

2009 No. 582 (L. 4)

MENTAL CAPACITY, ENGLAND AND WALES

The Court of Protection (Amendment) Rules 2009

<i>Made</i> - - - -	<i>5th March 2009</i>
<i>Laid before Parliament</i>	<i>11th March 2009</i>
<i>Coming into force</i> - -	<i>1st April 2009</i>

The President of the Family Division of the High Court (the judicial office holder nominated by the Lord Chief Justice), with the agreement of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by sections 51 and 65(1) of the Mental Capacity Act 2005(a) and in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005(b).

Citation and commencement

1. These Rules may be cited as the Court of Protection (Amendment) Rules 2009 and shall come into force on 1st April 2009.

Amendments to the Court of Protection Rules 2007

2. The Court of Protection Rules 2007(c) are amended in accordance with rules 3 to 5.
3. In rule 6, the definition of “P” is amended as follows—
 - (a) after “means”, insert “—(a)”; and
 - (b) after “court”, insert—
 - “; and
 - (b) a relevant person as defined by paragraph 7 of Schedule A1 to the Act.”.
4. In rule 51, after paragraph (2) insert—

“(2A) where an application is made under section 21A of the Act by the relevant person’s representative;”
5. After Part 10 insert—

“PART 10A

DEPRIVATION OF LIBERTY

82A. The practice direction to this Part sets out procedure governing—

(a) 2005, c.9, amended by the Mental Health Act 2007 (c.12), section 50.
(b) 2005, c.4.
(c) S.I. 2007/1744.

- (a) applications to the court for orders relating to the deprivation, or proposed deprivation, of liberty of P; and
- (b) proceedings (for example, relating to costs or appeals) connected with or consequent upon such applications.”

27th February 2009

Sir Mark Potter
President

I agree

Signed on the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

5th March 2009

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules amend the Court of Protection Rules (SI 2007/1744) by adding supporting rules for the new deprivation of liberty jurisdiction which is prospectively inserted into the Mental Capacity Act 2005 (“the Act”) by section 50 of the Mental Health Act 2007 and comes into force on 1st April 2009.

The amendments are as follows. In the definition of “P” in rule 6 (interpretation), reference is added to a relevant person as defined by paragraph 7 of Schedule A1 to the Act.

In rule 51 (where the court’s permission is not required), new paragraph (2A) is added specifying the case where an application is made under section 21A of the Act by the relevant person’s representative.

New Part 10A (Deprivation of Liberty matters) is inserted, consisting of new rule 82A which provides that procedure for applications relating to deprivation of liberty issues, and for connected and consequential proceedings, is set out in the practice direction to the Part.

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