

Enduring Power of Attorney: A Fact Sheet

What is an Enduring Power of Attorney or EPA?

An Enduring Power of Attorney or EPA is a legal document that allows you (the donor) to choose someone else (the attorney) to make property and financial decisions on your behalf, even when you no longer have mental capacity to make those decisions yourself. Your attorney can do anything you can lawfully do, such as operate your bank account or sell your house and other assets.

In what way is an Enduring Power of Attorney different from a Power of Attorney?

When you, as the donor, give someone a power of attorney, that person has the same power as a person with an enduring power of attorney. The only difference is this – if you lose your capacity, the person with a power of attorney cannot act any more, while a person with an enduring power of attorney can continue to act.

When can I make an EPA?

You can make an EPA at any time, as long as you have mental capacity.

Can I restrict the power I give to my enduring attorney/ power of attorney?

Yes, you can place restrictions on your attorney. You can also state when your EPA comes into effect: either once you and your attorney sign it or after the State Administrative Tribunal finds you no longer have mental capacity. In an Enduring Power of Attorney you can state how long the Power of Attorney lasts too.

Can I continue to take care of my financial and property matters even after I've made an EPA?

As long as you have mental capacity, you can carry on your own financial affairs until you give your attorney that power.

Who can I appoint as my attorney?

You can appoint anyone over 18 who has mental capacity, is trustworthy, and will always act in your best interests. They could be someone like your spouse/partner, child, another family member, accountant, or lawyer. You should get their permission beforehand to act as your attorney.

How many attorneys can I appoint?

You can appoint a maximum of two main attorneys and a maximum of two substitute attorneys.

Can my attorneys act together?

Yes, they can act together if you appoint them to be joint attorneys. You can choose to appoint your attorneys to act jointly (together) and/or severally (separately, one without the other).

Do I have to register my EPA?

If you want your attorney to deal with your house or land, it's a good idea to register your EPA with Landgate within three months of signing it. You may want to seek further legal advice if this applies to you.

Can I revoke my EPA?

Yes, you can revoke your EPA at any time, as long as you have mental capacity. You have to inform your attorney and any relevant authorities that you have revoked it. If you've registered your EPA at Landgate, you must fill out a form to revoke it. Your attorney can also revoke their appointment, but you must have mental capacity when they do. You should seek legal advice if any of these apply.

How long does an EPA last?

An EPA lasts as long as you're alive. It expires when you die.

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What happens once the EPA has been drafted?

To make your EPA legal, it needs to be signed by you and your attorney. Your signature must be witnessed by two independent witnesses. One should be someone who can legally witness a statutory declaration, such as a Justice of the Peace, lawyer, doctor, teacher, police officer, pharmacist, or nurse. The other witness can be anyone who is over 18. Your attorney must accept their appointment by signing the EPA – their signature doesn't need to be witnessed.

Need Legal Advice?

Contact Citizens Advice Bureau to make a low-cost appointment at our Perth office, or for details of how to make an appointment at your nearest branch or by telephone.

(08) 9221 5711 (Lines open Mon-Fri 9:30am-4:00pm) Level 1, 25 Barrack Street, Perth WA 6000

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