

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

Instruments intended to create a lasting power of attorney

Forms for lasting powers of attorney

5. The forms set out in Parts 1 and 2 of Schedule 1 to these Regulations are the forms which, in the circumstances to which they apply, are to be used for instruments intended to create a lasting power of attorney.

Maximum number of [^{F1}people to notify]

6. The maximum number of [^{F2}people to notify] that the donor of a lasting power of attorney may specify in the instrument intended to create the power is 5.

- F1** Words in reg. 6 heading substituted (1.7.2015) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2015 \(S.I. 2015/899\)](#), regs. 1(2), **5**
- F2** Words in reg. 6 substituted (1.7.2015) by [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2015 \(S.I. 2015/899\)](#), regs. 1(2), **5**

Requirement for two LPA certificates where instrument has no named persons

^{F3}7.

- F3** Reg. 7 omitted (1.7.2015) by virtue of [The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian \(Amendment\) Regulations 2015 \(S.I. 2015/899\)](#), regs. 1(2), **6**

Persons who may provide an LPA certificate

- 8.—(1) Subject to paragraph (3), the following persons may give an LPA certificate—
- (a) a person chosen by the donor as being someone who has known him personally for the period of at least two years which ends immediately before the date on which that person signs the LPA certificate;
 - (b) a person chosen by the donor who, on account of his professional skills and expertise, reasonably considers that he is competent to make the judgments necessary to certify the matters set out in paragraph (2)(1)(e) of Schedule 1 to the Act.

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: *Instruments intended to create a lasting power of attorney.* (See end of Document for details)

- (2) The following are examples of persons within paragraph (1)(b)—
- (a) a registered health care professional;
 - (b) a barrister, solicitor or advocate called or admitted in any part of the United Kingdom;
 - (c) a registered social worker; or
 - (d) an independent mental capacity advocate.
- (3) A person is disqualified from giving an LPA certificate in respect of any instrument intended to create a lasting power of attorney if that person is—
- (a) a family member of the donor;
 - (b) a donee of that power;
 - (c) a donee of—
 - (i) any other lasting power of attorney, or
 - (ii) an enduring power of attorney,
 which has been executed by the donor (whether or not it has been revoked);
 - (d) a family member of a donee within sub-paragraph (b);
 - (e) a director or employee of a trust corporation acting as a donee within sub-paragraph (b);
 - (f) a business partner or employee of—
 - (i) the donor, or
 - (ii) a donee within sub-paragraph (b);
 - (g) an owner, director, manager or employee of any care home in which the donor is living when the instrument is executed; or
 - (h) a family member of a person within sub-paragraph (g).
- (4) In this regulation—
- [^{F4}“care home” means—
- (a) a care home in England within the meaning given by section 3 of the Care Standards Act 2000, and
 - (b) a place in Wales at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over;]

“registered health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002^{M1}; and

“registered social worker” means a person registered as a social worker in a register maintained by—

 - (a) [^{F5}Social Work England;]
 - (b) [^{F6}Social Care Wales];
 - (c) the Scottish Social Services Council; or
 - (d) the Northern Ireland Social Care Council.

<p>F4 Words in reg. 8(4) substituted (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2018 (S.I. 2018/48), reg. 1(2), Sch. 1 para. 18(2)</p>
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- F5** Words in reg. 8(4) substituted (2.12.2019) by [The Children and Social Work Act 2017 \(Consequential Amendments\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1094\)](#), reg. 1, **Sch. 3 para. 18**; S.I. 2019/1436, **reg. 2(b)**
- F6** Words in reg. 8(4) substituted (3.4.2017) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2017 \(S.I. 2017/52\)](#), reg. 1(2), **Sch. 1 para. 15(2)**

Marginal Citations

- M1** 2002 c.17.

Execution of instrument

9.—(1) An instrument intended to create a lasting power of attorney must be executed in accordance with this regulation.

(2) The donor must read (or have read to him) all the prescribed information.

(3) As soon as reasonably practicable after the steps required by paragraph (2) have been taken, the donor must—

(a) complete the provisions of [F7Sections 1 to 7] of the instrument that apply to him (or direct another person to do so); and

[F8(b) subject to paragraph (7), in the presence of a witness—

(i) sign Section 9 of the instrument if the instrument is intended to create a lasting power of attorney for property and financial affairs (Form LP1F); or

(ii) sign Sections 5 and 9 of the instrument if the instrument is intended to create a lasting power of attorney for health and welfare (Form LP1H);]

(4) As soon as reasonably practicable after the steps required by paragraph (3) have been taken—

(a) the person giving an LPA certificate, F9 ...

F10(b)

must complete the LPA certificate at [F11Section 10] of the instrument and sign it.

(5) As soon as reasonably practicable after the steps required by paragraph (4) have been taken—

(a) the donee, or

(b) if more than one, each of the donees,

must read (or have read to him) all the prescribed information.

(6) As soon as reasonably practicable after the steps required by paragraph (5) have been taken, the donee or, if more than one, each of them—

(a) must complete the provisions of [F12Section 11] of the instrument that apply to him (or direct another person to do so); and

(b) subject to paragraph (7), must sign [F12Section 11] of the instrument in the presence of a witness.

(7) If the instrument is to be signed by any person at the direction of the donor, or at the direction of any donee, the signature must be done in the presence of two witnesses.

(8) For the purposes of this regulation—

(a) the donor may not witness any signature required for the power;

(b) a donee may not witness any signature required for the power apart from that of another donee.

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- (9) A person witnessing a signature must—
- (a) sign the instrument; and
 - (b) give his full name and address.
- (10) Any reference in this regulation to a person signing an instrument (however expressed) includes his signing it by means of a mark made on the instrument at the appropriate place.

F7	Words in reg. 9(3)(a) substituted (1.7.2015) by The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian (Amendment) Regulations 2015 (S.I. 2015/899) , regs. 1(2), 7(a)
F8	Reg. 9(3)(b) substituted (1.7.2015) by The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian (Amendment) Regulations 2015 (S.I. 2015/899) , regs. 1(2), 7(b)
F9	Word in reg. 9(4)(a) omitted (1.7.2015) by virtue of The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian (Amendment) Regulations 2015 (S.I. 2015/899) , regs. 1(2), 7(c)
F10	Reg. 9(4)(b) omitted (1.7.2015) by virtue of The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian (Amendment) Regulations 2015 (S.I. 2015/899) , regs. 1(2), 7(d)
F11	Words in reg. 9(4) substituted (1.7.2015) by The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian (Amendment) Regulations 2015 (S.I. 2015/899) , regs. 1(2), 7(e)
F12	Words in reg. 9(6) substituted (1.7.2015) by The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian (Amendment) Regulations 2015 (S.I. 2015/899) , regs. 1(2), 7(f)

Changes to legislation:

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