



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Lasting powers of attorney*

#### **12 Scope of lasting powers of attorney: gifts**

- (1) Where a lasting power of attorney confers authority to make decisions about P's property and affairs, it does not authorise a donee (or, if more than one, any of them) to dispose of the donor's property by making gifts except to the extent permitted by subsection (2).
- (2) The donee may make gifts—
  - (a) on customary occasions to persons (including himself) who are related to or connected with the donor, or
  - (b) to any charity to whom the donor made or might have been expected to make gifts,if the value of each such gift is not unreasonable having regard to all the circumstances and, in particular, the size of the donor's estate.
- (3) “Customary occasion” means—
  - (a) the occasion or anniversary of a birth, a marriage or the formation of a civil partnership, or
  - (b) any other occasion on which presents are customarily given within families or among friends or associates.
- (4) Subsection (2) is subject to any conditions or restrictions in the instrument.

**Status:**

Point in time view as at 01/10/2007.

**Changes to legislation:**

Mental Capacity Act 2005, Section 12 is up to date with all changes known to be in force on or before 26 April 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.