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## STATUTORY INSTRUMENTS

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### 2007 No. 1253

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

### PART 3

#### ENDURING POWERS OF ATTORNEY

##### Notice of intention to apply for registration of enduring power of attorney

**23.**—(1) Schedule 7 to these Regulations sets out the form of notice (“EP1PG”) which an attorney (or attorneys) under an enduring power of attorney must give of his intention to make an application for the registration of the instrument creating the power.

(2) In the case of the notice to be given to the donor, the attorney must also provide (or arrange for the provision of) an explanation to the donor of—

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

(3) The information provided under paragraph (2) 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).

##### Application for registration

**24.**—(1) Schedule 8 to these Regulations sets out the form (“EP2PG”) which must be used for making an application to the Public Guardian for the registration of an instrument creating an enduring power of attorney.

[<sup>F1</sup>(1A) The Public Guardian must not register an instrument where only a certified copy of the instrument is sent with the application, unless the applicant verifies that he cannot produce the original instrument because it has been lost or, as the case may be, destroyed.]

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

- (a) the original instrument creating the power, nor
- (b) a certified copy of it [<sup>F2</sup>in relation to which paragraph (1A) has been complied with],

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

(3) “Certified copy”, in relation to an enduring power of attorney, means a copy certified in accordance with section 3 of the Powers of Attorney Act 1971 <sup>M1</sup>.

#### Textual Amendments

- F1** Reg. 24(1A) inserted (1.5.2010) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2010 \(S.I. 2010/1063\)](#), regs. 1, **3(a)** (with reg. 8)
- F2** Words in reg. 24(2)(b) inserted (1.5.2010) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2010 \(S.I. 2010/1063\)](#), regs. 1, **3(b)** (with reg. 8)

#### Marginal Citations

- M1** [1971 c.27](#)

### Notice of objection to registration

**25.**—(1) This regulation deals with any objection to the registration of an instrument creating an enduring power of attorney which is to be made to the Public Guardian under paragraph 13(4) of Schedule 4 to the Act.

- (2) 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 attorney (or attorneys); and
  - (d) the ground for making the objection.

### Notifying applicants of non-registration of enduring power of attorney

**26.** Where the Public Guardian is prevented from registering an instrument creating an enduring power of attorney by virtue of—

- (a) paragraph 13(2) of Schedule 4 to the Act (deputy already appointed),
- (b) paragraph 13(5) of that Schedule (receipt by Public Guardian of valid notice of objection from person entitled to notice of application to register),
- (c) paragraph 13(7) of that Schedule (Public Guardian required to undertake appropriate enquiries in certain circumstances), or
- (d) regulation 24(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.

### Registration of instrument creating an enduring power of attorney

**27.**—(1) Where the Public Guardian registers an instrument creating an enduring 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.
- (2) “Certified copy” has the same meaning as in regulation 24(3).

**Objection or revocation not applying to all joint and several attorneys**

**28.** In a case within paragraph 20(6) or (7) of Schedule 4 to the Act, the form of the entry to be made in the register in respect of an instrument creating the enduring power of attorney is a stamp bearing the following words (inserting the information indicated, as appropriate)—

“THE REGISTRATION OF THIS ENDURING POWER OF ATTORNEY IS QUALIFIED AND EXTENDS TO THE APPOINTMENT OF .....(insert name of attorney(s) not affected by ground(s) of objection or revocation) ONLY AS THE ATTORNEY(S) OF ..... (insert name of donor)”.

**Loss or destruction of instrument registered as enduring power of attorney**

**29.**—(1) This regulation applies where—

- (a) a person is required by or under the Act to deliver up to the Public Guardian any of the following documents—
  - (i) an instrument registered as an enduring power of attorney;
  - (ii) an office copy of that registered instrument; or
  - (iii) a certified copy of that registered instrument; and
- (b) the document has been lost or destroyed.

(2) The person who is required to deliver up the document must provide to the Public Guardian in writing—

- (a) if known, the date of the loss or destruction and the circumstances in which it occurred;
- (b) otherwise, a statement of when he last had the document in his possession.

**Changes to legislation:**

There are currently no known outstanding effects for the The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian Regulations 2007, PART 3.