

What do I do next?

The application to register must be lodged with the courts no later than 3 days after the latest date on which notice has been given.

When does the enduring power of attorney become registered?

After submission of the application to register, there is a waiting period of 5 weeks from the latest date of which notice was given. After that time, and provided no objections are received to the registration of the power, the enduring power of attorney will be registered.

What documents are returned to me?


- the original power of attorney which will have been signed by the Chief Registrar and stamped with the court seal; and
- a certified copy of the court order (or however many copies you requested) confirming registration.

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ISLE OF MAN
COURTS OF JUSTICE

Enduring Power of Attorney **EPA01**

General Guidance on Enduring Power of Attorney

Enduring Power of Attorney

www.courts.im

This page is for guidance only. If you are thinking about an enduring power of attorney you would be well advised to seek legal advice.

Please remember that this and other leaflets can only provide you with a general idea of what is likely to happen. They cannot explain everything about court rules, costs and procedures. Court staff can provide you with information, tell you about court forms and procedures, but they cannot give you legal advice or answer questions like "What should I do?", "What should I put on the form?" You should seek legal advice from an advocate. A list of Manx advocates is available through the Isle of Man Law Society.

What is an enduring power of attorney?

An enduring power of attorney is a legal document in which you ('the donor') appoint someone else ('the attorney') to look after your affairs in the event that you lose mental capacity. An ordinary power of attorney loses its validity when the donor loses the mental capacity to manage his or her own affairs. However, if an enduring power of attorney has been drawn up then it should be registered at the Isle of Man Courts of Justice in order that the attorney may continue to act on the donor's behalf.

Where can I get the regulations and application form?

The regulations and the application forms are available from the Court Office/public counter. Additional/replacement application forms only are available for download from the courts website www.courts.im.

Why do I need to make an enduring power of attorney?

There may come a time when, because you are incapable of managing your property and financial affairs, you will need someone to do this for you.

Should I seek legal advice?

Whilst it is not essential, it is strongly advised that, where the estate is substantial, donors and attorneys should seek legal advice. You would also be well advised to seek legal advice if you need to make provision for your affairs to be looked after in another jurisdiction as other additional documents may be needed for this purpose.

Please note that court staff are not legally qualified and cannot give you legal advice.

Who can I appoint?

You can formally appoint a friend, relative or professional to hold the enduring power of attorney which will allow them to act on your behalf. It may be a good idea to consider appointing more than one person to help prevent abuse of the responsibility, as you may not be able to check up on the attorney yourself if you become incapable. If you choose more than one, you can choose whether they can act together or together and independently. (The formal term for this is 'jointly and severally'). The attorney must be over 18 years of age. You should choose people you can trust to act in your best interests. 'The attorney' is an important role and one that the person chosen has to agree to take on.

What powers does the attorney have?

A general power of attorney gives the attorney the authority to deal with the donor's financial affairs and property. The donor cannot give an attorney the power to make decisions about his or her welfare, for example, where the donor should live or decisions on healthcare matters. A specific power allows the attorney to deal only with those aspects of the donor's affairs which have been specified in the power.

A general or specific power with limits and rules – this allows the attorney to deal with all the donor's property or affairs except specified aspects: for example the power may leave out the attorney's right to sell the house in which the donor lives; or

it may direct that the attorney is not to act until the power is registered. A donor can make several powers appointing different attorneys to do different things.

When does the enduring power of attorney need to be registered?

If the attorney under an enduring power has reason to believe that the donor is or is becoming mentally incapable the attorney shall, as soon as is practicable, make an application to the judge for the registration of the instrument creating the power.

Where do I register it?

An application should be made at the Court Office for the enduring power of attorney to be registered.

What documents are required in support of a registration?

- the original enduring power of attorney form;
- Form 1 - Notice of intention to apply for registration;
- Form 2 - Application for registration;
- a letter from a medical practitioner supporting the belief of the applicant that the donor is or is becoming mentally incapable.

How much does it cost?

There is a fee for registering an enduring power which is currently **£30.00**

There is a fee for an application for a search of the register which is currently **£5.00**

Who do I give notice to?

Notice of the application to register the enduring power of attorney must be given to the donor, to every relative who is entitled to receive notice and to the co-attorneys if there are any. Note - for persons entitled to receive notice, see Schedule 1 of the Powers of Attorney Act 1987.