



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

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 9. (See end of Document for details)

(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)**

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