

GENERAL AND ENDURING POWER OF ATTORNEY

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These notes relate to a Power of Attorney which appoints attorneys who may continue to act if you lose mental capacity after you sign the Power of Attorney. If the Power of Attorney is for a limited short term purpose, please speak to us about the specific need that you have.

Name:

Address:

Telephone contact number(s): (h) (w) (m) (fax)

Email:

Attorney

We strongly recommend that you appoint at least two attorneys so that if one is not able to act as attorney, either permanently or temporarily, the other will be available to sign on your behalf.

Attorney 1:

Full Name:

Address

Attorney 2:

Full Name:

Address

Attorney 3:

Full Name:

Address

Joint or separate appointment

If I appoint two or more attorneys I want them to act:

- Jointly. *This means that the attorneys must all sign whenever the power is exercised. We do not recommend this choice because, if one attorney is not available to sign, the Power of Attorney will be ineffective.*
- Separately. *This means that each attorney may sign by himself or herself.*
- In some other combination. *As there are many possible combinations, you will have to discuss this with us.*
- There is only one attorney.

Enduring Power of Attorney

Unless you specifically say otherwise, your Power of Attorney will come to an end if you lose mental capacity. However, the attorneyship can continue after you lose mental capacity, if a specified witness, such as a solicitor or a registrar of a Local Court, gives a certificate that the effect of the Enduring Power of Attorney was explained to you before the document was signed. Having this explanation means that you can make an informed and deliberate choice to let the attorneyship continue despite any future loss of mental capacity. In any event, attorneys are obliged by law always to act in your best interests and, while you have mental capacity, you can always revoke the Enduring Power of Attorney or closely supervise its use.

- I wish to make the Power of Attorney enduring. It is to continue to be effective if I lose mental capacity after it is signed.
- I do not wish to make the Power of Attorney enduring.

When should the attorneyship start?

I wish the Power of Attorney to commence to operate:

- immediately. *This is not applicable to an Enduring Power of Attorney. An Enduring Power of Attorney can commence only when an attorney signs to accept appointment.*
- when my attorney accepts (or as each of my attorneys accepts) the appointment. *We suggest that this is the preferred choice.*
- on and from _____ up to and including _____ *[specify dates]*
- when my attorney(s) consider that I need assistance managing my affairs. *There are problems with this choice. Your attorney(s) would have to prove to any person who is asked to rely on the Power of Attorney that you need assistance or that you had lost mental capacity. The attorney(s) would probably have to produce a medical certificate from your doctor to persuade, for example, your bank, to allow withdrawals from your account. The bank may want to enquire behind the certificate, and perhaps even require further evidence from a specialist, or even a panel of doctors. These difficulties may make the Power of Attorney unworkable.*
- other: _____

The power for attorney who is a professional to receive fees and expenses

An attorney who is a professional adviser, such as a lawyer or an accountant, is not permitted to receive payment of professional fees and expenses without your written authority. However, the benefit cannot be more than what is reasonable.

- Any of my attorney(s) who is/are professionals may charge reasonable fees and expenses.
- I do not agree, or this is not relevant.

The power for attorney to confirm or extend a superannuation binding death benefit nomination.

You may have signed, or may in the future sign, a superannuation binding death nomination. This is a document that allows you to nominate who receives your superannuation interest after your death. A superannuation binding death nomination is only effective for a fixed period of time, usually 3 years. If you lose mental capacity, your attorney can be given the power to extend a superannuation binding death nomination which you have previously made.

- My attorney(s) may extend a superannuation binding death benefit nomination.
- I do not agree, or this is not relevant.

The power for attorney to make donations

If you lose mental capacity, your attorney cannot make donations without your written authority.

- My attorney(s) may make donations of the kind that I made before I lost capacity or which I might reasonably be expected to make, where the gift's value is not more than what is reasonable.
- My attorney(s) may not make donations.

Special provisions regarding gifts and benefits

If you lose mental capacity, your attorney is not authorised to make gifts to people or to confer on them benefits such as housing, food, education, transportation, medical care and medication, unless you specifically provide for that in the Power of Attorney. The following sections set out various choices you can make to authorise your attorney to make gifts and to confer benefits on various people.

Relatives. *If you tick a choice in any of the boxes below that refer to **relatives** you will be referring to such of the following people as are appropriate to your family circumstances:*

- (a) your mother, father, wife, husband, daughter, son, step-daughter, step-son, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister, brother, half-sister, half-brother or grandchild,*
- (b) another individual who is not related to you but who has a close personal relationship with you and a personal interest in your welfare,*
- (c) if you are a party to a de facto relationship or live in a close personal relationship with a person who is not related to you where one or each of you provides the other with domestic support and personal care, **relative** will include any person who is a relative, of the kind mentioned in paragraph (a) of the other party to the relationship.*

If there are any particular people you wish to exclude from this list please indicate below:

- I do not wish to exclude any person or group of persons from the definition of **relatives**.
- I wish to exclude the following persons or group of persons from the definition of **relatives**.
Name of persons or group of persons to be excluded:
- This section is not relevant as I do not wish my attorney to make gifts to, or confer benefits on, anybody.

Unrestricted Power for Attorney to make gifts and to confer benefits

- My attorney(s) may make gifts to, and confer benefits on, any person (which includes my **relatives** and my **spouse**). The gifts or benefits may be of any kind, of any of my property, of any value, at any time, in the absolute discretion of my attorney(s).
- My attorney(s) may make gifts to, and confer benefits on, my **relatives** (which includes my **spouse**). The gifts or benefits may be of any kind, of any of my property, of any value, at any time, in the absolute discretion of my attorney(s).
- My attorney(s) may make gifts to, and confer benefits on, my **spouse**. The gifts or benefits may be of any kind, of any of my property, of any value, at any time, in the absolute discretion of my attorney(s).
- I do not wish my attorney(s) to have unrestricted power to may make gifts or to confer benefits.

NOTE: *If you ticked the first box above the only further choice you have to consider is the last one: "Power for attorney to receive gifts or benefits".*

Power for Attorney to make reasonable gifts

*If you chose not to give your Attorney an unrestricted power to make gifts or to confer benefits on any person, or on your **relatives** or your **spouse**, you may wish to give your attorney the power to make "**reasonable gifts**", or to confer specified benefits, on some or all of these persons. This section deals with just the power to make **reasonable gifts**, which means gifts of a seasonal nature or which relate to a special event including, for example, a birth or marriage.*

- My attorney(s) may make **reasonable gifts** to any person (which includes **relatives and friends** and **spouse**), OR
 - My attorney(s) may make **reasonable gifts** but only to my **relatives** (which includes **spouse**), OR
 - My attorney(s) may make **reasonable gifts** but only to my **spouse**.
 - My attorney(s) may confer **reasonable gifts** on the following people who are not included in any of the groups of people in the previous paragraphs which I have ticked:
Names and addresses
-
- This section is not relevant as I do not wish my attorney to make gifts to anybody.

Power for Attorney to confer reasonable benefits

*As well as giving your Attorney the power to make **reasonable gifts**, you may also wish to give your Attorney the power to confer "**reasonable benefits**" which means benefits such as housing, food, education, transportation, medical care and medication.*

- My attorney(s) may confer **reasonable benefits** on any person (which includes **relatives and friends** and **spouse**), OR
 - My attorney(s) may confer **reasonable benefits** but only on my **relatives** (which includes **spouse**), OR
 - My attorney(s) may confer **reasonable benefits** but only on my **spouse**.
 - My attorney(s) may confer **reasonable benefits** on the following people who are not included in any of the groups of people in the previous paragraphs which I have ticked:
Names and addresses
-
- This section is not relevant as I do not wish my attorney to confer benefits on anybody.

Power for attorney to receive gifts or benefits

Even though you may have included your attorney(s) in the group of people to whom your attorney(s) may make gifts or confer benefits, you must clearly state that you want the attorney to receive the gift or benefit.

- If my attorney(s) is/are included in any of the above groups to whom I have authorised my attorney to make gifts or to confer benefits, that attorney is authorised to receive that gift or that benefit.
- My spouse is the only attorney who will receive gifts or benefits.
- This is not applicable