

*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 104 – Appointment of two or more replacements for a single initial appointee

An instrument creating a LPA and appointing two or more replacement attorneys may determine how those replacement attorneys are to act, i.e. jointly, jointly and severally or jointly in some areas and jointly and severally in other areas. Where no such provision is made, the default position is that the replacement attorneys must act jointly. Where at least one, but not all, of the replacement attorneys do not meet the requirements for attorneys as set out in section 101 (or Part 1 or 2 of Schedule 4) but the LPA instrument has appointed them to act jointly, the appointment is not valid and the attorneys cannot act. Where the same applies but the replacement attorneys have been appointed to act jointly and severally, only the attorney who meets the requirements can be appointed.