STATUTORY INSTRUMENTS

2007 No. 1744

The Court of Protection Rules 2007

PART 23

MISCELLANEOUS

Order or directions requiring a person to give security for discharge of functions

200.—(1) This rule applies where the court makes an order or gives a direction—

(a) conferring functions on any person (whether as deputy or otherwise); and

(b) requiring him to give security for the discharge of those functions.

(2) The person on whom functions are conferred must give the security before he undertakes to discharge his functions, unless the court permits it to be given subsequently.

(3) Paragraphs (4) to (6) apply where the security is required to be given before any action can be taken.

(4) Subject to paragraph (5), the security must be given in accordance with the requirements of regulation 33(2)(a) of the Public Guardian Regulations (which makes provision about the giving of security by means of a bond that is endorsed by an authorised insurance company or deposit-taker).

(5) The court may impose such other requirements in relation to the giving of the security as it considers appropriate (whether in addition to, or instead of, those specified in paragraph (4)).

(6) In specifying the date from which the order or directions referred to in paragraph (1) are to take effect, the court will have regard to the need to postpone that date for such reasonable period as would enable the Public Guardian to be satisfied that—

(a) if paragraph (4) applies, the requirements of regulation 34 of the Public Guardian Regulations have been met in relation to the security; and

(b) any other requirements imposed by the court under paragraph (5) have been met.

(7) "The Public Guardian Regulations" means the Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian Regulations 2007(**1**).

Objections to registration of an enduring power of attorney: request for directions

201.—(1) This rule applies in any case where—

(a) the Public Guardian (having received a notice of objection to the registration of an instrument creating an enduring power of attorney) is prevented by paragraph 13(5) of Schedule 4 to the Act from registering the instrument except in accordance with the court's directions; and

(b) on or before the relevant day, no application for the court to give such directions has been made under Part 9 (how to start proceedings).

(2) In paragraph (1)(b) the relevant day is the later of—

(**1**) S.I. 2007/1253.

(a) the final day of the period specified in paragraph 13(4) of Schedule 4 to the Act; or

(b) the final day of the period of 14 days beginning with the date on which the Public Guardian receives the notice of objection.

(3) The Public Guardian may seek the court's directions about registering the instrument by filing a request in accordance with the relevant practice direction.

(4) As soon as practicable and in any event within 21 days of the date on which the request was made, the court will notify—

(a) the person (or persons) who gave the notice of objection; and

(b) the attorney or, if more than one, each of them.

(5) As soon as practicable and in any event within 21 days of the date on which the request is filed, the Public Guardian must notify the donor of the power that the request has been so filed.

(6) The notice under paragraph (4) must—

(a) state that the Public Guardian has requested the court's directions about registration;

(b) state that the court will give directions in response to the request unless an application under Part 9 is made to it before the end of the period of 21 days commencing with the date on which the notice is issued; and

(c) set out the steps required to make such an application.

(7) "Notice of objection" means a notice of objection which is made in accordance with paragraph 13(4) of Schedule 4 to the Act.

Disposal of property where P ceases to lack capacity

202.—(1) This rule applies where P ceases to lack capacity.

(2) In this rule, "relevant property" means any property belonging to P and forming part of his estate, and which—

(a) remains under the control of anyone appointed by order of the court; or

(b) is held under the direction of the court.

(3) The court may at any time make an order for any relevant property to be transferred to P, or at P's direction, provided that it is satisfied that P has the capacity to make decisions in relation to that property.

(4) An application for an order under this rule is to be made in accordance with Part 10.