



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 2

#### THE COURT OF PROTECTION AND THE PUBLIC GUARDIAN

##### *Fees and costs*

#### **54 Fees**

- (1) The Lord Chancellor may with the consent of the Treasury by order prescribe fees payable in respect of anything dealt with by the court.
- (2) An order under this section may in particular contain provision as to—
  - (a) scales or rates of fees;
  - (b) exemptions from and reductions in fees;
  - (c) remission of fees in whole or in part.
- (3) Before making an order under this section, the Lord Chancellor must consult—
  - (a) the President of the Court of Protection,
  - (b) the Vice-President of the Court of Protection, and
  - (c) the Senior Judge of the Court of Protection.
- (4) The Lord Chancellor must take such steps as are reasonably practicable to bring information about fees to the attention of persons likely to have to pay them.
- (5) Fees payable under this section are recoverable summarily as a civil debt.

#### **55 Costs**

- (1) Subject to Court of Protection Rules, the costs of and incidental to all proceedings in the court are in its discretion.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The rules may in particular make provision for regulating matters relating to the costs of those proceedings, including prescribing scales of costs to be paid to legal or other representatives.
- (3) The court has full power to determine by whom and to what extent the costs are to be paid.
- (4) The court may, in any proceedings—
  - (a) disallow, or
  - (b) order the legal or other representatives concerned to meet,the whole of any wasted costs or such part of them as may be determined in accordance with the rules.
- (5) “Legal or other representative”, in relation to a party to proceedings, means any person exercising a right of audience or right to conduct litigation on his behalf.
- (6) “Wasted costs” means any costs incurred by a party—
  - (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
  - (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

## **56 Fees and costs: supplementary**

- (1) Court of Protection Rules may make provision—
  - (a) as to the way in which, and funds from which, fees and costs are to be paid;
  - (b) for charging fees and costs upon the estate of the person to whom the proceedings relate;
  - (c) for the payment of fees and costs within a specified time of the death of the person to whom the proceedings relate or the conclusion of the proceedings.
- (2) A charge on the estate of a person created by virtue of subsection (1)(b) does not cause any interest of the person in any property to fail or determine or to be prevented from recommencing.