
STATUTORY INSTRUMENTS

2017 No. 1293

The Magistrates' Courts (Detention and Forfeiture of Listed Assets) Rules 2017

Giving a document to a child or a protected person

15.—(1) Where the intended recipient of a document is known to be a child who is not also a protected person, the document must be given to the child and—

- (a) one of the child's parents or guardians; or
- (b) if there is no parent or guardian, an adult with whom the child resides or in whose care the child is.

(2) Where the intended recipient of a document is known to be a protected person, the document must be given to the protected person and—

- (a) where the protected person is resident in England and Wales, to one of the following persons—
 - (i) the attorney under a registered enduring power of attorney which relates to the protected person;
 - (ii) the donee of a lasting power of attorney which relates to the protected person; or
 - (iii) the deputy appointed in relation to the protected person by the Court of Protection;
- (b) where the protected person is resident in Northern Ireland, to one of the following persons—
 - (i) the attorney under a registered enduring power of attorney which relates to the protected person;
 - (ii) the controller appointed in relation to the protected person by the Office of Care and Protection;
- (c) where the protected person is resident in Scotland, to one of the following persons—
 - (i) the continuing attorney under a continuing power of attorney which relates to the protected person;
 - (ii) the welfare attorney under a welfare power of attorney which relates to the protected person;
 - (iii) the person authorised under an intervention order in respect of the protected person;
 - (iv) the person authorised under a guardianship order in respect of the protected person;
 - (v) the person authorised under a withdrawal certificate in respect of the protected person; or
- (d) if in any case under sub-paragraph (a), (b) or (c) there is no such person, to an adult with whom the protected person resides or in whose care the protected person is.

(3) Any reference in these Rules to a person to whom a document is to be given includes the person to be given documents on behalf of a child or protected person under paragraph (1) or (2).

(4) The court may make an order permitting a document to be given to a child or protected person, or to a person other than the person specified in paragraph (1) or (2), and an application for such an order may be made without notice.

(5) In this rule—

(a) “child” means a person under 18 years; and

(b) “protected person” means—

- (i) in relation to England and Wales, a person who lacks capacity (within the meaning of the Mental Capacity Act 2005⁽¹⁾) to understand the nature of forfeiture proceedings;
- (ii) in relation to Northern Ireland, a person who is 16 years or over who lacks capacity to understand the nature of forfeiture proceedings because of an impairment of, or a disturbance in the functioning of, the mind or brain;
- (iii) in relation to Scotland, a person who is incapable, within the meaning of the Adults with Incapacity (Scotland) Act 2000⁽²⁾, of understanding the nature of forfeiture proceedings.

(1) 2005 c. 9.
(2) 2000 asp 4.