



2016 CHAPTER 18

PART 5

LASTING POWERS OF ATTORNEY

Appointment of attorneys and replacements

Revocation etc: events relating to the attorney

107.—(1) This section applies where an event mentioned in subsection (2) occurs in relation to a person (“A”) appointed as an attorney or replacement attorney by—

- (a) a lasting power of attorney; or
- (b) an instrument executed with a view to creating a lasting power of attorney.

(2) The events referred to in subsection (1) are—

- (a) the disclaimer of the appointment by A in accordance with any prescribed requirements;
- (b) the death of A;
- (c) the bankruptcy of A (but see subsections (5) to (8));
- (d) if A is a trust corporation, its winding-up or dissolution;
- (e) the dissolution, annulment or judicial separation of a marriage or civil partnership between the donor and A (but see subsections (5) and (9));
- (f) the lack of capacity of A.

(3) The event terminates A’s appointment.

(4) If A is an attorney under the power or an intended attorney under the instrument, the event revokes the power or instrument unless—

- (a) A was appointed as an attorney by the power or instrument and is replaced under its terms; or
 - (b) A is one of two or more persons who were to act jointly and severally in respect of any matter and, after the event, there is at least one remaining attorney or intended attorney (as the case may be).
- (5) Subsections (3) and (4) are subject—
- (a) in the case of an event mentioned in subsection (2)(c), to subsections (6) and (7);
 - (b) in the case of an event mentioned in subsection (2)(e), to subsection (9).
- (6) The bankruptcy of A does not terminate A's appointment, or revoke the instrument or power, in so far as A's authority relates to the donor's care, treatment and personal welfare.
- (7) Where A is an attorney under a lasting power of attorney and is bankrupt merely because an interim bankruptcy restrictions order has effect, A's appointment and the power are suspended, so far as they relate to the donor's property and affairs, for so long as the order has effect.
- (8) The reference in subsection (7) to the suspension of the power is to be read, where A is one of two or more attorneys who are to act jointly and severally in respect of any matter, as a reference to the suspension of the power so far as it relates to A.
- (9) The dissolution, annulment or judicial separation of a marriage or civil partnership does not terminate A's appointment, or revoke the instrument or power, if the instrument or power provides that it is not to do so.
- (10) In subsection (4) "intended attorney" means a person who, if the instrument were registered and a lasting power of attorney were created, would be an attorney under the lasting power.
- (11) In this section references to the "judicial separation" of a marriage or civil partnership include—
- (a) the making of a decree of judicial separation in respect of a marriage, and
 - (b) the making of a separation order in respect of a civil partnership.