



2016 CHAPTER 18

PART 5

LASTING POWERS OF ATTORNEY

*Powers of the court*

**Powers of court as to lasting powers of attorney**

**110.**—(1) This section applies if—

- (a) a person has executed an instrument with a view to creating a lasting power of attorney (a “relevant instrument”) or purported to execute a relevant instrument; or
- (b) an instrument has been registered as a lasting power of attorney.

(2) The court may determine any question relating to—

- (a) whether one or more of the requirements for the creation of a lasting power of attorney have been met;
- (b) whether the instrument or power has been revoked or has otherwise come to an end.

(3) Subsection (4) applies if the court is satisfied—

- (a) that fraud or undue pressure was used to induce a person to create a lasting power of attorney or execute a relevant instrument;
- (b) that an attorney under a lasting power of attorney has behaved, or is behaving, in a way that contravenes the attorney’s authority or is not in the donor’s best interests; or
- (c) that a person appointed as attorney or replacement attorney by a lasting power of attorney or relevant instrument proposes to behave as attorney

in a way that would contravene the attorney's authority or would not be in the donor's best interests.

- (4) Where this subsection applies, the court may—
- (a) direct that an instrument purporting to create the lasting power of attorney is not to be registered; or
  - (b) if the donor lacks capacity to revoke the instrument or the lasting power of attorney—
    - (i) revoke the instrument or power; or
    - (ii) terminate the appointment of a person appointed as attorney or replacement attorney by the instrument or power.

### **Powers of court as to operation of lasting powers of attorney**

**111.**—(1) The court may determine any question as to the meaning or effect of a lasting power of attorney or an instrument purporting to create one.

- (2) The court may—
- (a) give directions with respect to decisions—
    - (i) which an attorney under a lasting power of attorney has authority to make; and
    - (ii) which the donor lacks capacity to make;
  - (b) give any consent or authorisation to act which an attorney under a lasting power of attorney would have to obtain from the donor if the donor had capacity to give it.
- (3) The court may, if the donor of a lasting power of attorney lacks capacity to do so—
- (a) give directions to an attorney with respect to the rendering by the attorney of reports or accounts and the production of records kept by the attorney for that purpose;
  - (b) require an attorney (“A”) to supply information or produce documents or things in A's possession as attorney;
  - (c) give directions with respect to the remuneration or expenses of an attorney;
  - (d) relieve an attorney wholly or partly from any liability which the attorney has or may have incurred on account of a breach of a duty as attorney.
- (4) The court may authorise the making of gifts, under a lasting power of attorney, which are not within section 100(2) (permitted gifts).