



Freecall: 1800 812 953

Phone: 08 8982 1111

Web Site: www.dcls.org.au

Email: info@dcls.org.au

Postal Address: GPO Box 3180, Darwin NT

Location: 8 Manton Street, Darwin, NT

POWER OF ATTORNEY

A Power of Attorney is a legal document that gives another person the power to make decisions about your financial and legal affairs on your behalf.

Useful terms

The person that gives the power to another person to act on their behalf is called 'the donor'.

The person who receives the power is called 'the donee' or 'the Attorney'.

Types of Power of Attorney

There are two main types of Power of Attorney.

General Power of Attorney

A General Power of Attorney is only valid while you have legal capacity. Legal capacity means that you are able to manage your affairs.

Enduring Power of Attorney

An Enduring Power of Attorney remains valid even if you lose legal capacity. An Enduring Power of Attorney cannot be created after the 17th of March 2014. If you created an Enduring Power of Attorney before the 17th of March 2014, it will remain in effect. See the DCLS Advance Personal Plan factsheet for more information.

What an Attorney can do

An Attorney can be given very broad powers to do anything you could lawfully do, or narrow and specific powers, for example the power to withdraw money from your bank account to pay a certain bill.

You can limit an Attorney's power to allow them to act on your behalf only in certain circumstances, for example:

- while you are in hospital;
- while you are out of the Northern Territory or travelling overseas; or
- in a certain place, for example the Northern Territory.

The types of decisions your Attorney can make should be listed on the Power of Attorney document, along with the circumstances in which their power can be exercised.

How to make a Power of Attorney

A standard Power of Attorney form is available from the Land Titles Office within the Registrar-General's Office. You may choose to use this form, or ask a lawyer to draft a Power of Attorney for you, or draft one yourself. If you draft your own Power of Attorney, it is a good idea to have it checked by a lawyer as even a small mistake could make it invalid.

To be valid, a Power of Attorney needs to be signed by the donor and an authorised witness.

Authorised witnesses include:

- Legal practitioners
- Police officers
- Licensed real estate agents
- Commissioners for Oaths.



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If you cannot sign a Power of Attorney because of a disability or illiteracy, another adult can sign it on your behalf, so long as you and an authorised witness are present during the signing.

Who can be an Attorney

You can appoint anyone who has the necessary legal capacity to do what they are required to do as an Attorney under the powers given to them in the Power of Attorney.

Registration of Power of Attorney

A Power of Attorney that gives the Attorney power to sign documents relating to land transactions must be registered with the Land Titles Office, otherwise it need not be registered.

How to change a Power of Attorney

If you want to make changes to your Power of Attorney, you can do so at any time. Generally, the best way to change a Power of Attorney is to revoke (cancel) the original document and make a new one. You can revoke a Power of Attorney by completing a form from the Land Titles Office.

Duration of Power of Attorney

A General Power of Attorney and an Enduring Power of Attorney will stop having effect where:

- the donor or Attorney dies or becomes bankrupt;
- the Attorney chooses to stop acting as Attorney;
- the donor revokes the power; or
- the Attorney becomes legally incapacitated.

An Enduring Power of Attorney will also stop having effect where the Local Court revokes it. A General Power of Attorney will also stop having effect where the donor becomes legally incapacitated.

Useful contacts

Darwin Community Legal Service

Phone: (08) 8982 1111

Freecall: 1800 812 953

Registrar General's Office - Land Titles Office

Phone: (08) 8999 6520

Email: AGD.RegistrarGeneral@nt.gov.au