

# Enduring Power of Attorney Appointment

## Appointing people to make decisions on your behalf

### What this form is for

An enduring power of attorney is a legal document. Making an appointment under an enduring power of attorney is a formal process that allows you to appoint a person(s) you trust to make decisions for you, including if you are ever unable to make decisions for yourself sometime in the future, due to a lack of decision making capacity.

The short version of this form allows you to appoint one attorney, and up to two alternative attorneys. The long version of this form allows you to appoint up to four attorneys, and up to three alternative attorneys for each attorney.

### Who is an attorney?

The person you appoint to make decisions on your behalf is called your 'attorney'.

You can choose whether your attorney(s) can make financial decisions, personal decisions or both. Personal decisions do not include matters that relate to medical treatment, or to medical research procedures. You will need a different form if you wish to appoint a medical treatment decision maker.

### Who can be an attorney?

An attorney can be a family member or friend or someone else that you trust or an occupant of a position.

An attorney **must** be 18 years of age or older.

An attorney **cannot** be an insolvent under administration.

You **cannot** appoint:

- your care worker
- your health provider, or
- your accommodation provider.

For financial matters, you can appoint a trustee company.

If the person who will be your attorney for financial matters has been convicted or found guilty of an offence involving dishonesty, they have to tell you about it and have it recorded in this form.

## **Choosing your attorney(s)**

You can appoint one or more attorneys.

You can also appoint a person(s) to be a back-up for one or more attorney(s), in case your usual attorney is ever unable or unwilling to act. This person is called an 'alternative attorney'.

You can specify when and how your alternative attorney(s) can act. If you do not specify, an alternative attorney can **only** act:

- once your usual attorney is unable or unwilling to act
- if the appointment of your usual attorney is revoked (cancelled) because they are no longer eligible to be your attorney (for example, the attorney becomes your care worker or health provider)
- in the same way (that is, make the same types of decisions and make decisions in the same way) as the attorney they are acting in place of.

## **If you have made a previous enduring power of attorney**

If you have existing enduring powers of attorney you need to consider how these would operate. Unless you specify otherwise in a new enduring power of attorney, any previous enduring powers of attorney you have made will be automatically revoked (cancelled) on making the new enduring power of attorney. For more information, contact the Office of the Public Advocate advice service on 1300 309 337.

## **What you will need**

- A printer to print out the form. Even if you fill the form out on a computer, you will need to print it for signing.
- Your attorney(s)' name and address.
- Two witnesses to sign the form. See '[Who can be a witness](#)' on page iii for more information.
- You can save the form to your computer or a portable drive at any time, and finish it later.

## **Signing the form (after it is filled out)**

After you print out the form you need to do the following:

- sign the form (or have a person sign at your direction) in front of two witnesses
- have your two witnesses sign and date the form in front of you and each other
- have the attorney(s) sign the statement of acceptance in front of a witness
- have a witness sign for each attorney's statement of acceptance.

When you sign the appointment form, your two witnesses must be with you and they must see you sign it. Your attorney does not need to be present when you are signing the appointment form.

Your attorney needs to sign the statement of acceptance of appointment in front of a witness, and have that witness sign the form.

## Who can be a witness

Witnesses must be 18 years of age or older.

One of the witnesses to an enduring power of attorney must be:

- a medical practitioner, or
- a person who is authorised to witness affidavits.

A witness **cannot** be:

- your relative
- someone being appointed as an attorney(s)
- a relative of your attorney(s)
- your care worker
- your accommodation provider.

A person who has signed the form on your behalf (if you cannot physically sign) also **cannot** be your witness.

## When the form is filled out and signed

You do **not** need to submit this form anywhere.

You need to complete it, make sure it is signed and witnessed properly, and then keep the original in a safe place. You should keep all pages of this form together at all times. You only need to print and keep the continuation section with the form if you have used this section.

You should give your attorney(s) a certified copy of this form.

More information about making certified copies is available on the Office of the Public Advocate website at [publicadvocate.vic.gov.au](http://publicadvocate.vic.gov.au).

## Need more information or help?

There are other types of powers of attorney documents: general non-enduring powers of attorney and supportive attorney appointments. There are also separate forms for appointing a medical treatment decision maker or a support person for medical treatment decisions.

More information about powers of attorney and medical treatment decision makers is available on the Office of the Public Advocate website at [publicadvocate.vic.gov.au](http://publicadvocate.vic.gov.au).

You can also contact the Office of the Public Advocate advice service on 1300 309 337.

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# Enduring Power of Attorney Appointment

This enduring power of attorney is made under Part 3 of the **Powers of Attorney Act 2014** and has effect as a deed under section 81 of the Act.

## Section 1: Principal (You)

The person making this enduring power of attorney is known as the 'principal'. Whenever you see the word 'principal' in this form, it means you.

### Name of principal

### Residential address

Complete the section below if you want an existing enduring power of attorney to continue or want part of an existing power of attorney to continue.

I specify that the following existing enduring power of attorney or parts of an existing enduring power of attorney made by me are not revoked by this enduring power of attorney (specify date made, if known)

### Revocation of previous enduring powers of attorney

Under section 55 of the **Powers of Attorney Act 2014** any existing enduring power of attorney previously made by you will be revoked on making this enduring power of attorney, unless you specify otherwise.

*An existing enduring power of attorney* is taken to include an enduring power of attorney made under the **Powers of Attorney Act 2014** or the **Instruments Act 1958** and an appointment of an enduring guardian made under the **Guardianship and Administration Act 1986**.

## Section 2: Your attorney

This form allows you to appoint an attorney and up to two alternative attorneys. You also need to specify what decisions your attorney can make.

If you wish to appoint more attorneys, or more alternative attorneys, use the long version of this form available online.

I appoint the person listed below as my attorney.

### Name of attorney

Insert your attorney's name or, if appointing a company, the business name.

Insert position, if appointing the occupant of a position.

### Residential or business address

### What decisions can this attorney make?

I authorise my attorney to do anything on my behalf that I can lawfully do by an attorney (including both personal and financial matters) .....

### OR

I authorise my attorney to do anything on my behalf that I can lawfully do by an attorney for:

► *Please select **any** that apply*

personal matters only .....

***personal matters** are matters that relate to your personal or lifestyle affairs but do not include matters that relate to medical treatment, or to medical research procedures. Common examples include access to support services and where and with whom you live.*

financial matters only .....

***financial matters** are matters (including legal matters) that relate to your financial or property affairs. Common examples include paying expenses, making investments, undertaking a real estate transaction and carrying on a business.*

the following specified matters .....

– *please specify each matter (such as, one or more personal and financial matters) that you want to authorise*

**Do you want to appoint an alternative attorney(s) for this attorney?**

No ..... ► *Go to next page*

Yes ..... ► *Provide details*

I appoint the person(s) listed below as my alternative attorney(s).

**Name of alternative attorney**

Insert your alternative attorney's name or, if appointing a company, the business name. Insert position, if appointing the occupant of a position.

**Residential or business address**

**Do you want to appoint another alternative attorney for this attorney?**

No ..... ► *Go to 'When can your alternative attorney(s) act?' at top of next column*

Yes ..... ► *Provide details*

**Name of alternative attorney**

Insert your alternative attorney's name or, if appointing a company, the business name. Insert position, if appointing the occupant of a position.

**Residential or business address**

**When can your alternative attorney(s) act?**

You can specify below when your alternative attorney(s) can act. If you do not specify, an alternative attorney can **only** take the place of the attorney if:

- the attorney is unable or unwilling to act
- the appointment of your attorney is revoked (cancelled) because they are no longer eligible to be your attorney (for example, the attorney becomes your care worker or health provider).

## Section 3: How must the alternative attorneys act?

Only complete this section if you have appointed two alternative attorneys.

You can choose to specify below how you want the alternative attorneys to act in place of the attorney, that is, whether they must act:

- **jointly:** the alternative attorneys must make decisions together and they must all agree;
- **severally:** each alternative attorney must make decisions separately; or
- **jointly and severally:** the alternative attorneys can make decisions separately but if they make a joint decision, they must all agree.

If you want your alternative attorneys to act differently for personal and financial matters, specify how you want them to act for each matter.



## Section 4: Start date

If you do not complete this section, your attorney can start making decisions immediately on the making of this enduring power of attorney.

### When can the attorney start making decisions?

OR

#### At the same time for all matters .....

Please choose **one** option.

Immediately on the  
making of this enduring  
power of attorney .....

When I cease to have  
decision making capacity  
for the matter(s) .....

From the time, in the  
circumstance or on  
the occasion ..... ► **Specify**

#### At different times for different matters .....

Complete **all** that apply.

Immediately on the  
making of this enduring  
power of attorney,  
for these matters ..... ► **Specify**

When I cease to have  
decision making capacity  
for these matters ..... ► **Specify**

From the time, in the  
circumstance or on the  
occasion, for these matters ..... ► **Specify**  
Specify the time, circumstance or occasion:

Specify the matters:

## Section 5: Conditions and instructions (optional)

Your attorney is required to consider any conditions and/or instructions that you specify when making decisions for you. You do not have to place conditions or give instructions unless you want to.

The exercise of power under this enduring power of attorney is subject to the conditions and/or instructions set out below.

### Conflict transactions (optional)

Only fill in this section if your attorney has been appointed for **financial matters**.

Sometimes there may be a conflict between the duty of your attorney to you and an interest of their own, or of a relative, business associate or close friend. You can authorise (give permission) for your attorney to enter into transaction(s) even if there is a conflict of interest.

I authorise my attorney to enter into the following conflict transaction(s):

### Gifts (optional)

Only fill in this section if your attorney has been appointed for **financial matters**.

An attorney for financial matters can use your money or other financial assets to give a gift or donation. Gifts must be of a seasonal nature or for a special event and be made to your relatives or close friends. An attorney can also give a gift to themselves, their relatives, close friends or organisations with which they have a connection. The donation must be the type of donation made when you had capacity or that you might reasonably be expected to make. All gifts and donations must be reasonable in the circumstances, particularly having regard to your financial situation.

Specify any conditions or restrictions that you want to place on the making of gifts or donations.

## Maintenance of your dependants (optional)

Only fill in this section if your attorney has been appointed for **financial matters**.

You can specify in your enduring power of attorney if you want your attorney for financial matters to use your money or other financial assets to provide for the needs of one or more of your dependants (for example, one of your children). The amount made available by your attorney to maintain your dependants must not be more than what is reasonable having regard to all the circumstances, in particular your financial circumstances, unless you specify otherwise in your enduring power of attorney.

Specify if you want to authorise your attorney for financial matters to provide for the maintenance of your dependant(s) from your money or other financial assets and, if so, whether you want to authorise an amount that is more than what is reasonable in the circumstances.

## Payments to your attorney (optional)

An attorney is not allowed to be paid to act as your attorney, unless payment is authorised in the enduring power of attorney or by law.

You can authorise your attorney to be paid by specifying below how your attorney is to be paid and any limits on how much they can be paid.

## Additional conditions or instructions (optional)

You may want to set out additional conditions and/or instructions to guide your attorney. You may also want to specify a person(s) to be notified by the attorney, when the attorney starts acting for you, when you no longer have decision making capacity.

Enter conditions and instructions below.

## Section 6: Principal's signature

You must sign the form in front of two witnesses. They must then sign and date the form in front of you and each other. One witness must be a medical practitioner, or be a person who is authorised to witness affidavits. A list of people who are authorised to witness an affidavit can be found at [justice.vic.gov.au/affidavit](http://justice.vic.gov.au/affidavit).

If you need someone to sign for you due to a physical disability, do not fill out this section. Fill out **Section A1** on page 13.

In this section, the words 'I', 'my' or 'me' refer to a witness. The word 'principal' means the person making this enduring power of attorney.

### Name of principal

### Signature

### Date

### Witnesses

Each witness **certifies** that:

- the principal appeared to freely and voluntarily sign this instrument in my presence, and
- at that time, the principal appeared to me to have decision making capacity in relation to making this enduring power of attorney, and
- I am not an attorney under this enduring power of attorney, and
- I am not a relative of the principal or of an attorney under this enduring power of attorney, and
- I am not a care worker or accommodation provider for the principal.

### Name of authorised witness

### Residential or business address

### Signature

### Qualification (as a medical practitioner or person authorised to witness affidavits)

### Date

### Name of other witness

### Residential or business address

### Signature

### Date

## Section 7: Statement of acceptance of appointment by attorney

This section needs to be read and signed by your attorney. A witness must also sign the witness certificate.

This section can be completed at the same time as the principal completes their section or at a later time.

### Attorney

I **accept my appointment as attorney** for the principal under this enduring power of attorney and state that:

- I am eligible under Part 3 of the **Powers of Attorney Act 2014** to act as an attorney under an enduring power of attorney, and
- I understand the obligations of an attorney under an enduring power of attorney and under the **Powers of Attorney Act 2014** and the consequences of failing to comply with those obligations, and
- I undertake to act in accordance with the provisions of the **Powers of Attorney Act 2014** that relate to enduring powers of attorney.

*If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty*

I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty. ....

#### Name of attorney

#### Position

*(if appointed as the occupant of a position)*

#### Residential or business address

#### Signature

#### Date

  

#### Witness

I witnessed the signing of the statement of acceptance by the attorney.

#### Name of witness

#### Residential or business address

#### Signature

#### Date

## Section 8: Statement of acceptance of appointment by alternative attorney

This section needs to be read and signed by each alternative attorney you are appointing. A witness must also sign the witness certificate for each alternative attorney.

This section can be completed at the same time as the principal completes their section or at a later time.

### Alternative attorney

I accept my appointment as an alternative attorney under this enduring power of attorney and state that:

- I am eligible under Part 3 of the **Powers of Attorney Act 2014** to act as an attorney under an enduring power of attorney, and
- I understand the obligations of an attorney under an enduring power of attorney and under the **Powers of Attorney Act 2014** and the consequences of failing to comply with those obligations, and
- I undertake to act in accordance with the provisions of the **Powers of Attorney Act 2014** that relate to enduring powers of attorney, and
- I understand the circumstances in which the alternative attorney is authorised to act under the **Powers of Attorney Act 2014**, and
- I am prepared to act in place of the attorney for whom I am appointed, if still eligible to act as attorney, when authorised to do so under the **Powers of Attorney Act 2014**.

*If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty*

I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty. ....

### Name of alternative attorney

### Position

*(if appointed as the occupant of a position)*

### Residential or business address

### Signature

### Date

  

### Witness

I witnessed the signing of the statement of acceptance by the alternative attorney.

### Name of witness

### Residential or business address

### Signature

### Date

## Alternative attorney

I accept my appointment as an alternative attorney under this enduring power of attorney and state that:

- I am eligible under Part 3 of the **Powers of Attorney Act 2014** to act as an attorney under an enduring power of attorney, and
- I understand the obligations of an attorney under an enduring power of attorney and under the **Powers of Attorney Act 2014** and the consequences of failing to comply with those obligations, and
- I undertake to act in accordance with the provisions of the **Powers of Attorney Act 2014** that relate to enduring powers of attorney, and
- I understand the circumstances in which the alternative attorney is authorised to act under the **Powers of Attorney Act 2014**, and
- I am prepared to act in place of the attorney for whom I am appointed, if still eligible to act as attorney, when authorised to do so under the **Powers of Attorney Act 2014**.

*If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty*

I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty. ....

Name of alternative attorney

Position

*(if appointed as the occupant of a position)*

Residential or business address

Signature

Date

  

Witness

I witnessed the signing of the statement of acceptance by the alternative attorney.

Name of witness

Residential or business address

Signature

Date

# Continuation section

Only use this continuation section if you are told to in the enduring power of attorney form. Many people make an enduring power of attorney without needing to use a continuation sheet.

## **Section A1: Signed at the direction of the principal**

Use this section if you need someone to sign for you.



## Section A1: Signed at the direction of the principal

If you need someone to sign for you, at your direction, they must be 18 years or older. They cannot be an attorney under this enduring power of attorney or a witness to the signing of this form.

I sign this enduring power of attorney at the direction of and in the presence of the principal.

**Name of principal**

**Name of person signing at the direction of the principal**

**Residential or business address**

**Signature**

**Date**

**Witnessed by:**

Each witness **certifies** that:

- in my presence, the principal appeared to freely and voluntarily direct the person to sign for the principal and that person signed this instrument in my presence and in the presence of the principal, and
- at that time, the principal appeared to me to have decision making capacity in relation to making this enduring power of attorney, and
- I am not an attorney under this enduring power of attorney, and
- I am not a relative of the principal or of an attorney under this enduring power of attorney, and

- I am not a care worker or accommodation provider for the principal, and
- I am not the person who is signing at the direction of the principal.

**Name of authorised witness**

**Residential or business address**

**Signature**

**Qualification (as a medical practitioner or person authorised to witness affidavits)**

**Date**

**Name of other witness**

**Residential or business address**

**Signature**

**Date**

You have reached the end of this form. You do **not** need to submit this form anywhere.

You need to complete it, make sure it is signed and witnessed properly, and then keep the original in a safe place. You should give your attorney(s) a certified copy of this form.