

# Enduring Power of Attorney (EPA)

## In relation to property

Protection of Personal and Property Rights Act 1988

### Notes to enduring power of attorney

Please read these notes BEFORE completing the form.

In these notes, "attorney" includes each attorney (if you have appointed more than 1) and a successor attorney whose appointment has come into effect. (See the glossary of terms at the end of these notes for the meaning of attorney and other terms set out in ***bold italics***.)

#### Setting up your EPA

1

Your ***EPA*** in relation to ***property*** authorises the ***attorney*** that you, the ***donor***, have appointed to make decisions on your behalf about your property affairs, particularly when you cannot do so for yourself because you have become ***mentally incapable***. Your attorney can act for you while you are mentally capable if you authorise them to do so. You can appoint more than 1 attorney. You can also appoint a ***successor attorney*** to be your attorney if the previous attorney's appointment ***ends***. You can appoint more than 1 successor attorney.

2

Your attorney can be anyone you trust to understand and respect your wishes and feelings and who is able to manage your property, provided they are aged 20 or older, not bankrupt, and not mentally incapable themselves. This can be a friend or family member, a work colleague, or a professional person, for example, a lawyer or an accountant. An attorney for property can also be a ***trustee corporation***.

3

Your EPA should be filled in, signed, and witnessed in the presence of your lawyer or another ***authorised witness***, who must explain the effects and implications of the EPA and answer any questions you may have. The signature of each attorney (and successor attorney) you appoint needs to be witnessed by someone other than you or your witness. The witness must be an adult and should not be a relative of the attorney or of the attorney's spouse or partner or live at the same address as the attorney.

4

Your EPA will not be valid until signed by all parties. This includes you and your attorney.

#### Options in your EPA

5

There are various options that you can have in your EPA. For example, if you appoint more than 1 attorney, you can say whether they must act together (jointly) or can act separately (severally). You can also appoint successor attorneys, cancel (***revoke***) previous EPAs, determine the extent of your attorneys' authority to act, and say who they must ***consult***. See sections B to M of the EPA form for these options.

#### You and your attorney need to understand what an attorney's role is

6

An attorney's authority under the EPA is governed by both the EPA and the Protection of Personal and Property Rights Act 1988 (the ***Act***). These notes are a summary of the main requirements of the Act. Attorneys and successor attorneys should ask a lawyer for legal advice on their role if they are unclear about how to act.

#### When an attorney can act

7

You can choose that your EPA comes into effect only if you become mentally incapable. If you do, your attorney can act under the EPA only if a ***medical certificate*** states, or the Family Court decides, that you are mentally incapable.

8

If you choose that your EPA comes into effect while you are mentally capable, your attorney can act under it as soon as it is signed and witnessed and can continue to act if you become mentally incapable.

9

Your attorney cannot act after they receive notice that the EPA is ***terminated***, their appointment is ended, or their authority to act is ***suspended*** (see note 19).

<b>What an attorney must do</b>	<b>10</b>	Your attorney must use your property to promote and protect your best interests. Wherever possible, your attorney must encourage you to maintain or develop your own competence to manage your property affairs.
	<b>11</b>	When acting on your behalf, your attorney must, as far as practicable, consult you and the persons you have asked to be consulted in section I of the EPA form before making decisions. Your attorney must also consult any other attorney under any other EPA you have given (other than a successor attorney whose appointment has not come into effect). Your attorney is entitled to follow advice received from consultation if they act in good faith and with reasonable care. Your attorney can also apply to the Family Court for directions on how to act (for example, if they receive conflicting advice from consultation).
	<b>12</b>	If you have appointed someone else to be your attorney for your <b>personal care and welfare</b> , your attorneys must regularly consult each other to ensure that your interests are not disadvantaged by any breakdown in communication between them. Your property attorney should provide your personal care and welfare attorney with any financial support (out of your property) needed for your personal care and welfare.
	<b>13</b>	If you have named someone in section J of your EPA to be given information, your attorney must promptly give them that information when asked for it.
<b>How your property can be used</b>	<b>14</b>	<p>Your attorney must not <b>act to the benefit</b> of any person other than you unless you have explicitly stated in your EPA that your attorney can do so. However, unless you have explicitly stated in your EPA that they cannot do so, your attorney can, out of your property:</p> <ul style="list-style-type: none"> <li>• recover reasonable <b>out-of-pocket expenses</b></li> <li>• recover reasonable professional fees and expenses (if your attorney has accepted appointment or done work related to your property in a professional capacity)</li> <li>• deal with any property that you and your attorney jointly own if you and your attorney are married or in a civil union or de facto relationship, are living together, and are sharing your incomes</li> <li>• make a loan, advance, or other investment of your property that a trustee could make under the Trustee Act 1956.</li> </ul> <p>If you have authorised your attorney to make celebratory gifts or donations, your attorney must consider whether you can afford to make them, having regard to your overall financial circumstances and commitments.</p>
<b>Attorneys must keep records</b>	<b>15</b>	Your attorney must keep records of each financial transaction they enter into on your behalf while you are mentally incapable. Failure to do so is an offence for which they can be prosecuted and fined. If an application is made to the Family Court under the Act about you or your EPA, your attorney must supply these records on request to the lawyer (if any) appointed by the court to represent your interests.
	<b>16</b>	If you have named someone in section J of your EPA to be given information that includes records of financial transactions, your attorney must promptly give them that information when asked for it.

<b>Cancelling or suspending an EPA</b>	<b>17</b>	While you are mentally capable, you can cancel (revoke) your EPA or an attorney's appointment at any time by giving written notice to your attorney (you should also give notice to any successor attorneys).
	<b>18</b>	If you choose to revoke your previous EPAs in relation to property, but do not give notice of revocation to the previous attorneys, your attorney under this EPA or your lawyer can give your previous attorney that notice by providing them with a copy of this EPA before or after you become mentally incapable.
	<b>19</b>	If you become mentally incapable but recover your mental capacity, you can suspend your attorney's authority to act by giving them written notice. The EPA is only put on hold by the suspension, which means your attorney cannot act under it again unless a medical certificate states, or the Family Court declares, that you are mentally incapable again.
	<b>20</b>	If you are mentally incapable and your attorney's authority is questioned, the attorney can certify on a <b>prescribed form</b> (available on the Ministry of Justice website) that they have not received any notice that the EPA is terminated, their appointment is ended, or their authority to act is suspended. This means they can continue to act as your attorney.
<b>Involving the Family Court</b>	<b>21</b>	The Family Court can be asked to review your attorney's actions under the EPA if you or someone else has concerns about them. An application to the court is required for this purpose. The court must appoint a lawyer to represent your interests.
	<b>22</b>	Your attorney may apply to the Family Court for directions if they are not sure about the most suitable action to take in your best interests (for example, where consultation has resulted in conflicting advice).
	<b>23</b>	Unless you have expressly stated in your EPA that your attorney cannot do so, your attorney may apply to the Family Court for authorisation to sign a will for you (in a form approved by the court) if you are not <b>capable of making a will</b> .
	<b>24</b>	For matters involving the Family Court, an application to the Family Court is required. The application form can be found at the Ministry of Justice website.
<b>Glossary of terms</b>		
<b>Act</b>	The Protection of Personal and Property Rights Act 1988. Part 9 of the Act sets out the law on EPAs.	
<b>Act to the benefit</b>	In relation to a person other than the donor, give that person a profit or advantage (for example, by allowing them to live in or use the donor's house without paying rent, or by using the donor's money to pay for goods or services for them).	
<b>Attorney</b>	A person or persons appointed by the donor to act on behalf of the donor on some or all of the donor's property affairs. This includes a successor attorney whose appointment has taken effect (unless the context makes it clear that this is not intended).	

## Glossary of terms continued

<b>Authorised witness</b>	<p>A person who witnesses a donor's signature to an EPA. The signature must be witnessed by one of the following:</p> <ul style="list-style-type: none"> <li>• a lawyer</li> <li>• a legal executive who is a member of, and holds a current annual registration certificate issued by, The New Zealand Institute of Legal Executives Incorporated, has 12 or more months' experience as a legal executive, and is employed by and supervised by a lawyer</li> <li>• an authorised officer or employee of a trustee corporation.</li> </ul> <p>If the attorney is a lawyer appointed in his or her capacity as a lawyer, the witness may belong to the same firm as the attorney.</p> <p>If the attorney is a trustee corporation, the witness may be an officer or employee of that corporation.</p> <p>In any other case, the witness must be independent of the attorney and any successor attorney named in the EPA.</p> <p>The requirement that the witness must be independent of the attorney is modified where 2 people appoint each other as attorney in order to allow:</p> <ul style="list-style-type: none"> <li>• the witnesses to belong to the same legal firm or the same trustee corporation</li> <li>• the same person to witness both donors' signatures if the witness is satisfied and certifies that doing so does not constitute more than a negligible risk of conflict of interest.</li> </ul>
<b>Capable of making a will</b>	<p>The law requires that anyone making a will must have testamentary capacity; that is, they must understand the nature and effect of what they are doing, who might have a claim to their estate, what they are disposing of, and how they are disposing of it.</p>
<b>Consult</b>	<p>To ask for advice and give that advice proper consideration before making a decision in the donor's best interests. This includes making sure the person being asked for advice has all the information they need to base their advice on.</p>
<b>Donor</b>	<p>The person setting up the EPA giving the appointed attorney(s) authority to act for them.</p>
<b>Ends</b>	<p>An attorney's appointment under the EPA ends when any of the following events occurs:</p> <ul style="list-style-type: none"> <li>• the donor (while mentally capable) revokes the attorney's appointment by written notice to the attorney</li> <li>• the attorney gives written notice to the donor (or to the Family Court if the donor is mentally incapable) that the attorney disclaims the right to act under the EPA</li> <li>• the attorney dies or becomes bankrupt</li> <li>• the attorney becomes subject to compulsory treatment or special patient status under the Mental Health (Compulsory Assessment and Treatment) Act 1992</li> <li>• the Family Court makes a personal or property order under the Act in respect of the attorney</li> <li>• the attorney becomes unable to act (for example, because of serious illness)</li> <li>• the Family Court makes an order revoking the attorney's appointment.</li> </ul>
<b>EPA</b>	<p>An enduring power of attorney in relation to property made under Part 9 of the Act (unless the context makes it clear that another kind of enduring power of attorney is intended).</p>
<b>Medical certificate</b>	<p>A certificate given by a <b>relevant health practitioner</b> on whether the donor is mentally incapable. The certificate must contain the information required by regulations under the Act.</p>

## Glossary of terms continued

<b>Mentally incapable</b>	Under the Act, donors are mentally incapable in relation to property if they are not wholly competent to manage their own property affairs. Everyone is presumed to be competent to manage their property affairs until the contrary is shown, and is not to be presumed to lack competence just because the person makes imprudent decisions or is subject to compulsory treatment or has special patient status under the Mental Health (Compulsory Assessment and Treatment) Act 1992.
<b>Out-of-pocket expenses</b>	Things that your attorney needs to pay for from their own resources in order to carry out their role, such as postage and stationery costs, bank fees, travel costs, telephone bills, and legal fees. These expenses do not include lost wages or payment for your attorney's time.
<b>Personal care and welfare</b>	The donor's health, well-being, and enjoyment of life, including matters such as where the donor lives and medical treatment they may need.
<b>Prescribed form</b>	A form set out in the Protection of Personal and Property Rights (Enduring Powers of Attorney Forms and Prescribed Information) Regulations 2008.
<b>Property</b>	Anything the donor owns, leases, hires, or holds on hire purchase. Property includes any land or buildings, money, investments, goods, shares, stock, machinery, businesses, household effects, or items such as vehicles, boats, aircraft, and caravans, and any interest in any of those things or right in respect of them.
<b>Relevant health practitioner</b>	A health practitioner in New Zealand who is authorised to make assessments of mental capacity (for example, a New Zealand general medical practitioner (GP)). In relation to a medical certificate given overseas, a registered medical practitioner in the country where the certificate is issued who is authorised to make assessments of mental capacity.
<b>Revoke</b>	To cancel (end the validity of) an EPA or an attorney's appointment: <ul style="list-style-type: none"> <li>• by sending a written notice to the attorney stating that the EPA or the appointment is revoked; or</li> <li>• by an order of the Family Court.</li> </ul>
<b>Successor attorney</b>	A person appointed by the donor to be their attorney if a previous attorney's appointment ends.
<b>Suspend</b>	The donor of an EPA who was, but is no longer, mentally incapable may suspend the attorney's authority to act by giving written notice to the attorney. The EPA is not revoked by the suspension but the attorney cannot act again unless and until a relevant health practitioner has certified, or the court has determined, that the donor is (again) mentally incapable.
<b>Terminated</b>	An EPA is terminated by any of the following events: <ul style="list-style-type: none"> <li>• the donor (while mentally capable) revokes the EPA by written notice to the attorney</li> <li>• the donor dies</li> <li>• if the EPA appoints 1 attorney, the attorney's appointment ends, and there is no successor attorney who can act</li> <li>• if the EPA appoints more than 1 attorney to act jointly, the appointment of any of the attorneys ends, and there is no successor attorney who can act</li> <li>• if the EPA appoints more than 1 attorney to act severally, or jointly and severally, the last remaining attorney's appointment ends, and there is no successor attorney who can act.</li> </ul>
<b>Trustee Corporation</b>	The Māori Trustee, Public Trust, and every trustee company within the meaning of the Trustee Companies Act 1967.

# Enduring Power of Attorney (EPA)

## In relation to property

### Under the Protection of Personal and Property Rights Act 1988

#### My details (donor)

#### A My details (donor):

Title:

☐ Mr ☐ Mrs ☐ Miss ☐ Other

Full name:

First and middle names

Surname or family name

Any other name(s) by which I am known

Address:

Flat/House  
number

Street name

Suburb

Town/City

Email

Phone

#### Previous EPAs— revocation, continuance

If you have 1 or more previous EPAs in relation to your property, you may choose to revoke them, or specify below that 1 or more of them will continue. If you specify that you want a previous EPA to continue, you need to make sure the authority to act under the previous EPA is not inconsistent with your attorney(s) authority to act under this EPA, otherwise it may not be clear what each attorney's duties are. If the EPAs relate to different things, this will not be a problem.

#### B Do you want to continue any previous EPA(s)? (tick first box only, or both)

☐ I revoke all previous EPAs in relation to my property that I may have given except those specified below (if any).

☐ I want to continue only the previous EPA(s) in relation to my property specified below.

List details of any EPA in relation to property that is to continue. If none, you may leave the space blank or specify "None".

**Note:** If you have a previous EPA that is being revoked, you should send notice to the attorney(s) named in the EPA that you have done this. Until notice is received, the attorney(s) named in the EPA can continue to act.

## Attorney Details

**C**

You can appoint 1 or more attorneys to act for you on property matters. These can be individuals or a trustee corporation.

This form allows for 2 attorneys, but you can appoint more if you wish.

An attorney must be at least 20 years old and not bankrupt or mentally incapable themselves (see paragraph 2 of the notes to this form) or be a trustee corporation.

### I appoint the following person(s) as my attorney(s):

Details of attorney(s) (if individual(s))

#### Attorney 1:

Title:

☐ Mr☐ Mrs☐ Miss☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House  
number

Street name

Suburb

Town/City

Email

Phone

#### Attorney 2: (if applicable)

Title:

☐ Mr☐ Mrs☐ Miss☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House  
number

Street name

Suburb

Town/City

Email

Phone

*[Provide similar details for any other individual attorney(s)]*

#### Details of attorney: (if a trustee corporation)

Name of trustee corporation

Address:

Street  
address

PO Box

Town/City

Email

Phone

## When your EPA comes into effect

You must decide when you want your EPA to come into effect; that is, whether you want your attorney to act for you only if you become mentally incapable, or while you are mentally capable and continuing if you become mentally incapable.

**D**

### This enduring power of attorney comes into effect: (tick one)

- ☐ only if I become mentally incapable
- ☐ while I am mentally capable, and continues in effect if I become mentally incapable.

## Successor attorney details (optional)

You have the option to appoint 1 or more successor attorneys to act if your attorney's appointment ends. This form allows for 2 successor attorneys, but you can name as many as you like. If your attorneys are to act jointly (and there is no successor attorney), if one of your attorneys dies or is unable to act, your EPA will come to an end.

**E**

### Do you want to appoint 1 or more successor attorneys? (tick one)

- ☐ No – go to section F.
- ☐ Yes – if the appointment of an attorney named in section C ends, I appoint as my first successor attorney the person named below.

#### First successor attorney: (if an individual)

Title:

☐ Mr ☐ Mrs ☐ Miss ☐ Other

Full name:

First and middle names

Surname or family name

Relationship to the donor

Address:

Flat/House number

Street name

Suburb

Town/City

Email

Phone

#### First successor attorney: (if a trustee corporation)

Name of trustee corporation

Address:

Street address

PO Box

Town/City

Email

Phone



**Do you want to appoint a second successor attorney?** (tick one)

☐ No – go to section F.

☐ Yes – if the appointment of an attorney named in section C ends or the appointment of my first successor attorney ends, I appoint as my second successor attorney the person named below.

**Second successor attorney:** (if an individual)

Title:

☐ Mr    ☐ Mrs    ☐ Miss    ☐ Other   

Full name:

First and middle names

Surname or family name

Relationship to the donor

Address:

Flat/House  
number

Street name

Suburb

Town/City

Email

Phone

**Second successor attorney:** (if a trustee corporation)

Name of trustee corporation

Address:

Street address

PO Box

Town/City

Email

Phone

*[Provide similar details for any further successor attorney]*

## How your attorneys are to act

**F**

**If I have appointed more than 1 attorney, they are authorised to act:** (tick one)

- ☐ jointly
- ☐ severally
- ☐ jointly and severally.

If you appoint more than 1 attorney in your EPA, you must state whether they are authorised to act:

- jointly—where they must act together to manage your affairs and agree on all decisions
- severally—where each attorney has a separate authority and can act individually without the agreement of the other
- jointly and severally—where they can act together or individually.

## What your attorney(s) can act on

**G**

**My attorney can act on my behalf on:** (tick one)

- ☐ all my property affairs
- ☐ only the part of my property affairs I have specified:

- ☐ only the following specified things:

**My attorney's authority to act is subject to the following conditions and restrictions:** (optional)

List any conditions or restrictions. If none, you may leave the space blank or specify "None".

Do you want your attorney(s) to act for you on all your property affairs, or only on part of your property affairs?

If only on part of your property affairs, you must specify what part. You can also state any conditions or restrictions you want to place on your attorney's authority to act.

## Authorising a will **H**

If you are not capable of making a will, your attorney(s) may apply to the Family Court to get authorisation to sign a will on your behalf (in a form that the court approves).

Indicate whether or not you wish to authorise this.

Unless you clearly specify otherwise, the Family Court will be able to authorise your attorney(s) to make a will for you if you are no longer capable of making one.

**Do you want the Family Court to be able to authorise your attorney(s) to make a will for you when you are no longer capable of making one?**

(tick one)

- ☐ No — I do not want my attorney(s) to be authorised to sign a will for me.
- ☐ Yes — I want the Family Court to be free to authorise my attorney(s) to sign a will for me if the court thinks fit.

## Consultation (optional)

You have the option to name 1 or more people who, as far as practicable, your attorney(s) must seek advice from (consult) about your property affairs before making decisions.

Your attorney(s) can consult only on the matters you specified in section G.

This form allows for 2 names but you can name as many people as you like.

You also have the option to limit the consultation requirement to your successor attorney(s).

**Do you want to name any person(s) that your attorney(s) or successor attorney(s) must consult about your property matters? (tick one)**

- ☐ No – go to section J.
- ☐ Yes – the person(s) I have named below are to be consulted about the matters I have indicated.

**The duty to consult applies to:** (tick one)

- ☐ both my attorney(s) and my successor attorney(s)
- ☐ my successor attorney(s) only.

**Person 1:**

Title:

☐ Mr ☐ Mrs ☐ Miss ☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House number  Street name

Suburb

Town/City

Email

Phone

**Person 1 must be consulted about:** (tick one)

- ☐ all my property affairs for which my attorney(s) has/have authority under section G
- ☐ only the property affairs listed here:

**Person 2:**

Title:

☐ Mr ☐ Mrs ☐ Miss ☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House number  Street name

Suburb

Town/City

Email

Phone

**Person 2 must be consulted about:** (tick one)

- ☐ all my property affairs for which my attorney(s) has/have authority under section G
- ☐ only the property affairs listed here:

[Provide similar details for any other person]

## Providing information (optional)

You have the option to name 1 or more people to keep an eye on your attorneys' actions. This form allows for 2 names, but you can name as many people as you like. Your attorney(s) must provide them with the information (as listed) about how they are carrying out their EPA duties.

The information is about your attorneys' decisions and actions on your property affairs (for example, a copy of the records of financial transactions that your attorney must keep).

This information must be provided straight away when requested.

**Do you want to name someone to whom your attorney(s) need to give information about how they are carrying out their role as your attorney(s)?** (tick one)

☐ No – go to section K.

☐ Yes – my attorney(s) must give to the person(s) I have named below the information I have indicated.

### Person 1:

Title:

☐ Mr ☐ Mrs ☐ Miss ☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House number Street name

Suburb

Town/City

Email

Phone

Information to be given to Person 1:

### Person 2:

Title:

☐ Mr ☐ Mrs ☐ Miss ☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House number Street name

Suburb

Town/City

Email

Phone

Information to be given to Person 2:

[Provide similar details for any other person]

## Attorney's and other benefits (optional)

You should think very carefully about what rights you want to give your attorney(s) to act for their own benefit or for the benefit of other persons when you are mentally incapable. It is recommended that you clearly state here what your attorney(s) can or cannot do. Unless your EPA states otherwise, your attorney(s) is/are authorised to:

- recover from your property their out-of-pocket expenses and their professional fees and expenses
- deal with any property that you and the attorney own jointly (and not as tenants in common) if you and an attorney are married, in a civil union, or in a de facto relationship and you live together and share your incomes.

K

**Do you want to give your attorney(s) authority to use your property for their own benefit or for the benefit of any other person?** (tick all those that apply)

☐ No – go to section M.

☐ Yes – my attorney(s) can act to their own benefit as stated here:

☐ Yes – my attorney(s) can act to the benefit of the following persons as specified:

### Person 1:

Title:

☐ Mr

☐ Mrs

☐ Miss

☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House number

Street name

Suburb

Town/City

Email

Phone

My attorney can give person 1 the following benefits:

### Person 2:

Title:

☐ Mr

☐ Mrs

☐ Miss

☐ Other

Full name:

First and middle names

Surname or family name

Relationship to donor

Address:

Flat/House number

Street name

Suburb

Town/City

Email

Phone

My attorney can give person 2 the following benefits:

## Celebratory gifts and donations (optional)

You can authorise your attorney(s) to provide, out of your property, celebratory gifts to children and grandchildren, etc, and to make modest charitable donations. Your attorney(s) is/are not required to make these gifts or donations and should only do so having regard to your overall financial circumstances and commitments.

**L**

**Do you want your attorney(s) to use your property to provide celebratory gifts or charitable donations? (tick one)**

- ☐ No - go to section M.
- ☐ Yes - I authorise my attorney to provide out of my property celebratory gifts of not more than the following maximum value to the following people, including any that are born after the date on which this EPA was signed: (tick those that apply)
- ☐ my children
- ☐ my grandchildren
- ☐ my nieces and nephews
- ☐ my great-grandchildren
- ☐ other people: (specify)

Maximum value of each gift \$

I authorise my attorney(s) to make out of my property annual donations of the following amounts to the following charities:

Amount \$		to	
Amount \$		to	
Amount \$		to	
Amount \$		to	
Amount \$		to	
Amount \$		to	
Amount \$		to	
Amount \$		to	

[Provide similar details for any other charity]

## Additional terms and conditions (optional)

You have the option to specify additional terms and conditions of your EPA.

**M**

**My EPA is subject to the following additional terms and conditions:**

## Signatures N

The donor's signature must be witnessed by an authorised witness (a lawyer, a legal executive who meets certain requirements, or an authorised officer or employee of a trustee corporation).

An attorney's (or successor attorney's) signature can be witnessed by any person who is not the donor or the person who witnessed the donor's signature.

### Donor:

I am the donor. I appoint the attorney(s) and successor attorney(s) described in this EPA as my attorney(s) in relation to my property affairs for the purposes of Part 9 of the Protection of Personal and Property Rights Act 1988, the appointment of any successor attorney being conditional upon the ending of the appointment of my attorney and (if more than 1 successor attorney is described) any prior successor attorney.

**Date:**

**Signature of donor:**

**Witness for donor:** – must be an authorised witness – see Glossary

I confirm that I am an authorised witness, that the donor signed this EPA in my presence, and that I have completed the relevant certification (attached).

Witness signature:

Full name:

Occupation:

Address:

**Attorney 1:** (If an individual)

I am the attorney named in section C of this form. I accept the appointment as attorney in this EPA. I have read and understood the notes about what is expected of me in this role.

Signature of attorney:

**Attorney 1:** (If a trustee corporation)

is the attorney named in section C of this form. It accepts the appointment as attorney in this EPA. Its authorised representative has read and understood the notes about what is expected of it in this role.

The common seal of:

**Witness to affixing of seal:**

Witness signature:

Director/Secretary/[Specify position in corporation]:



	<p><b>Witness for Attorney 1:</b></p> <p>In the presence of: Witness signature:</p> <div></div> <p>Full name:</p> <div></div> <p>Occupation:</p> <div></div> <p>Address:</p> <div></div>
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**Attorney 2:** (If applicable)

I am the attorney named in section C of this form. I accept the appointment as attorney in this EPA. I have read and understood the notes about what is expected of me in this role.

Signature of attorney 2:

**Witness for Attorney 2:**

In the presence of: Witness signature:

Full name:

Occupation:

Address:

*[Provide similar details for any other attorney appointed]*

**First successor attorney:** (If an individual)

I am the first successor attorney named in section E of this form. I accept the appointment as successor attorney in this EPA. I acknowledge that my appointment does not come into effect unless the appointment of an attorney named above ends. I have read and understood the notes about what is expected of me in this role.

Signature of first successor attorney:

**First successor attorney:** (If a trustee corporation)

is the first successor attorney named in section E of this form. It accepts the appointment as successor attorney in this EPA. Its authorised representative has read and understood the notes about what is expected of it in this role.

The common seal of trustee corporation:

**Witness to affixing of seal:**

Witness signature:

Director/Secretary/[Specify position in corporation]:

**Witness for first successor attorney:**

In the presence of: Witness signature:

Full name:

Occupation:

Address:

**Second successor attorney: (If an individual)**

I am the second successor attorney named in section E of this form. I accept the appointment as successor attorney in this EPA. I acknowledge that my appointment does not come into effect unless the appointments of 2 previous attorneys named above have ended. I have read and understood the notes about what is expected of me in this role.

Signature of second successor attorney:

**Second successor attorney: (If a trustee corporation)**

is the second successor attorney named in section E of this form. It accepts the appointment as successor attorney in this EPA. Its authorised representative has read and understood the notes about what is expected of it in this role.

The common seal of trustee corporation:

**Witness to affixing of seal:**

Witness signature:

Director/Secretary/[Specify position in corporation]:

**Witness for second successor attorney:**

In the presence of: Witness signature:

Full name:

Occupation:

Address:

*[Provide similar details for any other successor attorney appointed]*

# Certificate of witness to donor's signature on enduring power of attorney (EPA)

Section 94A(7), Protection of Personal and Property Rights Act 1988

<b>Section A</b> Authorised witness details	Full name Address      Occupation
<b>Section B</b> Qualification of witness	I am: (tick one) <input type="checkbox"/> a lawyer holding a current practising certificate as a barrister or as a barrister and solicitor issued by the New Zealand Law Society. <input type="checkbox"/> a legal executive: <ul style="list-style-type: none"> <li>• who is a member of, and who holds a current annual registration certificate issued by, The New Zealand Institute of Legal Executives Incorporated, with at least 12 months' experience as a legal executive; and</li> <li>• who is employed by and under the direct supervision of a lawyer holding a current practising certificate as a barrister or as a barrister and solicitor issued by the New Zealand Law Society.</li> </ul> <input type="checkbox"/> an officer or employee of the following trustee corporation and am authorised by the corporation to witness the signatures of donors of EPAs. Name of trustee corporation
<b>Section C</b> Name of donor in attached EPA	Donor's full name
<b>Section D</b> Mutual appointment	Is the attached EPA 1 of 2 EPAs where 2 people appoint each other as attorney? (tick one) <input type="checkbox"/> No — go to section E. <input type="checkbox"/> Yes — the name of the other donor is set out below. Full name of other donor
<b>Section E</b> How the donor signed EPA	The attached EPA was: (tick one) <input type="checkbox"/> signed personally by the donor described in section C of this certificate—go to section F <input type="checkbox"/> signed by the person named below in the presence of and under the direction of the donor described in section C of this certificate. Full name of signatory

<b>Section F</b> Certification	I certify the matters set out in paragraphs 1 to 7 below.
<b>Identity</b>	1 I am the person described in sections A and B of this certificate.
<b>How EPA was signed</b>	2 I witnessed: (tick one)  <input type="checkbox"/> the signature of the donor described in section C of this certificate. <input type="checkbox"/> the signature of the person described in section E of this certificate in the presence of and at the direction of the donor described in section C of this certificate.
<b>Independence or exceptions:</b> <i>Exception - section 94A(8)(b) of the Protection of Personal and Property Rights Act 1988</i>  <i>Exception - section 94A(8)(a) of the Protection of Personal and Property Rights Act 1988</i>  <i>Independence (without needing to rely on any special rule)</i>  <i>Independence (relying on special rules)</i>  Section 94A(4A)(a) of Protection of Personal and Property Rights Act 1988  Section 94A(4A)(b) of Protection of Personal and Property Rights Act 1988  <i>Independence from other attorneys and successor attorneys</i>	3 Tick all of the following that apply:  <input type="checkbox"/> I am a lawyer in the same firm as the person named below (the appointed lawyer), who is appointed in his or her capacity as a lawyer as an attorney or successor attorney in the attached EPA. Name of appointed lawyer: <input type="text"/>  <input type="checkbox"/> I am a legal executive who meets the requirements of section 94A(9) of the Protection of Personal and Property Rights Act 1988 and is in the same firm as the person named below (the appointed lawyer), who is appointed, in his or her capacity as a lawyer, as an attorney or a successor attorney in the attached EPA (see section 94A(8)(b) of the Protection of Personal and Property Rights Act 1988). Name of appointed lawyer: <input type="text"/>  <input type="checkbox"/> I am an officer or employee of the trustee corporation described in section B of this certificate that is appointed as attorney or successor attorney in the EPA and am authorised by the corporation to witness the donor's signature.  <input type="checkbox"/> I am independent of each of the attorneys, including successor attorneys, named in the attached EPA, without any need to depend on the special rules in subsection 94A(4A) (concerning independence in certain situations where 2 people appoint each other as attorney).  <input type="checkbox"/> I am a witness in a context where 2 people have appointed each other as attorney and rely on one of the special rules in section 94A(4A) of the Protection of Personal and Property Rights Act 1988 to be considered independent. I am independent: (tick one) <input type="checkbox"/> even though I am a lawyer in the same firm as the witness to the signature of the other donor described in section D of this certificate. <input type="checkbox"/> even though I am a legal executive in the same firm as the witness to the signature of the other donor described in section D of this certificate. <input type="checkbox"/> even though I am an officer or employee of the same trustee corporation as the witness to the signature of the other donor described in section D of this certificate. <input type="checkbox"/> even though I have also witnessed the signature of the other donor described in section D of this certificate, because I am satisfied, having regard to the matters in section 94A(7)(a) to (c) of the Protection of Personal and Property Rights Act 1988, that no more than a negligible risk of conflict of interest arises.  <input type="checkbox"/> Even though I have relied on an exception or special rule in relation to 1 attorney or successor attorney named in the attached EPA, I am independent of every other attorney or successor attorney named in the attached EPA.

<b>Explanation of effects and implications</b>	4    Before the donor signed the attached EPA, I: (tick one)  <input type="checkbox"/> explained the effects and implications of the enduring power of attorney to the donor.  <input type="checkbox"/> gave the donor a copy of the prescribed form of standard explanation of the effects and implications of an enduring power of attorney, followed the instructions in the form for giving a verbal explanation to the donor, and explained to the donor any effects and implications not covered by the standard explanation and instructions.
<b>Advice</b>	5    Before the donor signed the enduring power of attorney, I advised the donor of: <ul style="list-style-type: none"> <li>• the matters referred to in the notes to the prescribed form of EPA; and</li> <li>• the donor's right to revoke the entire EPA, to revoke the appointment of any attorney or successor attorney, or to suspend the attorney's authority to act under the EPA.</li> </ul> Tick the following statement if EPA is in relation to property: <input type="checkbox"/> I also advised the donor of: <ul style="list-style-type: none"> <li>• the donor's right to appoint more than 1 attorney, or a trustee corporation, as attorney; and</li> <li>• the donor's right to stipulate whether and, if so, how the attorney's dealings with the donor's property are to be monitored.</li> </ul>
<b>Donor's understanding</b>	6    I believe on reasonable grounds that the donor: <ul style="list-style-type: none"> <li>• understands the nature of the instrument creating the enduring power of attorney; and</li> <li>• understands the potential risks and consequences of the instrument; and</li> <li>• is not acting under undue pressure or duress.</li> </ul>
<b>Capacity of donor</b>	7    I have no reason to suspect the donor was or may have been mentally incapable at the time the donor signed the instrument.
<b>Section G</b> Signature	<div> <div>Signature</div> <div></div> </div> <div> <div>Date</div> <div></div> </div>