

ROYAL COURT OF JERSEY

RC22/03

THE CAPACITY AND SELF-DETERMINATION (JERSEY) LAW 2016 (“the Law”)

Registration of Foreign Powers of Attorney/Enduring Powers of Attorney (EPA) /Lasting Powers of Attorney (LPA) and Acts of Courts

1. Under Royal Court Rule 17/3(1)(b), the Judicial Greffier is empowered to transact the following business in chambers, namely –
 - (b) *the hearing and determination of an application for registration of a power of attorney or of an instrument revoking or abandoning a power of attorney.*
2. Under Article 13 of the Capacity and Self Determination (Jersey) Law 2016:
 - “(2) *Where a power of attorney is first registered (by “original registration”) in a jurisdiction of the British Islands other than Jersey, it may have effect in Jersey –*
 - (a) *if such evidence as to the original registration as the States may by Regulations require is provided to the Judicial Greffe; and*
 - (b) *for so long as the original registration validly subsists,*

as though it were a lasting power of attorney created and registered in Jersey under paragraph (1), and for this purpose the Judicial Greffe shall register and deal with such a power of attorney in accordance with Part 2 of the Schedule subject to such modifications as the States may by Regulations make to the Schedule for this purpose.”

Registration of EPA/LPAs first registered outside of Jersey but within the British Islands

3. For the purpose of this Practice Direction, British Islands means the United Kingdom, the Channel Islands and the Isle of Man.
4. Applications for the registration of LPAs first registered outside of Jersey but within the British Islands should be commenced by a Representation substantially in the form set out in Schedule 1 to this Practice Direction.
5. Documents to be enclosed with the Representation are:
 - (a) A covering letter addressed to the Judicial Greffier setting out the application.

The letter must be signed by the person(s) making the application to register the original registration in Jersey (i.e. the appointed attorney(s) or

their local agent) and provide the address to send the registered EPA/LPA on to;

- (b) The original EPA/LPA or a copy thereof certified as true by an authorised person.

For this purpose an authorised person is a judge, justice of the peace, magistrate, mayor, chief officer of any city or municipal corporation, a barrister, solicitor, a lawyer qualified under the legal system of the place of execution, a person authorized to take oaths or affidavits or the equivalent thereof by the law of Jersey or the law of the place of execution, a British consular official (or a person for the time being discharging the duties of such an official), or, if the donor of the power is a member of the British armed forces, an officer of those forces authorized to take affidavits;

- (c) The results of a search of the Register of the Office of the Public Guardian which first registered the EPA/LPA confirming that the original registration continues to be valid and has not been revoked;
- (d) Certified proof of identity of the Donor and applicant; and
- (e) The registration fee of £330.00 GBP as may be varied from time to time. Payment of the registration fee may be paid by card over the telephone. Please telephone the Protection Division of the Judicial Greffe on Tel. 01534 441360 or upon presentation of a Court receipt obtained from the Treasury Cashiers located at the Government's Customer and Local Services Department.

- 6. Once the original registration has been registered by the Judicial Greffe, the Jersey registered instrument, comprising an Act of Court (see exemplar at Schedule 2) and a copy of the original registration will be sent by post to the address given by the applicant in the covering letter.

Registration of LPAs (*or the equivalent thereof*) first registered outside of the British Islands

- 7. Applications for the registration of LPAs (*or the equivalent thereof*) originally registered outside of the British Islands must be commenced by a Representation substantially in the form set out in Schedule 3 to this Practice Direction.

Applications for the registration of foreign Court Orders

- 8. Applications for the registration of foreign Court Orders must be brought by Representation directly to the Inferior Number of the Royal Court. The original or a certified true copy of the originating Court order and the application fee must accompany the Representation.

This Practice Direction comes into effect immediately.

8 November 2022

Schedule 1

IN THE MATTER OF THE REGISTRATION OF THE [LASTING/ENDURING]
POWER OF ATTORNEY OF [NAME OF DONOR]

IN THE MATTER OF ARTICLE 13 OF THE CAPACITY AND SELF-
DETERMINATION (JERSEY) LAW 2016

Representation

The Representation of (full name) of (address) ("the Representor") shows:-

1. On [date], [name of donor] ("the Donor") of [address of donor] appointed [name of applicant/attorney] of [address of attorney] to be their attorney in accordance with the provisions of the [type of power] executed on [date of execution] at [place of execution].
2. The Donor appointed [names of attorneys] and [any other named attorney's] [how appointed jointly and/or severally, if applicable] to be their attorney(s) with general authority to act on their behalf in relation to their [property and affairs/health and welfare] and appointed [names of replacement attorney(s), if applicable] as replacement attorneys to act on their behalf in the terms of the said [type of power].
3. The [type of power] was registered with [name of court where registered] on [date registered] in accordance with [under which law was registered].
4. I attach confirmation from [the Office of the Public Guardian or other as appropriate] that the [type of power] is valid, has not been revoked and continues to be in force.
5. [I confirm that the donor does not have capacity to administer [his/her] Jersey assets].
6. The Donor holds the following property/assets within the jurisdiction of Jersey:

[details property / assets]
7. The [type of power], despite being drafted and executed in accordance with the law of [jurisdiction of creation] is valid in the jurisdiction of Jersey by reason of Article 13(2) of the Capacity and Self-Determination (Jersey) Law 2016.
8. The Representor hereby undertakes, that in the event of any material changes affecting the validity of the original registration of the [type of power], it shall immediately notify the Judicial Greffier of any such changes.

WHEREFORE the Representor requests that the [type of power] be registered by the Judicial Greffe so that it has full effect within the Island of Jersey.

Schedule 2

In the Royal Court of Jersey

Probate and Protection Division

In the year two thousand and [year], the [day in words] day of [month].

Before the Judicial Greffier.

IN THE MATTER OF [DONOR'S FULL NAME] [NÉE MAIDEN NAME]

AND IN THE MATTER OF THE CAPACITY AND SELF-DETERMINATION (JERSEY)
LAW 2016

I hereby certify that, pursuant to Article 13(2) of the Capacity and Self-Determination (Jersey) Law 2016 (the “Law”), the *attached* **[Enduring Power of Attorney (EPA)/lasting power of attorney (LPA) for [property and affairs/health and welfare] for [Donor's title and names] of [Donor's address]** first registered by **[the Office of the Public Guardian/the Office of the Public Guardian (Scotland)/Office of Protection and Care, Northern Ireland/the Registrar of Wards of Court/Channel Islands/Isle of Man]** on [date] (the “original registration”) is hereby registered by the Royal Court of Jersey this day, as though the requirements of Part 2 to the Schedule of the Law have been complied with, for so long as the original registration validly subsists.

In registering the original registration, the Court orders that:

- (1) the donor and/or attorney(s) appointed pursuant to the original registration must inform the Royal Court of Jersey via the Judicial Greffe within fourteen (14) days of any alteration in the validity of the underlying LPA; and
- (2) the attorney(s) appointed pursuant to the original registration must adhere to the Capacity and Self-Determination (Jersey) Law 2016's core principles and its Code of Practice.

Greffier Substitute

Schedule 3

IN THE MATTER OF THE REGISTRATION IF THE LASTING POWER OF
ATTORNEY OF [NAME OF DONOR]

IN THE MATTER OF ROYAL COURT RULE 17/3(b)

Representation

The Representation of (full name) of (address) ("the Representor") shows:-

1. On [date], [name of donor] ("the Donor") of [address of donor] appointed [name of applicant/attorney] of [address of attorney] to be their attorney in accordance with the provisions of the [type of power] executed on [date of execution] at [place of execution].
2. The Donor appointed [names of attorneys] and [any other named attorney's] [how appointed jointly and/or severally, if applicable] to be their attorney(s) with general authority to act on their behalf in relation to their property and affairs and appointed [names of replacement attorney(s), if applicable] as replacement attorneys to act on their behalf in the terms of the said [type of power].

3. *Either:*

The [type of power] was registered with [name of court where registered] on [date registered] in accordance with [under which law was registered]

or

the [type of power] does not require registration under the law of [the relevant jurisdiction] as per the Affidavit provided by [name of person providing sworn affidavit]

(if not registered with a Court – then must provide affidavit of law – see below)

4. The Donor holds the following property / assets within the jurisdiction of Jersey
[details property / assets]
5. The [type of power], despite being drafted and executed in accordance with the law of [jurisdiction of creation] is valid in the jurisdiction of Jersey by reason of [set out reasons for the assertion that the authority granted to the attorney/s within the Power of attorney are intended to extend to assets within the jurisdiction of Jersey]
6. The [name of applicant/representor] wishes to instruct the above named asset holders to record their authority over the Donor's property in accordance with the

[type of power] and for the asset holders to accept and act upon instructions from the [said name of applicant/representor] so that the Donor's assets held within the jurisdiction of the Jersey may be administered by the [said name of applicant/representor] for the [name of donor]'s benefit.

7. The Representor hereby undertakes, that in the event of any material changes affecting the validity of the original registration of the [type of power], it shall immediately notify the Judicial Greffier of any such changes.

WHEREFORE the Representor requests that the [type of power] be registered in the rolls of the Royal Court so that it has full effect within the Island of Jersey.

Notes for applicants

Documents to be exhibited to the Representation

1. The original or certified copy of the [type of power] (***supported by a certified translation, if necessary***)

(Please note that the certification should be undertaken by a person authorised to do so in the place of execution)

"A judge, justice of the peace, magistrate, mayor, chief officer of any city or municipal corporation, a barrister, solicitor, a lawyer qualified under the legal system of the place of execution, a person authorized to take oaths or affidavits or the equivalent thereof by the law of Jersey or the law of the place of execution, a British consular official (or a person for the time being discharging the duties of such an official), or, if the donor of the power is a member of the British armed forces, an officer of those forces authorized to take affidavits."

2. Where the [type of power] has not been registered by a court in the jurisdiction by which it purports to be governed, the Judicial Greffier required the application to be supported by an affidavit of law which should clarify the following issues:-
 - *the name and legal qualification of the person who drafted the [type of power]*
 - *the Law firm and address that they work for;*
 - *the date when the [type of power] took effect; who is the Donor of the [type of power]; who are the appointed attorneys (and if applicable, replacement attorneys); and how the [type of power] is to be exercised (i.e. joint and/or severally);*
 - *in which jurisdiction the [type of power] was executed and if applicable under which law the [type of power] was executed;*

- *whether the [type of power] needs to be registered by the Court (or the equivalent) in the jurisdiction of execution (and if registered when that was or will be done); and*
 - *where the [type of power] is valid; (for example, whether jurisdiction specific or worldwide – are there any geographical limitations)*
 - *confirmation that when the [type of power] was executed the Donor had capacity to execute and that the [type of power] continues to be valid in the event that the Donor subsequently loses capacity*
3. Documentary evidence of the assets
 4. Certified documentary proof of Identity of the Donor and lay applicant.

Documents to be provided with the Representation

1. A covering letter addressed to the Judicial Greffier

The letter should set out the application and must be:

- a) signed by the person(s) making the application to register the [type of power] in Jersey (must be the appointed attorney(s) or their local agent); and
- b) provide details of where the documents are to be returned.

2. Fee for the registration is £330.00 (GBP)

Local applicants will need to provide the usual Treasury receipt to confirm payment.

Applicants who are non-Jersey residents, please contact jgrsamedi@courts.je to discuss payment of fees.