Status: *Point in time view as at 01/10/2007.*
Changes to legislation: *Mental Capacity Act 2005, Paragraph 19 is up to date with all changes known to be in force on or before 02 August 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)*

SCHEDULES

SCHEDULE 4

PROVISIONS APPLYING TO EXISTING ENDURING POWERS OF ATTORNEY

PART 6

PROTECTION OF ATTORNEY AND THIRD PARTIES

Further protection of attorney and third persons

19 (1) If—

(a) an instrument framed in a form prescribed as mentioned in paragraph 2(2) creates a power which is not a valid enduring power, and

(b) the power is revoked by the mental incapacity of the donor,

sub-paragraphs (2) and (3) apply, whether or not the instrument has been registered.

(2) An attorney who acts in pursuance of the power does not, by reason of the revocation, incur any liability (either to the donor or to any other person) unless at the time of acting he knows—

(a) that the instrument did not create a valid enduring power, and

(b) that the donor has become mentally incapable.

(3) Any transaction between the attorney and another person is, in favour of that person, as valid as if the power had then been in existence, unless at the time of the transaction that person knows—

(a) that the instrument did not create a valid enduring power, and

(b) that the donor has become mentally incapable.

(4) Paragraph 18(4) applies for the purpose of determining whether a transaction was valid by virtue of sub-paragraph (3) as it applies for the purpose or determining whether a transaction was valid by virtue of paragraph 18(3).

Status:
Point in time view as at 01/10/2007.

Changes to legislation:
Mental Capacity Act 2005, Paragraph 19 is up to date with all changes known to be in force on or before 02 August 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.