

## 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.