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*Changes to legislation: Mental Capacity Act 2005, Cross Heading: Exercise of powers of donor as trustee is up to date with all changes known to be in force on or before 27 March 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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## SCHEDULES

### SCHEDULE 5

#### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART 2

#### REPEAL OF THE ENDURING POWERS OF ATTORNEY ACT 1985

##### *Exercise of powers of donor as trustee*

- 14 (1) Section 2(8) of the 1985 Act (which prevents a power of attorney under section 25 of the Trustee Act 1925 (c. 19) as enacted from being an enduring power) is to continue to apply to any enduring power—
- (a) created before 1st March 2000, and
  - (b) having effect immediately before the commencement day.
- (2) Section 3(3) of the 1985 Act (which entitles the donee of an enduring power to exercise the donor's powers as trustee) is to continue to apply to any enduring power to which, as a result of the provision mentioned in sub-paragraph (3), it applies immediately before the commencement day.
- (3) The provision is section 4(3)(a) of the Trustee Delegation Act 1999 (c. 15) (which provides for section 3(3) of the 1985 Act to cease to apply to an enduring power when its registration is cancelled, if it was registered in response to an application made before 1st March 2001).
- (4) Even though section 4 of the 1999 Act is repealed by this Act, that section is to continue to apply in relation to an enduring power—
- (a) to which section 3(3) of the 1985 Act applies as a result of sub-paragraph (2),  
or
  - (b) to which, immediately before the repeal of section 4 of the 1999 Act, section 1 of that Act applies as a result of section 4 of it.
- (5) The reference in section 1(9) of the 1999 Act to section 4(6) of that Act is to be read with sub-paragraphs (2) to (4).

**Changes to legislation:**

Mental Capacity Act 2005, Cross Heading: Exercise of powers of donor as trustee is up to date with all changes known to be in force on or before 27 March 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.

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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\(b\)](#)