



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Lasting powers of attorney*

#### **9 Lasting powers of attorney**

- (1) A lasting power of attorney is a power of attorney under which the donor (“P”) confers on the donee (or donees) authority to make decisions about all or any of the following—
- (a) P's personal welfare or specified matters concerning P's personal welfare, and
  - (b) P's property and affairs or specified matters concerning P's property and affairs,
- and which includes authority to make such decisions in circumstances where P no longer has capacity.
- (2) A lasting power of attorney is not created unless—
- (a) section 10 is complied with,
  - (b) an instrument conferring authority of the kind mentioned in subsection (1) is made and registered in accordance with Schedule 1, and
  - (c) at the time when P executes the instrument, P has reached 18 and has capacity to execute it.
- (3) An instrument which—
- (a) purports to create a lasting power of attorney, but
  - (b) does not comply with this section, section 10 or Schedule 1,
- confers no authority.
- (4) The authority conferred by a lasting power of attorney is subject to—
- (a) the provisions of this Act and, in particular, sections 1 (the principles) and 4 (best interests), and

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*Changes to legislation: Mental Capacity Act 2005, Section 9 is up to date with all changes known to be in force on or before 07 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) View outstanding changes*

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(b) any conditions or restrictions specified in the instrument.

**Modifications etc. (not altering text)**

**C1** S. 9 applied (temp.) (1.4.2015) by [The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(S.I. 2014/2936\)](#), regs. 1(5)(6), **14(5)**

**Changes to legislation:**

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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. 58(4)(ca) inserted by [2023 c. 42 Sch. para. 10](#)
- Sch. 1 para. 4A inserted by [2023 c. 42 Sch. para. 3](#)
- Sch. 1 para. 10A and cross-heading inserted by [2023 c. 42 Sch. para. 6](#)
- Sch. 1 para. 13A inserted by [2023 c. 42 Sch. para. 7\(2\)](#)
- Sch. 1 para. 16(1A) inserted by [2023 c. 42 Sch. para. 8\(b\)](#)