

# Prescribed Power of Attorney

[Section 8, Powers of Attorney Act 2003 (NSW)]

**PLEASE PRINT CLEARLY USING A BLACK PEN**

**Note:** This form can be used to make a general power of attorney or an enduring power of attorney.

## PART 1 GENERAL

This power of attorney is made on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

**Note:** Write the date you and your witness signed this form.

By \_\_\_\_\_ (the "principal")  
(Full name)

of \_\_\_\_\_  
(address)

### Clause 1 Attorney(s)

I appoint \_\_\_\_\_  
(Full name)

of \_\_\_\_\_  
(address)

**And**

\_\_\_\_\_  
(Full name)

of \_\_\_\_\_  
(address)

**And**

\_\_\_\_\_  
(Full name)

of \_\_\_\_\_  
(address)

**to be my attorney(s).**

My attorney(s) may exercise the authority conferred on my attorney/s by Part 2 of the *Powers of Attorney Act 2003* to do on my behalf anything I may lawfully authorise an attorney to do.

My attorney's/attorneys' authority is subject to any additional details specified in Part 2 of this document.

### Clause 2 Continuation of power of attorney if loss of mental capacity

I give this power of attorney with the intention that it will continue to be effective if I lack capacity through loss of mental capacity after its execution.

**Note:** Cross out this clause if you want this form to operate only as a general power of attorney.  
Do not cross out this clause if you want this form to operate as an enduring power of attorney.  
An enduring power of attorney must have a completed witness certificate (see page 3).

### Clause 3 Commencement of the power of attorney

**Note:** Cross out and initial the options below that you do not want to apply. If you include Clause 2, the power of attorney will not operate to confer any authority on an attorney until the attorney accepts the power of attorney by signing this form.

#### This power of attorney operates:

- immediately
- when my attorney accepts (or as each of my attorneys accept) the appointment

on and from \_\_\_\_\_ up to and including \_\_\_\_\_  
(insert date) (insert date)

- when my attorney considers that I need assistance managing my affairs

- other \_\_\_\_\_

(give details above)

If no option is selected or the options chosen are unclear or inconsistent, I intend that the power of attorney will operate immediately or, if Clause 2 is not crossed out, when my attorney accepts, or as each of my attorneys accept, the appointment.

### Clause 4 Appointment of more than one attorney

**Note:** Cross out and initial the options below that you do not want to apply.  
You should get legal advice if you are not sure which option to choose.

If I appoint more than one attorney, then I appoint them jointly and severally

**OR**

If I appoint more than one attorney, then I appoint them jointly

**OR**

If I appoint more than one attorney, then I appoint them severally.

## PART 2 ADDITIONAL POWERS AND RESTRICTIONS

**Note:** Clauses 5, 6 and 7 give your attorney(s) additional powers. If you wish to keep any of these clauses you should seek legal advice. Cross out and initial the clauses you do not want to apply.

### Clause 5 Gifts

I authorise my attorney to give reasonable gifts as provided by section 11 (2) of the *Powers of Attorney Act 2003*.

### Clause 6 Conferring benefits on the attorney

I authorise my attorney to confer benefits on the attorney to meet the attorney's reasonable living and medical expenses as provided by section 12 (2) of the *Powers of Attorney Act 2003*.

### Clause 7 Conferring benefits on third parties

I authorise my attorney to confer benefits on \_\_\_\_\_  
(insert name)

of \_\_\_\_\_  
(insert address)

to meet their reasonable living and medical expenses as provided by section 13 (2) of the *Powers of Attorney Act 2003*.

## Clause 8 Conditions and limitations

**Note:** Cross out and initial if you do not want to add conditions and limitations

This power of attorney is subject to the following conditions and limitations:

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### Principal's signature

Signed, sealed and delivered by \_\_\_\_\_  
(principal's signature)

in the presence of \_\_\_\_\_  
(witness's name) (witness's signature)

of \_\_\_\_\_  
(witness's address)

### Certificate under section 19 of the Powers of Attorney Act 2003

**Note:** This witness certificate is to be completed only if Clause 2 is retained and you want to create an enduring power of attorney.

I, \_\_\_\_\_  
(insert name)

of \_\_\_\_\_  
(insert address)

#### certify the following:

- I explained the effect of this power of attorney to the principal before it was signed.
- The principal appeared to understand the effect of this power of attorney.
- I am a prescribed witness.
- I am not an attorney under this power of attorney.
- I have witnessed the signature of this power of attorney by the principal.

\_\_\_\_\_  
(signature) (date)

- solicitor/barrister
- registrar of a Local Court
- licensed conveyancer
- Public Trustee employee
- trustee company employee

(Delete inappropriate categories)

## Acceptance by attorney

**Note:** An enduring power of attorney must be signed by the attorney(s) before it can be used.

- ✦ I accept my appointment as an attorney under this enduring power of attorney.

Attorney's signature \_\_\_\_\_

Name \_\_\_\_\_ Date \_\_\_\_\_

- ✦ I accept my appointment as an attorney under this enduring power of attorney.

Attorney's signature \_\_\_\_\_

Name \_\_\_\_\_ Date \_\_\_\_\_

- ✦ I accept my appointment as an attorney under this enduring power of attorney.

Attorney's signature \_\_\_\_\_

Name \_\_\_\_\_ Date \_\_\_\_\_

### Important information for principals and attorneys

- (1) A power of attorney is an important and powerful legal document. You should get legal advice before you sign it. A power of attorney gives the attorney the authority to buy and sell real estate, shares and other assets for the principal, to operate the principal's bank accounts, to spend the principal's money on behalf of the principal and to exercise many other powers. It is not to be used after the principal dies.
- (2) A power of attorney cannot be used for health or lifestyle decisions. The principal should appoint an enduring guardian under the Guardianship Act 1987 if the principal wants a particular person to make these decisions. For further information, contact the Guardianship Tribunal (toll free 1800 463 928 or [www.gt.nsw.gov.au](http://www.gt.nsw.gov.au)) or the Public Guardian ((02) 9265 3184 or 1800 451 510 or [www.lawlink.nsw.gov.au/opg](http://www.lawlink.nsw.gov.au/opg)).
- (3) Part 2 of the power of attorney will permit the attorney to use the principal's money and assets for the attorney or anyone else as provided by clauses 5, 6 and 7. If the principal does not want this to happen, then the principal should delete the powers from Part 2 that the principal does not want to give the attorney.
- (4) An attorney must always act in the best interests of the principal. Unless the attorney is expressly authorised, the attorney cannot gain a benefit from being an attorney.
- (5) This power of attorney is for use in New South Wales only. If you need a power of attorney for interstate or overseas, you may need to make a power of attorney under their laws. The laws of some other States and Territories in Australia may give effect to this power of attorney. However, you should not assume this will be the case. You should confirm whether the laws of the State or Territory concerned will in fact recognise this power of attorney.
- (6) An attorney should keep the attorney's own money and property separate from the principal's money and property, unless they are joint owners, or operate joint bank accounts. An attorney should keep reasonable accounts and records about the principal's money and property.
- (7) If the attorney is signing documents that affect real estate, the power of attorney must be registered at Land and Property Information NSW.

For information on powers of attorney, the attorney's duties and registration, contact Land and Property Information NSW ((02) 9228 6666 for a fact sheet or [www.lpi.nsw.gov.au](http://www.lpi.nsw.gov.au)) or a solicitor, a trustee company or the Public Trustee ([www.pt.nsw.gov.au](http://www.pt.nsw.gov.au)).