



Mental Capacity Act 2005

2005 CHAPTER 9

PART 2

THE COURT OF PROTECTION AND THE PUBLIC GUARDIAN

The Court of Protection

46 The judges of the Court of Protection

- (1) Subject to Court of Protection Rules under section 51(2)(d), the jurisdiction of the court is exercisable by a judge nominated for that purpose by—
- (a) the [^{F1}Lord Chief Justice]^{F1}, or
 - [^{F2}(b) where nominated by the Lord Chief Justice to act on his behalf under this subsection—
 - (i) the President of the Court of Protection; or
 - (ii) a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005).]
- ^{F2}(2) To be nominated, a judge must be—
- (a) the President of the Family Division,
 - (b) the Vice-Chancellor,
 - (c) a puisne judge of the High Court,
 - (d) a circuit judge, or
 - (e) a district judge.
- (3) The [^{F3}Lord Chief Justice, after consulting the Lord Chancellor,]^{F3} must—
- (a) appoint one of the judges nominated by virtue of subsection (2)(a) to (c) to be President of the Court of Protection, and
 - (b) appoint another of those judges to be Vice-President of the Court of Protection.
- (4) The [^{F4}Lord Chief Justice, after consulting the Lord Chancellor,]^{F4} must appoint one of the judges nominated by virtue of subsection (2)(d) or (e) to be Senior Judge of the

Status: Point in time view as at 01/10/2009. This version of this provision has been superseded.

Changes to legislation: Mental Capacity Act 2005, Section 46 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Court of Protection, having such administrative functions in relation to the court as the Lord Chancellor [^{F5}, after consulting the Lord Chief Justice,]^{F5} may direct.

Textual Amendments

- F1** Words in s. 46(1)(a) substituted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), arts. 1, 2, **Sch. 1 para. 33(2)**
- F2** S. 46(1)(b) substituted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), arts. 1, 2, **Sch. 1 para. 33(3)**
- F3** Words in s. 46(3) substituted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), arts. 1, 2, **Sch. 1 para. 33(4)**
- F4** Words in s. 46(4) substituted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), arts. 1, 2, **Sch. 1 para. 33(5)(a)**
- F5** Words in s. 46(4) inserted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), arts. 1, 2, **Sch. 1 para. 33(5)(b)**

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