

NAME OF PERSON GIVING POWER
DONOR

TO

NAME OF PERSON RECEIVING POWER
ATTORNEY

ENDURING POWER OF ATTORNEY
ATTORNEY PURSUANT TO S.12
OF THE POWERS OF ATTORNEY
ACT 1956

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FORM 2

**ENDURING POWER OF ATTORNEY
PURSUANT TO SECTION 12
OF POWERS OF ATTORNEY ACT 1956**
THIS INSTRUMENT HAS EFFECT AS A DEED

IMPORTANT NOTICES

To the person giving this power of attorney:

This document will allow your chosen attorney or attorneys (who must be over 18) to make decisions and do things for you. If you become unable to manage your affairs, your attorney or attorneys will be able to make decisions which you cannot supervise or control. For example, the attorney or attorneys could, in that event, sell your home if he, she or they thought it was what you would have done yourself, or if he, she or they thought it was necessary to stop you going bankrupt.

You can, however, specify limits to your attorney's or attorneys' power by setting them out in the document.

You may appoint alternate or successive attorneys.

To create an enduring power of attorney, you must sign and date where indicated at the end of PART A, and that signature must be witnessed and dated.

You may wish to give your attorney or attorneys some additional powers to take care of your personal affairs while you are unable to manage them. If so, you should sign PART B. That signature must be witnessed and dated.

You may also wish to give your attorney or attorneys the power to consent to medical treatment, or to medical donations, on your behalf while you are incapacitated. If so, you should sign PART C. That signature, too, must be witnessed and dated.

In addition, the document must be signed and dated by your attorney or attorneys where indicated at the end of PART D.

Finally, before signing any Part of this document, you should carefully read each paragraph and any explanatory notes which follow.

REGISTRATION:

If your attorney exercises or attorneys exercise, a power to execute a Deed or to transfer an interest in land, (other than a lease or an agreement for a lease for not more than 3 years), this document must be registered in the office of the Registrar of Titles.

WHERE TO SEEK ADVICE:

The Public trustee, or a solicitor, can advise you about this enduring power of attorney, or about the attorney's or attorneys' responsibilities under such powers.

PLEASE NOTE:

All signatures must be witnessed and dated by 2 persons who are present at the time the donor signs the power of attorney and who are not related to the donor or attorney or attorneys.

PART A - POWER OF ATTORNEY

APPOINTMENT OF ATTORNEY

This enduring Power of Attorney is made pursuant to section 12 of the Powers of Attorney Act 1956 on the _____ day of _____ 2003 by **<MAKER'S NAME>** of **<ADDRESS>**.

- 1. I APPOINT **<ATTORNEY'S NAME>** of **<ADDRESS>** and **<NAME OF 2ND ATTORNEY>** of **<ADDRESS>** <jointly and severally> to be my attorney(s).

POWERS OF ATTORNEY

- 2. I AUTHORISE my attorney or attorneys to do on my behalf anything that I can lawfully do by an attorney.

[By this paragraph, your attorney or attorneys is or are given the power to take care of all of your property and financial affairs (subject to paragraph 4).]

SPECIFIC POWERS

- 3. Without limiting the generality of paragraph 2, my attorney or attorneys may do the following things in relation to my property or financial affairs:

My attorney or attorneys have power to execute a conveyance or other instrument, or do any other act, by which a benefit is conferred on the attorney or attorneys.

[Set out here anything that you particularly wish your attorney or attorneys to be able to do with your property or money, for example "My attorney or attorneys may use the following assets of mine for his/her/their own personal use:.....(list the assets)."
If you do not wish to specify anything here, cross out paragraph 3.]

LIMITS ON POWERS

- 4. My attorney(s) shall only exercise powers under paragraphs 2 and 3 subject to the following limits:

[Set out here any limits to be placed on the attorney's or attorneys' powers, for example "The attorney or attorneys shall not sell my shares in XYZ Company Pty. Ltd."
If you do not wish to specify any limits here, cross out paragraph 4.]

NATURE OF POWER OF ATTORNEY

- 5. This is an enduring power of attorney.

COMMENCEMENT

- 6. My attorney's or attorneys' power to manage my property and money comes into effect-
 - * immediately
 - * from [specify date]
 - * only while I am incapacitated

[* Cross out what does not apply. Set out here when you want your attorney or attorneys to start managing your property and money.]

PAYMENT OF ATTORNEY

- 7. My attorney or attorneys may draw from my money or income payment for services as attorney on the following terms:

[You do not need to pay your attorney or attorneys for the power to be effective. If you do not wish to pay him, her or them, you should cross out paragraph 7.
If you do wish to pay your attorney or attorneys, set out the exact terms of payment here,

including the method of payment (that is, from which bank account or other financial source).]

STATEMENT OF UNDERSTANDING

8. I fully understand that by signing this document, I authorise my attorney or attorneys to act on my behalf in accordance with the terms set out in this document.

DATED:
Signature of person giving the power

DATED:
Signature of witness

DATED:
Signature of witness

PART B - POWER TO MAKE PERSONAL DECISIONS

IMPORTANT NOTICE:

By signing this Part, you can authorise your attorney or attorneys to make personal decisions for you while you are unable to manage your affairs.

These could be decisions about where you live, what food you will eat, or whether you will go on a holiday. In fact, you must understand that if you sign this Part, your attorney or attorneys will (subject to any limits you set) have almost complete control over your life while you are unable to manage your affairs.

You need not do this if you do not want to. If you do not want your attorney or attorneys to have such power, you should cross out Part B entirely.

AUTHORITY TO MAKE PERSONAL DECISIONS

- 9. I authorise my attorney or attorneys to make personal decisions and arrangements for me (other than those dealing with my money and property) while I am incapacitated.

LIMITS ON AUTHORITY

- 10. My attorney or attorneys shall only exercise authority under paragraph 9 subject to the following limits:

[Set out here any limits to be placed on the attorney's or attorneys' powers, for example; "The attorney or attorneys shall not require me to move away from my home."
If you do not wish to specify any limits here, cross out paragraph 10.]

DATED:
Signature of person giving the power

DATED:
Signature of witness

DATED:
Signature of witness

**PART C - POWER TO CONSENT TO MEDICAL TREATMENT OR
TO THE WITHHOLDING OR WITHDRAWAL OF MEDICAL
TREATMENT AND MEDICAL DONATION**

IMPORTANT NOTICE:

By signing this Part, you can authorise your attorney or attorneys to consent to medical treatment or to the withholding or withdrawal of medical treatment on your behalf while you are unable to manage your affairs. You can also authorise your attorney or attorneys to consent on your behalf to the donation of a part of your body, blood or tissue to another person while you are unable to manage your affairs.

You can only authorise your attorney or attorneys to give consent to lawful medical treatment that is essential for your well-being.

You need not give your attorney or attorneys any power to consent to medical treatment, or medical donation, on your behalf. If you do not want your attorney or attorneys to have either of these powers, you should cross out this Part entirely.

If you sign this Part, any power of attorney under the Medical Treatment Act 1994 that you have previously signed will no longer have any effect.

AUTHORITY TO CONSENT TO MEDICAL TREATMENT

11. I AUTHORISE my attorney or attorneys to give consent to lawful medical treatment on my behalf while I am incapacitated. I understand that my attorney or attorneys may only consent to lawful treatment which is essential for my well-being.

[If you do not wish to authorise your attorney or attorneys to consent to any medical treatment on your behalf, cross out paragraph 11.]

SPECIFIC TREATMENT AUTHORISED

12. The treatment to which my attorney or attorneys may consent on my behalf includes:

[Set out here any particular treatment to which your attorney or attorneys may consent on your behalf, for example an organ transplant.

If you do not wish to specify any treatment here, cross out paragraph 12.]

LIMITS ON POWER

13. My attorney or attorneys shall not consent on my behalf to the following treatment:

[Set out here any medical treatment to which you do not want your attorney or attorneys to consent, for example, a blood transfusion, or "any treatment not specified under paragraph 12".

If you do not wish to specify any treatment here, cross out paragraph 13.]

AUTHORITY TO CONSENT TO MEDICAL DONATION

14. I AUTHORISE my attorney or attorneys to consent on my behalf to the lawful donation of parts of my body, blood or tissue to another person while I am incapacitated.

[If you do not wish to authorise your attorney or attorneys to consent to any medical donation on your behalf, cross out paragraph 14.]

LIMITS ON POWER - MEDICAL DONATION

15. My attorney or attorneys shall not consent on my behalf to the following medical donations:

[Set out any medical donation to which you do not want your attorney or attorneys to consent.

If you do not wish to specify any medical donation here, cross out paragraph 15.]

AUTHORITY TO CONSENT TO WITHHOLDING OR WITHDRAWING MEDICAL TREATMENT

15A. My attorney or attorneys may consent on my behalf to -

(a) medical treatment generally being withheld or withdrawn; or

(b) the following medical treatment being withheld or withdrawn:

[Set out here any medical treatment the withholding or withdrawal of which you want your attorney or attorneys to consent to.

If you wish to authorise your attorney or attorneys to consent to the withholding or withdrawal of medical treatment generally on your behalf, cross out (b).

If you wish to authorise your attorney or attorneys to consent to the withholding or withdrawal of specified medical treatment on your behalf, cross out (a).

If you do not wish your attorney or attorneys to consent to withholding or withdrawal of any medical treatment on your behalf, cross out paragraph 15A.

If you sign a direction or a power of attorney under the Medical Treatment Act 1994 after you have signed this form, paragraph 15A may no longer have effect.]

DATED:
Signature of person giving the power

DATED:
Signature of witness

DATED:
Signature of witness

PART D - ATTORNEY'S OR ATTORNEYS' ACCEPTANCE

IMPORTANT NOTICE TO ATTORNEY OR ATTORNEYS:

If you accept this power of attorney, you will be taking on serious responsibilities. You should take particular note of sections 12-17 of the Powers of Attorney Act 1956.

Here is a summary of those provisions:

1. What you do on behalf of the person giving you the power of attorney (called the "donor") while he or she is incapacitated must be, as near as possible, what he or she would have done. You may, however, do whatever is necessary on behalf of the donor (while he or she is incapacitated) to prevent him or her becoming destitute.
2. You should not enter into transactions for the donor which may involve a conflict between your interests and those of the donor, unless the transaction is explicitly authorised by the donor in this document. For example, if it is necessary to sell some of the donor's property, it may be a breach of your obligation to sell it to your own relative.
3. You must keep your money and property separate from the donor's money and property, unless you are joint owners, or operate joint bank (or similar) accounts.
4. You must keep proper accounts and records of how you handle the donor's money and property. The Public trustee, or anyone interested in the donor's welfare, can require you to produce these accounts and records.
5. If you do not carry out your duties properly, you may have to compensate the donor. It is also possible that a transaction will be cancelled if you did not carry it out properly. In an extreme case, your power of attorney may be terminated.
6. If, after the donor becomes incapacitated, you want to stop being the donor's attorney, you should see the Public trustee or a solicitor.

You may wish to seek the advice of the Public trustee or a solicitor about your rights and obligations under this power of attorney.

STATEMENT OF UNDERSTANDING

16. I have read this enduring power of attorney. I understand that by signing this document, I take on the responsibility of exercising the powers which I have been given by the document. I also understand that I must exercise these powers in accordance with the Powers of Attorney Act 1956.

DATED:

.....
Signature(s) of attorney(s)

[The attorney or one of the attorneys should hold the original of this document.

The person who is giving the power and any other attorney should retain a copy of the document.]