

ENDURING POWERS OF ATTORNEY

M A C T O D D

L A W Y E R S



What are Enduring Powers of Attorney?

Enduring powers of attorney (EPAs) are documents where you appoint someone to look after your property affairs and personal care matters, should you become mentally incapacitated and unable to make, communicate or understand your decisions.

There are two types of EPAs: a) property and b) personal care and welfare. Property means everything you own, including bank accounts, investments, land and personal items. A personal care and welfare attorney deals with your health and wellbeing such as where you are to live and how you are to be properly cared for.

When does the EPA take effect?

Personal Care and Welfare - An EPA for personal care and welfare only comes into effect if you (the donor) have been medically certified as mentally incapable. The personal care and welfare attorney can only make important decisions if a doctor has signed a certificate to say you are mentally incapable. For other personal care and welfare decisions, the attorney must have reasonable grounds for thinking you have become mentally incapable.

Property - With property EPAs, you have a choice. You can decide that the property attorney is authorised to act only if you are mentally incapable. In that case, the property attorney may need to ask for a medical certificate before taking action. Alternatively, you can say the EPA is to be effective as soon as you sign it. This can avoid the need for a medical certificate and can be useful if you are overseas or temporarily unavailable to deal with your finances.

Who should you appoint?

You need to think carefully about naming the right person or people in your EPAs. You are giving them a lot of responsibility. Your attorney or attorneys will be called on to make decisions when you are no longer able to do so. You will need to check first with whomever you're proposing to appoint as your attorney, so you know they agree to be your attorney and are aware of your wishes.

At any time, you may change or cancel your EPAs in writing provided you are still mentally competent to do so.

The first two pages and the last 4 pages of the attached blank EPA forms are helpful in explaining how an EPOA works and what decisions you can make in terms of creating an EPOA.