

Client Full Name/s & Addresses:

The following pages outline the roles within your Estate Plan and who and how you would like your Estate managed if you become unable to do so yourself.



Dependants Full Names :

Net Estate :

Who do you wish to gift net estate to?

Specific Gifts :

Calamity Situation :

Where should your estate pass in case of calamity (all immediate family dying in the same incident).

EXECUTOR:

The person appointed by a will to administer the deceased estate. The executor holds all of the assets of the deceased until they are distributed in accordance with the will.

WHAT ROLE DOES THE EXECUTOR PERFORM?

The duties of an executor are many and include:

- a) to supervise the funeral arrangements;
- b) to call in the assets of the estate: this often involves applying to the Court for permission to deal with the assets under the will and collecting all assets and debts due to the estate;
- c) to pay all outstanding debts: ideally this should be done within 12 months of the date of death, but the Court can allow a longer period if it is reasonable in the circumstances;
- d) to invest estate funds so as to earn interest whilst the estate is being administered;
- e) to insure the assets of the estate against fire and other risks;
- f) to distribute the assets in accordance with the will; and
- g) to arrange the completion of tax returns for both the testator and the testator's estate.

HOW MANY EXECUTORS CAN BE APPOINTED?

It is important that at least one executor be appointed by the will. However, it is common that a back-up or alternative executor is appointed, in case one of the named executors is unable to act, or does not wish to act. No more than four persons may apply to the Court for permission to administer the estate. If the executors cannot agree on the administration of the will, they will need to apply to the Court for a ruling.

WHAT PERSONAL LIABILITY DOES THE EXECUTOR TAKE ON?

Once the executor has permission from the Court to deal with the estate, they must act promptly to collect all the assets and debts of the estate.

They may be held personally liable for any loss suffered through their neglect.

If the executor fails to invest the assets of the estate, they may be liable to pay the interest that would have gone to the beneficiaries had the assets been properly invested.

WHO CARRIES OUT THE EXECUTOR'S FUNCTIONS IF NO EXECUTOR IS APPOINTED?

If no executor is named in the will, it becomes necessary to apply to the Court, so that the Court can appoint someone to administer the deceased estate.

When appointing an administrator, the Court will have regard to the rights of those people who are interested in the real and personal estate of the testator.

The Court will appoint someone who has an interest in the residuary estate, but has the discretion to appoint someone else, if the circumstances warrant.

EXECUTOR DETAILS :

Initial Executor - Full name and address :

1st Backup Executor - Full name and address :

2nd Backup Executor - Full name and address :

WHAT ARE POWERS OF ATTORNEY?

Powers of attorney are documents created to empower someone to make decisions on behalf of another. A person making a power of attorney can nominate one or more people to act on their behalf if they are incapacitated through illness, accident or old age, or are out of the jurisdiction. A power of attorney will specify the powers granted and can give directions about particular wishes.

The statutory forms for granting a power of attorney are different in every state.

Powers of attorney can be either general or limited. Under a general power of attorney, the attorney is able to do virtually all things the person giving the power could legally do. Under a limited power of attorney, the power is restricted in some way. For example, the attorney may be appointed only for a certain time or only to perform certain acts.

The main types of powers of attorney are:

- A general power of attorney - where the appointment is for financial and legal decisions, usually for a specified period of time and automatically ending if the donor loses capacity.
- An enduring power of attorney - where the appointment is for financial and legal decisions, and continues despite the donor losing the capacity to make decisions.
- A medical power of attorney or guardianship - where the appointment is for personal and medical decisions if the donor has lost capacity.

All forms of powers of attorney end immediately on death.

IS AN ENDURING POWER OF ATTORNEY NECESSARY?

In an estate planning exercise, enduring powers of attorney are recommended. This is because enduring powers of attorney continue to be valid, even if the donor loses capacity. In contrast, other types of attorney documents become void if the donor loses capacity.

If someone loses capacity without having appointed an enduring attorney, an 'interested party' (for example, a spouse, child (or children), trusted relatives or friends) will need to apply to a court or a government tribunal to be appointed. It is likely that an officer from the government will also need to be involved in the management of the person's affairs for a period of time, creating additional (and unnecessary) expense, both financially and emotionally.

HOW OFTEN SHOULD APPOINTMENTS BE REVIEWED?

It is important to regularly review and if necessary modify attorney nominations to ensure they are appropriate from time to time. Some of the reasons that may require an amendment of arrangements include:

- change in the matrimonial or life spouse arrangements of the donor or any attorney;
- death or incapacity of an attorney;
- the donor moving interstate;
- children turning 18;
- changes in the value or type of assets; or
- assets acquired in different jurisdictions.

The summary is based on the law as at 1 October 2015.

This summary covers legal issues in a general way. It is intended for information purposes only and should not be regarded as legal advice. Aspire Planning does not assume a duty of care in connection with this document and further advice should be obtained before taking action on any issue mentioned.

ENDURING POWER OF ATTORNEY (FINANCIAL) :

Power of Attorney - Full name and address :

1st Backup Power of Attorney - Full name and address :

2nd Backup Power of Attorney - Full name and address :

ENDURING POWER OF ATTORNEY (MEDICAL) :

Power of Attorney - Full name and address :

1st Backup Power of Attorney - Full name and address :

2nd Backup Power of Attorney - Full name and address :
