

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of the court is up to date with all changes known to be in force on or before 20 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*



2016 CHAPTER 18

PART 5

LASTING POWERS OF ATTORNEY

PROSPECTIVE

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 - (b) whether the instrument or power has been revoked or has otherwise come to an end.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;

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- (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.

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(4) The court may authorise the making of gifts, under a lasting power of attorney, which are not within section 100(2) (permitted gifts).

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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. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)