Status: *This version of this cross heading contains provisions that are prospective.*
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Instrument containing ineffective provision is up to date with all changes known to be in force on or before 14 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. (See end of Document for details) View outstanding changes*

SCHEDULES

PROSPECTIVE

SCHEDULE 4

Lasting powers of attorney: formalities

Part 2

Registration

Instrument containing ineffective provision

11.—(1) Sub-paragraph (2) applies if it appears to the Public Guardian that an instrument accompanying an application under paragraph 4 contains a provision which—

(a) would be ineffective as part of a lasting power of attorney; or

(b) would prevent the instrument from operating as a valid lasting power of attorney.

(2) The Public Guardian—

(a) must apply to the court for it to determine the matter under section 111(1); and

(b) pending the determination by the court, must not register the instrument.

(3) Sub-paragraph (4) applies if the court determines under section 111(1) (whether or not on an application by the Public Guardian) that an instrument executed with a view to creating a lasting power of attorney contains a provision which—

(a) would be ineffective as part of a lasting power of attorney; or

(b) would prevent the instrument from operating as a valid lasting power of attorney.

(4) The court must—

(a) notify the Public Guardian that it has severed the provision; or

(b) direct the Public Guardian not to register the instrument.

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(5) Where the court notifies the Public Guardian that it has severed a provision, the Public Guardian must register the instrument with a note to that effect attached to it.

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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)