⁽¹⁾;

(1) Section 21A was inserted by the Mental Health Act 2007 (c. 12), section 50(7), Schedule 9, paragraphs 1 and 2.

- (d) where an application is made for an order under section 16(2)(a) of the Act, which is to be relied on to authorise the deprivation of P’s liberty pursuant to section 4A(3) of the Act(2);
- (e) where an application is made in accordance with Part 10;
- (f) where a person files an acknowledgment of service or notification in accordance with this Part or Part 9, for any order proposed that is different from that sought by the applicant; or
- (g) in any other case specified for this purpose in a practice direction.

Permission - supplementary

8.3. Where part of the application concerns a matter which requires permission, and part of it does not, permission need only be sought for that part of it which requires permission.

Application for permission

8.4. Where permission is required, the applicant must apply for permission when making an application.

(Rule 3.6(3) explains how the court will deal with an application for permission.)

Service of an order giving or refusing permission

8.5. The court must serve—

- (a) the order granting or refusing permission;
- (b) if refusing permission without a hearing, the reasons for its decision in summary form; and
- (c) any directions,

on the applicant and on any other person served with or notified of the application form.

Appeal against a permission decision following a hearing

8.6. Where the court grants or refuses permission following a hearing, any appeal against the permission decision shall be dealt with in accordance with Part 20 (appeals).

(Rule 13.4 deals with reconsideration of orders and decisions made without a hearing or without notice to any person who is affected by such order or decision.)

(2) Section 4A was inserted by the Mental Health Act 2007 (c. 12), section 50(1) and(2).