



# Guardianship (Missing Persons) Act 2017

## 2017 CHAPTER 27

### *Guardianship orders*

#### **6 Guardian's role: rights and powers etc**

- (1) A guardianship order must appoint the guardian to exercise on behalf of the missing person—
  - (a) all of the missing person's rights and powers in relation to the property or financial affairs to which the order relates, or
  - (b) such of those rights and powers as are specified or described in the order, (but see subsections (5) to (8)).
- (2) A guardianship order may—
  - (a) impose duties on the guardian;
  - (b) include conditions and restrictions.
- (3) The court's powers under subsection (2) include power—
  - (a) to require the guardian to give the Public Guardian security for the exercise of the guardian's functions;
  - (b) to require the guardian to submit to the Public Guardian such reports at such times or intervals as the court may direct;
  - (c) to make provision suspending the guardian's authority to exercise rights and powers for a period.
- (4) The rights and powers that a guardian may be appointed to exercise include—
  - (a) selling, letting or mortgaging the missing person's property;
  - (b) making investments;
  - (c) executing deeds and other documents;
  - (d) recovering money owed to the missing person;
  - (e) discharging debts and other obligations of the missing person (whether legally enforceable or not);
  - (f) resigning trusteeships held by the missing person;
  - (g) bringing or conducting legal proceedings;

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*Status: This is the original version (as it was originally enacted).*

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- (h) making a gift out of the missing person's property.
- (5) A guardianship order has effect subject to the restrictions in subsections (6) to (8).
- (6) A guardian may not—
- (a) execute a will for the missing person, or
  - (b) exercise a power vested in the missing person as a trustee in relation to another person's property.
- (7) A guardian may only make a gift out of the missing person's property if the guardianship order expressly authorises the making of the gift, the making of gifts of a description which includes the gift or the making of gifts generally.
- (8) Subsection (7) does not apply in relation to a gift made for the maintenance of, or otherwise for the benefit of, a dependant of the missing person.
- (9) "Dependant", in relation to a missing person, means an individual who, if the missing person were not missing, would reasonably rely on the missing person to provide for his or her maintenance.