



In the Royal Court of the Island of Guernsey

The

Orders of the Royal Court

I

2025

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

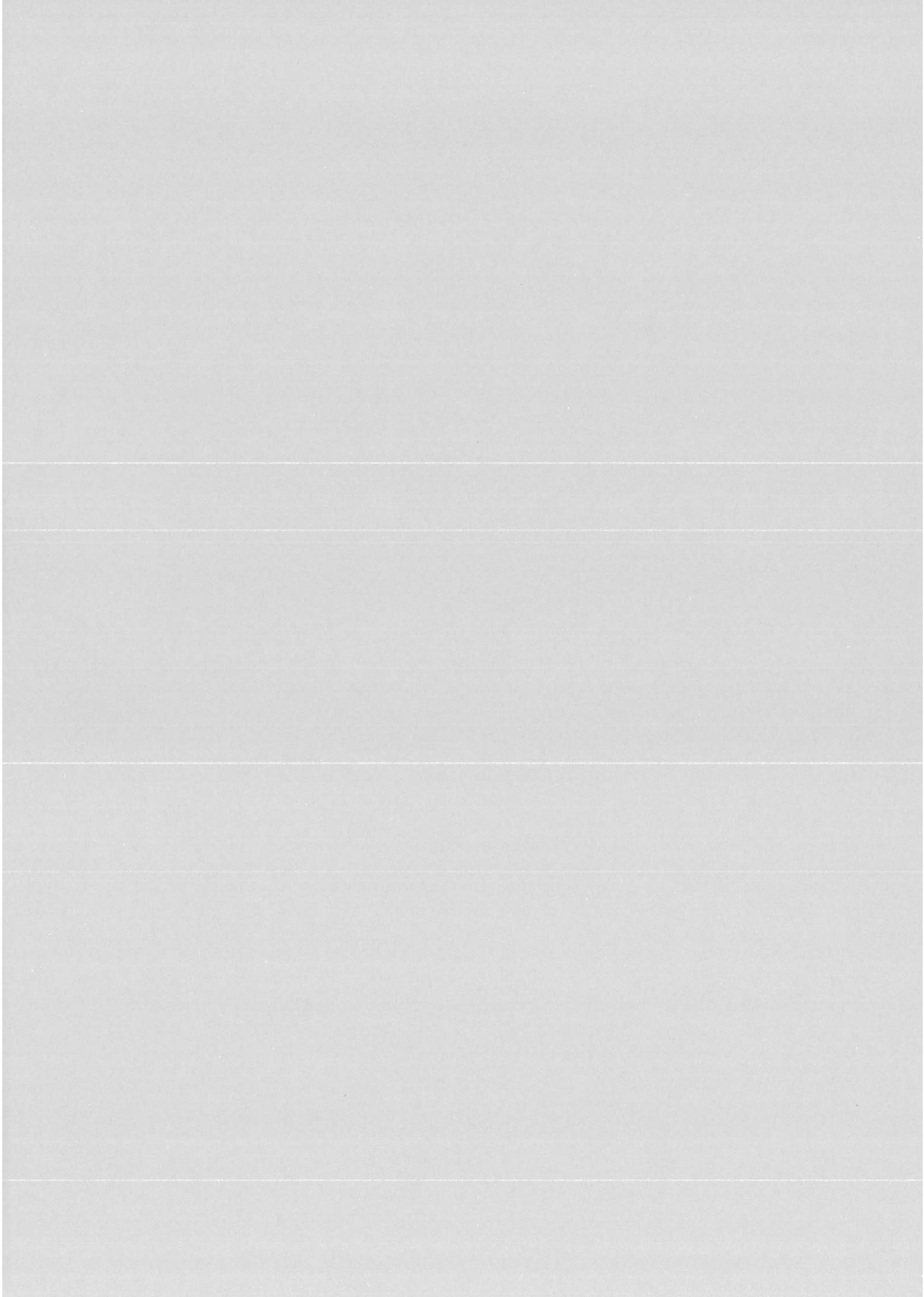
12th day of May, 2025 before Sir Richard McMahon, Bailiff; present:- Stephen Murray Jones, OBE, Claire Helen Le Pelley, Steven John Morris, Stuart Michael Crisp, Marilyn Jasmine King, Tina Jane Le Poidevin, Felicity Jane Quevâtre, Simon Ernest Bodkin, Jillian Clark, Richard Jeremy Wallen James, Ian Michael Brown, Kay Alison Parnwell, Jurats.

No.I Order, 2025

ENTITLED

THE CAPACITY (ADVANCE DECISIONS TO REVIEW TREATMENT)

RULES, 2025



The Capacity (Advance Decisions to Refuse Treatment) Rules, 2025

THE ROYAL COURT, in exercise of the powers conferred upon it by sections 21 and 83 of the Capacity (Bailiwick of Guernsey) Law, 2020^a, and all other powers enabling it in that behalf, hereby orders:-

Application to the Court for a declaration.

1. (1) Subject to paragraph (2), where a person wishes to make an application for the Court to make a declaration under section 37(4) of the Law ("a **declaration**"), that person shall serve notice of such application on -

- (a) the person who made the advance decision ("P"),
- (b) if P has not reached 18, any person with parental responsibility for P,
- (c) any attorney under a lasting power of attorney for health and welfare affairs created and activated in accordance with the Law,
- (d) a guardian appointed by a court for P, and
- (e) any other person directed by the Court,

by summons, accompanied by such evidence as that person wishes to rely upon.

(2) Where an application is made to the Court under paragraph (1) in

^a Order in Council No. II of 2021

circumstances where a declaration is sought as a matter of urgency, the person shall serve as many of the persons set out in that paragraph as reasonably practicable, having regard to -

- (a) the likelihood of a serious deterioration in P's condition without the provision of the medical treatment specified in the advance decision, and
- (b) the likelihood of a serious deterioration in P's condition if serving any of the persons set out in that paragraph would cause an unjustifiable delay.

Procedure before Royal Court.

2. (1) The Court may call for such documents and examine such persons on oath, affirmation or otherwise as appear likely to afford testimony relevant and material to the making of a declaration.

(2) Any party to an application under rule 1 may cause a summons to be served on any person, in the same manner as a witness summons must be served in respect of a civil action before the Court under rule 85 of the Royal Court Civil Rules, 2007, summoning that person to attend a hearing of the Court for the purpose of giving testimony or producing any document likely to assist the Court in making a declaration.

(3) A person summoned in accordance with paragraph (2) shall be under a like obligation as to the giving of testimony and the production of documents as if that person were summoned in respect of a civil action before the Court under rule 85 of the Royal Court Civil Rules, 2007.

(4) The Court may adjourn the hearing of any application for a declaration from time to time as it may think fit.

(5) Where the Court is satisfied that all the persons whom it is reasonably practicable to serve under rule 1, having regard to the urgency of the application and the factors set out in rule 1(2), the Court may proceed to make a declaration in the absence of any of those persons.

(6) Where the Court is satisfied that any of the persons served under rule 1 have been notified of the time, date and location of the hearing of the application for a declaration, and if any such person fails to appear, the Court may proceed to make a declaration in the absence of that person.

(7) For the avoidance of doubt, the Royal Court Civil Rules, 2007 shall apply to any application made under rule 1, save as otherwise expressly provided in these Rules and subject to any decision of the Royal Court to depart from them where it is just to do so.

(8) An appeal from a declaration made by the Court lies to the Court of Appeal on a question of law.

Interpretation.

3. (1) In these Rules, except where the context requires otherwise -

"**advance decision**" means an advance decision to refuse treatment made in accordance of Part 5 of the Law,

"**the Court**" means the Royal Court, sitting as an Ordinary Court,

"**declaration**" has the meaning given in rule 1,

"**the Law**" means the Capacity (Bailiwick of Guernsey) Law, 2020,

and any other expressions, unless the context otherwise requires, have the same meaning

as in the Law.

(2) The Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016^b applies to the interpretation of these Rules as it applies to the interpretation of an enactment.

Citation.

4. These Rules may be cited as the Capacity (Advance Decision to Refuse Treatment) Rules, 2025.

Commencement.

5. These Rules shall come into force on the 12th May, 2025.

^b Order in Council No. V of 2018.