

MENTAL CAPACITY ACT – A LAW TO SUPPORT DIGNIFIED LIVING



The Mental Capacity Act (MCA) was passed in 2008.

Introduced the Lasting Power of Attorney (LPA) – allows individuals (called “donors”) to plan ahead by appointing a “donee” to make decisions for them if they lose mental capacity.

Allows Court to appoint “deputies” – for those who did not make an LPA.

NEW

Mental Capacity (Amendment) Bill 2016

Three key ideas behind MCA

1. Respect the choices of a person who has mental capacity.
2. Family is the first line of support; community has its part to play.
3. The State protects individuals who lack capacity from abuse or exploitation.



Respond to the emerging need for professional donees and deputies

1

Better protect individuals who lack mental capacity from abuse or exploitation by their donees or deputies

2

Facilitate the use of LPAs by donees to transact with third parties

3

Improve the operations of the Office of the Public Guardian

4

EMERGING NEED FOR PROFESSIONAL DONEES AND DEPUTIES SERVICES

NEW

AMENDMENT

Introduce "professional donee" and "professional deputy", to serve those without family or close friends to act as their proxy decision-makers

Stakeholders will be consulted before regulatory framework is finalised.

PROFESSIONAL DEPUTY

- Meets criteria and is registered with the Public Guardian.
- Not related to P.

PROFESSIONAL DONEE

- Bill limits professional donees to:

1. Professional deputies registered with the Public Guardian
2. Prescribed classes of persons such as licensed trust companies.

Public Guardian may cancel registration and apply to court to revoke appointment if P is at risk.

'P' refers to the person who lacks mental capacity



BETTER PROTECT INDIVIDUALS WHO LACK MENTAL CAPACITY FROM ABUSE BY THEIR DONEES OR DEPUTIES

AMENDMENT

Allow Courts to revoke donee's or deputy's powers if there is significant risk of abuse or exploitation by donee or deputy.

NEW



A donee or deputy is **convicted** of an offence (could be against some other person) involving dishonesty or fraud.



The Court can revoke the donee's or deputy's appointment, and prevent abuse.



Act pre-emptively to protect P and P's assets.

'P' refers to the person who lacks mental capacity

BETTER PROTECT INDIVIDUALS WHO LACK MENTAL CAPACITY FROM ABUSE BY THEIR DONEES OR DEPUTIES

AMENDMENT

Allow Courts to suspend donee's or deputy's powers, in the absence of any prior application

CURRENT

Catch-22 situation: Can't suspend a donee's or deputy's powers without prior application to Court to revoke powers. Not appropriate to apply to revoke if donee or deputy is charged but not yet convicted.



A donee or deputy has been **charged** (but not yet convicted) with an offence involving fraud or dishonesty.

There is real risk that he will dissipate the assets of P.



NEW



Can now apply to Court to suspend powers of the donee or deputy without having to first apply for revocation.



Act pre-emptively to protect P and P's assets.

'P' refers to the person who lacks mental capacity

HOW TO REGISTER YOUR LASTING POWER OF ATTORNEY

1 Complete your Lasting Power of Attorney Form (use LPA Form 1 or LPA Form 2)



2 **See an LPA Certificate Issuer:**
a) A practising lawyer;
b) A registered psychiatrist; or
c) An accredited medical practitioner.



3 Complete the application form to register your LPA



4 Submit your completed Forms and supporting documents to the Office of the Public Guardian



NOTE:

- a) Submit the following
 - Completed Application Form
 - Completed LPA
 - NRIC of donor (photocopy)
 - NRIC of donee(s) and replacement donee(s) (photocopy)
 - Payment (if required) will be advised when OPG has received and verified the application
- b) The forms and guides are available at <https://www.publicguardian.gov.sg/opg/Pages/Forms.aspx>

Singaporeans making an LPA Form 1 can enjoy a \$50 registration fee waiver. Completed forms can be mailed to the Office of the Public Guardian for free.

**\$50 fee
WAIVER**

Download LPA forms from www.publicguardian.gov.sg