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*Status: Point in time view as at 01/10/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Cross Heading: Lasting powers of attorney, etc.. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 3

#### INTERNATIONAL PROTECTION OF ADULTS

#### PART 3

#### APPLICABLE LAW

##### *Lasting powers of attorney, etc.*

- 13 (1) If the donor of a lasting power is habitually resident in England and Wales at the time of granting the power, the law applicable to the existence, extent, modification or extinction of the power is—
- (a) the law of England and Wales, or
  - (b) if he specifies in writing the law of a connected country for the purpose, that law.
- (2) If he is habitually resident in another country at that time, but England and Wales is a connected country, the law applicable in that respect is—
- (a) the law of the other country, or
  - (b) if he specifies in writing the law of England and Wales for the purpose, that law.
- (3) A country is connected, in relation to the donor, if it is a country—
- (a) of which he is a national,
  - (b) in which he was habitually resident, or
  - (c) in which he has property.
- (4) Where this paragraph applies as a result of sub-paragraph (3)(c), it applies only in relation to the property which the donor has in the connected country.
- (5) The law applicable to the manner of the exercise of a lasting power is the law of the country where it is exercised.
- (6) In this Part of this Schedule, “lasting power” means—
- (a) a lasting power of attorney (see section 9),
  - (b) an enduring power of attorney within the meaning of Schedule 4, or
  - (c) any other power of like effect.
- 14 (1) Where a lasting power is not exercised in a manner sufficient to guarantee the protection of the person or property of the donor, the court, in exercising jurisdiction under this Schedule, may disapply or modify the power.
- (2) Where, in accordance with this Part of this Schedule, the law applicable to the power is, in one or more respects, that of a country other than England and Wales, the court

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must, so far as possible, have regard to the law of the other country in that respect (or those respects).

- 15 Regulations may provide for Schedule 1 (lasting powers of attorney: formalities) to apply with modifications in relation to a lasting power which comes within paragraph 13(6)(c) above.

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