
STATUTORY INSTRUMENTS

1994 No. 3047

The Court of Protection (Enduring Powers of Attorney) Rules 1994

**PART III
APPLICATIONS**

Notice of intention to register

7.—(1) Notice of the attorney's intention to apply to register an enduring power of attorney shall be given in Form EP1 to the donor and to those relatives entitled to receive such notice and to any co-attorney, all such notices to be served within 14 days of each other.

(2) An application to dispense with such notice shall be made in Form EP3 before any application for registration is made and shall be accompanied by the original enduring power of attorney.

Time limits

8.—(1) An application to register an enduring power of attorney shall be made in Form EP2 and shall be lodged with the Public Trust office not later than 10 days after the date on which—

- (a) notice has been given to the donor and every relative entitled to receive notice and every co-attorney; or
- (b) leave has been given to dispense with notice

whichever may be the later.

Form of application

9.—(1) Subject to the provisions of rules 7 and 8 and to the following provisions of this rule, an application may be by letter unless the court, in respect of an application to it, or the Public Trustee in respect of an application to him, directs that the application should be formal, in which case it shall be made in Form EP3.

(2) Any application made by letter to the court or to the Public Trustee under rule 9(1), other than an objection to registration, shall include the name and address of the applicant, the name of the donor if he is not the applicant, the form of relief or determination required and the grounds for the application.

(3) An application relating to the committal of a person for contempt of court shall be made to a judge by motion.

Objections to registration

10.—(1) Any objection to registration shall be made in writing and shall set out—

- (a) the name and address of the objector;
- (b) the name and address of the donor if he is not the objector;

- (c) any relationship of the objector to the donor;
- (d) the name and address of the attorney; and
- (e) the grounds for objecting to registration of the enduring power of attorney.

(2) Any objection to registration received by the court on or after the date of registration shall be treated by the court as an application to cancel the registration.

Exercise of the court's powers and functions under the provisions of the 1985 Act

11.—(1) This rule shall apply to applications made to the court, or where appropriate, referred to the court by the Public Trustee;

- (a) for relief or for determination of any question under sections 1(1)(b), 4(5), 5, 6(3), 6(4), 8(2), 8(3), 8(4) or 11(5)(c) of the Act; or
- (b) under paragraphs 2(1), 3(2), 4(2) or 7(1) of Schedule 1 to the Act,

which are not made simultaneously with an application for registration of an enduring power of attorney.

(2) On receipt of an application, the court may decide either that no hearing shall be held, in which case the application shall be dealt with by way of written representations, or it may fix an appointment for directions or for the application to be heard.

(3) The court may at any time, on application or of its own motion, give such directions as it thinks proper with regard to any matter arising in the course of an application.

(4) Notification of an appointment for directions or a hearing shall be given by the applicant to the attorney (if he is not the applicant), to any objector and to any other person directed by the court to be notified.

(5) The applicant, the attorney (if he is not the applicant) and any person given notice of the appointment or hearing may attend or be represented.

(6) If it appears to the court that any order for relief should be made or any question determined, the court may make such order or give such direction as it thinks fit, of its own motion.

(7) Where an attorney seeks to disclaim an enduring power of attorney pursuant to sections 4(6) or 7(1)(b) of the Act, the disclaimer shall not take effect earlier than the day on which the notice of disclaimer is received at the Public Trust office.

Consolidation of proceedings

12. The court may consolidate any applications for registration or relief or any objections to registration if it considers that the proceedings may be dealt with more conveniently together.

Registration of an enduring power of attorney

13.—(1) Where there is no objection to the registration of an enduring power of attorney or any objection has been withdrawn or dismissed, the enduring power of attorney shall be registered by the Public Trustee and sealed by the court.

(2) The Public Trustee shall retain a copy of the registered enduring power of attorney and shall return the original instrument to the applicant attorney.

(3) Any alterations which appear on the face of the instrument when an application for registration is made shall be sealed.

(4) Any qualification to registration imposed by reason of section 11(6) or (7) of the Act shall be noted on the register and on the instrument and sealed.

(5) The date of registration shall be the date stamped by the Public Trustee on the instrument at the time of its registration.

Searches of the register and copies of registered enduring powers of attorney

14.—(1) On payment of the appropriate fee, any person shall be entitled to request the Public Trustee in Form EP4 to search the register and to state whether an enduring power of attorney has been registered and the Public Trustee shall so state in Form EP5.

(2) The court or the Public Trustee may supply any person with an office copy of a registered enduring power of attorney if satisfied that he has good reason for requesting a copy and that it is not reasonably practicable to obtain a copy from the attorney.

(3) For the purposes of this rule, an office copy is a photocopy or a facsimile copy of an enduring power of attorney, marked as an office copy and sealed.

(4) An office copy of an enduring power of attorney need not contain the explanatory information endorsed on the original power.