

A guide to Powers of Attorney in Spain

A power of attorney is a document usually signed before a notary in which you grant someone the power to act on your behalf. The powers you are granting to that person are set out in the power of attorney. These powers usually include the power to sign deeds on your behalf to buy, sell or inherit property, to open, manage or to close bank accounts or to issue legal proceedings. A power of attorney is a powerful document which authorises the appointed attorneys, trusted people, to carry out wide ranging powers on your behalf.

My
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in Spain

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General and Special Powers of Attorney

In Spain we have general powers of attorney and special powers of attorney. A general power of attorney is by its nature wide ranging with general powers to carry out a number of tasks. A special power of attorney is used for a specific purpose, for example to issue legal proceedings or to incorporate a company.

Enduring Powers of Attorney in Spain?

Unlike other countries, in Spain we do not have an Enduring Power of Attorney which would normally be granted by someone who possesses full mental capacity to manage their affairs when mental capacity is lost. The power endures, even after loss of mental capacity. Typically these powers of attorney are signed by elderly parents in favour of their siblings or by someone diagnosed with a serious degenerative disease which will eventually affect their mental capacity and mean that they will not be able to manage their affairs.

If you wish to discuss Powers of Attorney please telephone or email My Lawyer in Spain at:
enquiries@mylawyerinspain.com

Preventative Power of Attorney in Spain

You can sign a wide ranging power of attorney before a notary to appoint someone to manage your affairs in anticipation of diminished mental capacity or mobility and for example to make decisions in relation to medical treatment. This is known as a Poder Preventivo or Preventative Power of Attorney. The appointed attorney can manage your affairs and act on the powers granted to them. If you want that person to manage your affairs if mental capacity is lost, then it is advisable to specifically refer to Article 1732 of the Spanish Civil Code and the Notary will notify the Civil Registry of its existence.

Upon loss of mental capacity, the appointed attorney would be obliged to make an application to court to be appointed the attorney or tutor. The court will take into account the circumstances of the person whose affairs are to be managed and if appropriate, may appoint the attorney designated in the general power of attorney. Whilst the legal process and the appointment of the Tutor is being decided, the appointed attorney can continue to manage your affairs and this means that assets are not blocked and can be used for example to pay for specialist care. This is a clear advantage taking into account the potential length of court proceedings to appoint a Tutor in Spain. It is advisable to sign the Poder Preventivo in Spain before a notary to ensure it complies with formal requirements and is duly registered.

If you are buying a Spanish property or inheriting Spanish assets, it is advisable to put in place a general power of attorney to assist you locally. Normally such a power of attorney includes the power to open a bank account, apply for your Spanish tax number (NIE), to accept a Spanish inheritance and or to buy a house and set up direct debits with utility companies.

Once you have purchased a property or moved to Spain, it is advisable to put in place a general power of attorney to a trusted person, normally a spouse or relative, to manage your affairs in the event of reduced mobility or diminished mental capacity.

Before granting a power of attorney, read the powers carefully to ensure you are happy with the extent of them. Ensure that the person you are granting the power of attorney to is a professional, trusted person, spouse or relative. If you wished to revoke the power of attorney, you would have to sign a revocation before a notary and notify the attorney.

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