

2006

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

POWERS OF ATTORNEY BILL 2006

EXPLANATORY STATEMENT

Circulated with authority of
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POWERS OF ATTORNEY BILL 2006

Outline

The Powers of Attorney Bill 2006 revises the powers of attorney regime in the Australian Capital Territory. It implements the outcome of a review of substituted decision-making consequent upon the government's agreement to the recommendations made by the Standing Committee on Health and Community Care in its report of 2001 following the inquiry into "Elder Abuse in the ACT".

The Bill provides enhanced safeguards for making a power of attorney and strengthens the witnessing requirement for the understanding capacity of a person making the power of attorney. In relation to enduring powers of attorney, the Bill provides for the Guardianship and Management of Property Tribunal (guardianship tribunal) to have a supervisory jurisdiction where the principal has become a person with impaired decision-making capacity, and for enhanced obligations on attorneys. The Bill also explicitly provides for matters that have previously been taken to be governed by common law, such as the operation of joint attorneys and ending of a power of attorney. Safeguards are provided in the Bill to relieve an innocent attorney from personal liability and to protect a transaction an innocent third party has entered into with an attorney under an invalid power of attorney. The Bill requires that an attorney of a principal who has impaired decision-making capacity should comply with general principles provided in the Bill which enshrine the rights of the principal. These principles include the right to participate in decision-making, the right to participation in community life, the right to human worth and dignity and the right to access family members and relatives. The Bill also provides for the Minister to approve forms of powers of attorney.

Financial Impact Statement

The Bill is budget neutral.

Detailed explanation

Chapter 1 Preliminary

Clause 1 to 4

These clauses are formal clauses and provide that

- the name of the Act is the *Powers of Attorney Act 2006*;
- the Act commences on a day fixed by the Minister by written notice;
- the dictionary is at the end of the Act;
- a note in the Act is explanatory and is not part of the Act; and
- other legislation (i.e. the *Criminal Code*, chapter 2) applies to the offences under the Act.

Chapter 2 General overview and important concepts

Clause 6 Principal and attorney

This clause explains who is an attorney and who is a principal. An attorney is authorised under a power of attorney to make decisions and do particular things for the principal. A principal is a person who makes a power of attorney. A power of attorney may authorise an attorney to do anything that the principal can lawfully do by an attorney (see clause 13(1)).

Clause 7 What is a *general power of attorney*?

A general power of attorney operates while the principal has decision-making capacity. An enduring power of attorney also operates as a general power of attorney while the principal has decision-making capacity (see clause 31). For the definition of “decision-making capacity”, see clause 9.

Clause 8 What is an *enduring power of attorney*?

An enduring power of attorney is not revoked by the principal’s impaired decision-making capacity. It will operate as a general power of attorney while the principal has decision-making capacity (see clause 31). Under clause 13(2), an enduring power of attorney may authorise an attorney to do anything in relation to a property matter, personal care matter or health care matter.

Clause 9 What are *decision-making capacity* and *impaired decision-making capacity*?

This clause defines the terms “decision-making capacity” and “impaired decision-making capacity” in the Act. Decision-making capacity is where a person can make decisions in relation to his or her affairs and understands the nature and effect of such decisions. Impaired decision-making capacity is where a person cannot make such a decision or does not understand the nature or effect of the decisions he or she makes. A person is taken to understand the nature and effect of making a power of attorney, unless there is evidence to the contrary (see clause 18). For what is understanding the nature and effect of making a power of attorney, see clause 17. Certain attributes of a person, which are referred to in clause 91, do not mean that he or she has impaired decision-making capacity.

Clause 10 Meaning of *property matter*

This clause explains that “property matter” means a matter relating to the principal’s property. An enduring power of attorney may authorise the attorney do things in relation to a property matter of the principal (see clause 13(2)). Examples of property matters are listed under this clause.

Clause 11 Meaning of *personal care matter*

“Personal care matter” means a matter relating to the principal’s personal care, including the principal’s welfare. A personal care matter does not include a special personal matter, health care matter, or a special health care matter. Examples of health care matters are listed under this clause. An enduring power of attorney may authorise the attorney do things in relation to a personal care matter of the principal (see clause 13(2)). Clauses 12, 36 and 37, respectively, explain what are “health care matters”, “special personal matters” and “special health care matters”.

Clause 12 Meaning of *health care matter*

A health care matter is a matter relating to the principal’s care, but it does not include a special health care matter. Examples of health care matters are listed under this clause. An enduring power of attorney may authorise the attorney do things in relation to a health care matter of the principal (see clause 13(2)).

Chapter 3 How to appoint an attorney

Part 3.1 What the principal needs to do

Clause 13 Authorisation of attorneys

Clause 13 provides that an adult (the principal) may authorise 1 or more people by a power of attorney to do for the principal anything that the principal can lawfully do by an attorney. Clause 35 provides that the things a principal cannot lawfully do by an attorney are special personal matters and special health care matters, which are respectively explained in clauses 36 and 37.

This clause further provides that a principal may make an enduring power of attorney to give powers to 1 or more attorneys in relation to 1 or more property matters, personal care matters or health care matters if the principal could lawfully do them by an attorney when the principal had decision-making capacity.

Clause 14 Limit on s 13 power to appoint attorneys – enduring power of attorney

Clause 14 provides for the following matters to apply to an enduring power of attorney:

- No corporation can be an attorney for a property matter except the public trustee or a trustee company under the *Trustee Companies Act 1947*;
- A person who is bankrupt or has entered into a personal insolvency agreement cannot be an attorney for a property matter;
- No corporation can be appointed as an attorney for a personal care or health care matter;
- The public advocate can be appointed as attorney only for a personal care matter or health care matter;
- A person to whom a guardian or manager is appointed cannot make an enduring power of attorney unless the guardianship tribunal approves the provisions of the power.

Clause 15 Authorisation of attorneys by name or position

This clause provides that a principal may authorise an attorney by stating the name of the attorney, or nominating the occupant of a position (however described), at a particular time or from time to time.

Clause 16 When and how power under power of attorney exercisable

Clause 16 enables a principal to state in a power of attorney when, and how, power under a power of attorney is exercisable. If the power of attorney does not state when the power is exercisable, the power can be exercised once the power of attorney is made. This means that if a principal wants an enduring power of attorney to commence once the principal becomes a person with

impaired decision-making capacity, the principal must explicitly state that in the document. Otherwise, it commences once it is made.

Clause 17 Understanding nature and effect of making powers of attorney

This clause explains what constitutes understanding the nature and effect of making a power of attorney and lists the matters that a principal must understand.

Those matters are:

- that he or she may state or limit an attorney's power;
- that he or she may, in the power of attorney, instruct the attorney about the exercise of the power;
- when the attorney can exercise the power under the power of attorney;
- that the attorney has the power to make decisions in relation to, and will have full control over, a matter in relation to which the attorney is to exercise power and such exercise of power is subject to terms or information included in the power of attorney about it; and
- that the principal may revoke the power of attorney at any time the principal is capable of making a power of attorney.

A principal who is making an enduring power of attorney must also understand the following additional matters:

- that the power continues even if the principal becomes a person with impaired decision-making capacity; and
- that the principal cannot effectively oversee the use of the power when the principal does not have the capacity to revoke the power of attorney.

Clause 9 defines “decision-making capacity” and “impaired decision-making capacity”.

Clause 18 Presumption principals understand nature and effect of making powers of attorney

It is presumed that a person making a power of attorney understands the nature and effect of making it. This is subject to there being no evidence to the contrary.

Part 3.2 Technical side

Clause 19 Formal requirements for powers of attorney

This clause provides how a power of attorney must be signed. The principal or someone for the principal must sign the power of attorney. A person signing for a principal does it by direction, and in the presence of, the principal. Clause 20 provides who is eligible to sign a power of attorney for the principal.

The power of attorney must also be signed and dated by two adult witnesses in the presence of the principal and each other. It should contain a certificate signed by each witness in accordance with clause 22. Clause 21 provides who can be a witness to a power of attorney.

Clause 20 Who can sign for the principal?

Clause 20 provides that a person who signs a power of attorney for the principal should be an adult, is not a witness for the power of attorney, and is not an attorney for the principal.

Clause 21 Who can be a witness?

Clause 21 provides that a person signing the power of attorney for the principal, the attorney or a child cannot be a witness to a power of attorney. It also provides that only one of the witnesses can be a relative of the principal or of the attorney. For an enduring power of attorney, one witness must be a person authorised to witness the signing of a statutory declaration.

Schedule 2 of the Statutory Declarations Regulations 1993 of the Commonwealth lists the persons before whom a statutory declaration may be made (i.e. persons who could witness the signing of a statutory declaration).

Clause 22 Certificates by witnesses to powers of attorney

Clause 22 requires a power of attorney to contain a witness certificate. A certificate in a power of attorney must be signed by each witness and state that the principal signed the power of attorney voluntarily in the presence of the witness; and at the time, the principal appeared to the witness to understand the nature and effect of making the power of attorney.

Where a power of attorney is signed for the principal, the certificate must state that the principal directed the person to sign the power of attorney for the principal, the principal gave the direction voluntarily in the presence of the witness; the person signed the power of attorney in the presence of the principal and the witness, and at the time, the principal appeared to the witness to understand the nature and effect of making the power of attorney.

Clause 23 Enduring power of attorney is ineffective for attorney unless accepted

This clause applies to an enduring power of attorney. An attorney will need to sign the acceptance in the document of his or her appointment as attorney. Only if the attorney signs the acceptance is the enduring power of attorney effective in relation to that attorney (i.e. the attorney could exercise powers under it).

Where more than one attorney is appointed under an enduring power of attorney, only those who have accepted the appointment could act (see clause 28).

Clause 24 Powers of attorney may be made outside ACT

A power of attorney under the proposed legislation may be made in or outside the ACT.

Part 3.3 Appointment of 2 or more attorneys

Clause 25 Appointment of 2 or more attorneys under power of attorney

This clause enables a principal to appoint more than one attorney in a power of attorney and authorise them to act together or separately, or in any combination. The principal may also authorise different attorneys to act in different circumstances, on the happening of different events, or in relation to different matters.

Clause 26 Multiple attorneys usually joint

Clause 26 provides that unless otherwise stated in a power of attorney multiple attorneys exercise the power together (i.e. they cannot act separately). This is the existing legal presumption.

Clause 27 If multiple attorneys cannot exercise power unanimously

Where a principal who made an enduring power of attorney does not now have capacity and it is impracticable or impossible for multiple attorneys to exercise the power that must be exercised together unanimously, one or more of the attorneys, or another interested person, may apply to the guardianship tribunal for directions or an order. An interested person may be a relative, the public advocate, the public trustee, or the principal's guardian or manager. Clause 74 states who is an interested person for a power of attorney.

Clause 28 Effect of joint attorney not accepting enduring power of attorney

Where an enduring power of attorney authorises three or more attorneys to exercise a power together but not separately and does not require a stated number of attorneys to accept the power of attorney, this clause enables at least two of the attorneys who have accepted the enduring power of attorney to exercise the power.

However, this will not apply where the enduring power of attorney requires a stated number of attorneys to exercise a power together. In that case, the stated number of attorneys must accept the power before it could be exercised.

Chapter 4 Operation of powers of attorney

Part 4.1 Operation of powers of attorney generally

Clause 29 Powers of attorney are deeds

This clause clarifies that a power of attorney that complies with the proposed legislation is taken to be a deed, even though it is not expressed to be a deed or to be sealed. An instrument amending, or revoking, a power of attorney is also a deed.

Clause 30 Power of principal to act despite powers of attorney

Clause 30 clarifies that even after giving a power of attorney, a principal can do anything that the principal is otherwise legally capable of doing.

Clause 31 How do enduring powers of attorney operate while principal has capacity?

Unless otherwise stated in an enduring power of attorney, it will start operating from the time it is made. At that time the principal would have decision-making capacity. This clause provides that an enduring power of attorney will operate as a general power of attorney during the period the principal has decision-making capacity. The enduring power of attorney is not revoked by the principal becoming a person with impaired decision-making capacity (see clause 8). Where the principal wants the enduring power of attorney to start operating from the time he or she becomes a person with impaired decision-making capacity, the principal must state it in the document (see clause 16).

Part 4.2 Operation of enduring powers of attorney

Clause 31 Enduring powers of attorney—principal's impaired decision-making capacity

This clause clarifies that an enduring power of attorney in relation to a matter is not revoked by the principal becoming a person with impaired decision-making capacity either generally or for the matter. Where an attorney can exercise a power in relation to a matter before the principal becomes a person with impaired decision-making capacity, that power can be exercised while the principal has impaired decision-making capacity even if a condition before exercising the power has not been satisfied.

Part 4.3 Things attorneys can and cannot do

Division 4.3.1 Things attorneys can and cannot do generally

Clause 33 Others acting for attorney

Clause 33 provides for an attorney to authorise someone else to exercise the attorney's powers. Examples of such authorised persons are a substitute, delegate or subattorney. An attorney under a general power of attorney can authorise someone else to exercise the attorney's powers unless the document provides otherwise. However, an attorney under an enduring power of attorney cannot do so unless the document expressly allows it. The person to whom an attorney under an enduring power of attorney may give authority should be a person who could be appointed as an attorney under an enduring power of attorney, and also is known to the principal, or was known to the principal when the principal had decision-making capacity. The clause also clarifies that a person authorised by an attorney is taken to be an attorney for the Act.

Clause 34 Powers of attorney do not generally give authority to benefit attorneys

This provision prohibits an attorney from conferring on him or her any benefits unless the power of attorney expressly authorises the giving of the benefit of that kind to the attorney.

Clause 35 Things that cannot be lawfully done by attorneys

Special personal matters and special health matters are matters very personal to a principal. They are set out in clauses 36 and 37 respectively. Clause 35 clarifies that a person cannot authorise an attorney under a power of attorney to do anything relating to those matters. These matters are those that are currently not allowed for an attorney to do.

Clause 36 Special personal matters

This clause lists special personal matters. They are:

- making or revoking the principal's will;
- making or revoking a power of attorney or enduring power of attorney for the principal;
- exercising the principal's right to vote in a Commonwealth, Territory, State or local government election or referendum;
- consenting to the adoption of a child of the principal under 18 years of age; and
- consenting to the marriage of the principal.

Clause 36 Special health care matters

This clause lists special health care matters. They are:

- removal of non-regenerative tissue from the principal while alive for donation to someone else;
- sterilisation of the principal if the principal is, or is reasonably likely to be, fertile;
- termination of the principal's pregnancy;
- participation in medical research or experimental health care;
- treatment for mental illness;
- electroconvulsive therapy or psychiatric surgery; and
- health care prescribed by regulation.

This clause also defines certain terms occurring in the provision.

Division 4.3.2 Things attorneys can and cannot do under enduring powers of attorney

Clause 38 Enduring powers of attorney do not generally confer authority to give gifts

An attorney under an enduring power of attorney cannot give gift of any property of the principal if the document does not expressly authorise the making of the gift.

Clause 39 Express general authority to give gifts in enduring powers of attorney

This clause deals with an enduring power of attorney which gives a general authorisation to make gifts. A general authorisation allows the following gifts:

- a gift made to a relative or close friend of the principal for a celebration or special event;
- a gift that is a donation of a kind that—
 - the principal made when the principal had decision-making capacity; or
 - the principal might reasonably be expected to make.

The value of a gift under a general authorisation should be reasonable, taking into consideration the principal's financial circumstances and the size of the principal's estate. An attorney, or a charity with which the attorney has a connection, may also receive gifts under a general authorisation to make gifts.

The purpose of this clause is to enable an attorney under an enduring power of attorney to give effect to the acts of good will or gratitude that the principal wishes to continue even after he or she becomes a person with impaired decision-making capacity.

Clause 40 Express general authority to provide for reasonable living expenses in enduring powers of attorney

An enduring power of attorney may include a provision authorising the payment of reasonable living expenses (however described) for a named person. This clause provides that such authority covers only the payment of reasonable costs of the following in relation to the person named:

- housing;
- food;
- education;
- transportation;
- medical care and medication.

The enduring power of attorney may expressly provide otherwise. In working out what are reasonable costs, the principal's financial circumstances and the size of the principal's estate must be taken into consideration.

This clause and the next clause 41 (Powers to maintain principal's dependants) will be helpful to an attorney to continue to support the principal's near and dear ones and dependants during the period of the principal's impaired decision-making capacity. These provisions would also, to some extent, avoid any disputes arising in relation to the principal's duty or wish to provide for these persons.

Clause 41 Powers to maintain principal's dependants

This clause enables an attorney for a property matter under an enduring power of attorney to provide from the principal's estate for the needs of a dependant of the principal. The attorney could provide for the dependant's maintenance not more than what is reasonable considering all the circumstances and, in particular, the principal's financial circumstances.

Part 4.4 Obligations of attorneys and others

Division 4.4.1 Obligations of all attorneys

Clause 42 Conflict transactions

Clause 42 prohibits an attorney from entering into a conflict transaction. The attorney could enter into such a transaction only if the principal authorises the transaction in the power of attorney. The principal may also authorise conflict transactions of a kind or conflict transactions generally.

This provision also explains what is a conflict transaction. A transaction is a conflict transaction which results, or may result, in conflict between the duty of an attorney towards the principal, and either (i) the interests of the attorney, or a relative, business associate or close friend of the attorney, or (ii) another duty of the attorney.

A transaction is not a conflict transaction only because the transaction involves a property in relation to which the attorney and the principal has a joint interest or the attorney acquires such a joint interest. It is also not a conflict transaction where the attorney obtains a loan or gives a guarantee or indemnity in relation to such transactions. Joint interest for the purpose of this provision includes an interest as a joint tenant or tenant in common.

Clause 43 Obligation of attorneys to keep interested people informed

Clause 43 provides for the obligation of an attorney to inform certain events to certain persons. Where the attorney resigns as attorney under a power of attorney, or the attorney's authorisation under a power of attorney is revoked, or where a court or the guardianship tribunal makes an order that affects the attorney's authorisation, the attorney must notify any other attorney or person authorised to exercise the attorney's powers. Clause 33 provides for others who may be authorised by an attorney to exercise the attorney's powers.

The attorney must notify each person dealing with the attorney about an order of the court or guardianship tribunal that affects the attorney's authorisation. The attorney does not need to notify a person if the attorney believes on reasonable grounds that that person already knows about the event.

Division 4.4.2 Obligations of attorneys under enduring power of attorney—principal with impaired decision-making capacity

Clause 44 Principles for attorneys under enduring powers of attorney

This clause applies to an attorney under an enduring power of attorney where the principal has impaired decision-making capacity. Such attorney is required to comply with the general principles set out in schedule 1 to the Act to the maximum extent possible. The general principles ensure that an attorney respects the rights of the principal who has impaired decision-making capacity. Clause 52 enables the court to consider the extent to which an attorney has acted consistently with the principles for deciding whether the attorney should be relieved of liability for a breach of law.

Clause 45 Right of attorneys to information—enduring powers of attorney

This clause provides for the right of an attorney under an enduring power of attorney, if the principal has impaired decision-making capacity, to all the information that the principal would have been entitled to if the principal had decision-making capacity. A person who has custody or control of the available information must disclose the information to the attorney if asked. The attorney's right under this provision is subject to any contrary intention, or express limitation, in the enduring power of attorney.

Clause 46 Conditions on exercise of power in relation to medical treatment—enduring powers of attorney

Clause 46 provides for conditions that an attorney under an enduring power of attorney must comply with if the attorney is to ask for withholding or withdrawing medical treatment from the principal where the principal has impaired decision-making capacity.

The attorney is required to consult a doctor about the nature of the principal's illness, any alternative forms of treatment available to the principal, and the consequences to the principal of remaining untreated. The attorney must also believe on reasonable grounds that the principal would ask for the medical treatment to be withheld or withdrawn if the principal could make a rational judgment, and were to give serious consideration to the principal's own health and wellbeing. An attorney must not exercise power under this provision unless the attorney complies with these requirements.

Clause 47 Keeping records—enduring powers of attorney

This provision obliges an attorney for a property matter under an enduring power of attorney to keep accurate records and accounts of all dealings and transactions made under the power while the principal has impaired decision-making capacity.

Clause 48 Keeping property separate—enduring powers of attorney

This provision obliges an attorney for a property matter under an enduring power of attorney to keep the attorney's property separate from the principal's property while the principal has impaired decision-making capacity. Property includes money and financial assets (see Dictionary). This obligation does not apply to property owned jointly by the principal and attorney, and does not affect any other obligation imposed under territory law.

Division 4.4.3 Obligations in relation to health care

Clause 49 Obligations on health care facilities in relation to powers of attorney

Clause 49 provides for the obligation of the person in charge of a health care facility to find out whether a person receiving care at the facility has an enduring power of attorney for personal care matters or health care matters. For this purpose, the person in charge of the facility must take reasonable steps to ensure that:

- the person is asked whether he or she has such an enduring power of attorney;
- if the person has it, a copy of the power of attorney is kept with the person's records; and

- a process is in place to periodically check the currency of powers of attorney kept.

This obligation would enable the facility to exercise care to act with proper authorisation where the facility needs to deal with an attorney. Further, this would be a measure that the facility would need to take to protect the cared person.

Part 4.5 If attorneys do not comply with Act

Clause 50 Compensation for failure to comply with Act

This is a specific provision relating to statutory compensation for a loss caused to a principal by the attorney where the attorney has failed to comply with this legislation. Statutory compensation may be ordered whether or not the attorney has been convicted for an offence in relation to the failure.

The Supreme Court may order the attorney to compensate the principal or, if the principal has died, his or her estate for the loss. However, there is a time limit for making application to the court. If the principal or attorney has died, an application for compensation must be made within 6 months after the day of the death. If both have died, the application must be made within 6 months after the day of the first death. The court may extend the application time.

Clause 51 Compensation under s 50 and later civil proceeding

Clause 51 provides that where compensation was paid under clause 50 for an attorney's non-compliance with the Act, it must be taken into account in assessing damages in a civil proceeding brought relating to the same non-compliance. The purpose of this provision is to prevent enrichment from obtaining compensation more than once on the same ground.

Clause 52 Relief from personal liability by court

Clause 52 proposes to enable a court to relieve an attorney from personal liability for a contravention of this legislation, if it considers that the attorney acted honestly and reasonably and ought fairly to be excused for the contravention. Under this provision, the court would need to balance the subjective (i.e. whether the attorney acted honestly) and objective (i.e. whether the attorney acted reasonably) standards before making a decision.

For relieving an attorney under an enduring power of attorney from personal liability for the contravention, the court is required to consider the extent to which the attorney has acted consistently with the general principles. Schedule 1 provides the general principles that an attorney under an enduring power of attorney must comply with where the principal has impaired decision-making capacity. Clause 44 provides for the obligation of such an attorney to comply with the general principles.

Chapter 5 Ending powers of attorney

Clause 53 Resignation of attorney's authorisation under power of attorney

This provision enables an attorney to resign by written notice given to the principal. However, an attorney for a matter under an enduring power of attorney will need the leave of the guardianship tribunal if he or she wants to resign when the principal has impaired decision-making capacity for the matter.

Matters in relation to which an attorney under an enduring power of attorney are authorised to act may be financial matters, personal care matters and health care matters (see clauses 10, 11 and 12).

Where there is no other attorney to act under an enduring power of attorney the guardianship tribunal may, under the guardianship legislation, appoint a guardian for the principal.

This clause also clarifies that a power of attorney is revoked in relation to a resigning attorney. The power of attorney would continue to be valid in relation to any other attorneys who are authorised to act, for example where the document empowers 2 or more attorneys to act separately (see clause 25 (Appointment of 2 or more attorneys under power of attorney), and clause 65 (Multiple attorneys with separate powers – effect of revocation of powers of some attorneys)).

Clause 54 No irrevocable powers of attorney

This provision clarifies that a power of attorney may be revoked in accordance with the Act, whether or not the power states otherwise. This means no irrevocable powers of attorney could be made under this legislation. Clause 153 preserves the validity of irrevocable powers of attorney made before the commencement of the Act.

Clause 55 Advice of revocation of powers of attorney

Clause 55 applies where a principal revokes a power of attorney. The principal must take reasonable steps to tell all attorneys affected by the revocation.

Clause 56 Revocation of powers of attorney according to its terms

This provision clarifies that a power of attorney is revoked when it ceases to have effect according to its terms.

Clause 57 Principal's impaired decision-making capacity—general power of attorney

Clause 57 provides for the revocation of a general power of attorney where the principal becomes a person with impaired decision-making capacity.

Clause 58 Enduring power of attorney sometimes revoked by marriage

This clause provides that where a principal of an enduring power of attorney gets married to person other than the attorney under the document, the power of attorney is revoked in relation to the attorney unless it states expressly that it is not revoked in the circumstances.

Clause 59 Enduring power of attorney sometimes revoked by divorce

This clause provides for the revocation of an enduring power of attorney in relation to an attorney where the principal who marries or is married to the attorney, divorces him or her.

Clause 60 Death of principal for powers of attorney

Clause 60 provides for the revocation of a power of attorney if the principal dies.

Clause 61 Death of attorney under power of attorney

Clause 61 provides for the revocation of a power of attorney, to the extent that it gives power to an attorney, where the attorney dies. The power of attorney would continue to operate where there is another attorney who could lawfully act. It is possible for a power of attorney to have 2 or more attorneys to act separately (see clauses 25 and 65). In such cases, the death of one attorney would not revoke the power of attorney in relation to other attorneys.

Clause 62 Effect of bankruptcy of individual attorney

Clause 62 provides that a power of attorney is revoked to the extent that it gives power to an attorney in relation to property matters if the attorney becomes bankrupt or executes a personal insolvency agreement. The dictionary in the legislation provides the extended meaning of ***bankrupt*** and ***personal insolvency agreement***.

Clause 63 Attorney's impaired decision-making capacity for power of attorney

Clause 63 provides for the revocation of a power of attorney to the extent it gives power to an attorney where the attorney becomes a person with impaired decision-making capacity.

Clause 64 Effect of winding up of corporate attorney

Clause 64 provides that a power of attorney is revoked, to the extent that it gives power to a corporation as attorney, if the attorney is wound up or a liquidator is appointed for the attorney.

Clause 65 Multiple attorneys with separate powers – effect of revocation of powers of some attorneys

Clause 65 explains that where 2 or more people are attorneys to act separately, revoking of the power of attorney in relation to 1 or more attorneys does not revoke it in relation to the other attorneys.

Clause 66 Joint general power of attorney – effect of revocation of powers of some attorneys

This provision clarifies that a general power of attorney will be revoked if the power given to 1 of 2 or more attorneys authorised to act together is revoked.

Clause 67 Joint enduring power of attorney – effect of revocation of powers of attorney

Clause 67 is a special provision relating to ending of a power given to joint attorneys under an enduring power of attorney. Where the principal has impaired decision-making capacity, the enduring power of attorney will not be revoked while there is 1 remaining attorney. If there are 2 or more remaining attorneys, they must exercise power together.

Clause 68 Power of attorney revoked in relation to each attorney

Clause 68 explains that a power of attorney is revoked when it is revoked in relation to the attorney if there is only 1 attorney, and if there are 2 or more attorneys, is revoked in relation to each or last of them.

Clause 69 Revocation by later power of attorney

Clause 69 provides for revocation of a power of attorney to the extent of an inconsistency by a later power of attorney of the principal.

Chapter 6 Protection and relief from liability**Clause 70 Definitions for ch 6**

Clause 70 defines the terms “invalidity” and “know” for the purpose of chapter 6. Invalidity of a power of attorney means that the power of attorney does not comply with the requirements of the law under which it was made, or that the person making the document could not make it at the time the person purported to make it, or that the power of attorney has been revoked

completely or in relation to the person purporting to exercise power under it. A person purporting to exercise power may be the attorney or someone authorised by the attorney. Invalidity also includes invalidity of the power of attorney for any other reason.

Invalidity of a power under a power of attorney means invalidity because the power is not exercisable at the time it is purportedly exercised, and includes invalidity of the power for any other reason.

Knowing of the invalidity of a power of attorney includes knowing of the happening of the invalidating event, or having reason to believe the power of attorney or power is invalid.

Clause 71 Protection if tribunal or court orders etc

Clause 71 provides that an attorney who acts in accordance with an order or direction of a court or the guardianship tribunal is taken to have complied with this Act. That will not be the case where the attorney knowingly gave the court or tribunal false or misleading information relevant to the order or direction.

Clause 72 Protection for attorney if unaware of invalidity

This provision protects an attorney who purports to exercise a power under a power of attorney without knowing that the power of attorney or the power is invalid. This clause also provides that anything done by the attorney is taken to have been done as if the power of attorney or the power were not invalid.

Clause 73 Protection for transaction if dealing with attorney and unaware of invalidity

Clause 73 protects a transaction between an attorney and a person where, at the time of the dealing, that person did not know that the power of attorney or the power under the document was invalid.

Chapter 7 Guardianship tribunal, Supreme Court and proceedings and rights

Part 7.1 Interpretation for ch 7

Clause 74 Meaning of *interested person* for ch 7

For the purpose of chapter 7, this clause defines who is an “interested person”. An interested person in relation to a power of attorney is an attorney, the principal, a relative of the principal, the public advocate, the public trustee, a guardian of the principal, or a manager of the principal.

Part 7.2 The Guardianship tribunal

Clause 75 Guardianship tribunal directions etc for enduring powers of attorney

Clause 75 empowers the guardianship tribunal, on application or on its own initiative, to make certain orders in relation to an enduring power of attorney, where the principal has impaired decision-making capacity. Before making an order on its own initiative, the tribunal hears the matter under the *Guardianship and Management of Property Act 1991*. The types of orders the guardianship tribunal may make are giving a direction that the attorney do or refrain from doing a stated act; directing the attorney to produce stated books, accounts or other records of transactions carried out by the attorney for the principal; revoking the enduring power of attorney, or part of it; or making a declaration about the interpretation or effect of the enduring power of attorney.

This clause also enables an interested person (see clause 74) or, with leave of the guardianship tribunal, someone else to apply to the guardianship tribunal to seek an order. If the guardianship tribunal revokes an enduring power of attorney, the tribunal may appoint a guardian or manager for the principal.

Clause 76 Reference of power of attorney matters to Supreme Court

Clause 76 enables a presidential member of the guardianship tribunal, in relation to an application under clause 75, to refer the matter, or part of the matter, to the Supreme Court. For this purpose, this clause also provides that the presidential member must take into consideration whether the matter relates to the effect of the enduring power of attorney on people other than the attorney or principal; and whether the matter is likely to raise for consideration complex or novel legal issues that the Supreme Court is better suited to decide. The presidential member may also consider anything else the member considers relevant.

Clause 77 Giving accounts to public advocate – enduring powers of attorney

Where a principal of an enduring power of attorney has impaired decision-making capacity, this clause empowers the public advocate to ask the person who is, or who has been, the attorney to give the public advocate stated books, accounts or other records of transactions carried out by the person for the principal under the enduring power of attorney.

An example where this provision could operate would be as follows: a member of the principal's family or the principal's carer may be concerned with the ways in which the attorney deals with the affairs of the principal. He or she may seek the help of the public advocate to check this. The public advocate could use the power under this provision to examine the books and accounts the attorney keeps in relation to the principal's affairs. Under clause 83, the public advocate may require the public trustee's assistance for

this purpose. If the public advocate suspects mismanagement, the public advocate could apply to the guardianship tribunal to have a guardian or a manager, or both, appointed for the principal.

Clause 78 Declaration about decision-making capacity

This clause provides for the power of the guardianship tribunal, on application, to declare that a principal for an enduring power of attorney has decision-making capacity or impaired decision-making capacity. Such a declaration may be general or may relate only to a property matter, personal care matter or health care matter.

Clause 79 Removing attorneys

Clause 79 provides for the power of the guardianship tribunal to remove an attorney under the enduring power of attorney if the tribunal is satisfied that it is in the interests of the principal to do so. This power may be exercised only if the principal has impaired decision-making capacity. The purpose of this provision is to enable someone who is concerned with the interests of a principal who has impaired decision-making capacity to seek the assistance of the guardianship tribunal to remove an attorney who acts contrary to the interests of the principal.

Part 7.3 The Supreme Court orders

Clause 80 Supreme Court—confirming powers understood by principal

This clause enables a principal who has decision-making capacity to apply to the Supreme Court to confirm the power of an attorney to do an act. It also enables the court to make that order if it is satisfied that at the time the principal made the power of attorney he or she understood the nature and effect of making it.

Clause 18 provides that in the absence of evidence to the contrary, the principal is taken to understand the nature and effect of making a power of attorney when the principal made the power of attorney. However, this presumption is not enough to get an order under this provision. The principal would need to justify why he or she is seeking a confirmation order from the court and for this purpose, would need to provide evidence on such understanding he or she had at the time of making the power of attorney. The circumstances in which the principal may seek this order could be such as where the attorney or a third party dealing with the attorney believes that there is an ambiguity as to whether the attorney could do a particular thing, and before making the order the court would need to be satisfied that the power of attorney was validly made in the first place.

Clause 81 Supreme Court—confirming powers subsequently affirmed by principal

Clause 81 is different from clause 80 in that clause 81 enables the Supreme Court to make an order confirming an attorney's power under a power of attorney that a principal who now has decision-making capacity made at the time he or she had impaired decision-making capacity. Where an attorney acted, or purported to act, under the power of attorney, the principal may apply to the court for an order under this provision. The court must be satisfied that the principal affirmed the power of attorney and at that time the principal had decision-making capacity. The court order may confirm a power of attorney completely or partly.

Clause 82 Effect of pt 7.3 orders on future acts

This clause provides for the validity of an attorney's act after the Supreme Court has confirmed the power of an attorney under clause 80 (Supreme Court—confirming powers understood by principal) or clause 81 (Supreme Court—confirming powers subsequently affirmed by principal). An act of the attorney within the scope of the confirmed power is taken to be valid as if, when the order took effect, the principal did not have impaired decision-making capacity and had confirmed the power of attorney to the extent of the order of confirmation.

Part 7.4 Other proceedings and rights

Clause 83 Public trustee to assist if asked

Clause 83 provides for the obligation of the public trustee to assist the guardianship tribunal or the public advocate to examine books, accounts or other records of transactions of an attorney under an enduring power of attorney of a principal with impaired decision-making capacity.

Under clause 75(2)(b), the guardianship tribunal may direct an attorney of an enduring power of attorney, where the principal has impaired decision-making capacity, to produce stated books, accounts and records of transactions carried out by the attorney for the principal. Also, where a principal of an enduring power of attorney has impaired decision-making capacity, clause 77 empowers the public advocate to call for these materials from the attorney. Since the public trustee has expertise in managing finances and properties of persons who lack capacity, the guardianship tribunal and the public advocate, who do not normally have that expertise, could seek the public trustee's report to assist them to find how the attorney conducted the financial and property affairs of the principal.

Clause 84 Access to principal

Clause 84 provides that the public advocate is entitled to reasonable access to a principal who has impaired decision-making capacity. Where an attorney

has denied an interested person access to such principal, this clause enables the person to seek an order from the guardianship tribunal to grant him or her access to the principal. The tribunal may make such an order, with or without conditions.

An interested person, for the purpose of this provision, includes a relative of the principal; a person who is, or has been within the last 12 months, a carer of the principal; and a lawyer, or doctor, acting on behalf of a member of the principal's family or relative of the principal. Clause 74 defines "interested person" for chapter 7.

Clause 85 Attorney's health care decision not in principal's interest

This clause applies where an attorney's decision relating to the health care of the principal is believed, on reasonable grounds, to be not in the best interests of the principal. A health professional treating, or who has treated, the principal, or a person in charge of a health care facility, where the principal is being, or has been, treated, may tell the public advocate about the attorney's decision and the reasons for their belief.

Where a health professional or a health care facility does not want to act in terms of an attorney's decision, they could be guided by this provision to convey the relevant information to the public advocate to enable the public advocate to consider whether it would need to exercise powers in relation to the principal. This provision has as its objective the protection of the principal who may be in a vulnerable position on the one hand, and health professionals and health care facilities on the other.

Clause 86 Adequate pain relief

Clause 86 applies where an attorney has requested medical treatment to be withheld or withdrawn from the principal, who is under the care of a health professional.

This clause provides for the right of the principal to receive relief from pain, suffering and discomfort, to the maximum extent that is reasonable in the circumstances; and the reasonable provision of food and water. When providing relief from pain, suffering and discomfort, to the principal, the health professional is obliged to give adequate consideration to the principal's account of the principal's level of pain, suffering and discomfort.

Clause 87 Medical certificate about impaired decision-making capacity

Clause 87 provides for evidence of medical certificate in a proceeding where a question arises about whether a principal for an enduring power of attorney had impaired decision-making capacity, in relation to a particular matter, on a particular day, or during a particular period. This clause provides that a doctor's statement in the certificate that the principal had, or did not have, impaired decision-making capacity is evidence of that fact.

Chapter 8 Interstate documents equivalent to powers of attorney

Clause 88 Recognition of general powers of attorney made under other laws

Clause 88 provides for the recognition of a general power of attorney made under the law of a State or another Territory (the interstate general power of attorney). A general power of attorney operates only while the principal has decision-making capacity (see section 7). An interstate general power of attorney does not state that it operates when the principal has impaired decision-making capacity. An interstate general power of attorney is taken to be a general power of attorney made under, and in compliance with, this Act, to the extent that the powers it gives could validly have been given by a general power of attorney made under this Act.

Clause 89 Recognition of enduring powers of attorney made under other laws

Clause 89 provides for the recognition of an interstate enduring power of attorney. An interstate enduring power of attorney may be a document expressed to be a power of attorney or a guardianship document and is not revoked where the principal loses decision-making capacity. A document that states that it is irrevocable, whether completely or for a stated period, is not an interstate enduring power of attorney for the purpose of this provision. For example, the recognition under this provision does not apply to an interstate irrevocable power of attorney.

An interstate enduring power of attorney is taken to be an enduring power of attorney made under, and in compliance with, this Act, to the extent that the powers it gives could validly have been given by an enduring power of attorney made under this Act. An example of a guardianship document under this provision is a document appointing an enduring guardian under a law of another jurisdiction.

Chapter 9 Miscellaneous

Clause 90 Dishonestly inducing the making etc of power of attorney

Clause 90 provides for the offence of dishonestly inducing someone to make or revoke a power of attorney. The applicable penalty maximum is 100 penalty units, imprisonment for 1 year, or both.

Clause 91 Things that do not indicate impaired decision-making capacity

This clause clarifies that certain things about a person does not necessarily make the person to be taken to have impaired decision-making capacity. A person is not taken to have impaired decision-making capacity only because

he or she is eccentric; or makes unwise decisions; or does or does not express a particular political or religious opinion; or has a particular sexual orientation or expresses a particular sexual preference; or engages or has engaged in illegal or immoral conduct; or takes or has taken drugs, including alcohol. However, in deciding whether a person has impaired decision-making capacity, any effect of drug-taking on the person may be taken into account.

Clause 92 Approved forms

Clause 92 provides for forms to be approved by the Minister. An approved form is a notifiable instrument.

Clause 93 Regulation-making power

Clause 90 enables the Executive to make regulations for the Act.

Chapter 10 Transitional provisions

Clause 150 Definitions for ch 10

This clause defines the terms “commencement day” and “previous Act” for the purpose of this chapter.

“commencement day” means the day this Act commences.

“previous Act” means the *Powers of Attorney Act 1956*, as in force at any time.

Clause 151 Repeal of previous Act

This clause states that the *Powers of Attorney Act 1956* A1956-17 is repealed.

Clause 152 Application of Act – transitional

Clause 152 is about application of this Act. This Act applies to a general power of attorney or enduring power of attorney whenever entered into (whether before or after the commencement day). The clause also clarifies that a general power of attorney or enduring power of attorney made before the commencement day that complied with the previous Act when made, is not taken to be invalid only because it does not comply with a provision of this Act about the making of powers of attorney. Chapter 3 provides for certain requirements for making a power of attorney, such as who can be a witness (clause 21), and certificates by witnesses (clause 22), which are not provided in the previous Act.

The Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies to this section.

Clause 153 Powers of attorney under previous Act, s 6 and s 7

Clause 153 preserves the application of the previous Act in relation to irrevocable powers of attorney made under it immediately before commencement day. An irrevocable power of attorney for valuable consideration is made under section 6 of that Act and a power of attorney irrevocable for a fixed period is made under its section 7.

The Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies to this section.

Clause 154 Powers of attorney made under Medical Treatment Act 1994

The *Medical Treatment Act 1994* enables a person to make an enduring power of attorney for withdrawal or withholding of medical treatment to him or her. Clause 154 provides for taking such power of attorney that was in force immediately before commencement day to be an enduring power of attorney made under this Act for a health care matter. This clause further provides that such a power of attorney is not taken to be invalid only because it does not comply with a provision of this Act.

The Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies to this section.

Clause 155 Legislation amended—sch 2

Clause 95 states that this Act amends the legislation mentioned in schedule 2.

Clause 156 Transitional regulations

This clause enables regulations to be made to prescribe transitional matters because of the enactment of the *Medical Treatment (Health Directions) Act 2006* or this Act. A regulation may modify chapter 20 that is not, or is not adequately or appropriately, dealt with in this chapter. Such a regulation has effect despite anything elsewhere in the Act.

Clause 157 Expiry – ch 20

This clause provides that chapter 20 expires 2 years after commencement day.

Schedule 1 General principles for enduring powers of attorney

Schedule 1 provides for general principles that an attorney under an enduring power of attorney must comply with to the extent possible in exercising functions in relation to the principal who has impaired decision-making capacity. Clause 44 provides for this obligation. Under clause 52, a court

must, in relieving such attorney from liability, consider the extent to which the attorney has acted consistently with the principles.

The main objective of the principles is to maintain the rights of a principal who has impaired decision-making capacity. The principles require such rights to be recognised and taken into account. These rights include access to family members, respect for the principal's human worth and dignity as an individual, role as a member of society, participation in community life, quality of life, participation in decision-making affecting the principal, maintenance of existing supportive relationships, maintenance of environment and values, confidentiality of information, health care decision-making in the way least restrictive of the principal's rights and freedom of action, and health care that is appropriate for the principal's health and wellbeing.

It is expected that these principles would influence the way the attorneys, the guardianship tribunal, the Supreme Court, medical professionals and any interested person, would make a decision in relation to a principal who has impaired decision-making capacity.

Schedule 2 Amendments

Schedule 2 is for consequential amendments to the following Acts:

- *Guardianship and Management of Property Act 1991;*
- *Land Titles Act 1925;*
- *Mental Health (Treatment and Care) Act 1994;*
- *Registration of Deeds Act 1957;* and
- *Trustee Act 1925.*

Part 2.1 Guardianship and Management of Property Act 1991

Clause 2.1 Section 7 (1), note

Clause 2.1 substitutes notes under section 7(1).

Clause 2.2 New section 8 AB - Effect on guardian or manager of enduring power of attorney in relation to health care

Clause 2.2 inserts new section 8AB. New section 8AB applies where an enduring power of attorney includes powers in relation to health care matters, and the guardianship tribunal appoints a guardian to the principal who has become a person with impaired decision-making capacity and revokes the power of attorney or part of it. This section requires the guardian to consider the terms of that power of attorney before that document or part of it was revoked, in exercising power to consent to medical treatment for the person.

Clause 2.3 Section 33 - Need for inquiry

Clause 2.3 substitutes section 33. The substituted section 33 provides that the guardianship tribunal must not make an order, whether under the guardianship legislation or the *Powers of Attorney Act 2006*, unless the tribunal has held an inquiry in the relevant matter.

Clause 2.4 New section 35 (1) (i)

Section 35(1) requires the presidential member of the guardianship tribunal to give notice to specified entities at least 7 days before the tribunal holds an inquiry into a matter concerning a person.

Clause 2.4 inserts item (i) in section 35(1). This change means that such a notice is required to be given also to each attorney under an enduring power of attorney if the matter relates to such power of attorney.

Clause 2.5 Section 40, new note

Clause 2.5 inserts a note in section 40.

Clause 2.6 Section 56 (1) (c)

Section 56(1) specifies who may appeal to the Supreme Court from an order, direction or decision of the guardianship tribunal. Clause 2.6 substitutes item 56(1)(c). Under new item 56(1)(c), for a matter relating to an enduring power of attorney, a person who made the application to the tribunal, or a person to whom the tribunal would have given leave to be heard on the application, may appeal to the Supreme Court from an order, direction or decision of the guardianship tribunal.

Clause 2.7 Section 58, Functions and powers

Clause 2.7 substitutes section 58. New section 58 clarifies that the guardianship tribunal has the functions and powers given to it under the *Powers of Attorney Act 2006*. For example, Chapter 7 of the latter Act provides for a number of functions that the tribunal has power to do in relation to enduring powers of attorney.

Clause 2.8 Section 66B (1), new note

Clause 2.8 inserts a note.

Clause 2.9 New sections 68A and 68B

Clause 2.9 inserts new sections 68A and 68B.

New section 68A Emergency orders—enduring powers of attorney

Proposed new section 68A enables the guardianship tribunal to make emergency orders if it is satisfied that there are special circumstances of urgency that make it proper to make the order. When making an emergency order, the tribunal does not need to hold an inquiry. This clause also provides that the tribunal may make an order under section 75 (Guardianship tribunal directions etc for enduring powers of attorney) of the *Powers of Attorney Act 2006*, in relation to an enduring power of attorney, without holding an inquiry under part 3 of the guardianship legislation. An attorney may urgently need the tribunal to clarify the effect of an enduring power of attorney or the tribunal would need to immediately require the attorney to produce books, maybe on the application of the public advocate. For making decisions in such cases, if the tribunal is satisfied that time taken to hold an inquiry would continue to prejudice the interests of the principal, it would not need to hold an inquiry.

New section 68B Tribunal's power to revoke health direction

Proposed new section 68B relates to the power of the guardianship tribunal to revoke a health direction made by a person under the *Medical Treatment (Health Directions) Act 2006*. The tribunal may revoke the health direction or part of it if it considers appropriate where the person who made it has become a person with impaired decision-making capacity, and the tribunal appoints a guardian for the person.

Clause 2.10 Dictionary, new definition of *enduring power of attorney*

Clause 2.10 amends the Dictionary to insert the definition of enduring power of attorney as defined in the *Powers of Attorney Act 2006*, section 8.

Clause 2.11 Further amendments, mentions of *community advocate*

Clause 2.11 omits the reference to the community advocate in the following provisions of the guardianship legislation and substitutes the reference to the public advocate:

- section 9 (1), (2), (4) and (5)
- section 10 (2) and (3)
- section 32 (3), (4), (5) and (6)
- section 67 (1)
- section 68 (1), (6) (a), (b) and (c) and (7)
- section 70 (2).

Part 2.2 Land Titles Act 1925

Part 2.2 of Schedule 2 relates to consequential amendments to the *Land Titles Act 1925*.

Clause 2.12 Section 130 (2)

Clause 2.12 substitutes section 130(2). New section 130(2) prohibits registration under the Land Title Act of an instrument executed under a power of attorney if the power of attorney has not been registered under the *Registration of Deeds Act 1957*. Current section 130(2) has the same effect but refers also to alternative registration of a power of attorney under the *Powers of Attorney Act 1956* which no longer provides for registration. This amendment tidies up the provision by removing that inconsistency. A deed may be registered under the Registration of Deeds Act. A power of attorney, including an amendment of a power of attorney, and a revocation of a power of attorney, is taken to be a deed (see, clause 29 of the *Powers of Attorney Act 2006*).

Clause 2.13 Section 131

This clause omits section 131. Section 131 provides for a registered proprietor of land in respect of which a power of attorney was made, to revoke it. Section 131 will be redundant because of chapter 5 of the *Powers of Attorney Act 2006*, which provides for circumstances where a power of attorney ends.

Part 2.3 Mental Health (Treatment and Care) Act 1994

Part 2.3 of Schedule 2 provides for consequential amendments to the *Mental Health (Treatment and Care) Act 1994*.

Clauses 2.14 to 2.19

The effect of these clauses is to amend the following provisions to omit the reference to the *Powers of Attorney Act 1956* and substitute the reference to the *Powers of Attorney Act 2006*:

- section 25(2)
- section 32(4)(c)
- section 36D(3)(b)(ii)
- section 105(1)(e) and (f); and
- section 143.

Section 105(1)(g) to (k) has been renumbered as sections 105(1)(f) to (j).

Part 2.4 Registration of Deeds Act 1957

This part amends the *Registration of Deeds Act 1957*.

Clause 2.20 Section 3 - General register of deeds

This clause is a redraft of section 3. Substituted section 3 provides for the obligation of the registrar-general to keep the general register of deeds in the

form the Minister directs. Powers of attorney may be registered in this register.

Part 3.5 Trustee Act 1925

This part amends the *Trustee Act 1925*.

Clause 2.21 Section 67 - Power of attorney

Clause 2.21 substitutes section 67. Section 67 is in Division 2.3 of Part 2 of the Trustee Act. Part 2 deals with trustees. Division 2.3 relates to delegation by trustees. Substituted section 67 provides that a delegation under Part 2.3 is taken to be a power of attorney under the *Powers of Attorney Act 2006*. The amendment omits the reference “the *Powers of Attorney Act 1956*”, and substitutes the reference “the *Powers of Attorney Act 2006*”. The rest of the current section 67 dealing with excepted provisions is omitted because it deals with provisions relating to irrevocable powers of attorney which are not provided in the *Powers of Attorney Act 2006*.

Dictionary

The dictionary defines the terms used in the proposed legislation.