

1987 No. 1612

## POWERS OF ATTORNEY

### The Enduring Powers of Attorney (Prescribed Form) Regulations 1987

Made - - - - - 1st September 1987  
Laid before Parliament 23rd September 1987  
Coming into force 1st November 1987

The Lord Chancellor, in exercise of the powers conferred on him by section 2(2) of the Enduring Powers of Attorney Act 1985(a), hereby makes the following Regulations:

#### Citation and commencement

1. These Regulations may be cited as the Enduring Powers of Attorney (Prescribed Form) Regulations 1987 and shall come into force on 1st November 1987.

#### Prescribed Form

2.—(1) Subject to paragraphs (2) and (3) of this regulation and to regulation 4, an enduring power of attorney must be in the form set out in the Schedule to these Regulations and must include all the explanatory information headed "About using this form" in Part A of the Schedule and all the relevant marginal notes to Parts B and C. It may also include such additions or restrictions as the donor may decide.

(2) In completing the form of enduring power of attorney, the donor shall exclude (either by omission or deletion) one and only one of any pair of alternatives. When one of a pair of alternatives is omitted or deleted, the corresponding marginal note may be omitted or deleted.

(3) The form of execution by an attorney of an enduring power of attorney may be adapted to provide for sealing by a trust corporation with its common seal.

(4) Subject to paragraphs (1), (2) and (3) of this regulation and to regulation 4, an enduring power of attorney which seeks to exclude any provision contained in these Regulations is not a valid enduring power of attorney.

#### Execution

3. An enduring power of attorney in the form set out in the Schedule to these Regulations shall be executed by both the donor and the attorney, although not necessarily at the same time, in the presence of a witness, but not necessarily the same witness, who shall give his full name and address. The donor and an attorney shall not witness the signature of each other nor one attorney the signature of another. Where more than one attorney is appointed and they are to act jointly and severally, then at least one of the attorneys so appointed must execute the instrument for it to take effect as an enduring power of attorney, but only those attorneys who have executed the instrument shall be able to act under the enduring power of attorney in the event of the donor's mental incapacity or of the registration of the power, whichever first occurs.

(a) 1985 c.29.

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FORM) REGULATION 1987**

**Revocation**

4. The Enduring Powers of Attorney (Prescribed Form) Regulations 1986(a) are hereby revoked, except that a power executed in the form prescribed by those Regulations and executed before 1st July 1988 shall be capable of being a valid enduring power of attorney.

Dated 1st September 1987

*Havers, C.*

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## Enduring Power of Attorney

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**Part A: About using this form**

1. **You may choose one attorney or more than one.** If you choose more than one, you must decide whether they are to be able to act:
  - Jointly (that is, they must all act together and cannot act separately) or
  - Jointly and severally (that is, they can all act together but they can also act separately if they wish).

On the form, at the place marked 1, show what you have decided by crossing out one of the alternatives.
2. **If you give your attorney(s) general power** in relation to all your property and affairs, it means that they will be able to deal with your money or property and may be able to sell your house.
3. **If you don't want your attorney(s) to have such wide powers,** you can include any restrictions you like. For example, you can include a restriction that your attorney(s) must not act on your behalf until they have reason to believe that you are becoming mentally incapable; or a restriction that your attorney(s) may not sell your house. Any restrictions you choose must be written or typed on the form in the place marked 2.
4. **Unless you put in a restriction preventing** it your attorney(s) will be able to use any of your money or property to benefit themselves or other people by doing what you yourself might be expected to do to provide for their needs. Your attorney(s) will also be able to use your money to make gifts, but only for reasonable amounts in relation to the value of your money and property.
5. **Your attorney(s) can recover the out-of-pocket expenses** of acting as your attorney(s). If your attorney(s) are professional people, for example solicitors or accountants, they may be able to charge for their professional services as well.
6. **If your attorney(s) have reason in the future to believe that you have become or are becoming mentally incapable of managing your affairs,** your attorney(s) will have to apply to the Court of Protection for registration of this power.
7. **Before applying to the Court of Protection for registration of this power,** your attorney(s) must give written notice that that is what they are going to do, to you and your nearest relatives as defined in the Enduring Powers of Attorney Act 1985. You or your relatives will be able to object if you or they disagree with registration.
8. **This is a simplified explanation of what the Enduring Powers of Attorney Act 1985 and the Rules and Regulations say.** If you need more guidance, you or your advisers will need to look at the Act itself and the Rules and Regulations. The Rules are the Court of Protection (Enduring Powers of Attorney) Rules 1986 (Statutory Instrument 1986 No 127). The Regulations are the Enduring Powers of Attorney (Prescribed Form) Regulations 1987 (Statutory Instrument 1987 No 1612).
9. **Note to Attorney(s)**  
**After the power has been registered** the attorney(s) should notify the Court of Protection if the donor dies or recovers.

**You can cancel this power at any time before it has to be registered**

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(a) S.I. 1986/126.

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**Part B: To be completed by the 'donor' (the person appointing the attorney(s))**

**Don't sign this form unless you understand what it means**

**Please read the notes in the margin**

**Donor's name and address**

**Donor's date of birth**

**Attorney(s) name(s) and address(es)**

**See note 1 on the front of this form. If you are appointing only one attorney you should cross out everything between the square brackets**

**Cross out the one which does not apply (see note 1 on the front of this form)**

**Cross out the one which does not apply (see note 2 on the front of this form)**

**If you don't want the attorney(s) to have general power, you must give details here of what authority you are giving the attorney(s)**

**Cross out the one which does not apply**

I \_\_\_\_\_  
of \_\_\_\_\_  
born on \_\_\_\_\_  
appoint \_\_\_\_\_  
of \_\_\_\_\_  
● [and \_\_\_\_\_  
of \_\_\_\_\_

1. ● jointly  
● jointly and severally]

to be my attorney(s) for the purpose of the Enduring Powers of Attorney Act 1985

- with general authority to act on my behalf  
● with authority to do the following on my behalf:

in relation to

- all my property and affairs  
● the following property and affairs:

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(FORM) REGULATION 1987**

**Part B: continued**

Please read the notes  
in the margin

If there are restrictions or  
conditions, insert them  
here; if not, cross out these  
words (See note 3 on the  
front of this form)

2 • subject to the following restrictions and conditions :

I intend that this power shall continue even if I become  
mentally incapable.

I have read or have had read to me the notes in Part A which are  
part of, and explain, this form.

Your signature

Signed, sealed and  
delivered by me \_\_\_\_\_ (L.S.)

Date

on \_\_\_\_\_

Someone must witness  
your signature

Signature of witness

In the presence of \_\_\_\_\_

Your attorney(s) cannot be  
your witness. If you are  
married it is not advisable  
for your husband or wife to  
be your witness

Full name of witness \_\_\_\_\_

Address of witness \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THE ENDURING POWERS OF ATTORNEY (PRESCRIBED FORM) REGULATIONS 1987 B 163**

**Part C: To be completed by the attorney(s)**

Note • This form may be adapted to provide for sealing by a corporation with its common seal

• If there are more than two attorneys attach an additional **Part C**

Don't sign this form before the donor has signed Part B

I understand that I have a duty to apply to the Court for the registration of this form under the Enduring Powers of Attorney Act 1985 when the donor is becoming or has become mentally incapable.

I also understand my limited power to use the donor's property to benefit persons other than the donor.

I am not a minor

Signature of attorney

Signed, sealed and delivered by me \_\_\_\_\_ (L.S.)

Date

on \_\_\_\_\_

Signature of witness

in the presence of \_\_\_\_\_

Each attorney must sign the form and each signature must be witnessed. The donor may not be the witness and one attorney may not witness the signature of the other

Full name of witness \_\_\_\_\_

Address of witness \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

To be completed only if there is a second attorney

I understand that I have a duty to apply to the Court for the registration of this form under the Enduring Powers of Attorney Act 1985 when the donor is becoming or has become mentally incapable.

I also understand my limited power to use the donor's property to benefit persons other than the donor.

Signature of attorney

Signed, sealed and delivered by me \_\_\_\_\_ (L.S.)

Date

on \_\_\_\_\_

Signature of witness

in the presence of \_\_\_\_\_

Each attorney must sign the form and each signature must be witnessed. The donor may not be the witness and one attorney may not witness the signature of the other

Full name of witness \_\_\_\_\_

Address of witness \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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