

2007

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

POWERS OF ATTORNEY REGULATION 2007 (No 2)

EXPLANATORY STATEMENT

Circulated by authority of
Simon Corbell MLA
Attorney General

Outline

The Powers of Attorney Act 2006 (the Act) is to commence operation on 30 May 2007. The forms of general and enduring powers of attorney under the Act (new forms) are to be approved by the Minister for use from 30 May 2007. It is considered that people would continue to use the forms under the *Powers of Attorney Act 1956* (Previous Act) even after 30 May 2007 to make powers of attorney, inadvertently or because they are not aware of the availability of the new forms. This is the case, in particular, where the current forms will still be available to the general public from, for example, news agencies.

The Powers of Attorney Regulation 2007 (No 2) (the Regulation) provides that a power of attorney made on or after 30 May 2007 and before 1 December 2007 using a form under the Previous Act to be not invalid only because it does not comply with the requirements under the Act about the making of powers of attorney. It also provides that such a power of attorney operates only to the extent that it is not otherwise inconsistent with the Act.

The Regulation is made under section 156(2) of the Act. Section 156(2) enables a regulation to be made to modify Chapter 20 (Transitional provisions) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in that chapter.

NOTES ON CLAUSES

Clause 1 Name of Regulation

This clause explains that the name of the Regulation is the *Powers of Attorney Regulation 2007 (No 2)*.

Clause 2 Commencement

This clause provides that the Regulation commences on 30 May 2007.

Clause 3 Modification of Act, ch 20, new section 152A – Act, s 156

Clause 3 provides for the modification of chapter 20 (Transitional provisions) by inserting section 152A in the Act pursuant to section 156 of the Act. Section 156(2) provides that a regulation may modify chapter 20 to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in that chapter.

New section 152A Transitional - powers of attorney forms under previous Act, sch 1.

New section 152A provides that a general power of attorney or enduring power of attorney made on or after the 30 May 2007 and before 1 December 2007, using a form in schedule 1 to the previous Act not be invalid only because it does not comply with a provision of the *Powers of Attorney Act 2006* about the making of powers of attorney. It also provides that the *Powers of Attorney Act 2006* applies to such power of attorney and that the power of attorney operates to the extent that it is not inconsistent with the Act.

Previous Act means the *Powers of Attorney Act 1956*, which is replaced by the *Powers of Attorney Act 2006*.