



20 January 2012

Enduring Power of Attorney

WHAT IS AN ENDURING POWER OF ATTORNEY?

An Enduring Power of Attorney (“EPA”) is a legal document that sets out who can take care of your personal or property matters if you cannot. This person is called your Attorney.

EPAs operate while you are alive, as opposed to Wills, which set out what is to happen after your death. In a sense, EPAs are an insurance policy whereby people are appointed to act for you if you become mentally incapable.

Any mentally capable person over the age of eighteen (18) years can make an EPA, and any mentally capable person over the age of twenty (20) years can act as an Attorney.

TYPES OF EPAS:

1. EPA in relation to Property

This appoints one or more people to act on your behalf in relation to your property. Your EPA in relation to Property can come into effect while you are still mentally capable and continue throughout your life (or until revoked by you) or alternatively can come into effect only if you become mentally incapable.

2. EPA in relation to Personal Care and Welfare

This appoints one person to act on your behalf in relation to your personal care and welfare matters if you become mentally incapable. These can include such things as health care and treatment as well as your living situation.

CHOOSING YOUR ATTORNEY:

It is important to choose Attorneys who you trust will act in your best interests.

With EPAs in relation to Property you can appoint more than one Attorney. Your Attorneys can be professional advisers, family members or friends. These people will need to agree to being your Attorney and it is important you make them aware of your wishes.

With EPAs in relation to Personal Care and Welfare you can appoint only one Attorney, although you are able to appoint a Successor Attorney if that person cannot act for any reason. Your Attorney (and Successor Attorney) can be family members or friends. Again, these people must agree to be your Attorney and it is important they are aware of your wishes.

TERMS AND CONDITIONS WITHIN YOUR EPA:

With both types of EPAs you can choose to include any special terms and conditions. These can include:

- Restricting the authority of the Attorney to certain matters;
- Appointing a Successor Attorney if your Attorney's appointment cease;
- Directing your Attorney to consult with certain people before making decisions;
- Directing your Attorney to provide information to certain people

It is important to note that if your EPA comes into effect when you become mentally incapable, your Attorney cannot act or make decisions in relation to significant matters affecting you unless a relevant health practitioner has certified or the Family Court has determined you as mentally incapable.

If you have any questions regarding Enduing Powers of Attorney please do not hesitate to contact us. Our Partners with specialist interest and experience in Enduing Powers of Attorney are:



Ross Fanthorpe
Partner

DDI: (06) 768-3729
Ross.Fanthorpe@gqlaw.co.nz



John Eagles
Partner

DDI: (06) 768-3733
John.Eagles@gqlaw.co.nz



Paul Franklin
Partner

DDI: (06) 768-3731
Paul.Franklin@gqlaw.co.nz



Paul Anderson
Partner

DDI: (06) 768-3732
Paul.Anderson@gqlaw.co.nz



Geoff Shearer
Partner

DDI: (06) 756-8118
Geoff.Shearer@gqlaw.co.nz