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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 4

FUNCTIONS OF THE PUBLIC GUARDIAN

*Security for discharge of functions*

**Persons required to give security for the discharge of their functions**

**33.**—(1) This regulation applies in any case where the court orders a person (“S”) to give to the Public Guardian security for the discharge of his functions.

(2) The security must be given by S—

- (a) by means of a bond which is entered into in accordance with regulation 34; or
- (b) in such other manner as the court may direct.

(3) For the purposes of paragraph (2)(a), S complies with the requirement to give the security only if—

- (a) the endorsement required by regulation 34(2) has been provided; and
- (b) the person who provided it has notified the Public Guardian of that fact.

(4) For the purposes of paragraph (2)(b), S complies with the requirement to give the security—

- (a) in any case where the court directs that any other endorsement must be provided, only if—
  - (i) that endorsement has been provided; and
  - (ii) the person who provided it has notified the Public Guardian of that fact;
- (b) in any case where the court directs that any other requirements must be met in relation to the giving of the security, only if the Public Guardian is satisfied that those other requirements have been met.

**Security given under regulation 33(2)(a): requirement for endorsement**

**34.**—(1) This regulation has effect for the purposes of regulation 33(2)(a).

(2) A bond is entered into in accordance with this regulation only if it is endorsed by—

- (a) an authorised insurance company; or
- (b) an authorised deposit-taker.

(3) A person may enter into the bond under—

- (a) arrangements made by the Public Guardian; or
- (b) other arrangements which are made by the person entering into the bond or on his behalf.

(4) The Public Guardian may make arrangements with any person specified in paragraph (2) with a view to facilitating the provision by them of bonds which persons required to give security to the Public Guardian may enter into.

(5) In this regulation—

“authorised insurance company” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000<sup>(1)</sup> to effect or carry out contracts of insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule to effect or carry out contracts of insurance;
- (c) a person who carries on insurance market activity (within the meaning given in section 316(3) of that Act); and

“authorised deposit-taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule to accept deposits.

(6) The definitions of “authorised insurance company” and “authorised deposit-taker” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order<sup>(2)</sup> under that section; and
- (c) Schedule 2 to that Act.

### **Security given under regulation 33(2)(a): maintenance or replacement**

**35.**—(1) This regulation applies to any security given under regulation 33(2)(a).

(2) At such times or at such intervals as the Public Guardian may direct by notice in writing, any person (“S”) who has given the security must satisfy the Public Guardian that any premiums payable in respect of it have been paid.

(3) Where S proposes to replace a security already given by him, the new security is not to be regarded as having been given until the Public Guardian is satisfied that—

- (a) the requirements set out in sub-paragraphs (a) and (b) of regulation 33(3) have been met in relation to it; and
- (b) no payment is due from S in connection with the discharge of his functions.

### **Enforcement following court order of any endorsed security**

**36.**—(1) This regulation applies to any security given to the Public Guardian in respect of which an endorsement has been provided.

(2) Where the court orders the enforcement of the security, the Public Guardian must—

- (a) notify any person who endorsed the security of the contents of the order; and
- (b) notify the court when payment has been made of the amount secured.

(1) 2000 c.8.

(2) S.I. 2001/544, as amended by S.I. 2001/3544, 2002/682, 1310, 1776 and 1777, 2003/1475, 1476 and 2822, 2004/1610 and 2737, 2005/593, 1518 and 2967 and 2006/1969, 2383 and 3221.

### **Discharge of any endorsed security**

**37.**—(1) This regulation applies to any security given by a person (“S”) to the Public Guardian in respect of which an endorsement has been provided.

(2) The security may be discharged if the court makes an order discharging it.

(3) In any other case, the security may not be discharged until the end of the period of 7 years commencing with whichever of the following dates first occurs—

- (a) if the person on whose behalf S was appointed to act dies, the date of his death;
- (b) if S dies, the date of his death;
- (c) if the court makes an order which discharges S but which does not also discharge the security under paragraph (2), the date of the order;
- (d) the date when S otherwise ceases to be under a duty to discharge the functions in respect of which he was ordered to give security.

(4) For the purposes of paragraph (3), if a person takes any step with a view to discharging the security before the end of the period specified in that paragraph, the security is to be treated for all purposes as if it were still in place.