



## PLAIN ENGLISH GUIDE

# POWERS OF ATTORNEY

### What is a Power of Attorney?

It is a legally binding document you can sign in New South Wales that appoints someone to deal with your financial affairs and property interests on your behalf.

### Why appoint a Power of Attorney?

Appointing a Power of Attorney has many practical advantages. It ultimately gives you the peace of mind that your financial and business interests are placed in the hands of someone you trust should something untoward happen to you (eg debilitating injury or illness) rendering you incapable of making these decisions yourself.

While you are capable, however, a Power of Attorney is a very functional instrument that will be of use if you:

- Are going overseas (someone can pay your bills for you back home)
- Are going into hospital (someone could go and see your bank about an impending business deal)
- Have business dealings on the other side of the country or world (someone could go and make a decision or deal on your behalf without lengthy expressions of consent)
- It can be used simply because it is convenient.

### So you have decided you would like to appoint a Power of Attorney?

#### **Have you decided who?**

The person or people you appoint must be:

- Over 18 and mentally capable of understanding the nature and effect of the document.
- Someone you trust with your affairs. The courts can intervene if your attorney acts dishonestly or improperly but this situation is clearly inadvisable. Be sure to make your choice of attorney wisely.
- Someone who is willing (they have to consent to this position).

#### What kind of appointment?

The attorney can be appointed either as a general Power of Attorney or as an enduring Power of Attorney. A general Power of Attorney will lose their capability to make financial decisions under their Power of Attorney if you have lost the capability to make financial decisions. An enduring Power of Attorney extends after you have lost capacity.



### **What conditions on your Attorney?**

Don't worry - by appointing a Power of Attorney you are not signing your life away! You can put conditions on the Attorney. For example, you can stipulate that the Attorney cannot gain any benefit from being Attorney, though this should be considered carefully if your Attorney is dependent on you for financial support. Or you could have several Attorneys acting jointly on more valuable decisions.

### **What if I die?**

The Power of Attorney ceases and the executor named in your Will then takes over the responsibility of administering your estate.

### **What can I do now?**

- Contact one of our Solicitors to arrange an appointment or to discuss your Power of Attorney
- They will organise the documents and explain the document
- They can suggest terms and conditions
- If witnessed by a solicitor the document is an Enduring Power of Attorney
- They can organise registration. The document must be registered before the Attorney can undertake property transactions
- We can store the document at no charge in our strong room and copies can be given to you
- We can arrange the attorney's to sign.