1989 No. 64

POWERS OF ATTORNEY

Enduring Powers of Attorney Regulations (Northern Ireland) 1989

Made	*3rd March 1989*
Coming into operation . .	*10th April 1989*

The Department of Finance and Personnel, in exercise of the powers conferred on it by Article 4(2) of the Enduring Powers of Attorney (Northern Ireland) Order 1987(**a**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These regulations may be cited as the Enduring Powers of Attorney Regulations (Northern Ireland) 1989 and shall come into operation on 10th April 1989.

Prescribed form

2. An enduring power of attorney shall be in the form set out in the Schedule and shall contain all the explanatory information in Part A of that form.

Execution

3.—(1) Subject to paragraph (2), an enduring power of attorney shall be executed in accordance with the form set out in the Schedule by both the donor and the attorney (who shall execute the instrument after the donor, but not necessarily on the same date), each in the presence of a witness, but not necessarily the same witness, who shall give his full name and address.

(2) Where the attorney is a trust corporation the form of execution by that attorney may be adapted to provide for sealing of the instrument by the trust corporation with its common seal, and the requirement of the presence of a witness in paragraph (1) shall be construed as including the presence of any person who is authorised under the constitution of the corporation to signify his presence at the fixing of its common seal.

(3) In executing an enduring power of attorney the donor and an attorney shall not witness the signature of each other, nor one attorney the signature of another.

Sealed with the Official Seal of the Department of Finance and Personnel on 3rd March 1989.

(L.S.) *Hugh Moore*
Assistant Secretary

(**a**) S.I. 1987/1627 (N.I. 16)

SCHEDULE Regulations 2 and 3

ENDURING POWER OF ATTORNEY

Prescribed Form

PART A: EXPLANATORY INFORMATION

1. An enduring power of attorney enables you to choose a person (called an "attorney") to deal with your property and affairs, and will continue in the event of your becoming mentally incapable of managing your affairs. You may choose one attorney or more than one. If you choose more than one, you must decide whether they are to be able to act:

*Jointly (that is, they must all act together and cannot act separately) or

*Jointly and severally (that is, they can all act together but they can also act separately if they wish).

In Part B of this form, at the place marked 1, show what you have decided by crossing out or omitting one of the alternatives.

2. If you give your attorney(s) general power in relation to all your property and affairs, it means that they will be able to deal with your money or property and may be able to sell your house.

3. If you do not want your attorney(s) to have such wide powers, you can include any restrictions you like. For example, you can include a restriction that your attorney(s) must not act on your behalf until they have reason to believe that you are becoming mentally incapable; or a restriction that your attorney(s) may not sell your house. Any restrictions you choose must be written or typed at the place marked 2 in Part B of this form.

4. Unless you put in a restriction preventing it your attorney(s) will be able to use any of your money or property to benefit themselves or other people by doing what you yourself might be expected to do to provide for their needs. Your attorney(s) will also be able to use your money to make gifts, but only for reasonable amounts in relation to the value of your money and property.

5. Your attorney(s) can recover the out-of-pocket expenses of acting as your attorney(s). If your attorney(s) are professional people, for example solicitors or accountants, they may be able to charge for their professional services as well.

6. If your attorney(s) have reason in the future to believe that you have become or are becoming mentally incapable of managing your affairs, your attorney(s) will have to apply to the High Court (Office of Care and Protection) for registration of this power. Once registered, an enduring power of attorney cannot be revoked (or cancelled) effectively unless the Court confirms the revocation.

7. Before applying to the Court for registration of this power, your attorney(s) must give written notice that that is what they are going to do, to you and your nearest relatives as defined in the Enduring Powers of Attorney (Northern Ireland) Order 1987. You or your relatives will be able to object if you or they disagree with registration.

8. This is a simplified explanation of what the Enduring Powers of Attorney (Northern Ireland) Order 1987 and the Rules and Regulations say. If you need any more guidance you or your advisers will need to look at the Order itself and the Rules and Regulations. The Rules are contained in the Rules of the Supreme Court

(Northern Ireland) 1980, Order 109A (as inserted by S.R. 1989 No. 79). The Regulations are the Enduring Powers of Attorney Regulations (Northern Ireland) 1989 (S.R. 1989 No. 64).

9. Do not sign this form unless you understand what it means. If you are in any doubt you should obtain legal advice.

10. Note for attorney(s): after the power has been registered the attorney(s) should notify the High Court (Office of Care and Protection) if the donor dies or recovers.