



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Powers of the court in relation to lasting powers of attorney

22 Powers of court in relation to validity of lasting powers of attorney

- (1) This section and section 23 apply if —
 - (a) a person (“P”) has executed or purported to execute an instrument with a view to creating a lasting power of attorney, or
 - (b) an instrument has been registered as a lasting power of attorney conferred by P.
- (2) The court may determine any question relating to—
 - (a) whether one or more of the requirements for the creation of a lasting power of attorney have been met;
 - (b) whether the power has been revoked or has otherwise come to an end.
- (3) Subsection (4) applies if the court is satisfied—
 - (a) that fraud or undue pressure was used to induce P—
 - (i) to execute an instrument for the purpose of creating a lasting power of attorney, or
 - (ii) to create a lasting power of attorney, or
 - (b) that the donee (or, if more than one, any of them) of a lasting power of attorney—
 - (i) has behaved, or is behaving, in a way that contravenes his authority or is not in P’s best interests, or
 - (ii) proposes to behave in a way that would contravene his authority or would not be in P’s best interests.
- (4) The court may—

Status: Point in time view as at 16/05/2019.

Changes to legislation: Mental Capacity Act 2005, Section 22 is up to date with all changes known to be in force on or before 19 May 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)

- (a) direct that an instrument purporting to create the lasting power of attorney is not to be registered, or
 - (b) if P lacks capacity to do so, revoke the instrument or the lasting power of attorney.
- (5) If there is more than one donee, the court may under subsection (4)(b) revoke the instrument or the lasting power of attorney so far as it relates to any of them.
- (6) “Donee” includes an intended donee.

Status:

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