
STATUTORY INSTRUMENTS

2009 No. 514

MENTAL CAPACITY, ENGLAND AND WALES

**The Public Guardian (Fees, etc.)
(Amendment) Regulations 2009**

<i>Made</i>	- - - -	<i>3rd March 2009</i>
<i>Laid before Parliament</i>		<i>11th March 2009</i>
<i>Coming into force</i>	- -	<i>1st April 2009</i>

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 58(3) and (4) and 65(1) of the Mental Capacity Act 2005(1).

Citation and commencement

1. These Regulations may be cited as the Public Guardian (Fees, etc.) (Amendment) Regulations 2009 and come into force on 1st April 2009.

Amendment of the Public Guardian (Fees, etc.) Regulations 2007

2. The Public Guardian (Fees, etc.) Regulations 2007(2) are amended as follows.
3. In regulation 2 (interpretation), after the definition of “court”, insert—
““office copy” means a true copy of the original marked by the Public Guardian as being an office copy;”.
4. After regulation 4 (enduring power of attorney registration fee), insert—

“Enduring power of attorney office copy fee

4A.—(1) A fee for an office copy of an enduring power of attorney registered under paragraph 13 in Part 4 of Schedule 4 to the Mental Capacity Act 2005 shall be payable by the person requesting the office copy.

(2) The fee prescribed by paragraph (1) shall be payable at the time the request for an office copy is made.”.

5. After regulation 5 (lasting power of attorney registration fee), insert—

(1) 2005 c. 9.
(2) S.I. 2007/2051, amended by S.I. 2007/2616.

“Lasting power of attorney office copy fee

5A.—(1) A fee for an office copy of a lasting power of attorney registered under Part 2 of Schedule 1 to the Mental Capacity Act 2005⁽³⁾ shall be payable by the person requesting the office copy.

(2) The fee prescribed by paragraph (1) shall be payable at the time the request for an office copy is made.”.

6. In regulation 7(1) (appointment of deputy fee), omit from “; or” to the end.
7. In regulation 8 (appointment of deputy: supervision fees)—
 - (a) in sub-paragraph (1), omit from “; or” to the end;
 - (b) after sub-paragraph (3)(a) insert—
 - (aa) type IIA (intermediate); and
 - (c) in paragraph (4), after “type I (highest) insert “, type IIA (intermediate)”.
8. In regulation 9 (exemptions)—
 - (a) in sub-paragraph (7)(e), omit “and” in the second place where it occurs; and
 - (b) at the end of sub-paragraph (7)(f), insert—
 - “; and
 - (g) income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007⁽⁴⁾
9. In the Schedule (fees to be taken)—
 - (a) after the entry for enduring power of attorney registration, insert in column 1 “Enduring power of attorney office copy fee (regulation 4A)” and in column 2 “£25”;
 - (b) in the entry for lasting power of attorney registration, in column 2, substitute “£120” for “£150”;
 - (c) after the entry for lasting power of attorney registration, insert in column 1 “Lasting power of attorney office copy fee (regulation 5A)” and in column 2 “£25”;
 - (d) in the entry for appointment of deputy, in column 2, substitute “£100” for “£125”; and
 - (e) after the entry for type I (highest) supervision, insert in column 1 “Type IIA (intermediate) supervision (regulation 8)” and in column 2 “£350 per annum”.

Signed by authority of the Lord Chancellor

3rd March 2009

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

(3) 2005 c. 9.

(4) 2007 c. 5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Public Guardian (Fees, etc.) Regulations 2007 (“the 2007 Regulations”) by:

- prescribing a new fee for obtaining an office copy of a registered enduring or lasting power of attorney (regulations 3 to 5 and 9(a) and (c));
- removing application of regulation 7 and 8 of the 2007 Regulations to existing receivers (regulation 6 and 7(a));
- creating an additional level of supervision for deputies and prescribing a new fee (regulation 7(b) and (c) and 9(e));
- making provision for an additional qualifying benefit under regulation 9 of the 2007 Regulations, so that if the relevant person is in receipt of income-related employment and support allowance no fee will be payable under the 2007 Regulations (regulation 8); and
- decreasing the lasting power of attorney registration fee (from £150 to £120) (regulation 9(b)) and the appointment of deputy fee (from £125 to £100) (regulation 9(d)).