

2007 No. 2189 (L.19)

FAMILY PROCEEDINGS, ENGLAND & WALES

The Family Procedure (Adoption) (Amendment) Rules 2007

Made - - - - *23rd July 2007*

Laid before Parliament *26th July 2007*

Coming into force - - *1st October 2007*

The Family Procedure Rule Committee makes the following Rules, in exercise of the powers conferred upon it by sections 75(2) and (4) of the Courts Act 2003(a).

Citation and commencement

1. These Rules may be cited as the Family Procedure (Adoption) (Amendment) Rules 2007 and shall come into force on 1 October 2007.

Amendment of the Family Procedure (Adoption) Rules 2005

2. The Family Procedure (Adoption) Rules 2005(b) shall be amended in accordance with rules 3 to 14 below.

3. In the arrangement of rules—

- (a) in the entry for rule 37, for “patients” substitute “protected parties”; and
- (b) in the entry for rule 53, for “patient” substitute “protected party”.

4. In rule 6—

- (a) omit the definition of “patient”; and
- (b) insert the following definitions in alphabetical order –
 - “the 2005 Act” means the Mental Capacity Act 2005 (c.9);
 - “deputy” has the meaning given in section 16(2)(b) of the 2005 Act;
 - “enduring power of attorney” has the meaning given in Schedule 4 to the 2005 Act;
 - “lasting power of attorney” has the meaning given in section 9 of the 2005 Act;
 - “protected party” means a party, or an intended party, who lacks capacity (within the meaning of the 2005 Act) to conduct the proceedings;”.

5. In rule 26(1)(d), for the word “patient” substitute “protected party”.

6.—(1) In the title of rule 37, for the word “patients” substitute “protected parties”.

(2) In rule 37—

- (a) for each reference to “patient” substitute a reference to “protected party”; and

(a) 2003 c.39.
(b) S.I. 2005/2795.

- (b) in paragraph (1), for the fifth row of the third column in the table, substitute –
 “A person who is the attorney of a registered enduring power of attorney, donee of a lasting power of attorney or deputy of the protected party;”.
7. In rule 49(1)(a), for the word “patients” substitute “protected parties”.
8. In rule 50(2), for the word “patient” substitute “protected party”.
9. In rule 52—
- (a) for each reference to “patient” substitute a reference to “protected party”; and
- (b) in paragraph (3) –
- (i) omit the words “a party becomes a patient”; and
- (ii) after the words “during proceedings”, insert “a party lacks capacity (within the meaning of the 2005 Act) to continue to conduct the proceedings”.
- 10.—(1) In the title of rule 53, for the word “patient” substitute “protected party”.
- (2) In rule 53—
- (a) for each reference to “patient” substitute a reference to “protected party”;
- (b) in paragraph (2) –
- (i) for the words “authorised under Part VII of the Mental Health Act 1983” substitute “with authority as a deputy”; and
- (ii) for the word “legal” substitute “the”; and
- (c) in paragraph (3), for the words “authorised under Part VII of the Mental Health Act 1983” substitute “with authority as a deputy to conduct the proceedings in the name of a protected party or on his behalf”.
11. In rule 54—
- (a) in paragraph (2) –
- (i) for the words “authorised under Part VII of the Mental Health Act 1983” substitute “with authority as a deputy to conduct the proceedings in the name of a protected party or on his behalf”;
- (ii) after the word “order”, insert “, declaration”; and
- (iii) for the words “constitutes his authorisation” substitute “confers his authority”; and
- (b) in paragraph (4) –
- (i) in sub-paragraph (a), for the word “authorisation” substitute “document conferring his authority to act”; and
- (ii) for the word “patient” substitute “protected party”.
12. In rule 55(5), for the word “patient” substitute “protected party”.
13. In rule 57(2), for each reference to “patient” substitute a reference to “protected party”.
14. In rule 58—
- (a) for each reference to “patient” substitute a reference to “protected party”; and
- (b) in paragraph (4), for the word “patient’s” substitute “protected party’s”.

*Mark Potter, P
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Katharine Marshall
David Salter
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I allow these Rules

23rd July 2007

Jack Straw
Lord Chancellor

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make minor amendments to the Family Procedure (Adoption) Rules 2005 that are consequential upon the Mental Capacity Act 2005 (c.9) coming into force.

These Rules amend terms and references in line with terms and references used in the Mental Capacity Act 2005.

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