
Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 2

PROPERTY AND AFFAIRS: SUPPLEMENTARY PROVISIONS

Preservation of interests in property disposed of on behalf of person lacking capacity

- 8 (1) Sub-paragraphs (2) and (3) apply if—
- (a) P's property has been disposed of by virtue of section 18,
 - (b) under P's will or intestacy, or by a gift perfected or nomination taking effect on his death, any other person would have taken an interest in the property but for the disposal, and
 - (c) on P's death, any property belonging to P's estate represents the property disposed of.
- (2) The person takes the same interest, if and so far as circumstances allow, in the property representing the property disposed of.
- (3) If the property disposed of was real property, any property representing it is to be treated, so long as it remains part of P's estate, as if it were real property.
- (4) The court may direct that, on a disposal of P's property—
- (a) which is made by virtue of section 18, and
 - (b) which would apart from this paragraph result in the conversion of personal property into real property,
- property representing the property disposed of is to be treated, so long as it remains P's property or forms part of P's estate, as if it were personal property.
- (5) References in sub-paragraphs (1) to (4) to the disposal of property are to—
- (a) the sale, exchange, charging of or other dealing (otherwise than by will) with property other than money;
 - (b) the removal of property from one place to another;
 - (c) the application of money in acquiring property;
 - (d) the transfer of money from one account to another;
- and references to property representing property disposed of are to be construed accordingly and as including the result of successive disposals.
- (6) The court may give such directions as appear to it necessary or expedient for the purpose of facilitating the operation of sub-paragraphs (1) to (3), including the carrying of money to a separate account and the transfer of property other than money.

Changes to legislation:

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