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STATUTORY INSTRUMENTS

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**2007 No. 1253**

**The Lasting Powers of Attorney, Enduring Powers  
of Attorney and Public Guardian Regulations 2007**

**PART 2**

**LASTING POWERS OF ATTORNEY**

*Instruments intended to create a lasting power of attorney*

**Forms for lasting powers of attorney**

5. The forms set out in Parts 1 and 2 of Schedule 1 to these Regulations are the forms which, in the circumstances to which they apply, are to be used for instruments intended to create a lasting power of attorney.

**Maximum number of named persons**

6. The maximum number of named persons that the donor of a lasting power of attorney may specify in the instrument intended to create the power is 5.

**Requirement for two LPA certificates where instrument has no named persons**

7. Where an instrument intended to create a lasting power of attorney includes a statement by the donor that there are no persons whom he wishes to be notified of any application for the registration of the instrument—

- (a) the instrument must include two LPA certificates; and
- (b) each certificate must be completed and signed by a different person.

**Persons who may provide an LPA certificate**

8.—(1) Subject to paragraph (3), the following persons may give an LPA certificate—

- (a) a person chosen by the donor as being someone who has known him personally for the period of at least two years which ends immediately before the date on which that person signs the LPA certificate;
- (b) a person chosen by the donor who, on account of his professional skills and expertise, reasonably considers that he is competent to make the judgments necessary to certify the matters set out in paragraph (2)(1)(e) of Schedule 1 to the Act.

(2) The following are examples of persons within paragraph (1)(b)—

- (a) a registered health care professional;
- (b) a barrister, solicitor or advocate called or admitted in any part of the United Kingdom;
- (c) a registered social worker; or

- (d) an independent mental capacity advocate.
- (3) A person is disqualified from giving an LPA certificate in respect of any instrument intended to create a lasting power of attorney if that person is—
  - (a) a family member of the donor;
  - (b) a donee of that power;
  - (c) a donee of—
    - (i) any other lasting power of attorney, or
    - (ii) an enduring power of attorney,
 which has been executed by the donor (whether or not it has been revoked);
  - (d) a family member of a donee within sub-paragraph (b);
  - (e) a director or employee of a trust corporation acting as a donee within sub-paragraph (b);
  - (f) a business partner or employee of—
    - (i) the donor, or
    - (ii) a donee within sub-paragraph (b);
  - (g) an owner, director, manager or employee of any care home in which the donor is living when the instrument is executed; or
  - (h) a family member of a person within sub-paragraph (g).
- (4) In this regulation—
  - “care home” has the meaning given in section 3 of the Care Standards Act 2000<sup>(1)</sup>;
  - “registered health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002<sup>(2)</sup>; and
  - “registered social worker” means a person registered as a social worker in a register maintained by—
    - (a) the General Social Care Council;
    - (b) the Care Council for Wales;
    - (c) the Scottish Social Services Council; or
    - (d) the Northern Ireland Social Care Council.

### **Execution of instrument**

- 9.—(1) An instrument intended to create a lasting power of attorney must be executed in accordance with this regulation.
- (2) The donor must read (or have read to him) all the prescribed information.
- (3) As soon as reasonably practicable after the steps required by paragraph (2) have been taken, the donor must—
  - (a) complete the provisions of Part A of the instrument that apply to him (or direct another person to do so); and
  - (b) subject to paragraph (7), sign Part A of the instrument in the presence of a witness.
- (4) As soon as reasonably practicable after the steps required by paragraph (3) have been taken—
  - (a) the person giving an LPA certificate, or

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(1) 2000 c.14.

(2) 2002 c.17.

- (b) if regulation 7 applies (two LPA certificates required), each of the persons giving a certificate,  
must complete the LPA certificate at Part B of the instrument and sign it.
- (5) As soon as reasonably practicable after the steps required by paragraph (4) have been taken—
  - (a) the donee, or
  - (b) if more than one, each of the donees,must read (or have read to him) all the prescribed information.
- (6) As soon as reasonably practicable after the steps required by paragraph (5) have been taken, the donee or, if more than one, each of them—
  - (a) must complete the provisions of Part C of the instrument that apply to him (or direct another person to do so); and
  - (b) subject to paragraph (7), must sign Part C of the instrument in the presence of a witness.
- (7) If the instrument is to be signed by any person at the direction of the donor, or at the direction of any donee, the signature must be done in the presence of two witnesses.
- (8) For the purposes of this regulation—
  - (a) the donor may not witness any signature required for the power;
  - (b) a donee may not witness any signature required for the power apart from that of another donee.
- (9) A person witnessing a signature must—
  - (a) sign the instrument; and
  - (b) give his full name and address.
- (10) Any reference in this regulation to a person signing an instrument (however expressed) includes his signing it by means of a mark made on the instrument at the appropriate place.