



# 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  - (b) whether the power has been revoked or has otherwise come to an end.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—

---

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 22. (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.

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 22.