



Powers of Attorney

Fact Sheet 6 – Register of Powers of Attorney in South Australia

State and Territory Registration of POAs

Currently South Australia does not hold a Register of existing Powers of Attorney (POAs).

There are no National requirements for POAs and the creation and management of them are dealt with on a State / Territory basis.

Unlike South Australia, some areas of Australia keep a record of active POAs, or require them to be registered to take effect for all or some dealings.

State / Territory	Register
Australian Capital Territory	No Register but must be registered with the ACT Office of Regulatory Services for dealings with real property.
New South Wales	Registration with the Land and Property Information Division of the NSW Land Registry Services is possible but not required unless dealing with land. Register held by the NSW Land Registry Services
Northern Territory	No Register but must be registered with the Lands Titles Office for dealings with real property.
Queensland	Registration on the Power of Attorney Register is possible if specifically authorised to deal with financial matters. If dealing with land must be registered. Register held by the Titles Office
South Australia	No Register but must be deposited with Land Services SA for dealings with real property.
Tasmania	Must be registered to take effect. Register held by the Lands Titles Office.
Victoria	No Register
Western Australia	No Register but must be lodged with Landgate for dealings with real property.

National Register

On 2 March 2018, the Commonwealth entered into a Memorandum of Understanding (MoU) with the Victorian Office of the Public Advocate (on behalf of the Australian Guardianship and Administration Council) to progress harmonisation of POAs.

In December 2019 it was announced that, as a result of the enquiries under the MoU and growing concerns about the abuse of POAs, particularly the role they play in perpetrating elder abuse and the financial abuse of the most vulnerable in Australian communities, a national register would be established.

As part of this process of establishing the mandatory national online Register of Power of Attorneys, minimum standards have been set for POAs.

This register, once functional, will allow for those dealing with POAs, such as legal representatives and bank staff, to ensure that they are valid and potentially report suspected breaches of the attorney's duties.

Discussion Questions

1. Should South Australia introduce a compulsory register of POAs?
2. Should registration be national or state-based?
3. What are the benefits and risks of introducing a register?
4. Should registration be compulsory upon initial creation or when the principal loses decision-making capacity?
5. Should there be a notification scheme as in England/ Wales where designated persons are notified once the attorney attempts to first exercise their powers?
6. What information should be included in the register?
7. Who should have access to the register?
8. Where should the register be located?
9. Will the costs of registration deter principals from creating POAs?
10. Should registration be online and/ or in person?
11. Should the registration body take on the role of ensuring POAs are correctly executed?
12. Will the register help to detect fraud?

<p>Please note: SALRI does not, and cannot, provide legal advice to individuals. If you are in need of legal advice we encourage you to speak to a lawyer and/or contact a community legal service.</p>
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