

*These notes refer to the Mental Capacity Act 2005
(c.9) which received Royal Assent on 7 April 2005*

MENTAL CAPACITY ACT 2005

EXPLANATORY NOTES

SCHEDULES

Schedule 1: Lasting powers of attorney: formalities

Part 3: Cancellation of registration and notification of severance

163. The Public Guardian will cancel an LPA if he is satisfied that the power has been revoked on the basis of:
- the donor's bankruptcy;
 - the donee giving up his/her appointment by exercising a disclaimer;
 - the death of the donee;
 - the insolvency of the donee;
 - the dissolution or annulment of a marriage or civil partnership between donor and donee; and
 - the lack of capacity of the donee.
164. The court must direct the Public Guardian to cancel the registration of an LPA if the court:
- decides that a requirement for creating the LPA was not met;
 - decides that the power has been revoked or otherwise come to an end; or
 - revokes the power on fraud or undue pressure grounds.
165. On cancellation of the registration of an LPA the Public Guardian will notify both the donor and donee to this effect. Where the court has removed a provision from an instrument, *paragraph 19(2)(a)* requires the court to notify the Public Guardian of the severance of that provision. And where the court determines that a provision in an instrument means that instrument cannot operate as a valid LPA, *paragraph 19(2)(b)* requires the court to direct the Public Guardian to cancel the registration of that instrument as an LPA.