

Authorised Version

Powers of Attorney Amendment Regulations 2017

S.R. No. 17/2017

TABLE OF PROVISIONS

<i>Regulation</i>		<i>Page</i>
1	Objective	1
2	Authorising provision	1
3	Commencement	1
4	Principal Regulations	2
5	Schedule 1—Form 1 substituted	2
6	Schedule 1—Form 2 substituted	6
7	Schedule 1—Form 4 substituted	8
8	Schedule 1—Form 5 substituted	9
9	Schedule 1—Form 6 substituted	13
10	Schedule 1—Form 7 substituted	14

Endnotes		15
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Authorised Version

STATUTORY RULES 2017

S.R. No. 17/2017

Powers of Attorney Act 2014

Powers of Attorney Amendment Regulations 2017

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: 12 April 2017

Responsible Minister:

MARTIN PAKULA
Attorney-General

ANDREW ROBINSON
Clerk of the Executive Council

1 Objective

The objective of these Regulations is to make amendments to the Powers of Attorney Regulations 2015 as a consequence of the enactment of the **Powers of Attorney Amendment Act 2016** and for other matters.

2 Authorising provision

These Regulations are made under section 139 of the **Powers of Attorney Act 2014**.

3 Commencement

These Regulations come into operation on 1 May 2017.

4 Principal Regulations

In these Regulations, the Powers of Attorney Regulations 2015¹ are called the Principal Regulations.

5 Schedule 1—Form 1 substituted

For Form 1 in Schedule 1 to the Principal Regulations **substitute—**

"FORM 1

ENDURING POWER OF ATTORNEY

Regulation 5

Name of principal:

Address of principal:

APPOINTMENT

I appoint *[insert name of one or more persons or position]* of *[insert address(es) of persons or position]*

*to be my attorney

*to be my joint attorneys

*to be my several attorneys

*to be my joint and several attorneys

*to be my majority attorneys

***and I appoint** *[insert name of one or more persons or position]* of *[insert address(es) of persons or position]* as **alternative attorney** for *[insert name of one attorney]*.

***and I appoint** *[insert name of one person or position]* of *[insert address of person or position]* as **alternative attorney** for *[insert names of more than one attorney]*.

Note: Under section 31(3) of the Act, an alternative attorney must act in the same manner as the attorney for whom the alternative attorney is appointed to act unless you provide otherwise.

AUTHORISATION

I authorise my attorney(s):

*to do anything on my behalf that I can lawfully do by an attorney.

*to do anything on my behalf that I can lawfully do by an attorney for—

- * personal matters only.
- * financial matters only.
- * the following specified matters:

***REVOCATION**

*I specify that the enduring power of attorney made by me on [*insert date made if known*] is not revoked by this enduring power of attorney.

*I specify that the following parts of the enduring power of attorney made by me on [*insert date made if known*] are not revoked by this enduring power of attorney.

Note: Under section 55 of the Act, an enduring power of attorney is revoked by a later enduring power of attorney of the principal, unless the principal specifies otherwise in the later enduring power of attorney.

Under sections 152 and 153 of the Act, an enduring power of attorney is taken to include an existing enduring power of attorney made under the **Instruments Act 1958** and an existing appointment of an enduring guardian made under the **Guardianship and Administration Act 1986**.

COMMENCEMENT

The powers under this enduring power of attorney for all matters are exercisable:

- *immediately on the making of this enduring power of attorney.
- *when I cease to have decision making capacity for the matter(s).
- *from the time, in the circumstance or on the occasion specified as follows:

***CONDITIONS AND INSTRUCTIONS**

The exercise of power under this enduring power of attorney is subject to the following conditions or instructions:

Signed: [*signature of principal or person signing at the direction of (on behalf of) the principal*]

*I sign this enduring power of attorney at the direction of and in the presence of the principal.

*Name of person signing at direction of principal:

*Address of person signing at direction of principal:

Date:

CERTIFICATE OF WITNESSES

Witnessed by:

Name of first witness:

Address of first witness:

Name of second witness:

Address of second witness:

Each witness certifies that:

*the principal appeared to freely and voluntarily sign this instrument in my presence; and

**[If witnessing another person signing at the direction of and in the presence of the principal]* in my presence, the principal appeared to freely and voluntarily direct the person to sign for the principal and that person signed this instrument in my presence and in the presence of the principal; and

- at that time, the principal appeared to me to have decision making capacity in relation to the making of this enduring power of attorney; and
- I am not an attorney under this enduring power of attorney; and
- I am not a relative of the principal or of an attorney under this enduring power of attorney; and
- I am not a care worker or accommodation provider for the principal.

**[If witnessing another person signing this enduring power of attorney at the direction of and in the presence of the principal]* I am not the person who is signing at the direction of the principal.

Signed:

First witness: *[signature of first witness]*

*Qualification: *[if first witness is acting as a medical practitioner or person authorised to witness affidavits]*

Second witness: *[signature of second witness]*

*Qualification: *[if second witness is acting as a medical practitioner or person authorised to witness affidavits]*

Date:

STATEMENT OF ACCEPTANCE OF APPOINTMENT—ATTORNEY

Name of attorney:

Address of attorney:

I accept my appointment as attorney under this enduring power of attorney and state that:

- I am eligible under Part 3 of the **Powers of Attorney Act 2014** to act as an attorney under an enduring power of attorney; and
- I understand the obligations of an attorney under an enduring power of attorney and under the **Powers of Attorney Act 2014** and the consequences of failing to comply with those obligations; and
- I undertake to act in accordance with the provisions of the **Powers of Attorney Act 2014** that relate to enduring powers of attorney.

**[If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty] I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty.*

Signed: *[signature of attorney]*

Date:

***Position:** *[if appointed as the occupant of a position]*

Witnessed by:

Name of witness:

Address of witness:

I witnessed the signing of the statement of acceptance by the attorney.

Signed: *[signature of witness]*

Date:

Note: Each attorney must sign a statement of acceptance and it must be witnessed separately in the enduring power of attorney.

**STATEMENT OF ACCEPTANCE OF APPOINTMENT—
ALTERNATIVE ATTORNEY**

Name of alternative attorney:

Address of alternative attorney:

I accept my appointment as an alternative attorney under this enduring power of attorney and state that:

- I am eligible under Part 3 of the **Powers of Attorney Act 2014** to act as an attorney under an enduring power of attorney; and
- I understand the obligations of an attorney under an enduring power of attorney and under the **Powers of Attorney Act 2014** and the consequences of failing to comply with those obligations; and

- I undertake to act in accordance with the provisions of the **Powers of Attorney Act 2014** that relate to enduring powers of attorney; and
- I understand the circumstances in which the alternative attorney is authorised to act under the **Powers of Attorney Act 2014**; and
- I am prepared to act in place of the attorney for whom I am appointed, if still eligible to act as attorney, when authorised to do so under the **Powers of Attorney Act 2014**.

**[If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty] I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty.*

Signed: *[signature of alternative attorney]*

Date:

***Position:** *[if appointed as the occupant of a position]*

Witnessed by:

Name of witness:

Address of witness:

I witnessed the signing of the statement of acceptance by the alternative attorney.

Signed: *[signature of witness]*

Date:

Note: Each alternative attorney must sign a statement of acceptance and it must be witnessed separately in the enduring power of attorney.

Delete if not applicable.

6 Schedule 1—Form 2 substituted

For Form 2 in Schedule 1 to the Principal
Regulations **substitute—**

"FORM 2

REVOCATION BY PRINCIPAL OF ENDURING POWER OF ATTORNEY OR APPOINTMENT OF ATTORNEY/ALTERNATIVE ATTORNEY

Regulation 6

Name of principal:

Address of principal:

I revoke under section 44 of the **Powers of Attorney Act 2014:**

*the enduring power of attorney made by me on *[insert date made]*.

*the appointment of my attorney(s) *[insert name (or position) of one or more attorneys]* of *[insert address(es) of attorney(s)]* under the enduring power of attorney made by me on *[insert date made]*.

*the appointment of my alternative attorney(s) *[insert name (or position) of one or more alternative attorneys]* of *[insert address(es) of alternative attorney(s)]* for *[insert name of attorney(s)]* under the enduring power of attorney made by me on *[insert date made]*.

Signed: *[signature of principal or person signing at the direction of (on behalf of) the principal]*

*I sign this instrument of revocation in the presence of and at the direction of the principal.

*Name of person signing at direction of principal:

*Address of person signing at direction of principal:

Date:

CERTIFICATE OF WITNESSES

Witnessed by:

Name of first witness:

Address of first witness:

Name of second witness:

Address of second witness:

Each witness certifies that:

*the principal appeared to freely and voluntarily sign this instrument in my presence; and

**[If witnessing another person signing at the direction of and in the presence of the principal]* in my presence, the principal appeared to freely and voluntarily direct the person to sign for the principal and that person signed this instrument in my presence and in the presence of the principal; and

- at that time, the principal appeared to me to have decision making capacity to revoke this enduring power of attorney; and
- I am not an attorney under this enduring power of attorney; and
- I am not a relative of the principal or of an attorney under the enduring power of attorney; and

- I am not a care worker or accommodation provider for the principal.

**[If witnessing another person signing at the direction of and in the presence of the principal] I am not the person who is signing at the direction of the principal.*

Signed:

First witness: *[signature of first witness]*

**Qualification: [if first witness is acting as a medical practitioner or person authorised to witness affidavits]*

Second witness: *[signature of second witness]*

**Qualification: [if second witness is acting as a medical practitioner or person authorised to witness affidavits]*

Date:

**Delete if not applicable."*

7 Schedule 1—Form 4 substituted

For Form 4 in Schedule 1 to the Principal
Regulations **substitute**—

"FORM 4

**RESIGNATION BY ATTORNEY OR ALTERNATIVE
ATTORNEY**

Regulation 8

Name (or position) of attorney or alternative attorney resigning:

Address of attorney or alternative attorney resigning:

***I resign/*The trustee company resigns** under section **56/*59(1)(a)/
*59(1)(b)/*59(3)* of the **Powers of Attorney Act 2014** from **my/*its*
appointment as an **attorney/*alternative attorney* for *[insert name
(or position) of attorney(s)]* under the enduring power of attorney made by
[insert name of principal] on *[insert date made (if known)]*.

Signed: *[signature of attorney or alternative attorney]*

Date:

**Delete if not applicable."*

8 Schedule 1—Form 5 substituted

For Form 5 in Schedule 1 to the Principal
Regulations **substitute—**

"FORM 5

APPOINTMENT OF SUPPORTIVE ATTORNEY

Regulation 9

Name of principal:

Address of principal:

APPOINTMENT

I appoint *[insert name of one or more supportive attorney]* of
[insert address(es) of supportive attorney(s)] to act as my supportive
attorney(s)

***and I appoint** *[insert name(s) of one or more alternative supportive
attorney]* of *[insert address(es) of alternative supportive attorney(s)]*
as alternative supportive attorney for *[insert name of one supportive
attorney]*.

***and I appoint** *[insert name of one alternative supportive attorney]* of
[insert address of alternative supportive attorney] **as alternative supportive
attorney** for *[insert names of more than one supportive attorney]*.

AUTHORISATION

I authorise my supportive attorney(s) to exercise the following power(s):

*Information power in accordance with section 87 of the **Powers of
Attorney Act 2014**.

*Communication power in accordance with section 88 of the **Powers of
Attorney Act 2014**.

*Power to give effect to decisions in accordance with section 89 of the
Powers of Attorney Act 2014.

I authorise my supportive attorney(s) to exercise these powers in relation to
the following matters:

*personal matters

*financial matters

*both personal and financial matters

*the following personal, financial or other matters only: *[specify]*

COMMENCEMENT

This supportive attorney appointment commences:

*on its making.

*from the time, in the circumstance or on the occasion specified as follows:

Signed: [*signature of principal or person signing at the direction of (on behalf of) the principal*]

*I sign this supportive attorney appointment at the direction of and in the presence of the principal.

*Name of person signing at direction of principal:

*Address of person signing at direction of principal:

Date:

CERTIFICATE OF WITNESSES

Witnessed by:

Name of first witness:

Address of first witness:

Name of second witness:

Address of second witness:

Each witness certifies that:

*the principal appeared to freely and voluntarily sign this supportive attorney appointment form in my presence; and

*[*If witnessing another person signing at the direction of (on behalf of) and in the presence of the principal*] in my presence, the principal appeared to freely and voluntarily direct the person to sign for the principal and that person signed this supportive attorney appointment form in my presence and in the presence of the principal; and

- at that time, the principal appeared to me to have decision making capacity in relation to making this supportive attorney appointment.

Each witness states that:

- I am not a supportive attorney under this appointment.

*[*If witnessing another person signing this supportive attorney appointment form at the direction of (on behalf of) and in the presence of the principal*]

I am not the person who is signing at the direction of the principal.

Signed:

First witness: [*signature of first witness*]

*Qualification: [*if first witness is acting as a person authorised to witness statutory declarations*]

Second witness: [*signature of second witness*]

*Qualification: [*if second witness is acting as a person authorised to witness statutory declarations*]

Date:

**STATEMENT OF ACCEPTANCE OF APPOINTMENT—
SUPPORTIVE ATTORNEY**

Name of supportive attorney:

Address of supportive attorney:

I accept my appointment as supportive attorney under this supportive attorney appointment and state that:

- I am eligible under the **Powers of Attorney Act 2014** to act as a supportive attorney under a supportive attorney appointment; and
- I understand the obligations of a supportive attorney under the **Powers of Attorney Act 2014** and the consequences of failing to comply with the **Powers of Attorney Act 2014**; and
- I undertake to act in accordance with the **Powers of Attorney Act 2014**.

*[*If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty*] I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty.

Signed: [*signature of supportive attorney*]

Date:

Witnessed by:

Name of witness:

Address of witness:

I witnessed the signing of the statement of acceptance by the supportive attorney.

Signed: [*signature of witness*]

Date:

Note: Each supportive attorney must sign a statement of acceptance and it must be witnessed separately in the supportive attorney appointment.

**STATEMENT OF ACCEPTANCE OF APPOINTMENT—
ALTERNATIVE SUPPORTIVE ATTORNEY**

Name of alternative supportive attorney:

Address of alternative supportive attorney:

I accept my appointment as an alternative supportive attorney under this supportive attorney appointment and state that:

- I am eligible under the **Powers of Attorney Act 2014** to act as a supportive attorney under a supportive attorney appointment; and
- I understand the obligations of a supportive attorney under the **Powers of Attorney Act 2014** and the consequences of failing to comply with the **Powers of Attorney Act 2014**; and
- I undertake to act in accordance with the **Powers of Attorney Act 2014**; and
- I understand the circumstances in which the alternative supportive attorney is authorised to act under the **Powers of Attorney Act 2014**; and
- I am prepared to act in place of the supportive attorney for whom I am appointed when authorised to do so under the **Powers of Attorney Act 2014**.

**[If appointed for financial matters and you have been convicted or found guilty of an offence involving dishonesty] I have disclosed to the principal that I have been convicted or found guilty of an offence involving dishonesty.*

Signed: *[signature of alternative supportive attorney]*

Date:

Witnessed by:

Name of witness:

Address of witness:

I witnessed the signing of the statement of acceptance by the alternative supportive attorney.

Signed: *[signature of witness]*

Date:

Note: Each alternative supportive attorney must sign a statement of acceptance and it must be witnessed separately in the supportive attorney appointment.

*Delete if not applicable.".

9 Schedule 1—Form 6 substituted

For Form 6 in Schedule 1 to the Principal
Regulations **substitute**—

"FORM 6

**REVOCATION BY PRINCIPAL OF SUPPORTIVE
ATTORNEY APPOINTMENT OR APPOINTMENT OF
SUPPORTIVE ATTORNEY/ALTERNATIVE
SUPPORTIVE ATTORNEY**

Regulation 10

Name of principal:

Address of principal:

I revoke under section 103 of the **Powers of Attorney Act 2014**:

*the supportive attorney appointment made by me on *[insert date made]*.

*the appointment of my supportive attorney(s) *[insert name of supportive attorney or attorneys if revoking the appointment of more than one]* of *[insert address(es) of supportive attorney(s)]* under the supportive attorney appointment made by me on *[insert date made]*.

*the appointment of my alternative supportive attorney(s) *[insert name of alternative supportive attorney or attorneys if revoking the appointment of more than one]* of *[insert address(es) of alternative supportive attorney(s)]* for *[insert name of supportive attorney(s)]* under the supportive attorney appointment made by me on *[insert date made]*.

Signed: *[signature of principal or person signing at the direction of (on behalf of) the principal]*

*I sign this instrument of revocation at the direction of and in the presence of the principal.

*Name of person signing at direction of principal:

*Address of person signing at direction of principal:

Date:

Witnessed by: *[signature of witness]*

Name of witness:

Address of witness:

Qualification: [*specify how authorised to witness the signing of a statutory declaration*]

Date:

*Delete if not applicable.".

10 Schedule 1—Form 7 substituted

For Form 7 in Schedule 1 to the Principal
Regulations **substitute**—

"FORM 7

RESIGNATION BY SUPPORTIVE ATTORNEY OR ALTERNATIVE SUPPORTIVE ATTORNEY

Regulation 11

Name of supportive attorney or alternative supportive attorney resigning:

Address of supportive attorney or alternative supportive attorney resigning:

I resign under section 111 of the **Powers of Attorney Act 2014** from my appointment as *a supportive attorney/*an alternative supportive attorney for [*insert name of supportive attorney(s)*] under the supportive attorney appointment made by [*insert name of principal*] on [*insert date made (if known)*].

Signed: [*signature of supportive attorney or alternative supportive attorney resigning*]

Date:

*Delete if not applicable.".

Endnotes

¹ Reg. 4: S.R. No. 93/2015.