
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Court of Protection Rules 2007 (“the 2007 Rules”) by—

- in Part 3 of the 2007 Rules (the overriding objective)—
 - inserting a new rule 3A making provision for the court to consider how “P” should be enabled to participate in proceedings; and
 - amending rule 4 to reinforce the duty of the parties to co-operate so as to further the overriding objective of dealing with cases justly having regard to the principles in the Mental Capacity Act 2005;
- in Part 5 of the 2007 Rules (interpretation and general provisions)—
 - amending and adding definitions in rule 6 (interpretation) for the purposes of amendments made elsewhere in the 2007 Rules;
 - replacing rule 9 (application of the Civil Procedure Rules) with a new rule 9 allowing for application of the Family Procedure Rules as well as the Civil Procedure Rules, and a new rule 9A enabling the rules to be applied with modifications for the purposes of pilot schemes;
- in Parts 4 (court documents) and 5 (general case management powers), making amendments consequential on changes elsewhere in the 2007 Rules;
- in Part 6 (service of documents), introducing free-standing rules on service of documents out of the jurisdiction in place of provision incorporating provisions of the Family Procedure Rules 2010 by reference;
- in Part 7 (notifying P), making amendments to make notification less burdensome and more effective, and amendments consequential on changes elsewhere in the 2007 Rules;
- in Parts 8 (permission), 9 (how to start proceedings) and 12 (dealing with applications), making amendments to remove the need for a separate application where permission is required, removing the requirement for permission in certain cases and enabling the requirement for permission to be removed from other types of case;
- in Part 10 (applications within proceedings), introducing free-standing rules on security for costs in place of provision incorporating provisions of the Civil Procedure Rules 1998 by reference, together with amendments consequential on changes elsewhere in the 2007 Rules;
- in Part 12 (dealing with applications), making amendments in relation to allocation of types of cases to levels of judge, reflecting the introduction of Tier 1, Tier 2 and Tier 3 categories of judge following widening of the pool of judges who may be judges of the Court of Protection by virtue of changes made by the Crime and Courts Act 2013⁽¹⁾;
- in Part 13 (hearings), making amendments to allow communication of information about proceedings to third parties for specified purposes (for example, research), and for the court to be able to do this on its own initiative;
- replacing Part 17 with a revised Part (litigation friends and rule 3A representatives) making provision about who may act as a litigation friend for P or as a representative or accredited

⁽¹⁾ 2013 c. 22: see Part 3 of Schedule 14, amending section 46 of the Mental Capacity Act 2005.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- legal representative as provided for in the new rule 3A; how a litigation friend or such “rule 3A representative” is appointed; and how such an appointment may be brought to an end;
- in Part 19 (costs), making amendments to ensure that where provisions of the Civil Procedure Rules are incorporated by reference, they are the provisions following amendment as part of the implementation of Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(2);
 - in Part 20 (appeals), making provision for appeals within the Court of Protection between the different tiers of judge, and revised provision about appeals to the Court of Appeal;
 - in Part 21 (enforcement), making amendments to ensure that where provisions of the Civil Procedure Rules are incorporated by reference, they are the provisions following recent amendment.

(2) 2012 c. 10.