

《2011年持久授權書(修訂)條例草案》

委員會審議階段

由律政司司長動議的修正案

<u>條次</u>	<u>建議修正案</u>
2	刪去“3”而代以“3、3A”。
3(5)	在建議的第 5(2)(d)(iii)條中，在中文文本中，刪去“確認該文書是在授權人在場並在其指示下由他人”而代以“該文書是在授權人在場並在其指示下由他人代其”。
3(7)	在建議的第 5(2)(e)(iii)條中，在中文文本中，刪去“確認該文書是在授權人在場並在其指示下由他人”而代以“該文書是在授權人在場並在其指示下由他人代其”。

新條文

加入 —

“3A. 修訂第 10 條(生效日期)

(1) 第 10 條 —

將該條重編為第 10(1)條。

(2) 在第 10(1)條之後 —

加入

“(2) 為免生疑問，持久授權在其簽立之前，並不作為授權書而生效。

(3) 就第(1)(b)及(2)款而言，在持久授權遵照第 5 條的規定在律師面前妥為簽署之時，該授權即告簽立。

(4) 第(2)及(3)款並不影響任何在《2011 年持久授權書(修訂)條例》(2011 年第 號)生效日期之前簽立的持久授權。”。

9 在建議的第 4(2)條中，刪去“變為精神上無能力行事”而代以“精神上無行為能力”。

10(1) 在建議的第 5(2A)條中，在中文文本中，刪去“事預”而代以“事項”。

12 (a) 在建議的附表 1 中，在“使用本表格須知”部分中，加入 —

“13. 在你(或在你指示下代你簽署的人)於上述律師面前簽署本表格時，本表格即按照《持久授權書條例》(第 501 章)第 10 條作為持久授權書而生效。須留意，在本表格獲如此簽署之前，本表格並無作為持久

授權書或普通的授權書的效力。然而，如你希望以某較後的日期或某較後的事件發生之時作為本持久授權書生效之時，你可如此選擇。在此情況下，你須在 A 部第 4A 段指明該較後的日期或事件。”。

- (b) 在建議的附表 1 中，在“持久授權書表格(只委任一名受權人)”部分中，在 A 部中，加入 —

“4A. 持久授權書的生效

[本持久授權書如在下列第 6 或 7 段所指的律師面前簽署，即於同日生效。如你希望指明某較後的日期或某較後的事件發生之時為本持久授權書生效之時，請填寫下列印有星號的句子。如你希望本授權書在它於律師面前簽署的同日生效，你須刪去該句子。]

*本持久授權書在

..... (在此處填上較後的日期或事件)生效。”。

- (c) 在建議的附表 2 中，在“使用本表格須知”部分中，加入 —

“14. 在你(或在你指示下代你簽署的人)於上述律師面前簽署本表格時，本表格即按照《持久授權書條例》(第 501 章)第 10 條作為持久授權書而生效。須留意，在本表格獲如此簽署之前，本表格並無作為持久授權書或普通的授權書的效力。然而，如你希望以某較後的日期或某較後的事件發生之時作為本持久授權書生效之時，你可如此選擇。在此情況下，你須在 A 部第 5A 段指明該較後的日期或事件。”。

- (d) 在建議的附表 2 中，在“持久授權書表格(委任多於一名受權人)”部分中，在 A 部中，加入 —

“5A. 持久授權書的生效

[本持久授權書如在下列第 7 或 8 段所指的律師面前簽署，即於同日生效。如你希望指明某較後的日期或某較後的事件發生之時為本持久授權書生效之時，請填寫下列印有星號的句子。如你希望本授權書在它於律師面前簽署的同日生效，你須刪去該句子。]

*本持久授權書在
..... (在此處填上較後的
日期或事件)生效。”。

Enduring Powers of Attorney (Amendment) Bill 2011

COMMITTEE STAGE

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting “3” and substituting “3, 3A”.
3(5)	In the proposed section 5(2)(d)(iii), in the Chinese text, by deleting “確認該文書是在授權人在場並在其指示下由他人” and substituting “該文書是在授權人在場並在其指示下由他人代其”.
3(7)	In the proposed section 5(2)(e)(iii), in the Chinese text, by deleting “確認該文書是在授權人在場並在其指示下由他人” and substituting “該文書是在授權人在場並在其指示下由他人代其”.
New	By adding— “3A. Section 10 amended (Commencement) (1) Section 10— Renumber the section as section 10(1). (2) After section 10(1)— Add “(2) To avoid doubt, an enduring power does not commence as a power of attorney before it is executed. (3) For the purposes of subsections (1)(b) and (2), an enduring power is executed when it

is duly signed before the solicitor in compliance with the requirements in section 5.

- (4) Subsections (2) and (3) do not affect any enduring power executed before the commencement date of the Enduring Powers of Attorney (Amendment) Ordinance 2011 (of 2011).”.”.

9 In the proposed section 4(2), by deleting “donor becoming mentally incapable” and substituting “donor’s mental incapacity”.

10(1) In the proposed section 5(2A), in the Chinese text, by deleting “事預” and substituting “事項”.

12 (a) In the proposed Schedule 1, under the heading “**Information you must read**”, by adding—

“13. This form takes effect as an EPA in accordance with section 10 of the Enduring Powers of Attorney Ordinance (Cap. 501) when it is signed by you or the person signing on your behalf and under your direction before the solicitor. You should note that unless and until this form is so signed, it has no effect either as an EPA or an ordinary power of attorney. However, if you wish, you may choose a later date or later event, on which the EPA will take effect. In such case you must specify this later date or event in paragraph 4A of Part A.”.

(b) In the proposed Schedule 1, under the heading “**Form of enduring power of attorney (for appointment of only one attorney)**”, in Part A, by adding—

“4A. **Commencement of EPA**

[This EPA takes effect on the date it is signed before the solicitor in paragraph 6 or 7 below. If you want to specify a later date or later event on which this EPA will take effect, please fill in the gap in the sentence marked with an asterisk below. You must delete that sentence if you wish this EPA to take effect on the date

it is signed before the solicitor.]

*This EPA takes effect on
..... (insert a later date or event).”.

- (c) In the proposed Schedule 2, under the heading “**Information you must read**”, by adding—

“14. This form takes effect as an EPA in accordance with section 10 of the Enduring Powers of Attorney Ordinance (Cap. 501) when it is signed by you or the person signing on your behalf and under your direction before the solicitor. You should note that unless and until this form is so signed, it has no effect either as an EPA or an ordinary power of attorney. However, if you wish, you may choose a later date or later event, on which the EPA will take effect. In such case you must specify this later date or event in paragraph 5A of Part A.”.

- (d) In the proposed Schedule 2, under the heading “**Form of enduring power of attorney (for appointment of more than one attorney)**”, in Part A, by adding—

“5A. **Commencement of EPA**

[This EPA takes effect on the date it is signed before the solicitor in paragraph 7 or 8 below. If you want to specify a later date or later event on which this EPA will take effect, please fill in the gap in the sentence marked with an asterisk below. You must delete that sentence if you wish this EPA to take effect on the date it is signed before the solicitor.]

*This EPA takes effect on
..... (insert a later date or event).”.