

# Enduring Power of Attorney - A Fact Sheet

## **What is an Enduring Power of Attorney (EPA)?**

An Enduring Power of Attorney is a legal document that allows you (the donor) to choose someone else (the enduring attorney) to make property and financial decisions on your behalf, even when you no longer have mental capacity to make those decisions yourself. Your enduring 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 that 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 even after you have lost your capacity.

## **When can I make an Enduring Power of Attorney?**

You can make an Enduring Power of Attorney 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 enduring attorney. You can also state when your Enduring Power of Attorney comes into effect: either once you and your enduring 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 authority to use that power will last.

## **Can I continue to take care of my financial and property matters even after I've made an Enduring Power of Attorney?**

As long as you have mental capacity, you can carry on your own financial affairs until you authorise your enduring attorney to manage your financial affairs.

## **Who can I appoint as my enduring 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, or another family member. You should get their permission beforehand to act as your enduring attorney.

## **How many enduring attorneys can I appoint?**

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

## **Can my enduring attorneys act together?**

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

## **Do I have to register my Enduring Power of Attorney?**

If you want your enduring attorney to deal with your house or land, it's a good idea to register your Enduring Power of Attorney 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 Enduring Power of Attorney?**

Yes, you can revoke your Enduring Power of Attorney at any time, as long as you have mental capacity. You have to inform your enduring attorney and any relevant authorities that you have revoked it. If you've registered your Enduring Power of Attorney at Landgate, you must fill out a form to revoke it. Your enduring 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 Enduring Power of Attorney last?**

An Enduring Power of Attorney lasts as long as you're alive. It expires when you die.

**Need Advice?** Call Citizens Advice Bureau on **(08) 9221 5711**, or visit **[www.cabwa.com.au](http://www.cabwa.com.au)**



Disclaimer: This document is provided by Citizens Advice Bureau and is intended as a guide only. This information may not be appropriate to your specific situation and you should seek independent legal advice for your individual situation. Published September 2021.

# Enduring Power of Attorney - A Fact Sheet Continued

## **What happens once the Enduring Power of Attorney has been drafted?**

To make your Enduring Power of Attorney legal, it needs to be signed by you and your enduring 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 enduring attorney must accept their appointment by signing the Enduring Power of Attorney, however their signature doesn't need to be witnessed.

**Need Advice?** Call Citizens Advice Bureau on **(08) 9221 5711**, or visit **[www.cabwa.com.au](http://www.cabwa.com.au)**



Disclaimer: This document is provided by Citizens Advice Bureau and is intended as a guide only. This information may not be appropriate to your specific situation and you should seek independent legal advice for your individual situation. Published September 2021.