



Power of Attorney

A power of attorney is a practical and useful legal solution for times when you are unable to make decisions for yourself.

Making a power of attorney is a relatively straightforward process and not only does it give you peace of mind, by knowing that you are choosing the person to make decisions on your behalf, it also can avoid costly and complex legal problems if you cannot make decisions yourself.

It is easy to think that a power of attorney is not necessary, but with the increasing onset of Alzheimer's disease in our ageing population and an increase in motor and other accidents, a power of attorney is a simple way of minimizing stress for both ourselves and our relatives.

What is a Power of Attorney?

A power of attorney is a legal document that enables another person to make decisions on your behalf.

Do I need a Power of Attorney?

A power of attorney is a practical legal solution for situations where you either cannot make decisions, or you believe that you may not be able to make these decisions in the future.

For example, if you're travelling overseas you may want to make a general power of attorney. The person you appoint as attorney can then make legal and financial decisions for you while you are away.

This could include selling property or shares or signing a legal agreement.

Another example is where a power of attorney is used as a precautionary measure.

You may be about to enter hospital for an operation.

There may be some risk that after the operation you may be unable to make decisions for yourself. In this case before the operation you could appoint an attorney to make financial decisions for you should something happen.

None of these events may be likely, however you may just want to plan for the future. By making and signing a power of attorney you can appoint someone to make decisions on your behalf "**just in case**" you are unable to make decisions yourself in the future.

Types of Power of Attorney

There are different types of power of attorney and unfortunately, this is where it gets complicated.

There are **general** powers of attorney and **enduring** powers of attorney.

A **general** power of attorney is only valid while you are legally competent - this means you are able to make decisions for yourself.

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An **enduring** power of attorney is valid even if you become legally incompetent. In other words, it **endures** after the time that you are unable to make decisions for yourself.

Deciding which Power of Attorney you need

- General powers of attorney are usually used for commercial or more immediate purposes when there are specific decisions that you want made, for example, selling property. You can limit the power that you give to the attorney by writing conditions that specify the decisions that can be made.
- An enduring power of attorney is used to help you plan for the future.

Financial Power of Attorney

A financial power of attorney is used for making financial and legal decisions. For example:

- Doing your banking;
- Deciding how to invest income;
- Signing legal documents;
- Collecting or paying rent;
- Transferring assets etc.

A financial power of attorney can be a general power of attorney or an enduring power of attorney.

As we have already mentioned, a general power of attorney is used for specific purposes and will often have clear conditions, such as:

- Limiting its duration, for example, while you are in hospital or overseas; or
- Limiting the decisions that can be made, for example, allowing the attorney only to pay your bills and access a particular bank account.

Cancelling and changing a Power of Attorney

Changing

You may want to change your power of attorney by:

- Appointing another person to act as your attorney;
- Limiting the power by adding conditions; or
- Increasing the power by deleting conditions.

It is not a good idea to simply change the original document. It is better to cancel the power of attorney that you want to change and make a new power of attorney.

Cancelling

Apart from some general powers of attorney that cover dealings in land or shares, most powers of attorney can be cancelled by the person who gave the power of attorney.

In some cases, the law requires the cancellation (often called a revocation) to be in a specific form. In some cases the cancellation must be registered.

Remember, you cannot cancel a power of attorney unless you are legally competent to do this.

At Adams & Partners Lawyers, we value our clients.

We work hard for our clients and we are committed to ensuring we obtain the best results for you.

Contact us today for any legal assistance you may need.

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