



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Powers of the court in relation to lasting powers of attorney*

#### **23 Powers of court in relation to operation of lasting powers of attorney**

- (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 the donee of a lasting power of attorney has authority to make, and
    - (ii) which P lacks capacity to make;
  - (b) give any consent or authorisation to act which the donee would have to obtain from P if P had capacity to give it.
- (3) The court may, if P lacks capacity to do so—
  - (a) give directions to the donee with respect to the rendering by him of reports or accounts and the production of records kept by him for that purpose;
  - (b) require the donee to supply information or produce documents or things in his possession as donee;
  - (c) give directions with respect to the remuneration or expenses of the donee;
  - (d) relieve the donee wholly or partly from any liability which he has or may have incurred on account of a breach of his duties as donee.
- (4) The court may authorise the making of gifts which are not within section 12(2) (permitted gifts).
- (5) Where two or more donees are appointed under a lasting power of attorney, this section applies as if references to the donee were to all or any of them.

**Changes to legislation:**

Mental Capacity Act 2005, Section 23 is up to date with all changes known to be in force on or before 23 May 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.

[View outstanding changes](#)

**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\(b\)](#)