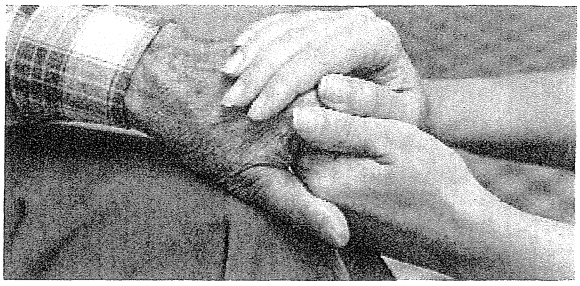

POWERS OF ATTORNEY – WHAT ARE THEY?

When you are ALIVE:

Powers of Attorney are appointed to look after your financial decisions when you can't

GENERAL POWER OF ATTORNEY

A General Power of Attorney is appointed to assist with a specific task or for a short period of time. For example:

- You appoint someone to assist you in the event you are away overseas;
- You appoint someone solely for the purpose of signing a particular document;
- You appoint someone for a nominated period of time.

These General Powers of Attorney **CANNOT** operate in the event of incapacity or mental illness. In the case of incapacity or mental illness, an Enduring Power of Attorney should be appointed.

ENDURING POWER OF ATTORNEY

The Duties and Responsibilities of your Enduring Power of Attorney (EPA)

An Enduring Power of Attorney (EPA) allows the attorney to make financial decisions on your behalf after you lose mental capacity*.

An attorney cannot make medical, health care, accommodation or lifestyle decisions.

*Mental capacity refers to the ability to understand the nature and consequences of a decision and the alternative choices and consequences available or likely.

Role and Responsibilities of the Attorney

The attorney(s) becomes legally responsible when the Enduring Power of Attorney is activated. The Enduring Power of Attorney may be activated:

1. immediately on signing the EPA; or
2. when a doctor or neuropsychologist says that you have lost the capacity and the ability to make financial decisions.

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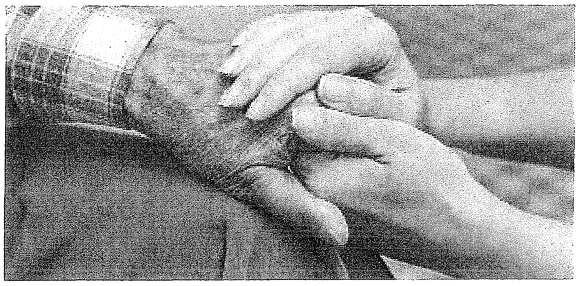

Appointment of Attorneys

You can elect to appoint a single Attorney or multiple Attorneys.

Multiple Attorneys can be elected to act jointly or they may act independently of each other.

If there is more than one Attorney appointed jointly, they must agree on all financial decisions made.

All Attorney(s) have an absolute duty to act in your best interests at all times. It is an offence to act otherwise. An attorney who acts improperly can be held personally and criminally liable for losses. The attorney(s) must take into account any instructions from you in the documents.

Role of the Attorney

Your Attorney's main role is to pay to make financial decisions and attend to the financial affairs if you cannot attend to these on your own behalf.

The attorney(s) can also:

- buy and sell property on your behalf;
- enter into contracts on your behalf;
- access funds from your bank accounts to assist with your everyday requirements.

Please note all appointed Attorneys MUST accept their appointment before the Attorney can act on your behalf. This acceptance confirms the Attorney's understanding of the appointment and the willingness to act as your Attorney.

Be wise as to your appointment

A Power of Attorney is the most powerful and most important document you can sign. An Attorney has the control over your assets including your house, bank accounts, valuables and income.

Revocation of an appointment of Attorney

You may at any time revoke the appointment of an Attorney **UNLESS** you lose the capacity to do so.

Attorneys who are appointed jointly and who cannot agree on decisions should apply to the State Tribunal for advice or direction or a change in the Attorney arrangement.

The material may not *apply to all jurisdictions.*
The contents do not *constitute* legal advice, *are* not *intended to be a substitute for* legal advice *and should* not *be relied upon as such. You should seek* legal advice *or other professional* advice *in relation to any particular matters you or your organisation may have.*

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