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Appointing an Enduring Power of Attorney

Why appoint an Attorney?

You can appoint someone you know and trust and who understands and is capable of managing your financial affairs, if you are unable or do not wish to do so yourself. This is the best way of ensuring that your bills and assets continue to be managed.

An enduring Power of Attorney (EPA) is a legal document signed by you appointing another person(s) called an attorney to make financial decisions if necessary. This document can be drawn up by a solicitor or a 'do it yourself kit' with instructions that can be purchased from Service SA.*

Your attorney(s) cannot make medical, health care, accommodation or lifestyle decisions. You can sign an Advance Care Directive to appoint a 'substitute decision maker' to make these decisions on your behalf.

Purchase an EPA kit from Service SA. Telephone 132 324
www.service.sa.gov.au

Who decides when the Attorney(s) takes responsibility?

You can choose to have your attorney(s) manage your finances immediately or only if you lose mental capacity.* You can write what you want in an EPA. A doctor or neuropsychologist assesses whether you have lost the ability to make financial decisions in order to activate your EPA.

Your attorney(s) must manage in your financial best interest, consult with you whilst you are able to understand financial matters, take into account your written instructions and keep records of what he/she is doing.

***Mental capacity refers to the ability to understand the nature and consequences of a decision and the alternative choices and consequences available or likely.**

What to consider in an EPA?

Q1: Who to appoint?

- Who do you trust?
- Does that person have the skills to manage your finances?
- Is he/she a good money manager?
- Do you want more than one attorney?

Q2: Instructing your attorney(s)

- Do you want to limit the type of financial decisions your attorney(s) can make?
- Do you want another person to monitor your attorney's work by getting regular financial statements?
- Do you want your attorney(s) to consult with other family or friends?
- Do you want your assets or income managed in a special way?
- Do you want to continue to give donations or gifts?

You can write special instructions in your EPA and your attorney(s) should follow them.

Changing your EPA

You can change your EPA if you still have mental capacity. If you have lost capacity and there are problems with your attorney(s), the South Australian Civil and Administrative Tribunal (SACAT) can appoint an administrator to take over.

Change your EPA if:

- One or more of your attorneys say they are unwilling to act or one dies.
- Your relationship changes and you no longer trust your attorney(s) and do not want him/her involved.
- You want to change the written instructions.

Notify anyone who is no longer your attorney(s). Other things to consider:

- Where to keep your EPA.
- Who to give a copy.
- Who to tell about your EPA.
- How often to review it.

Disclaimer: Information provided is of a general nature to be used as a guide only. It is not a substitute for legal advice.

APEA MEMBERS

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