

# ● Powers of Attorney

## A brief summary

### ● Introduction

A Power of Attorney is a legal document that allows you (the Donor) to give someone else (the Attorney) the authority to make decisions such as financial, lifestyle, health or medical, on your behalf.

There are three main Powers of Attorney recognised in most states in Australia.

### ● 1. Enduring Financial Power of Attorney

This is the most important and useful Power of Attorney as it empowers another person (your Attorney) to sign financial & legal documents on your behalf.

This Power of Attorney continues even if the Donor becomes mentally incapacitated. So for example, a family member could use it to look after your finances if you have a stroke or get Alzheimer's.

Amongst other things it covers:

- Banking (eg. withdrawing or depositing money)
- Real Estate transactions (eg signing documents necessary to buy or sell a house)
- Stock market transactions

There are some limitations on the use of a Power of Attorney. For example, it does not enable the Attorney to draw up or modify a Will on your behalf. Nor does it authorise



your Attorney to make decisions about medical treatment.

Everyone should have an Enduring Financial Power of Attorney in case they become incapacitated, even if for a short time.

### ● 2. Enduring Lifestyle (Guardianship) Power of Attorney

This enables someone to make health care and lifestyle decisions for you in the event you suffer a disability eg an intellectual impairment or physical disability, and are unable to make reasonable judgements.

These decisions include:

- Where you live, including consent to enter a nursing home or hostel
- The health care you receive including type of treatment, surgery or medication
- The people who can associate with you, including visitors.

You can specify the powers you give your guardian and place conditions on the decisions they can make.

### ● 3. Medical Power of Attorney

This enables someone to make medical treatment decisions when the Donor becomes incompetent eg if he or she is unconscious or in a state of shock.

A Medical Power of Attorney covers a narrower range of powers than an Enduring Lifestyle Guardianship in that it does not cover lifestyle decisions.

However if you appoint both, the Medical Power of Attorney will take precedence over the Enduring Lifestyle Guardian when it comes to medical treatment decisions.

We would be happy to help you decide the most appropriate Powers of Attorney for

your circumstances.

### ● Procedural Requirements

The first step is to nominate and obtain agreement from one or more people (usually no more than 2) to act as your attorney should the need arise. Given the significance of the position of attorney, it is important to nominate not only someone you trust eg your spouse, family member or close friend, but someone who is willing to do it.

### ● When to put them in place

Before you need them! In order for the documents to be valid, you need to have legal capacity at the time of appointment which means you need to understand the implications and consequences of what you are signing.

This provides a time imperative to have Powers of Attorney in place before they are needed.

All Powers of Attorney become invalid upon death. The Will then takes over, providing the power to the executor to take care of the deceased estate.

### ● Security

Given the importance of these documents, we recommend that the original document is kept by us for safekeeping. To use the document, the Attorney contacts us. We, in turn, verify that person's identity before we send a certified copy of the document to them, at no additional charge.

### ● Like to know more?

Should you require further information or wish to organise your Power of Attorney, please contact us on 03 8621 9000 or email [info@irongroup.com](mailto:info@irongroup.com).