
Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Lasting powers of attorney, etc. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 9

International protection of adults

Part 3

Applicable law

Lasting powers of attorney, etc

14.—(1) If the donor of a lasting power is habitually resident in Northern Ireland at the time of granting the power, the law applicable to the existence, extent, modification or extinction of the power is—

- (a) the law of Northern Ireland; or
- (b) if the donor specifies in writing the law of a connected country for the purpose, that law.

(2) If the donor is habitually resident in another country at that time, but Northern Ireland is a connected country, the law applicable in that respect is—

- (a) the law of the other country; or
- (b) if the donor specifies in writing the law of Northern Ireland for the purpose, that law.

(3) A country is connected, in relation to the donor, if it is a country—

- (a) of which the donor is a national;
- (b) in which the donor was habitually resident before the grant of the power; or
- (c) in which the donor has property.

(4) Where this paragraph applies as a result of sub-paragraph (3)(c), it applies only in relation to the property which the donor has in the connected country.

(5) The law applicable to the manner of the exercise of a lasting power is the law of the country where it is exercised.

(6) In this Part, “lasting power” means—

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- (a) a lasting power of attorney (see section 97);
- (b) an enduring power of attorney (as defined by section 306(1)); or
- (c) any other power of like effect.

15.—(1) Where a lasting power is not exercised in a manner sufficient to guarantee the protection of the person or property of the donor, the court, in exercising jurisdiction under this Schedule, may disapply or modify the power.

(2) Where, in accordance with this Part, the law applicable to the power is, in one or more respects, that of a country other than Northern Ireland, the court must, so far as possible, have regard to the law of the other country in that respect (or those respects).

16. Regulations may provide for Schedule 4 (lasting powers of attorney: formalities) to apply with modifications in relation to a lasting power which comes within paragraph 14(6)(c).

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