SCHEDULES

SCHEDULE 4

Lasting powers of attorney: formalities

Part 1

Making instruments

Requirements as to content of instruments

2.—(1) The instrument must include—

(a) the prescribed information about the purpose of the instrument and the effect of a lasting power of attorney;

(b) a statement by the donor to the effect that the donor—

(i) has read the prescribed information or a prescribed part of it (or has heard it read); and

(ii) intends the authority conferred by the instrument to include authority to make decisions on the donor's behalf in circumstances where the donor no longer has capacity;

(c) a statement by the donor—

(i) naming a person or persons whom the donor wishes to be notified of any application for the registration of the instrument; or

(ii) stating that there are no persons whom the donor wishes to be notified of any such application;

(d) a statement by each person appointed as attorney, and each person (if any) appointed as replacement attorney, to the effect that he or she—

(i) has read the prescribed information or a prescribed part of it (or has heard it read); and

(ii) understands the duties imposed by sections 1, 2, 5 and 7 (principles, best interests) on an attorney under a lasting power of attorney; and

(e) a certificate by a person of a prescribed description that, in that person's opinion, at the time when the donor executes the instrument—

(i) the donor understands the purpose of the instrument and the scope of the authority conferred by it;

(ii) no fraud or undue pressure is being used to induce the donor to create a lasting power of attorney; and

(iii) there is nothing else which would prevent a lasting power of attorney from being created by the instrument.

(2) Regulations may prescribe a maximum number of persons who may be named under sub-paragraph (1)(c).

(3) The persons who may be named under sub-paragraph (1)(c) do not include a person who is appointed as attorney or replacement attorney by the instrument.

(4) A certificate under sub-paragraph (1)(e)—

(a) must be made in a form specified by regulations or by the Public Guardian in accordance with regulations; and

(b) must include any prescribed information.

(5) The certificate may not be given by a person appointed as attorney or replacement attorney by the instrument.