
STATUTORY INSTRUMENTS

1987 No. 1627

**The Enduring Powers of Attorney
(Northern Ireland) Order 1987**

Supplementary

Application of Mental Health Order provisions

12.—(1) The provisions of part VIII of the Mental Health (Northern Ireland) Order 1986 specified below shall apply to persons within and proceedings under this Order in accordance with the following sub-paragraphs and paragraph (2), that is to say—

- (a) Article 105 (functions of Visitors) shall apply to persons within this Order as it applies to the persons mentioned in that Article;
- (b) Article 106, (rules of court) except head (h), shall apply to proceedings under this Order and persons within this Order as it applies to the proceedings and persons mentioned in that Article.

(2) Any functions conferred or imposed by the provisions of the said part VIII applied by paragraph (1) shall be exercisable also for the purposes of this Order and the persons who are “within this Order” are the donors of and attorneys under enduring powers of attorney whether or not they would be patients for the purposes of the said part VIII.

Application to joint and joint and several attorneys

13.—(1) An instrument which appoints more than one person to be an attorney cannot create an enduring power unless the attorneys are appointed to act jointly or jointly and severally.

(2) This Order, in its application to joint attorneys, applies to them collectively as it applies to a single attorney but subject to the modifications specified in part I of Schedule 3.

(3) This Order, in its application to joint and several attorneys, applies with the modifications specified in paragraphs (4) to (7) and in part II of Schedule 3.

(4) A failure, as respects any one attorney, to comply with the requirements for the creation of enduring powers, shall prevent the instrument from creating such a power in his case without however affecting its efficacy for that purpose as respects the other or others or its efficacy in his case for the purpose of creating a power of attorney which is not an enduring power.

(5) Where one or more but not both or all the attorneys makes or joins in making an application for registration of the instrument then—

- (a) an attorney who is not an applicant as well as one who is may act pending the initial determination of the application as provided in Article 3(2) (or under Article 7);
- (b) notice of the application shall also be given under Schedule 1 to the other attorney or attorneys; and
- (c) objection may validly be taken to the registration on a ground relating to an attorney or to the power of an attorney who is not an applicant as well as to one or the power of one who is an applicant.

(6) The court shall not refuse under Article 8(6) to register an instrument because a ground of objection to an attorney or power is established if an enduring power subsists as respects some attorney who is not affected thereby but shall give effect to it by the prescribed qualification of the registration.

(7) The court shall not cancel the registration of an instrument under Article 10(4) for any of the causes vitiating registration specified in that paragraph if an enduring power subsists as respects some attorney who is not affected thereby but shall give effect to it by the prescribed qualification of the registration.

(8) In this Article—

“prescribed” means prescribed by rules of court; and

“the requirements for the creation of enduring powers” means the provisions of Article 4 other than paragraphs (9) to (11) and of regulations under paragraph (2) of that Article.

Power to modify pre-registration requirements in certain cases

14.—(1) The Department of Finance and Personnel may by order exempt attorneys of such descriptions as it thinks fit from the requirements of this Order to give notice to relatives prior to registration.

(2) Subject to paragraph (3), where an order is made under this Article with respect to attorneys of a specified description then, during the currency of the order, this Order shall have effect in relation to any attorney of that description with the omission of so much of Article 6(3) and Schedule 1 as requires notice of an application for registration to be given to relatives.

(3) Notwithstanding that an attorney under a joint or joint and several power is of a description specified in a current order under this Article, paragraph (2) shall not apply in relation to him if any of the other attorneys under the power is not of a description specified in that or another current order under this Article.

(4) An order made under this Article shall be subject to negative resolution.