



# Guardianship (Missing Persons) Act 2017

## 2017 CHAPTER 27

### *Variation and revocation of guardianship orders*

#### **12 Variation of guardianship order**

- (1) The court may make an order varying a guardianship order, on an application or without an application being made.
- (2) It may do so only if it is satisfied that—
  - (a) the person whose property or financial affairs are the subject of the guardianship order is missing,
  - (b) the absence condition or the urgency condition is met, and
  - (c) in all the circumstances, the proposed variation is in the missing person's best interests (see section 18),(and see also sections 19 and 20).
- (3) The power under subsection (1) includes power to—
  - (a) appoint a different person to be the guardian;
  - (b) add or remove property or financial affairs, subject to subsection (4);
  - (c) add, remove or alter conditions or restrictions;
  - (d) alter the period for which the guardian is appointed, subject to subsection (5);
  - (e) do anything else that the court could do on making a guardianship order.
- (4) Where the court varies a guardianship order in circumstances in which the urgency condition (but not the absence condition) is met, it may only make provision in respect of property or financial affairs in respect of which it is satisfied that the urgency condition is met.
- (5) The court may not vary a guardianship order so that the period for which the guardian is appointed ends after the last day of the 4 year period specified in section 7(2).
- (6) The court must send a copy of an order varying a guardianship order to the Public Guardian.

### **13 Revocation of guardianship order**

- (1) The court may make an order revoking a guardianship order, on an application or without an application being made.
- (2) If a guardian has reasonable grounds to believe that the person whose property or financial affairs are the subject of the guardianship order is no longer missing, the guardian must apply to the court as soon as reasonably practicable for the revocation of the order.
- (3) The court may revoke a guardianship order only if it is satisfied that—
  - (a) the person whose property or financial affairs are the subject of the guardianship order is no longer missing, or
  - (b) in all the circumstances, revocation is in the missing person's best interests (see section 18),(and see also sections 19 and 20).
- (4) The court must send a copy of an order revoking a guardianship order to the Public Guardian.

### **14 Automatic revocation**

- (1) A guardianship order is revoked—
  - (a) on the death of the missing person;
  - (b) on the making of a declaration of presumed death in respect of the missing person under section 2 of the Presumption of Death Act 2013;
  - (c) on the death of the guardian;
  - (d) on the expiry of the guardian's period of appointment.
- (2) A guardianship order made after the death of the missing person is to be treated as having been immediately revoked under subsection (1)(a).
- (3) Where a person becomes aware that a guardianship order appointing the person as guardian has been revoked under subsection (1)(a) or (b), the person must inform the Public Guardian as soon as reasonably practicable.

### **15 Protection following variation or revocation**

- (1) Where a guardian acts within the scope of the authority conferred by the guardianship order and this Act at a time when—
  - (a) the guardianship order has been revoked under section 14, but
  - (b) the guardian does not know that,the guardian does not incur any personal liability (either to the missing person or any other person) because of the revocation.
- (2) Where a person deals with a guardian at a time when—
  - (a) the guardianship order has been varied or revoked, but
  - (b) the person does not know that,the transaction between them is, in favour of that person, as valid as if the guardianship order had not been varied or revoked.
- (3) Where the interest of a purchaser depends on whether a transaction between a guardian and another person was valid by virtue of subsection (2), it is to be conclusively

presumed in favour of the purchaser that the other person did not at the material time know of the variation or revocation of the guardianship order if—

- (a) the transaction between the guardian and the other person was completed within the period of 12 months beginning with the day on which the guardianship order was made, or
  - (b) before the completion of the purchase, or within the period of 3 months beginning with the day of its completion, the other person makes a statutory declaration that the person did not at the material time know of the variation or revocation of the guardianship order.
- (4) For the purposes of this section—
- (a) knowledge that a guardianship order has been revoked includes knowledge of the occurrence of an event which caused it to be revoked under section 14, and
  - (b) “purchaser” and “purchase” have the meaning given in section 205(1) of the Law of Property Act 1925.