

THE ROYAL COURT

APPLICANTS IN PERSON

October 2019

Royal Court House
St James Street
St Peter Port
Guernsey
GY12NZ

www.guernseyroyalcourt.gg



THE ROYAL COURT
OF GUERNSEY

ENDURING (LASTING) POWER OF ATTORNEY

An Enduring (Lasting) Power of Attorney allows an individual who is deemed to be mentally sound to confer power upon another to act on their behalf in regard to all, or specific, matters, such as the signing of legal documents. Whilst these do not originate in Guernsey under our current laws, it is possible to register Enduring (Lasting) Powers of Attorney which have been granted in other jurisdictions in the Guernsey Courts.

What do I need to do?

Circumstances under which the recognition of Enduring (Lasting) Powers of Attorney may be sought vary widely, and it is not practicable to cover all eventualities in these notes which are for general guidance only.

In some cases, it may be that there is a bank account to which the donee of the power wishes to have access and the bank as respondent may need to have a signification served upon it. In that instance a Rule 90 application under the Royal Court Civil Rules, 2007 would have to be submitted.

To make an application under Rule 90 involves a two stage process. The first stage is to apply to the Bailiff for permission to sign a signification and the second is to submit the application to the Court. All paperwork must be completed and submitted to the Court from the outset for both stages of the process.

The attached Form A (Application Form under R.90), a separate Application, and a Notification Form would need to be completed together with an Affidavit in support of the Application. These documents should be submitted to the Royal Court either in person at the Royal Court counter or by post, along with payment of the relevant fees and the completed form entitled "Guernsey Court Fees".

In a situation where there is no respondent or, because of prior correspondence with, for instance, a bank concerned who have indicated that they do not need a signification, the first stage of the process is not required. All that would be required to be submitted to the Court is the Application to the Court with an Affidavit in support exhibiting the Power of Attorney registered, together with payment of the relevant fees and the completed form entitled "Guernsey Court Fees".

Once permission has been granted by the Bailiff for the substantive Application to be placed before the Court, or if this permission is not needed per the notes above, the application can be listed for hearing in a Friday Ordinary Court. The Court sits at 9.30 am on every working Friday during the year.

Should you require legal advice, please refer to an Advocate.

Please note that the documents referred to herein can also be obtained on the Royal Court website: www.guernseyroyalcourt.gg.

Checklist of documents to be submitted to the Court:

1. Form A—Application Form under Rule 90 of The Royal Court Civil Rules, 2007 (where appropriate).
2. Form B—Notification Form under Rule 90 of The Royal Court Civil Rules (where appropriate)
3. Substantive application to the Court
4. Affidavit in support of application exhibiting Power of Attorney or other document to be registered in the Guernsey Court.
5. Completed/signed Guernsey Court Fees form
6. Relevant fee

When processing your personal data, these offices are compliant with the Data Protection (Bailiwick of Guernsey) Law, 2017. For more information about how these offices process your personal data, please view the Fair Processing Notice available at the Royal Court Public Counter or on the Royal Court Website Homepage.

Rule 90 of the Royal Court Civil Rules, 2007



REGISTRATION OF ENDURING POWER OF ATTORNEY

FORM A - APPLICATION FORM

Application to the Bailiff for leave for an application to be signed by the applicant himself or by his guardian. Two copies of this form, each with a copy of the proposed application and affidavit in support attached, must be completed and delivered to HM Greffier, together with the application fee of £115.

1. Name and address of Applicant

.....
.....

2. Application for the Registration of an Enduring Power of Attorney made by

.....
.....

3. I hereby apply to the Bailiff for leave to sign the attached application and present it before the Royal Court at 9.30 am on Friday day of 20 .

4. Signed.....

5. Dated.....

Following receipt of this application, HM Greffier will refer it to the Bailiff. HM Greffier will notify the applicant of the result of his application by sending to him a copy of this form with the result of the application entered at the top of the form.

If leave is granted, the applicant must then appear before the Royal Court on the date specified at Paragraph 3 above.

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Rule 90 of the Royal Court Civil Rules, 2007 – Form B

NOTIFICATION FORM

[When leave has been granted by the Bailiff, two copies of this Form, together with the Application Form and details of the claim, must be delivered by the Applicant to HM Sergeant for service on the Defendant. The fee for service is £60.]

**SERGEANT
AT THE INSTANCE OF**

[Enter here your name and address as applicant]

.....
.....

Address for service in Guernsey:

In the matter of an Application for the registration of the enduring power of attorney of

.....

NOTIFY

[Enter here the name and address of the respondent/interested party]

.....
.....

To appear in the Royal Court of Guernsey at 9.30 a.m. on Friday

.....20...

[Enter above the date on which you wish the application to be returnable before the Court. This date should not be entered until after the Bailiff has granted leave to you as applicant to sign the notification].

To see the applicant apply to the Court for an order in the attached terms..

[Attach an Affidavit of the material facts on which you rely as Applicant. The same Affidavit must be attached to the Application)

Dated this day of 20...

Signature

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**DRAFT APPLICATION – ENDURING POWER OF ATTORNEY – FOR
GUIDANCE ONLY**

**IN THE ROYAL COURT OF GUERNSEY
(ORDINARY DIVISION)**

**IN THE MATTER OF THE APPLICATION FOR THE REGISTRATION OF THE
ENDURING POWER OF ATTORNEY OF (INSERT NAME)**

(INSERT NAME OF APPLICANT) whose address for service is **(INSERT ADDRESS)**
("the Applicant")

APPLIES TO THE COURT

FOR AN ORDER THAT the Enduring Power of Attorney made by **(INSERT
NAME)** on **(INSERT DATE)** appointing the Applicant as his/her Attorney, shall be
recognised within the jurisdiction of the Royal Court of Guernsey.

A certified copy of the Enduring Power of Attorney, as registered by the Office
of the Public Guardian on **(INSERT DATE)**, and the Affidavit of **(INSERT NAME)**
sworn on **(INSERT DATE)** are filed in support of this Application.

Dated this day of 20

.....

(INSERT NAME OF APPLICANT)

DRAFT WORDING FOR AFFIDAVIT IN SUPPORT OF APPLICATION
TO THE COURT FOR REGISTRATION OF ENDURING (LASTING) POWERS OF ATTORNEY ETC.

PLEASE NOTE: THIS IS FOR GUIDANCE ONLY

IN THE ROYAL COURT OF GUERNSEY
ORDINARY DIVISION

IN THE MATTER OF AN APPLICATION TO REGISTER THE
ENDURING (LASTING) POWER OF ATTORNEY OF
(INSERT NAME OF DONOR)

I, (INSERT NAME OF APPLICANT) of (INSERT ADDRESS OF APPLICANT) HEREBY
MAKE OATH/AFFIRM (DELETE AS APPROPRIATE) AND SAY AS FOLLOWS:

1. Except where otherwise stated, the facts and matters set out herein are within my own knowledge and are true. Where the facts and matters are not within my own knowledge, they are based on instructions, documents and information supplied to me are which are true to the best of my knowledge, information and belief.
2. I make this affidavit in support of my application to register in the Royal Court of Guernsey an Enduring (Lasting) Power of Attorney made by (insert name of donor) on the (insert date) in relation to property and financial affairs.
3. The Enduring (Lasting) Power of Attorney was registered with the Court of Protection (insert Court as appropriate) on (insert date) and there is now produced and shown to me and exhibited hereto a certified copy of the said Enduring (Lasting) Power of Attorney marked “(insert initial of Applicant/1)”.

BACKGROUND

4. (Insert background to application in numbered paragraphs setting out, as appropriate, such details as the relationship of the Applicant to the Donor and the property in Guernsey, where known, to which the power attaches, plus a brief explanation of the

condition of the donor and why they are unable to manage their own affairs and why a full guardianship is not considered necessary)

5.

6.

7. I therefore respectfully seek the Court's consent in registering the said Enduring (Lasting) Power of Attorney with immediate effect.

SWORN/AFFIRMED (delete as appropriate)

by the said (insert name of Applicant))

at (insert place where sworn))

this day of 20)

(insert date)

Before me

Notary Public/Solicitor



Guernsey Court Fees

Name of Case:

Application to Bailiff for leave to serve a summons or notification signed by applicant in person.

Service of a summons, notice or document in any proceedings other than for recovery of a sum of money.

Service of a summons, notice or document in proceedings for recovery of a sum of money.

Preparatory reading by a judge and writing of judgment in respect of any proceedings, per hour or part thereof, unless the judge otherwise directs and provided that no fee shall be payable for the first hour of such reading time or the first hour of such writing time.

First and each subsequent tabling of a cause, application or petition, filing of defences, and interlocutory applications.

a) in proceedings for the recovery of a sum of money.

b) in proceedings relating to Enduring Power Of Attorney

Proceedings before the Court requiring a hearing (up to 1 hour). (Exceeding one hour double the appropriate fee specified per hour or part thereof).

Lodging of Affidavits

Filing of Documents (Matrimonial Causes)

I have been shown the schedule of fees set out in the Cost and Fees Rules relevant to my application, which is available on the www.guernseylegalresources.gg website, and I understand that I will be charged for each application I make and the cost of the court hearing and other applicable fees.

Signed..... Date.....

Full name..... Telephone number (W)

E-mail address

PLEASE COMPLETE AND SIGN BOTH PAGES OF THIS DOCUMENT AND RETURN TO THE GREFFE TO ENABLE A COURT FEE ACCOUNT TO BE OPENED IN THE NAME OF THE APPLICANT. FAILURE TO DO SO MAY RESULT IN THE APPLICATION NOT BEING HEARD BEFORE THE COURT.

SECTION A - Where the applicant is an individual

Title: Mr/Mrs/Miss

Surname

First name(s)

Middle name(s)

Maiden name

Date of birth

Address (including post code):

.....

Home telephone number

SECTION B - Where the Applicant is a company

Company name

Company address (including post code)

.....

Main (business) telephone number

E-mail address

Correspondence address (if different to address given above)

.....

Directors of the Company

.....

Company Registration Number

I CERTIFY THAT THE ABOVE DETAILS ARE ACCURATE TO THE BEST OF MY KNOWLEDGE

Signed..... Date.....

Full name..... Contact telephone number

E-mail address

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