

Making an Enduring Power of Attorney



CHECKLIST

Things to think about before making an **Enduring Power of Attorney (EPA)**

Revocation (Cancellation)

- Do you already have a valid EPA?
- If yes, do you want to cancel your existing EPA and make a new one? If so, you will need to include a statement in your EPA that you are revoking all of your previous EPAs.
- Or, do you want your existing EPA to continue in effect along with a new one? For example, you may have different EPAs for different purposes.

Choosing an Attorney

- Who will be your Attorney? This person will make financial decisions for you once the EPA comes into effect.
- Will you have more than one Attorney? If you have Co-Attorneys, should they act “jointly” (all decisions made together) or “severally and jointly” (can act together or separately)?
- Who will be your Alternate Attorney in case your first choice cannot or refuses to act?
- Have you talked to your Attorneys? Have they agreed to act?
- For each Attorney, you’ll need their name, age, address and relationship to you.
- Does your Attorney have the right skills, knowledge and experience to manage your finances? What sorts of decisions will your Attorneys be making?

- Does your Attorney have a general idea of your financial matters? Do they know your wishes and beliefs to make financial decisions on your behalf?

Attorney Powers

- Will your Attorney have the power to manage all of your financial matters?
- Or, are you going to limit your Attorney’s powers to certain financial matters? (Remember: if you limit your Attorney’s powers and no one else has the authority to make some decisions, someone will have to apply to the court for a trusteeship order appointing a trustee to make those decisions not mentioned in the EPA.)
- Will your Attorney have to sign documents to be registered with the Land Titles Office (such as when buying or selling a house)? If so, you must explicitly give your Attorney this authority in your EPA.
- Do you have specific instructions for your Attorney? Examples include:
 - Financial support of family members
 - Purchasing gifts
 - Making donations to churches or charities

Coming Into Effect

- How will your EPA come into effect? Immediately once you sign it? Or when a certain event occurs?
- If you want your EPA to come into effect when you lose **mental capacity**, who will determine when you have lost mental capacity? (It is common for EPAs to state that mental incapacity is determined by two medical practitioners who make written declarations.)

Attorney Compensation

- Will you pay your Attorney for acting as your Attorney? If so, how much? If you do not include payment terms in your EPA, your Attorney can apply to the court for reasonable and fair compensation for acting on your behalf.

- You must pay your Attorney for any reasonable expenses they incur, such as paying professionals or parking fees while they are at an appointment on your behalf.

Memo to EPA

- Should you leave a memo with your EPA setting out additional wishes or instructions? This memo is not legally binding on your Attorney. The benefit of a memo is that you can easily change it without changing your EPA.
- Do you have a list of your assets and debts to keep with your EPA? This list should include addresses of banks or property you own, along with what debts you owe and to whom.

Where can I get more information?

For more information on Enduring Power of Attorney, see the following CPLEA resources:

- Making an Enduring Power of Attorney booklet
- Being an Attorney Under an Enduring Power of Attorney booklet

You can download copies of CPLEA's resources for free from www.cplea.ca/publications.

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