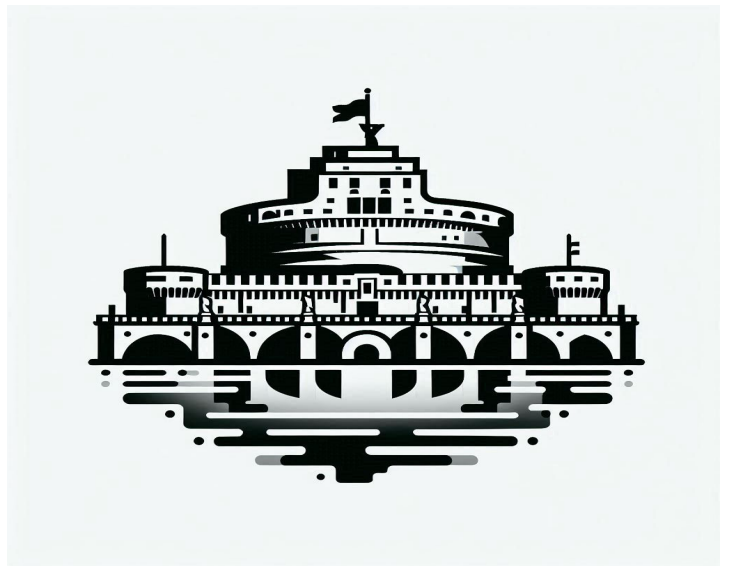


IRISH POWERS OF ATTORNEY



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Understanding Powers of Attorney in Ireland



A **Power of Attorney (PoA)** is a legal document that allows one person (the **donor**) to delegate authority to another person (the **attorney**) to act on their behalf in legal, financial, and medical matters. This is particularly useful for individuals who may become incapacitated or are frequently away and require assistance in managing their affairs.

A Power of Attorney ensures that a trusted individual can make decisions and carry out transactions in the donor's best interest, preventing legal and financial complications. Without a **PoA**, individuals may have to rely on court-appointed decision-makers, a process that can be costly and time-consuming, particularly in urgent situations such as **accessing bank accounts, selling property, or making healthcare decisions**.

Types of Power of Attorney in Ireland

In Ireland, different types of **PoA** exist depending on the scope and duration of authority granted.

- **General Power of Attorney**

A **General Power of Attorney** grants the attorney broad authority to manage the donor's affairs, typically for a temporary period. This can include managing finances, selling property, or conducting business transactions. However, a **General PoA** becomes invalid if the donor loses mental capacity.

- **Enduring Power of Attorney (EPA)**

An **Enduring Power of Attorney (EPA)** is a legally binding document that remains valid even if the donor loses mental capacity. However, an **EPA must be registered with the Decision Support Service (DSS)** before it can be used when the donor becomes incapacitated. The attorney's authority only comes into effect once this registration process is complete.

- An **EPA** can grant authority over:

- **Property and Financial Affairs** – Allows the attorney to manage bank accounts, pay bills, sell property, and make financial decisions.
- **Personal Welfare** – Grants authority over medical treatment, care arrangements, and decisions regarding the donor's living situation.

Legal Basis for Powers of Attorney in Ireland

The legal framework for **PoA** in Ireland is primarily based on:

- **Powers of Attorney Act 1996** – Establishes the legal structure for both General and Enduring Powers of Attorney.
- **Assisted Decision-Making (Capacity) Act 2015** – Introduces a modern framework for decision-making, ensuring the rights of individuals with diminished capacity are protected.
- **Decision Support Service (DSS)** – A regulatory body overseeing the registration and administration of EPAs.
- For a **PoA** to be valid, it must be signed by the donor, witnessed, and in the case of an **EPA**, the donor must have their capacity assessed by a medical professional.

Pitfalls and Risks of Power of Attorney

While a **PoA** is an essential tool, there are risks and limitations:

1. Risk of Abuse

Attorneys have significant control over a donor's affairs, which can lead to financial mismanagement or exploitation. To mitigate risks, donors should choose trustworthy attorneys and set clear limits in the **PoA**.

2. Invalidity Due to Incorrect Formalities

If a **PoA** is not signed, witnessed, or registered correctly, it may be deemed invalid. EPAs require registration with the **DSS** before they can be activated.

3. Court Intervention and Delays

Without a valid **PoA**, family members may need to apply for a **Ward of Court** process to manage the affairs of an incapacitated person. This process is costly, time-consuming, and requires ongoing court supervision.

4. Expiry and Revocation

A **General PoA** is automatically revoked if the donor loses mental capacity. An **EPA** remains valid unless revoked by the donor before it is registered or challenged by the court.

Conclusion

A **Power of Attorney** is a crucial legal tool for individuals who want to ensure that their financial, legal, and medical affairs are managed effectively in their absence or in case of incapacity. Without one, family members may face court intervention and delays, especially in urgent situations.

To ensure legal certainty, individuals should:

- Seek professional legal advice when drafting a **PoA**.
- Register EPAs with the **Decision Support Service**.
- Set clear limitations on the powers granted to attorneys.
- Regularly review and update their **PoA** to reflect changing circumstances.

By understanding the different types of **PoA** and their legal implications, individuals in Ireland can safeguard their interests and ensure smooth management of their affairs in the future.