

Appendix 10

ENDURING POWER OF ATTORNEY

Notes: Stat Plus Form P.A.2 Continuation Part C, is available for use in those cases where it is intended to appoint more than one attorney (See Part C, Note 2).

If you intend to appoint one attorney with general power you may prefer to use the simplified Stat Plus Form P.A.3 which has been adapted in accordance with the Regulations where the donor and attorney are capable of signing or making their mark themselves.

(The notes shown above in italics are not part of this Form).

Part A: About using this form

1. You may choose one attorney or more than one.

If you choose one attorney then you must delete everything between the square brackets on the first page of the form. If you choose more than one, you must decide whether they are 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 first page of the form, 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 as to what your attorney(s) may do. Any restrictions you choose must be written or typed where indicated on the second page of the form.

4. If you are a trustee (and please remember that co-ownership of a home involves trusteeship), you should seek legal advice if you want your attorney(s) to act as a trustee on your behalf.

5. Unless you put in a restriction preventing it your attorney(s) will be able to use any of your money or property to make any provision which you yourself might be expected to make for their own needs or the needs of other people. 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.

6. 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. You may wish to provide expressly for remuneration of your attorney(s) (although if they are trustees they may not be allowed to accept it).

7. If your attorney(s) have reason 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.

8. 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.

9. 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 1990 (Statutory Instrument 1990 No 1376).

10. Note to Attorney(s)

After the power has been registered you should notify the Court of Protection if the donor dies or recovers.

11. Note to Donor

Some of these explanatory notes may not apply to the form you are using if it has already been adapted to suit your particular requirements.

YOU CAN CANCEL THIS POWER AT ANY TIME BEFORE IT HAS TO BE REGISTERED

P.A. Form 2

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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 which follow and which are part of the form itself.

Donor’s name and address

Donor’s date of birth

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. If appointing more than one attorneys please give the additional names(s) on an attached sheet.

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). Add any additional powers.

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

Cross out the one which does not apply.

I

Of.....

Born on

Appoint

Of.....

[and

of

- 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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Part B: continued

Please read the notes in the margin which follow and which are part of the form itself.

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

If this form is being signed at your direction:

- the person signing must not be an attorney or any witness (to Parts B or C.
- you must add a statement that this form has been signed at your direction.
- a second witness is necessary (please see below).

Your signature (or mark)

Date

Someone must witness your signature.

Signature of witness

Your attorney(s) cannot be your witness. It is not advisable for your husband or wife to be your witness.

A second witness is only necessary if this form is not being signed by you personally but at your direction (for example, if a physical disability prevents you from signing).

Signature of second witness

- 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.

Signed by me as a deed
and delivered

on

in the presence of

Full name of witness

Address of witness

in the presence of

Full name of witness

Address of witness

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

- Note
1. This form may be adapted to provide for execution by a corporation.
 2. If there is more than one attorney additional sheets in the form as shown below must be added to this Part C.

Please read the notes in the margin which follow and which are part of the form itself.

Don't sign this form before the donor has signed Part B or if, in your opinion, the donor was already mentally incapable at the time of signing Part B.

If this form is being signed at your direction:

- the person signing must not be an attorney or any witness (to Parts B or C).
- you must add a statement that this form has been signed at your direction.
- a second witness is necessary (please see below).

Signature (or mark) of attorney.

Date.

Signature of witness.

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

A second witness is only necessary if this form is not being signed by you personally (for example, if a physical disability prevents you from signing).

Signature of second witness

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.

Signed by me as a deed
and delivered

on

in the presence of

Full name of witness

Address of witness

.....

.....

in the presence of

Full name of witness

Address of witness

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