

STATUTORY INSTRUMENTS

2007 No. 1253

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

PART 4

FUNCTIONS OF THE PUBLIC GUARDIAN

Deputies [^{F1}and Guardians]

Textual Amendments

- F1** Words in reg. 38 cross-heading inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, 7

Application for additional time to submit a report

38.—(1) This regulation applies where the court requires a deputy [^{F2}or a guardian] to submit a report to the Public Guardian and specifies a time or interval for it to be submitted.

(2) A deputy [^{F3}or a guardian] may apply to the Public Guardian requesting more time for submitting a particular report.

(3) An application must—

- (a) state the reason for requesting more time; and
- (b) contain or be accompanied by such information as the Public Guardian may reasonably require to determine the application.

(4) In response to an application, the Public Guardian may, if he considers it appropriate to do so, undertake that he will not take steps to secure performance of the deputy's [^{F4}or the guardian's] duty to submit the report at the relevant time on the condition that the report is submitted on or before such later date as he may specify.

Textual Amendments

- F2** Words in reg. 38(1) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **8(a)**
- F3** Words in reg. 38(2) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **8(a)**
- F4** Words in reg. 38(4) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **8(b)**

Content of reports

39.—(1) Any report which the court requires a deputy [^{F5}or a guardian] to submit to the Public Guardian must include such material as the court may direct.

(2) The report must also contain or be accompanied by—

- (a) specified information or information of a specified description; or
- (b) specified documents or documents of a specified description.

(3) But paragraph (2)—

- (a) extends only to information or documents which are reasonably required in connection with the exercise by the Public Guardian of functions conferred on him under the Act; and
- (b) is subject to paragraph (1) and to any other directions given by the court.

(4) Where powers as respects a person's property and affairs are conferred on a deputy under section 16 of the Act [^{F6}or a guardian under the 2017 Act], the information specified by the Public Guardian under paragraph (2) may include accounts which—

- (a) deal with specified matters; and
- (b) are provided in a specified form.

(5) The Public Guardian may require—

- (a) any information provided to be verified in such manner, or
- (b) any document produced to be authenticated in such manner,

as he may reasonably require.

(6) “Specified” means specified in a notice in writing given to the deputy [^{F7}or the guardian] by the Public Guardian.

Textual Amendments

- F5** Words in reg. 39(1) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **9(a)**
- F6** Words in reg. 39(4) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **9(b)**
- F7** Words in reg. 39(6) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **9(c)**

Power to require final report on termination of [^{F8}deputy appointment or on expiry, variation or revocation of guardianship order]

40.—(1) [^{F9}In the case of a deputy,] this regulation applies where—

- (a) the person on whose behalf a deputy was appointed to act has died;
- (b) the deputy has died;
- (c) the court has made an order discharging the deputy; or
- (d) the deputy otherwise ceases to be under a duty to discharge the functions to which his appointment relates.

[^{F10}(1A) In the case of a guardian, this regulation applies where—

- (a) the period of appointment of the guardian has expired under section 7 of the 2017 Act (period of guardianship);

- (b) the court has made an order varying the guardianship order under section 12 of the 2017 Act (variation of guardianship order);
 - (c) the court has made an order revoking the guardianship order under section 13 of the 2017 Act (revocation of guardianship order); or
 - (d) the guardianship order has been automatically revoked under section 14 of the 2017 Act (automatic revocation).]
- (2) The Public Guardian may require the deputy [^{F11}or the guardian] (or, in the case of the deputy's death [^{F12}or the guardian's death], his personal representatives) to submit a final report on the discharge of his functions.
- (3) A final report must be submitted—
- (a) before the end of such reasonable period as may be specified; and
 - (b) at such place as may be specified.
- (4) The Public Guardian must consider the final report, together with any other information that he may have relating to the discharge by the deputy [^{F13}or the guardian] of his functions.
- (5) Where the Public Guardian is dissatisfied with any aspect of the final report he may apply to the court for an appropriate remedy (including enforcement of security given by the deputy [^{F14}or the guardian]).
- (6) “Specified” means specified in a notice in writing given to the deputy or [^{F15}the guardian or their] personal representatives by the Public Guardian.

Textual Amendments

- F8** Words in reg. 40 heading substituted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(a)**
- F9** Words in reg. 40(1) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(b)**
- F10** Reg. 40(1A) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(c)**
- F11** Words in reg. 40(2) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(d)(i)**
- F12** Words in reg. 40(2) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(d)(ii)**
- F13** Words in reg. 40(4) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(e)**
- F14** Words in reg. 40(5) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(f)**
- F15** Words in reg. 40(6) substituted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **10(g)**

Power to require information from deputies [^{F16}or guardians]

- 41.—**(1) This regulation applies in any case where—
- (a) the Public Guardian has received representations (including complaints) about—
 - (i) the way in which a deputy [^{F17}or a guardian] is exercising his powers; or
 - (ii) any failure to exercise them; or
 - (b) it appears to the Public Guardian that there are other circumstances which—

- (i) give rise to concerns about, or dissatisfaction with, the conduct of the deputy [F18 or the guardian] (including any failure to act); or
 - (ii) otherwise constitute good reason to seek information about the deputy's [F19 or the guardian's] discharge of his functions.
- (2) The Public Guardian may require the deputy [F20 or the guardian] —
- (a) to provide specified information or information of a specified description; or
 - (b) to produce specified documents or documents of a specified description.
- (3) The information or documents must be provided or produced—
- (a) before the end of such reasonable period as may be specified; and
 - (b) at such place as may be specified.
- (4) The Public Guardian may require—
- (a) any information provided to be verified in such manner, or
 - (b) any document produced to be authenticated in such manner,
- as he may reasonably require.
- (5) “Specified” means specified in a notice in writing given to the deputy [F21 or the guardian] by the Public Guardian.

Textual Amendments

- F16** Words in reg. 41 heading inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **11(a)**
- F17** Words in reg. 41(1)(a)(i) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **11(b)(i)**
- F18** Words in reg. 41(1)(b)(i) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **11(b)(aa)(ii)**
- F19** Words in reg. 41(1)(b)(ii) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **11(b)(bb)(ii)**
- F20** Words in reg. 41(2) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **11(c)**
- F21** Words in reg. 41(5) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **11(d)**

Right of deputy [F22 or guardian] to require review of decisions made by the Public Guardian

42.—(1) A deputy [F23 or a guardian] may require the Public Guardian to reconsider any decision he has made in relation to the deputy [F24 or the guardian].

(2) The right under paragraph (1) is exercisable by giving notice of exercise of the right to the Public Guardian before the end of the period of 14 days beginning with the date on which notice of the decision is given to the deputy [F25 or the guardian].

(3) The notice of exercise of the right must—

- (a) state the grounds on which reconsideration is required; and
- (b) contain or be accompanied by any relevant information or documents.

(4) At any time after receiving the notice and before reconsidering the decision to which it relates, the Public Guardian may require the deputy [F26 or the guardian] to provide him with such further

information, or to produce such documents, as he reasonably considers necessary to enable him to reconsider the matter.

- (5) The Public Guardian must give to the deputy [^{F27}or the guardian]—
- (a) written notice of his decision on reconsideration, and
 - (b) if he upholds the previous decision, a statement of his reasons.

Textual Amendments

- F22** Words in reg. 42 heading inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **12(a)**
- F23** Words in reg. 42(1) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **12(b)(i)**
- F24** Words in reg. 42(1) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **12(b)(ii)**
- F25** Words in reg. 42(2) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **12(c)**
- F26** Words in reg. 42(4) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **12(c)**
- F27** Words in reg. 42(5) inserted (31.7.2019) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2019 \(S.I. 2019/1030\)](#), regs. 1, **12(c)**

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, Cross Heading: Deputies and Guardians.