

POWERS OF ATTORNEY

WHAT CAN YOU DO?



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In Queensland, the authority of the Attorney is created in the *Powers of Attorney Act 1998* ("the Act"). The "standard" Enduring Power of Attorney gives the person granting the Power of Attorney, known as the Principal, the power to appoint the Attorney for Financial Matters and/or Personal and Health Matters. The Principal can elect to make the appointment on Financial Matters effective immediately or at a particular time. As to the appointment for Personal and Health Matters, that is effective only once the Principal has lost capacity.

The Schedule of the Act sets out what the Attorney is authorised to do. These are:

Financial Matters

1. Paying maintenance and accommodation expenses for the Principal and the Principal's dependants, including, for example, purchasing an interest in, or making another contribution to, an establishment that will maintain or accommodate the Principal or a dependant of the Principal;
2. Paying the Principal's debts, including any fees and expenses to which an administrator is entitled under a document made by the Principal or under a law;
3. Receiving and recovering money payable to the Principal;
4. Carrying on a trade or business of the Principal;
5. Performing Contracts entered into by the Principal;
6. Discharging a Mortgage over the Principal's property;
7. Paying rates, taxes, insurance premiums or other outgoings for the principal's property;
8. Insuring the principal or the principal's property;
9. Otherwise preserving or improving the principal's Estate;
10. Investing for the principal authorised investments;
11. Continuing investments of the principal including taking up rights to issues of new shares; or options for new shares, to which the principal becomes entitled by the principal's existing shareholding;

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12. Undertaking a real estate transaction for the principal;
13. Dealing with land for the principal under the *Land Act 1994* or *Land Title Act 1994*;
14. Undertaking a transaction for the principal involving the use of the principal's property as security (for example for a loan or by way of guarantee) for an obligation the performance of which is beneficial to the principal;
15. A legal matter relating to the principal's financial or property matters;
16. Withdrawing money from or depositing money into the principal's account with a financial institution.

Personal Matters

1. Where the principal lives;
2. With whom the principal lives;
3. Whether the principal works and, if so, the kind and place of work and the employer;
4. What educational training the principal undertakes;
5. Whether the principal applies for a license or permit;
6. Day to day issues, including, for example, diet and dress;
7. Whether to consent to a forensic examination of the principal;
8. Health care of the principal;
9. A legal matter not relating to the principal's financial or property matters.

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Health Matters

A health matter, for a principal, is a matter relating to health care, other than special health care, of the principal. An Attorney under an Enduring Power of Attorney can make the following decisions:

1. Health care, of a principal, is the care or treatment of, or a service or a procedure for, the principal:
 - (a) To diagnose, maintain, or treat the principal's physical or mental condition; and
 - (b) Carried out by, or under the direction or supervision of, a health provider;
2. Health care, of a principal includes withholding or withdrawal of a life sustaining measure* for the principal if the commencement or continuation of the measure for the principal would be inconsistent with good medical practice**;
3. Health care, of a principal does not include:
 - (a) First aid treatment; or
 - (b) A non intrusive examination made for diagnostic purposes; or
 - (c) The administration of a pharmaceutical drug if:
 - (i) A prescription is not needed to obtain the drug; and
 - (ii) The drug is normally self administered; and
 - (iii) The administration is for a recommended purpose and at a recommended dosage level.

**A life sustaining measure is a health care intended to sustain or prolong life and that supplements or maintains the operation of a vital bodily function that a temporary or permanently incapable of independent operation. An example of life sustaining measures are:*

- (a) *Cardio pulmonary resuscitation;*
- (b) *Assisted ventilation;*
- (c) *Artificial nutrition and hydration.*

***Good medical practice for the medical profession in Australia is having regard to:*

- (a) *The recognised medical standards, practices and procedures for the medical profession in Australia; and*
- (b) *The recognised ethical standards of the medical profession in Australia.*