STATUTORY INSTRUMENTS

2017 No. 187 (L. 3)

MENTAL CAPACITY, ENGLAND AND WALES

The Court of Protection (Amendment) Rules 2017

Made - - - -	*20th February 2017*
Laid before Parliament	*23rd February 2017*
Coming into force - -	*6th April 2017*

The President of the Family Division (the judicial office holder nominated by the Lord Chief Justice), being President of the Court of Protection, makes the following Rules in exercise of the powers conferred by section 51 of the Mental Capacity Act 2005(**1**), and in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005(**2**):

Citation, commencement and interpretation

1. These Rules may be cited as the Court of Protection (Amendment) Rules 2017.

2. These Rules come into force on 6th April 2017.

3. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Court of Protection Rules 2007(**3**).

Amendments to the Court of Protection Rules 2007

4. The Court of Protection Rules 2007 are amended in accordance with rules 5 to 7 of these Rules.

Amendment to rule 6

5. In rule 6 (interpretation), after the definition of "child" insert—

""civil restraint order" means an order restraining a party—

(a) from making any further applications in current proceedings (a limited civil restraint order);

(b) from making certain applications in the Court of Protection (an extended civil restraint order); or

(**1**) 2005 c. 9. Section 51 was amended by S.I. 2006/1016, article 2, Schedule 1 paragraphs 30 and 34.
(**2**) 2005 c. 4.
(**3**) S.I. 2007/1744, to which there are relevant amendments in S.I. 2009/582, S.I. 2009/3348, S.I. 2011/2753 and S.I. 2015/548.

(c) from making any application in the Court of Protection (a general civil restraint order).”

New rule after rule 202

6. After rule 202, insert—

“**Power of the court to make civil restraint orders**

203.—(1) If the court, whether or not on its own initiative, dismisses an application (including an application for permission) and considers that the application is totally without merit—

(a) the court’s order must record that fact; and

(b) the court must at the same time consider whether it is appropriate to make a civil restraint order.

(2) Practice Direction 23C sets out—

(a) the circumstances in which the court has the power to make a civil restraint order against a party to proceedings;

(b) the procedure where a party applies for a civil restraint order against another party; and

(c) the consequences of the court making a civil restraint order.”.

New Part after Part 23

7. After Part 23, insert Part 24 as set out in the Schedule to these Rules.

Sir James Munby, P
President of the Family Division

I allow these Rules
Signed by authority of the Lord Chancellor

Phillip Lee
Parliamentary Under Secretary of State
Ministry of Justice

20th February 2017