



**ENDURING POWERS
OF ATTORNEY**

A situation has been brought to the attention of the Conveyancing Committee whereby a donee of an enduring power of attorney which had not been registered sought to sell the property of the donor at auction. The special conditions in the contract provided that the closing date would be seven working days after the registration of the enduring power of attorney. No application had been made to the court for an order to effect the sale pre-registration. The committee was asked to consider whether this was good conveyancing practice.

The committee noted that until such time as an enduring power of attorney is registered, the power has not come into force. Therefore, the donee would have no power to execute a valid contract for the sale of the donor's property. In the above circumstance, the committee concluded that the course of action proposed by the donee of the enduring power was not in fact good conveyancing practice.

The committee wishes to point out to the profession, however, that, in an emergency, the donee can apply to the court for an order under section 8 of the Powers of Attorney Act for the exercise of the power by the court pending registration of the enduring power of attorney, and practitioners are recommended to consult the legislation before applying for such an order in appropriate cases.