

PRACTICE DIRECTION – MISCELLANEOUS

This practice direction supplements Part 23 of the Court of Protection Rules 2007

PRACTICE DIRECTION A – REQUEST FOR DIRECTIONS WHERE NOTICE OF OBJECTION PREVENTS PUBLIC GUARDIAN FROM REGISTERING ENDURING POWER OF ATTORNEY

1. Rule 201 provides for the Public Guardian to request the court's directions where a notice of objection prevents him from registering an instrument creating an enduring power of attorney. This practice direction makes provision about such requests.

(Practice direction H accompanying Part 9 deals with applications made by persons other than the Public Guardian who are seeking the court's directions about registration.)

2. Time limits apply before the Public Guardian can request directions.¹ These are measured from the date (or the latest date) on which the attorney gave notice² to the donor's relatives of the attorney's intention to make an application for the registration of the instrument creating the enduring power. The Public Guardian cannot request directions until 5 weeks have expired beginning with the date of notification.
3. However, this period is extended if it would otherwise expire less than 14 days after the Public Guardian receives the notice of objection which prevents him from registering the instrument. In this case, the Public Guardian may not request directions from the court until the end of the 14 day period which begins with the date on which he received the notice of objection.
4. The request for directions must be made using form COP17. The Public Guardian must file the form and any document he considers may assist the court to give directions about the registration of the instrument.

¹ These time limits are imposed by rule 201(1)(b) and (2).

² See paragraph 5 of Schedule 4 to the Act.

5. The Public Guardian will notify the donor in accordance with Part 7 that he has made a request within 21 days of the date on which he makes it. However, the Public Guardian is not required to serve the request on any other person or otherwise to notify them that a request has been made. He will participate in the proceedings only if the court requests him to do so.

6. As soon as practicable after a request has been filed, notice of that fact³ will be given by a court officer to:
 - (a) the person (or persons) who gave the notice of objection; and
 - (b) the attorney under the enduring power or, if more than one, each of them.

7. If any person wishes to participate in the proceedings, he then has 21 days to file an application using form COP8. The application must be made in accordance with the detailed requirements for applications relating to the registration of enduring powers of attorney, which are set out in practice direction H accompanying Part 9. If no such application is received, the court will proceed to consider the matter in response to the Public Guardian's request and will give directions to the Public Guardian.

³ Rule 200(6) sets out what the notice must contain.