

**2011 No. 2753 (L. 19)**

**MENTAL CAPACITY, ENGLAND AND WALES**

**The Court of Protection (Amendment) Rules 2011**

*Made* - - - - *16th November 2011*

*Laid before Parliament* *21st November 2011*

*Coming into force* - - *12th December 2011*

The President of the Family Division (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, commencement and interpretation**

1. These Rules may be cited as the Court of Protection (Amendment) Rules 2011 and come into force on 12th December 2011.

2. In these Rules, a reference to a rule by number alone means the rule so numbered in the Court of Protection Rules 2007(c).

**Amendment to the Court of Protection Rules 2007**

3. After rule 7 (court officers) insert—

“7A.—(1) The Senior Judge or the President may authorise a court officer to exercise the jurisdiction of the court in such circumstances as set out in the relevant practice direction.

(2) A court officer who has been authorised under paragraph (1)—

- (a) must refer to a judge any application, proceedings or any question arising in any application or proceedings which ought, in the officer’s opinion, to be considered by a judge;
- (b) may not deal with any application or proceedings or any question arising in any application or proceedings by way of a hearing; and
- (c) may not deal with an application for the reconsideration of an order made by that court officer or another court officer.”.

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(a) 2005 c. 9. Section 51 was amended by the Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No 2) Order 2006 (S.I. 2006/1016), article 2 and paragraphs 30 and 34 of Schedule 1. Section 65(1) was amended by S.I. 2006/1016, article 2 and paragraphs 30 and 37(1) and (2) of Schedule 1.

(b) 2005 c. 4.

(c) S.I. 2007/1744. There are no relevant amending instruments.

16th November 2011

*Sir Nicholas Wall*  
President of the Family Division

I agree

Signed on the authority of the Lord Chancellor

*J Djanogly*  
Parliamentary Under Secretary of State  
Ministry of Justice

16th November 2011

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Court of Protection Rules 2007 (S.I. 2007/1744) so as to enable authorised court officers to exercise the court's jurisdiction in the circumstances specified in the relevant practice direction. Such officers however will not be able to deal with any application or proceedings by way of a hearing nor an application for the reconsideration of their own or another authorised court officer's decision. Authorised court officers will be required to refer any issue that arises to a judge for the judge's consideration.

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