POA-04 Powers of Attorney - revocation or termination

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1 Revocation of (TLA) Power of Attorney

A power of attorney may be revoked by the Donor depositing with the Registrar the original or the ‘Client Original’ power of attorney with the word REVOKED endorsed thereon together with the properly attested signature of the donor and the date of execution.¹

OR

A formal revocation, as a deed, may be prepared using a Blank Instrument Form or the new Revocation Power of Attorney (TLA only) (eForm) and deposited with the Registrar. The revocation document must contain the following minimum details:

- Identify the Donor by name
- identified by reference to the donee(s) by name,
- Identify the power of attorney being revoked by its date and its registered number
- Be correctly executed by the Donor and witnessed, if required.

The prescribed fee is payable for each power of attorney revoked.

Note: Where the original ‘Client Original’ power of attorney is used to revoke a power of attorney it will be retained by Landgate.

A revocation may also be deposited before the power of attorney which it revokes has been deposited for registration (commonly referred to as a ‘Non-Deposited’ power of Attorney). The indexing system would reveal the revocation when an attempt to register the power of attorney is made.
Revocation occurs in the following cases:

- Determination by the act of either party:

- by revocation by the donor of the power

or

- by renunciation of the power by the attorney.

- Determination by operation of law:

- by expiration of the time limited for the exercise of the authority

- by a change in the condition of either party, e.g.: lunacy or bankruptcy (but it must be noted that a change in the legal capacity of the donor of an enduring power of attorney under the Guardianship and Administration Act 1990 (GA Act) will not affect the power)

- by the death of either party

- where the purpose for which the power created is fulfilled

or

- (in the case of an enduring power of attorney made under the GA Act) by an order of the State Administrative Tribunal; and,

- Where a substitute attorney has been appointed by an attorney, a revocation of the head power of attorney operates to revoke the appointment of any substitute attorney.

1 [Sentence updated on 30/09/2018 to add term 'the Donor']

2 Revocation of an Enduring Power of Attorney

An enduring power of attorney made under the GA Act may be revoked in a similar manner to any other power of attorney. It may be revoked by lodging a signed copy endorsed with the word revoked and a date supported by the signatures of the donor and a witness (who must state their full name, address and occupation). Revocation of an enduring power of attorney is also achieved by lodging with the Registrar a simple document (see above) signed by the donor (and witnessed).

The State Administrative Tribunal (SAT) may also, on the application of an interested person, order the amendment or revocation or termination of an enduring power of attorney. Having obtained the order, (and if the power is recorded in the Power of Attorney Index) the interested person should then apply on an Application Form to have the Landgate records altered in accordance with the terms of the order. The Application should contain the following information:

- The first panel of the Form A5 (Land Description panel) should show the registration number of the power of attorney;

- The second panel (Applicant panel) should show the name and address of the interested person;

- The third part of the form (reason for application) should request the amendment of the records to comply with the terms of the order (which must be produced);

- Correctly signed and executed by the interest person/Applicant;
Standard lodgement fees are payable on this application.

2.1 SAT Order submitted with another transaction

Similar to the above paragraph, where an Order issued by SAT is used in another document that contains the provisions to revoke or terminate a deposited or non-deposited power of attorney and states sufficient information, the Registrar will revoke or terminate the said power of attorney or enduring power of attorney when processing the other lodged transaction(s).  

2 [Sentence updated on 30/09/2018 to include wording 'or termination' and to replace 'recorded in Landgate' with 'recorded in the Power of Attorney Journal']

3 [Sentence updated on 30/09/2018 to replace 'to revoke' with 'to revoke or terminate']

3 Notification of Death of the Donor

When the donor of either a normal TLA power of attorney or an enduring power of attorney dies, the power of attorney is terminated and can no longer be used.

Where the power of attorney has been deposited at Landgate and noted by the Registrar on the Power of Attorney Index it is prudent to inform Landgate that the donor has died so that the power of attorney can be formally extinguished. This will assist those searching Landgate’s Power of Attorney Index will know that the power of attorney is no longer valid and will be shown as extinguished.

The Registrar will record the termination/extinguishment of the power of attorney or an enduring power of attorney upon formal notification of the death of the Donor. Formal notification requires any person to notify the Registrar of the death of the Donor and provide proof of death and supporting statutory declaration.

The content of the statutory declaration must be similar to a survivorship application (see DEC-02 Survivorship Applications) and the following must be produced:

- a copy of evidence of death certified by the Registrar General

or

- an office copy of a grant of probate or letters of administration.

Lodging a statutory declaration does not incur a fee. It must be accompanied by proof of death and may be lodged at the Document Acceptance Counter of any Landgate office or posted to:

Lead Consultant, Dealings
Registrations
Landgate
PO Box 2222
MIDLAND WA 6936

This notification will not incur any lodgement fees.\(^6\)

\(^4\) [Paragraph updated on 30/09/2018 to add 'and noted by the Registrar on the Power of Attorney Index'; to replace 'formally revoked' with 'formally extinguished' and to insert 'and will be shown as Extinguished']

\(^5\) [Section updated on 19/09/2018 to replace: 'Landgate will revoke the power of attorney if a statutory declaration is made by one of the following persons: the donee (or one of the donees if there are more than one) of the power of attorney; a substitute donee in the case of an enduring power of attorney; an executor or administrator of the deceased donor, or a solicitor acting for the donee or the executor of the deceased donor' with 'The Registrar will record the termination/extinguishment of the Power of Attorney or an Enduring Power of Attorney upon formal notification of the death of the Donor. Formal notification requires any person to notify the Registrar of Titles of the death of the Donor and provide proof of death and supporting statutory declaration.']

\(^6\) [New sentence added on 19/09/2018]

4 Also see

- POA-01 Powers of Attorney
- POA-02 Powers of Attorney - types of
- POA-03 Powers of Attorney - enduring
- POA-05 Declarations of Trust (Section 55 of the TLA)