
STATUTORY INSTRUMENTS

2007 No. 1253

The Lasting Powers of Attorney, Enduring Powers
of Attorney and Public Guardian Regulations 2007

PART 2

LASTING POWERS OF ATTORNEY

Registering the instrument

Notice to be given by a person about to apply for registration of lasting power of attorney

10. Schedule 2 to these Regulations sets out the form of notice (“LPA 001”) which must be given by a donor or donee who is about to make an application for the registration of an instrument intended to create a lasting power of attorney.

Application for registration

11.—(1) Schedule 3 to these Regulations sets out the form (“LPA 002”) which must be used for making an application to the Public Guardian for the registration of an instrument intended to create a lasting power of attorney.

(2) Where the instrument to be registered which is sent with the application is neither—

- (a) the original instrument intended to create the power, nor
- (b) a certified copy of it,

the Public Guardian must not register the instrument unless the court directs him to do so.

(3) In paragraph (2) “a certified copy” means a photographic or other facsimile copy which is certified as an accurate copy by—

- (a) the donor; or
- (b) a solicitor or notary.

Period to elapse before registration in cases not involving objection or defect

12. The period at the end of which the Public Guardian must register an instrument in accordance with paragraph 5 of Schedule 1 to the Act is the period of 6 weeks beginning with—

- (a) the date on which the Public Guardian gave the notice or notices under paragraph 7 or 8 of Schedule 1 to the Act of receipt of an application for registration; or
- (b) if notices were given on more than one date, the latest of those dates.

Notice of receipt of application for registration

13.—(1) Part 1 of Schedule 4 to these Regulations sets out the form of notice (“LPA 003A”) which the Public Guardian must give to the donee (or donees) when the Public Guardian receives an application for the registration of a lasting power of attorney.

(2) Part 2 of Schedule 4 sets out the form of notice (“LPA 003B”) which the Public Guardian must give to the donor when the Public Guardian receives such an application.

(3) Where it appears to the Public Guardian that there is good reason to do so, the Public Guardian must also provide (or arrange for the provision of) an explanation to the donor of—

- (a) the notice referred to in paragraph (2) and what the effect of it is; and
- (b) why it is being brought to his attention.

(4) Any information provided under paragraph (3) must be provided—

- (a) to the donor personally; and
- (b) in a way that is appropriate to the donor’s circumstances (for example using simple language, visual aids or other appropriate means).

Objection to registration: notice to Public Guardian

14.—(1) This regulation deals with any objection to the registration of an instrument as a lasting power of attorney which is to be made to the Public Guardian.

(2) Where any person—

- (a) is entitled to receive notice under paragraph 6, 7 or 8 of Schedule 1 to the Act of an application for the registration of the instrument, and
- (b) wishes to object to registration on a ground set out in paragraph 13(1) of Schedule 1 to the Act,

he must do so before the end of the period of 5 weeks beginning with the date on which the notice is given.

(3) A notice of objection must be given in writing, setting out—

- (a) the name and address of the objector;
- (b) if different, the name and address of the donor of the power;
- (c) if known, the name and address of the donee (or donees); and
- (d) the ground for making the objection.

(4) The Public Guardian must notify the objector as to whether he is satisfied that the ground of the objection is established.

(5) At any time after receiving the notice of objection and before giving the notice required by paragraph (4), the Public Guardian may require the objector to provide such further information, or produce such documents, as the Public Guardian reasonably considers necessary to enable him to determine whether the ground for making the objection is established.

(6) Where—

- (a) the Public Guardian is satisfied that the ground of the objection is established, but
- (b) by virtue of section 13(7) of the Act, the instrument is not revoked,

the notice under paragraph (4) must contain a statement to that effect.

(7) Nothing in this regulation prevents an objector from making a further objection under paragraph 13 of Schedule 1 to the Act where—

- (a) the notice under paragraph (4) indicates that the Public Guardian is not satisfied that the particular ground of objection to which that notice relates is established; and
- (b) the period specified in paragraph (2) has not expired.

Objection to registration: application to the court

15.—(1) This regulation deals with any objection to the registration of an instrument as a lasting power of attorney which is to be made to the court.

- (2) The grounds for making an application to the court are—
 - (a) that one or more of the requirements for the creation of a lasting power of attorney have not been met;
 - (b) that the power has been revoked, or has otherwise come to an end, on a ground other than the grounds set out in paragraph 13(1) of Schedule 1 to the Act;
 - (c) any of the grounds set out in paragraph (a) or (b) of section 22(3) of the Act.
- (3) Where any person—
 - (a) is entitled to receive notice under paragraph 6, 7 or 8 of Schedule 1 to the Act of an application for the registration of the instrument, and
 - (b) wishes to object to registration on one or more of the grounds set out in paragraph (2),

he must make an application to the court before the end of the period of 5 weeks beginning with the date on which the notice is given.

(4) The notice of an application to the court, which a person making an objection to the court is required to give to the Public Guardian under paragraph 13(3)(b)(ii) of Schedule 1 to the Act, must be in writing.

Notifying applicants of non-registration of lasting power of attorney

16. Where the Public Guardian is prevented from registering an instrument as a lasting power of attorney by virtue of—

- (a) paragraph 11(1) of Schedule 1 to the Act (instrument not made in accordance with Schedule),
- (b) paragraph 12(2) of that Schedule (deputy already appointed),
- (c) paragraph 13(2) of that Schedule (objection by donee or named person on grounds of bankruptcy, disclaimer, death etc),
- (d) paragraph 14(2) of that Schedule (objection by donor), or
- (e) regulation 11(2) of these Regulations (application for registration not accompanied by original instrument or certified copy),

he must notify the person (or persons) who applied for registration of that fact.

Notice to be given on registration of lasting power of attorney

17.—(1) Where the Public Guardian registers an instrument as a lasting power of attorney, he must—

- (a) retain a copy of the instrument; and
- (b) return to the person (or persons) who applied for registration the original instrument, or the certified copy of it, which accompanied the application for registration.

(2) Schedule 5 to these Regulations sets out the form of notice (“LPA 004”) which the Public Guardian must give to the donor and donee (or donees) when the Public Guardian registers an instrument.

(3) Where it appears to the Public Guardian that there is good reason to do so, the Public Guardian must also provide (or arrange for the provision of) an explanation to the donor of—

- (a) the notice referred to in paragraph (2) and what the effect of it is; and
- (b) why it is being brought to his attention.

(4) Any information provided under paragraph (3) must be provided—

- (a) to the donor personally; and
- (b) in a way that is appropriate to the donor’s circumstances (for example using simple language, visual aids or other appropriate means).

(5) “Certified copy” is to be construed in accordance with regulation 11(3).