



Enduring Power of Attorney (EPA)

To make an EPA you must be able to understand what the nature of the document is, and the effect it has on you and your attorney.

What is an EPA?

An EPA is a document in which you grant power to someone to act on your behalf as your attorney.

Who can make an EPA?

Anyone over the age of 18 years who has sufficient capacity.

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What to consider when appointing your attorney

The person you appoint doesn't have to be a professional.

You should not consider an appointment solely on the basis of a familial relationship. You should choose an attorney you can trust and who will make sound financial and legal decisions on your behalf, for example people who competently manage their own affairs.

Some people appoint more than one attorney to ensure the responsibility is shared. This may give an added sense of security, knowing their affairs are not left to the decision-making of just one person.

If you do choose to appoint more than one attorney you can stipulate whether your attorneys make decisions together, or if a decision can be made by either acting alone. Permitting each attorney to act alone allows greater flexibility in a situation where, for example, a document has to be signed and one of your attorneys is temporarily unavailable to act.

Consider your own circumstances. Don't make an appointment which may work for some people but may not suit you. Also consider difficulties that might arise if you choose an attorney who is currently living interstate or overseas or if you appoint attorneys who have different views on the best way to manage your affairs.

When will my EPA commence?

You have the option to specify the date your EPA will commence.

An EPA for financial decisions can take effect immediately if you choose, but not an EPA for personal decisions which only takes effect when you lose capacity.



Are there risks in giving an EPA?

The advantages of appointing someone who can act as your attorney when you lose capacity, far outweigh the risk that the person you appoint as your attorney will abuse their power. There are options if abuse occurs, as shown below:

- ✦ If the abuses are found while you still have capacity you can revoke your EPA by completing a Revocation document.
- ✦ If the abuses are found after you have lost capacity, an application can be made by any interested party to the Guardianship and Administration Tribunal (GAAT) seeking appropriate orders to protect your interests. The Tribunal can revoke your EPA and appoint the Adult Guardian and/or the Public Trustee to manage your affairs.

Do I have to pay my Attorney?

Unless you appoint a professional person or organisation as your attorney there is usually no need to pay for the services provided by your attorney.

When should I make an EPA?

Having an EPA is as important as having a will. You can never be sure when you might not have capacity to make your own decisions, it is wise to have an EPA. A person may lose capacity at any age (eg. brain injury).

What happens if I don't have an EPA?

The best decision-maker for you is usually someone you select yourself. If you have no EPA, substitute decision-makers may be appointed who may not be the person/s you would have chosen yourself.

What power will my attorney have?

By appointing someone to act as your attorney you are authorising them to do anything in relation to your personal and financial/legal affairs that you lawfully could do for yourself, except, very personal decisions, such as voting or marriage.

Your attorney's decisions will have the same legal effect as if you had made the decisions yourself.

Some examples of the kind of decisions your attorney can make for you are:

Financial

- ✦ Do your banking;
- ✦ Pay your bills;
- ✦ Sell/rent your home; or
- ✦ Invest your money.

Personal

- ✦ Decide who you have contact with;
- ✦ Decisions about medical treatment;
- ✦ Withdrawing/withholding life support; or
- ✦ Accommodation.

Legal

- ✦ Enter into contracts; or
- ✦ Conduct court proceedings.

For further information

If you would like further information or assistance with your EPA please contact QADA:

Phone: **3637 6000** or **1800 818 338**

Email: info@qada.org.au