

*These notes refer to the Mental Capacity Act (Northern Ireland)
2016 (c.18) which received Royal Assent on 9 May 2016*

Mental Capacity Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Lasting Powers of Attorney

Chapter 1 - Lasting Powers of Attorney

Section 110 – Powers of court as to lasting powers of attorney

This section and the next one delineate the powers of the court in respect of LPAs. The court referred to here is the High Court. These court powers apply where an instrument has been made with a view to creating a LPA, or where a person has purported to do so, or where a LPA instrument has been registered.

The court has jurisdiction to determine any question about whether the requirements for the valid creation of a LPA have been met and whether the power has been revoked or otherwise ended. Where the court is satisfied that there is fraud, or undue pressure placed on a person to create a LPA or execute it; or it may be that the attorney has behaved in a way, or is proposing to behave in a way, that goes contrary to the authority granted by the LPA, or is not in the best interests of the donor, the court has power to direct that the instrument should not be registered by the Public Guardian, or it may revoke the instrument or the LPA if the donor does not have capacity to do so him or herself.