



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Lasting powers of attorney

10 Appointment of donees

- (1) A donee of a lasting power of attorney must be—
 - (a) an individual who has reached 18, or
 - (b) if the power relates only to P's property and affairs, either such an individual or a trust corporation.
- (2) An individual who is bankrupt may not be appointed as donee of a lasting power of attorney in relation to P's property and affairs.
- (3) Subsections (4) to (7) apply in relation to an instrument under which two or more persons are to act as donees of a lasting power of attorney.
- (4) The instrument may appoint them to act—
 - (a) jointly,
 - (b) jointly and severally, or
 - (c) jointly in respect of some matters and jointly and severally in respect of others.
- (5) To the extent to which it does not specify whether they are to act jointly or jointly and severally, the instrument is to be assumed to appoint them to act jointly.
- (6) If they are to act jointly, a failure, as respects one of them, to comply with the requirements of subsection (1) or (2) or Part 1 or 2 of Schedule 1 prevents a lasting power of attorney from being created.
- (7) If they are to act jointly and severally, a failure, as respects one of them, to comply with the requirements of subsection (1) or (2) or Part 1 or 2 of Schedule 1—
 - (a) prevents the appointment taking effect in his case, but

Status: This is the original version (as it was originally enacted).

- (b) does not prevent a lasting power of attorney from being created in the case of the other or others.
- (8) An instrument used to create a lasting power of attorney—
- (a) cannot give the donee (or, if more than one, any of them) power to appoint a substitute or successor, but
 - (b) may itself appoint a person to replace the donee (or, if more than one, any of them) on the occurrence of an event mentioned in section 13(6)(a) to (d) which has the effect of terminating the donee’s appointment.