

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: Mental Capacity Act 2005, Cross Heading: Lasting powers of attorney, etc. is up to date with all changes known to be in force on or before 27 April 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)*

# SCHEDULE 3

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### INTERNATIONAL PROTECTION OF ADULTS

#### PART 3

##### APPLICABLE LAW

###### *Lasting powers of attorney, etc.*

- 13 (1) If the donor of a lasting power is habitually resident in England and Wales 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 England and Wales, or
  - (b) if he specifies in writing the law of a connected country for the purpose, that law.
- (2) If he is habitually resident in another country at that time, but England and Wales is a connected country, the law applicable in that respect is—
- (a) the law of the other country, or
  - (b) if he specifies in writing the law of England and Wales for the purpose, that law.
- (3) A country is connected, in relation to the donor, if it is a country—
- (a) of which he is a national,
  - (b) in which he was habitually resident, or
  - (c) in which he 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 of this Schedule, “lasting power” means—
- (a) a lasting power of attorney (see section 9),
  - (b) an enduring power of attorney within the meaning of Schedule 4, or
  - (c) any other power of like effect.
- 14 (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 of this Schedule, the law applicable to the power is, in one or more respects, that of a country other than England and Wales, the court

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must, so far as possible, have regard to the law of the other country in that respect (or those respects).

- 15 Regulations may provide for Schedule 1 (lasting powers of attorney: formalities) to apply with modifications in relation to a lasting power which comes within paragraph 13(6)(c) above.

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