



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *Lasting powers of attorney*

#### **14 Protection of donee and others if no power created or power revoked**

- (1) Subsections (2) and (3) apply if—
  - (a) an instrument has been registered under Schedule 1 as a lasting power of attorney, but
  - (b) a lasting power of attorney was not created,whether or not the registration has been cancelled at the time of the act or transaction in question.
- (2) A donee who acts in purported exercise of the power does not incur any liability (to P or any other person) because of the non-existence of the power unless at the time of acting he—
  - (a) knows that a lasting power of attorney was not created, or
  - (b) is aware of circumstances which, if a lasting power of attorney had been created, would have terminated his authority to act as a donee.
- (3) Any transaction between the donee and another person is, in favour of that person, as valid as if the power had been in existence, unless at the time of the transaction that person has knowledge of a matter referred to in subsection (2).
- (4) If the interest of a purchaser depends on whether a transaction between the donee and the other person was valid by virtue of subsection (3), it is conclusively presumed in favour of the purchaser that the transaction was valid if—
  - (a) the transaction was completed within 12 months of the date on which the instrument was registered, or

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*Status: Point in time view as at 18/09/2012.*

*Changes to legislation: Mental Capacity Act 2005, Section 14 is up to date with all changes known to be in force on or before 22 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)*

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- (b) the other person makes a statutory declaration, before or within 3 months after the completion of the purchase, that he had no reason at the time of the transaction to doubt that the donee had authority to dispose of the property which was the subject of the transaction.
- (5) In its application to a lasting power of attorney which relates to matters in addition to P's property and affairs, section 5 of the Powers of Attorney Act 1971 (c. 27) (protection where power is revoked) has effect as if references to revocation included the cessation of the power in relation to P's property and affairs.
- (6) Where two or more donees are appointed under a lasting power of attorney, this section applies as if references to the donee were to all or any of them.

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Point in time view as at 18/09/2012.

**Changes to legislation:**

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