

Preparation checklist *Form 16—Request to register power of attorney and Form 3—Enduring power of attorney*

This checklist contains general information to assist practitioners complete a basic request to register power of attorney and associated enduring power of attorney. It is not intended to be a complete guide. For further information about the requirements of a Form 16—Request to register power of attorney and Form 3—Enduring power of attorney, refer to Part 16 of the Land Title Practice Manual available at: www.business.qld.gov.au/industry/titles-property-construction/titles-property/practice-manual

Note: An enduring power of attorney should not be used for capabilities such as a trustee, a business partnership, a director of a company, or a company. A Form 1 – General Power of Attorney is the appropriate Form to record these capacities.

Form 3—Enduring power of attorney

Clauses

Clauses 1 to 7

Clauses 1 to 7 may be completed but are not used by the titles registry, as they are for personal health matters.

Clause 8

- Is the *Form 2—Appointing an attorney for financial matters* completed by the principal?
- Are the principal's full name and address shown?
- Are the full names and address of each attorney shown?

Clause 9

- Is one box ticked to indicate whether or not specific terms or limitations are given?

Clause 10

- If answer to the question in clause 9 is yes, are specific terms or limitations stated?
- If the power of attorney is intended to be limited to certain terms, is the word 'limited' or words 'restricted to' or a similar expression used to describe the terms? **Note:** if these are not used, the Registrar will consider the terms as additional terms.

Clause 11

- Is only one box ticked?
- If required, is a specific date or circumstance on which the attorney's powers are to commence shown?
- If required, is any supporting documentation required to be deposited — for example a statement from a medical practitioner?

Clause 12

- Is one box ticked to indicate whether or not more than one attorney is appointed?

Clause 13

- If answer to the question in clause 12 is yes, is the relevant box ticked indicating how the attorneys are to make decisions?
- If as a majority, are specific directions included?
- If box for other is ticked, are specific directions included such as successively or alternatively?

Clause 14

- Is the statement of understanding signed by the principal or the person representing the principal?
- Is the principal's signature or the person representing the principal signature witnessed? **Note:** The witness must complete clauses 14 and 15.
- Is the date completed?

Clause 15

- Is the witness statement completed by the witness who signed and dated the statement of understanding?
- Is the witness qualified in terms of s 31 of the *Powers of Attorney Act 1998*?
- Are all items completed with one tick each?
- Is the witness certificate signed and dated?

Clauses 16 to 18

Clauses 16 to 18 may be completed but are not used by the titles registry.

Clause 19

- Is the attorney's full name shown in the attorney's acceptance?
- Are the relevant boxes ticked?
- Is the attorney's acceptance signed by the attorney and dated on or after the date the principal signed the power?

Clauses 20 and 21

- Are separate attorney's acceptance completed for each additional attorney?

Form and evidence

- Is the correct form used?
- If other than a purchased pre- printed form is used, are the form number, relevant section of the Power of Attorney Act 1998 and general notes regarding powers of attorney shown in the power of attorney?
- If a copy of the power of attorney, certified pursuant to s 45 of the *Powers of Attorney Act 1998* is being lodged, is—
 - each page, other than the last page, of the copy certified to the effect that the copy is a true and complete copy of the corresponding page of the original; and
 - the last page of the copy certified to the effect that the copy is a true and complete copy of the original; and
 - the certification by a person authorised by the above section?
- Are all instructions to the form included as part of the form for lodgement?

Form 16—Request to register power of attorney

Item 1

- Does the principal's name agree with that stated in the power of attorney?
- Are the non-applicable words deleted or ruled through?

Item 2

- Does the attorney's name agree with that stated in the power of attorney?
- If more than one attorney, are the relevant words shown to indicate the way the attorneys are to act and does this agree with the power of attorney — for example jointly as a majority?

Item 3

- Are the non-applicable statements deleted or ruled through?

Item 4

- Is the request executed?
- If signed by a solicitor, is the full name legibly printed below the signature?