



2016 CHAPTER 18

PART 5

LASTING POWERS OF ATTORNEY

Appointment of attorneys and replacements

Appointment of replacement attorneys

103.—(1) An instrument executed with a view to creating a lasting power of attorney—

- (a) cannot give a person appointed as attorney power to appoint a substitute or successor (whether of that person or any other person appointed as attorney); but
- (b) may itself appoint one or more persons (“replacement attorneys”) to replace any person appointed as attorney on the occurrence of a terminating event which has the effect of terminating that person’s appointment.

(2) An instrument that appoints a person as a replacement attorney may not appoint a person to replace a replacement attorney (in the event that a terminating event terminates the appointment of the replacement attorney).

(3) Where an instrument executed with a view to creating a lasting power of attorney—

- (a) appoints two or more persons as attorneys, and
- (b) appoints two or more persons as replacement attorneys,

it may specify the order in which the appointments of the replacement attorneys are to take effect.

(4) Nothing in subsection (3) limits the power under subsection (1)(b) for an instrument to specify a particular person (or persons) as the person who is to replace a particular person appointed as attorney (“A”) on the occurrence of a terminating event that terminates A’s appointment.

(5) Section 101 (requirements as respects attorneys) applies in relation to the appointment of a person as a replacement attorney as it applies in relation to the appointment of a person as an attorney.

(6) A failure, in relation to a person appointed as a replacement attorney, to comply with a requirement of section 101 or Part 1 or 2 of Schedule 4 does not prevent a lasting power of attorney from being created.

(7) In this section “a terminating event” means—

- (a) an event mentioned in section 107(2)(a) to (f);
- (b) a termination of an appointment under section 110(4)(b).