
Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Cross
Heading: Instrument not made properly or containing ineffective provision. (See end of Document for details)

SCHEDULES

SCHEDULE 1

LASTING POWERS OF ATTORNEY: FORMALITIES

PART 2

REGISTRATION

Instrument not made properly or containing ineffective provision

- 11 (1) If it appears to the Public Guardian that an instrument accompanying an application under paragraph 4 is not made in accordance with this Schedule, he must not register the instrument unless the court directs him to do so.
- (2) Sub-paragraph (3) applies if it appears to the Public Guardian that the instrument contains a provision which—
- (a) would be ineffective as part of a lasting power of attorney, or
 - (b) would prevent the instrument from operating as a valid lasting power of attorney.
- (3) The Public Guardian—
- (a) must apply to the court for it to determine the matter under section 23(1), and
 - (b) pending the determination by the court, must not register the instrument.
- (4) Sub-paragraph (5) applies if the court determines under section 23(1) (whether or not on an application by the Public Guardian) that the instrument contains a provision which—
- (a) would be ineffective as part of a lasting power of attorney, or
 - (b) would prevent the instrument from operating as a valid lasting power of attorney.
- (5) The court must—
- (a) notify the Public Guardian that it has severed the provision, or
 - (b) direct him not to register the instrument.
- (6) Where the court notifies the Public Guardian that it has severed a provision, he must register the instrument with a note to that effect attached to it.

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