

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Mental Capacity Act 2005, Part 3 is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

#### LASTING POWERS OF ATTORNEY: FORMALITIES

##### PART 3

###### CANCELLATION OF REGISTRATION AND NOTIFICATION OF SEVERANCE

- 17 (1) The Public Guardian must cancel the registration of an instrument as a lasting power of attorney on being satisfied that the power has been revoked—
- (a) as a result of the donor's bankruptcy<sup>F1</sup> or a debt relief order (under Part 7A of the Insolvency Act 1986) having been made in respect of the donor], or
  - (b) on the occurrence of an event mentioned in section 13(6)(a) to (d).
- (2) If the Public Guardian cancels the registration of an instrument he must notify—
- (a) the donor, and
  - (b) the donee or, if more than one, each of them.

###### Textual Amendments

- F1** Words in Sch. 1 para. 17(1)(a) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, Sch. 2 para. 53(5) (with art. 5)

- 18 The court must direct the Public Guardian to cancel the registration of an instrument as a lasting power of attorney if it—
- (a) determines under section 22(2)(a) that a requirement for creating the power was not met,
  - (b) determines under section 22(2)(b) that the power has been revoked or has otherwise come to an end, or
  - (c) revokes the power under section 22(4)(b) (fraud etc.).
- 19 (1) Sub-paragraph (2) applies if the court determines under section 23(1) that a lasting power of attorney contains a provision which—
- (a) is ineffective as part of a lasting power of attorney, or
  - (b) prevents the instrument from operating as a valid lasting power of attorney.
- (2) The court must—
- (a) notify the Public Guardian that it has severed the provision, or
  - (b) direct him to cancel the registration of the instrument as a lasting power of attorney.
- 20 On the cancellation of the registration of an instrument, the instrument and any office copies of it must be delivered up to the Public Guardian to be cancelled.

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