

*Status: This version of this provision is prospective.*

**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 105 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



## 2016 CHAPTER 18

### PART 5

#### LASTING POWERS OF ATTORNEY

##### *Appointment of attorneys and replacements*

PROSPECTIVE

#### **Replacement attorneys: position where two or more initial appointees**

**105.—**(1) This section applies where—

- (a) an instrument executed with a view to creating a lasting power of attorney appoints two or more persons as attorneys (the “initial appointees”);
- (b) an initial appointee is replaced under the instrument by virtue of section 103(1)(b); and
- (c) on that replacement, there are at least two relevant appointees under the instrument.

(2) A person is a “relevant appointee” under the instrument if—

- (a) the person was appointed as an attorney by the instrument (whether or not to act jointly with the initial appointee who has been replaced) and no terminating event has terminated the person's appointment; or
- (b) the person has replaced an initial appointee and no terminating event has terminated the person's appointment.

(3) The relevant appointees are—

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- (a) if the initial appointees were appointed to act jointly, to be treated as appointed to act jointly;
  - (b) if the initial appointees were appointed to act jointly and severally, to be treated as appointed to act jointly and severally;
  - (c) if the initial appointees were appointed to act jointly in respect of some matters and jointly and severally in respect of others, to be treated as appointed to act in the same way.
- (4) But where a terminating event has terminated a relevant appointee's appointment in relation to the donor's property and affairs (but not in relation to other matters), subsection (3) is subject to that termination.
- (5) In this section “terminating event” has the same meaning as in section 103.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)