
STATUTORY INSTRUMENTS

2017 No. 1035

The Court of Protection Rules 2017

PART 13

**JURISDICTION, WITHDRAWAL OF PROCEEDINGS,
PARTICIPATION AND RECONSIDERATION**

Contents of this Part

Disputing the jurisdiction of the court

Procedure for disputing the court's jurisdiction Rule 13.1

Withdrawal of proceedings

Permission required to withdraw proceedings Rule 13.2

Participation in hearings

Participation in hearings Rule 13.3

Reconsideration of court orders

Orders made without a hearing or without
notice to any person Rule 13.4

Disputing the jurisdiction of the court

Procedure for disputing the court's jurisdiction

13.1.—(1) A person who wishes to—

- (a) dispute the court's jurisdiction to hear an application; or
- (b) argue that the court should not exercise its jurisdiction,

may apply to the court at any time for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction that it may have.

(2) An application under this rule must be—

- (a) made by using the form specified in the relevant practice direction; and
- (b) supported by evidence.

(3) An order containing a declaration that the court has no jurisdiction or will not exercise its jurisdiction may also make further provision, including—

- (a) setting aside the application;
- (b) discharging any order made;
- (c) staying the proceedings;

- (d) discharging any litigation friend or rule 1.2 representative.

Withdrawal of proceedings

Permission required to withdraw proceedings

- 13.2.—(1) Proceedings may only be withdrawn with the permission of the court.
- (2) An application to withdraw proceedings must be made in accordance with Part 10.

Participation in hearings

Participation in hearings

13.3.—(1) The court may hear P on the question of whether or not an order should be made, whether or not P is a party to the proceedings.

(2) The court may proceed with a hearing in the absence of P if it considers that it would be appropriate to do so.

(3) A person other than P who is served with or notified of the application may only take part in a hearing if—

- (a) that person files an acknowledgment in accordance with these Rules and is made a party to the proceedings; or
- (b) the court permits.

(Rule 1.2 deals with participation of P.)

Reconsideration of court orders

Orders made without a hearing or without notice to any person

13.4.—(1) This rule applies where the court makes an order—

- (a) without a hearing; or
- (b) without notice to any person who is affected by it.

(2) Where this rule applies—

- (a) P;
- (b) any party to the proceedings; or
- (c) any other person affected by the order,

may apply to the court for reconsideration of the order made.

(3) An application under paragraph (2) must be made—

- (a) within 21 days of the order being served or such other period as the court may direct; and
- (b) in accordance with Part 10.

(4) The court shall—

- (a) reconsider the order without directing a hearing; or
- (b) fix a date for the matter to be heard and notify all parties to the proceedings, and such other persons as the court may direct, of that date.

(5) Where an application is made in accordance with this rule, the court may affirm, set aside or vary any order made.

- (6) An order made by a court officer authorised under rule 2.3 may be reconsidered by any judge.
 - (7) An order made by a Tier 1 Judge may be reconsidered by any judge.
 - (8) An order made by a Tier 2 Judge may be reconsidered by any Tier 2 Judge or by a Tier 3 Judge.
 - (9) An order made by a Tier 3 Judge may be reconsidered by any Tier 3 Judge.
 - (10) In any case to which paragraphs (7) to (9) apply the reconsideration may be carried out by the judge who made the order being reconsidered.
 - (11) No application may be made seeking a reconsideration of—
 - (a) an order that has been made under paragraph (5); or
 - (b) an order granting or refusing permission to appeal.
 - (12) An appeal against an order made under paragraph (5) may be made in accordance with Part 20 (appeals).
 - (13) Any order made without a hearing or without notice to any person, other than one made under paragraph (5) or one granting or refusing permission to appeal, must contain a statement of the right to apply for a reconsideration of the decision in accordance with this rule.
 - (14) An application made under this rule may include a request that the court reconsider the matter at a hearing.
- (Rule 2.3(2)(c) provides that a court officer authorised under that rule may not deal with an application for the reconsideration of an order made by that court officer or another court officer.)

Changes to legislation:

There are currently no known outstanding effects for the The Court of Protection Rules 2017, PART 13.