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## No. S 500

### MENTAL CAPACITY ACT (CHAPTER 177A)

### MENTAL CAPACITY ACT (AMENDMENT OF FIRST SCHEDULE) ORDER 2019

In exercise of the powers conferred by section 45 of the Mental Capacity Act, the Minister for Social and Family Development makes the following Order:

#### **Citation and commencement**

1. This Order is the Mental Capacity Act (Amendment of First Schedule) Order 2019 and comes into operation on 1 August 2019.

#### **Amendment of First Schedule**

2. The First Schedule to the Mental Capacity Act is amended —

(a) by deleting sub-paragraph (a) of paragraph 1(1) and substituting the following sub-paragraph:

“(a) subject to paragraph 3, it is in any of the forms provided at the prescribed website;”;

(b) by deleting the words “prescribed information” in paragraph 2(1)(a) and substituting the words “information specified in any of the forms mentioned in paragraph 1(1)(a)”;

(c) by deleting the words “prescribed information or a prescribed part of it” in paragraph 2(1)(b)(i) and (d)(i) and substituting in each case the words “information mentioned in sub-paragraph (a)”;

(d) by deleting sub-paragraph (5) of paragraph 2;

(e) by deleting the words “the prescribed form” in paragraph 3(1), (2) and (3) and substituting in each case

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the words “any form for an instrument provided at the prescribed website”;

- (f) by deleting the words “the form that was prescribed” in paragraph 3(3) and substituting the words “a form that was provided at the prescribed website”;
- (g) by deleting the word “prescribed” in the paragraph heading of paragraph 3;
- (h) by deleting sub-paragraph (1) of paragraph 4 and substituting the following sub-paragraph:
  - “(1) An application to the Public Guardian for the registration of an instrument intended to create a lasting power of attorney must be in the form provided at the prescribed website.”;
- (i) by deleting the word “prescribed” in paragraph 8 and substituting the words “mentioned at the prescribed website”;
- (j) by deleting paragraphs 14 and 15 and substituting the following paragraphs:

**“Registration**

14.—(1) The Public Guardian may register an instrument in any form and manner as the Public Guardian may determine (including in an electronic form and by electronic means).

(2) Where the Public Guardian registers an instrument under this Schedule, the Public Guardian must give notice of such registration, in the form provided at the prescribed website, to the following persons:

- (a) the donor;
- (b) the donee or, if more than one, each of them.

**Evidence of registration, etc.**

15.—(1) The Public Guardian may, in accordance with any prescribed requirements (if prescribed), give to a person a copy of, or certify a copy of, an instrument registered by the Public Guardian under this Schedule to create a lasting power of attorney.

(2) A copy of the instrument given or certified by the Public Guardian under sub-paragraph (1) is prima facie evidence of —

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- (a) the contents of the instrument; and
  - (b) the registration of the instrument by the Public Guardian,  
on the date and time specified on that copy.”;
  - (k) by inserting, immediately after the words “section 17(4)(b)” in paragraph 17(c), the words “or (c)”;
  - (l) by deleting sub-paragraph (b) of paragraph 19;
  - (m) by deleting the words “for the note to be attached” in paragraph 23A;
  - (n) by deleting sub-paragraph (b) of paragraph 23A;
  - (o) by renumbering paragraph 23A as sub-paragraph (1) of that paragraph, and by inserting immediately thereafter the following sub-paragraph:
    - “(2) The Public Guardian may attach to the registered instrument, the note in any form and manner as the Public Guardian may determine (including in an electronic form and by electronic means).”; and
  - (p) by inserting, immediately after paragraph 24, the following Part:

“PART V

MISCELLANEOUS

**Recognition of electronic record**

25.—(1) To avoid doubt —

- (a) a registered instrument under this Schedule;
- (b) a copy of a registered instrument given by the Public Guardian under this Schedule;
- (c) a copy of a registered instrument certified by the Public Guardian under this Schedule; or
- (d) a note attached to a registered instrument by the Public Guardian under this Schedule,

is not to be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic record.

(2) In this paragraph —

“electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

“electronic record” means a record generated, communicated, received or stored by electronic means in an information system or for transmission from one information system to another;

“information system” means a system for generating, sending, receiving, storing or otherwise processing electronic records.”.

Made on 9 July 2019.

CHEW HOCK YONG  
*Permanent Secretary,  
Ministry of Social and Family  
Development,  
Singapore.*

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