

ENDURING POWER OF ATTORNEY: HE AHA? HE AHA AI? ME PĒHEA?

Ka ahatia ki te kore e taea e koe te whakatau mōu ake? Ko te take e hiahia ana koe ki te enduring power of attorney.

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Age
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He Manaakitanga Kaumātua
Aotearoa



Serving the needs of older people

HE ENDURING POWER OF ATTORNEY TĀU (HE EPA)?

E māia ana koe ka mōhio ētahi atu ki te tiaki i a koe me ō rawa mēnā e kore e taea e koe anō? Ka tūpono pea ki te wā mā te aituā, te tino mate, te ngoikoretanga rānei, e kore e taea e koe anō te whakatau, te whakakakau whakatau rānei.

E pōhēhē ana ētahi tāngata mēnā e ngaro i a rātou te āheinga ki te whakatau mō rātou ake, ka whakamanahia ā-ture tō rātou hoa tākunekune, whanaunga tata rānei, ki te whakatau mā rātou. Ko te tikanga kē, kāore e pērā rawa te ture.

I raro i te ture, ara te Protection of Personal and Property Rights Act 1988 (PPPR Act) e whakaaetia ana koe ki te mahere whakamua mā te whakarite i te mea e kīia ana he enduring power of attorney – “EPA” rānei – arā, ka tuku koe ki tētahi tangata e pono ana koe ki te whakatau mōu mēnā e kore e taea e koe mōu ake.

Kāore te EPA e whakakapi i ētahi tāngata i kōwhiritia e koe hei kaiwhakaoti, hei kaiwhiwhi takuhe rānei i roto i tō Wira. Ka tū motuhake tō EPA i tō Wira. Ina mate koe ka mutu te mana o te EPA, ā, ka whakaaweawetia kētia tō Wira.

Ka whakamārama tēnei mātārere e pēhea ana te whakamahinga o te enduring power of attorney (EPA), ā, me pēhea e hanga tētahi e tika ana mōu.

“Ko te enduring power of attorney tētahi tuhinga ture e tukuna ai koe ki te whakamahere mō te wā e heke mai ana...”

HE AHA TĒNEI MEA TE ENDURING POWER OF ATTORNEY?

Ko te enduring power of attorney tētahi tuhinga ture e whakaaetia ai koe ki te whakamahere mō te wā e heke mai ana mēnā e kore e taea e koe te whakahaere i ō kaupapa.

Ka taea e koe te kōwhiri i tētahi momo, i ngā momo e rua rānei o te EPA:

- Tētahi e uhi ai i tō tiaki whaiaro me tō toiora
- Tētahi e uhi ai i ō rawa

EPA MŌ TE TIAKI WHAIARO & TE TOIORA

Ka āhei koe te whakatū i tētahi tangata (e kīia nei ko tō "attorney") ki te whakatau i ngā take pērā i tō wāhi noho, mā wai koe e tiaki, me ngā maimoatanga rongoā ka hiahiatia pea e koe. Ka whakaaweawetia anake tēnei momo EPA mēnā e kore e taea e koe te whakatau, te whakakakau i ō whakatau rānei.

Ka āhei te EPA mō te tiaki whaiaro me te toiora te hoatu ki te tangata kotahi. Ka āhei te whakaingoa i tētahi atu tangata hei "successor attorney" mēnā e kore e taea te mahi e te attorney tuatahi.

Ka āhei te EPA te whakamana i te attorney ki te mahi whānui e pā ana ki tō tiaki whaiaro me tō toiora, e pā ana rānei ki ētahi āhuatanga i whakaatuhia.



EPA MŌ NGĀ RAWA

Ka āhei koe te whakatū i tētahi tangata (e kīia ana ko tō "attorney") ki te whakatau mō ō moni me ō rawa. Ka āhei koe te tuku i te mana whānui ki te whakarite i ēnei take katoa ki a rātou, te whakatepe rānei i a rātou ki te whakarite, hei tauira, i tētahi kaute pēke.

I roto i tō EPA ka āhei koe te kī mēnā e āhei ana te attorney te tīmata ki te whakamahi i ō rātou whakamanatanga me te whakatau i taua wā tonu, mēnā ka ngaro ana rānei tō "āheinga hinengaro".

Ka āhei koe te whakatū i tētahi, ētahi tāngata rānei, te kamupene kaitiaki rānei hei attorney rawa mōu.

“Ka āhei koe te whakatū i tētahi tangata ki te whakatau mō ō moni me ō rawa.”

HE AHA NGĀ TAKOHANGA O TĒTAHI ATTORNEY?

Me mahi tō attorney ki te tiaki i a koe i ngā wā katoa, ā, me kua e tūkinu i tō whakapono i a rātou. Ki te ture ko tō enduring power of attorney he hononga pono hirahira ki a koe (e kīia ana he hononga "fiduciary"). Me mahi rātou i runga katoa i te tuwhera me te matatika ki a koe, me te whakamahi i te manaaki tika, me te aukati i te taupatupatu painga ki a koe. Me whakarewa tō attorney i tō toiora me ō kaupapa ake i ngā wā katoa. E kore e taea e rātou te whakapau moni mō tō rātou ake painga (hāunga i whakaaetia ai e tō EPA), whakangao poka noa, mahi rānei i te āhuatanga e kore e whakamanahia e koe ki te EPA.

Me whakauru hoki tō attorney i a koe ki te mahi whakatau ina e āhei ana: me uiui rātou ki a koe ina whakatau ana, ā, me whakamātau kia whakawhanake me te whakamahi i tō āheinga ki te whakatau mōu ake.

Ko ngā takohanga tauwhaiti ka whakawhirinaki ki te momo EPA me ngā tohutohu i whakaurua e koe ki roto. Ki te hiahia koe ki te whakatepe i tō rātou mana ki ētahi wāhi me āta kōrero koe he aha aua wāhi.

Ka āhei koe te whakarite kia noho haepapa tō attorney ki te uiui ki ētahi tāngata i tapaina ki tō EPA, ki te hoatu rānei i ētahi momo mōhiohio ki ngā tāngata i tapaina ai ki te EPA. Ka āhei hoki koe te whakauru i ētahi atu aukatinga – hei tauira, ka hiahia pea koe ki te tautuhi i ētahi tāngata e kore e hiahia ana koe ki te tiaki i a koe.

Mēnā kāore tō attorney i te whakamahi tika i ō rātou takohanga, kā āhei koe, tētahi atu tangata whai pānga ranei, te pātai ki te Kōti Whānau ki te wawao.

ME WHAKATŪ AU I A WAI HEI ATTORNEY?

Me whakapono ki te/ngā tāngata, ā, e ngākau titikaha ana koe ka mahi rātou ki te tiaki i a koe. Mā te wā ka tino whakawhirinaki pea koe ki taua/aua tāngata.

Mēnā ka whai painga pea tō attorney tiaki whaiaro me te toiora, rawa rānei, i ō rawa whai muri i tō mate, me whakatau pea rātou i ngā whakataunga e puta ana he putanga ahumoni mō rātou ake. He mea nui kia mōhio ai koe ki tēnei āhuatanga i a koe e kōwhiri ana i tō attorney.

Ka kōwhiri pea koe ki te whakatū i tō tau, tētahi, ētahi rānei o ō tamariki, tētahi atu mema o tō whānau rānei. Ka kōwhiri pea koe i tētahi hoa, i tētahi kaitohutohu ngaio rānei. E whakaaetia ana te kaitohutohu ngaio ki te tuku nama mō te mahi hei attorney.

I raro i te ture, kua e iti iho ngā tau o tō attorney i te 20 tau, ā, me kua e mone, e pāngia ana rānei e tētahi ngoikoretanga ture.

Ka āhei koe te whakarite kia noho haepapa tō attorney ki te uiui ki ngā mema o tō whānau me tō rata e pā ana ki ngā kaupapa mō tō tiaki whaiaro me tō toiora.

He maha ngā wā ko ngā pūkenga e hiahiatia ana ki te tautoko i te tiaki whaiaro me te toiora he rerekē rawa i ērā mō te tiaki i ngā kaupapa ahumoni o tētahi tangata. Me whakaaro koe ki te whakatū i tētahi tangata hei attorney mō tō tiaki whaiaro me tō toiora me tētahi/ētahi atu tāngata rānei mō ō rawa.

Ko te tangata e whakatū ai koe hei attorney mō tō tiaki whaiaro me tō toiora me mahi tahi me tō attorney rawa. Me ngākau titikaha koe ko aua tāngata e whakatū ana koe ka āhei te mahi tahi. Heoi anō, ka āhei tētahi o rāua te haere ki te Kōti

Whānau mō ngā tohutohu mēnā kāore e taea e rātou te whakatau i te taupatupatu mō ō hiahia.

KA ĀHEI AU TE PANONI I ŌKU WHAKAARO MŌ TE TUKU I TE POWER OF ATTORNEY KI TĒTAHI TANGATA?

Āe. Ka āhei koe te panoni, te whakarerekē, te whakarere (whakakore) rānei i tō EPA i ngā wā katoa mēnā e āhei ā-hinengaro koe.

E hiahiatia ana ngā tikanga rerekē ki te rīwhi, whakarere, whakarerekē rānei i tō EPA, nā reira me whiwhi kupu āwhina ture mō te mea e tika ana mōu ake.

Kāore te hanganga o te EPA hou e whakarere aunoa i tētahi i tēnei wā. Ki te hiahia koe ki te whakarere i tō EPA me tuhi atu koe ki tō attorney.

Ki te rīwhi, whakarere, whakarerekē rānei koe i tō EPA kua e whakamōhio noa ki te attorney, engari me whakamōhio hoki ki ngā pēke, te kaiwhakahaere whakaurunga tiaki nōhanga, tētahi atu tangata rānei e pā ana ki tō EPA.

“He mea waiwai tō whakapono ki te tangata, ā, e ngākau titikaha ana koe ka mahi rātou ki te tiaki i a koe.”

ĀHEA TAKU EPA KA WHAKAAWEAWETIA?

Ka whakaaweawetia tō EPA ina whakataua kua ngaro i a koe tō 'āheinga hinegaro' (hāunga mēnā i kōwhiria kia whakaaweawetia tō EPA rawa ina hainatia ai).

Me mōhio koe i raro i te ture e whakaarohia ana he āhei ā-hinengaro te tangata ki te kore e whakaatuhia kētia.

Kua "kore āhei ā-hinengaro" koe mēnā:

- E pā ana ki te tiaki whaiaro me te toiora, e kore e taea e koe te whakatau, te mārama ki ngā whakatau rānei, ka matapae i ngā putanga rānei; mēnā rānei e kore e taea e koe te whakakakau ki ētahi atu tāngata.
- E pā ana ki te rawa, kāore koe i te tino āhei ki te whakahaere i ō ake moni, rawa rānei.

Ehara mā tō attorney e whakatau mēnā kāore e āhei ā-hinengaro koe. Ko te pātai mēnā e āhei ā-hinengaro tonu ana koe me whakatau e tētahi rata hauora e māraurau ana ki te whakamahi i tēnei aromatawai.

Ki te kore e whiwhia tētahi tiwhikete nō te rata hauora, kāore e taea e tō attorney te whakatau kaupapa nui mōu i raro i te EPA mō te tiaki whaiaro me te toiora.

“Ko te pātai mēnā e āhei ā-hinengaro tonu ana koe me whakatau e tētahi rata hauora...”



Mēnā ka tautuhi koe i tō EPA mō te rawa ka whakaaweawetia anake ina kua kore āhei ā-hinengaro koe, he herenga te whai tiwhikete nō te rata hauora i mua i te āheinga kia whakatau tō attorney rawa mōu.

Ina whakamahi ai koe i tō EPA, ka āhei koe te tautuhi i te momo rata hauora e hiahia ana koe ki te aromatawai i tō āheinga ā-hinengaro. Hei taurira, e hiahia ana pea koe ki te tautuhi i tētahi rata, rata kaumātua rānei – tētahi rata e mōhio ana ki te tiaki i ngā kaumātua.

Me whai wāhi te whakamahi o te rata hauora ki te aromatawai i te āheinga hinengaro, ā, me whakauru ki te tiwhikete ngā take mō tō rātou whakaaro.

Mēnā kāore he kōwhiringa, ka āhei te tono ki te Kōti Whānau mēnā e kore āhei ā-hinengaro tētahi tāngata, ā, ka whakatauria i muri i te tirohanga ki ngā mōhiohio whaitake.

ME PĒHEA AU E TĪMATA KI TE WHAKATŪ I TE ENDURING POWER OF ATTORNEY?

Ki te whakatū i te EPA me whai koe i te kupu āwhina ture; mā te rōia, te āpiha mahi ture rānei o tētahi kamupene kaitiaki.

Ina hanga koe i te EPA me whakamahi koe i ngā puka i whakatakotohia ki te PPPR Act, ki te kore, kāore ērā e whaimana.

Kei ngā kaitohutohu ture ēnei puka. Ka āhei koe te titiro ki ēnei puka me te pānui i ngā tuhinga ārahi ki te paetukutuku o te Tāhū o te Ture:

www.justice.govt.nz

ki te paetukutuku rānei o ngā MSD Super Seniors:
www.superseniors.msd.govt.nz

Ka whakamārama tō kaitohutohu ture i ngā mōhiohio me whakauru me ngā mea me whakatau koe. Ka whakarato hoki ēnei puka i ngā kōwhiringa e āhei ana koe te whakauru, pērā i te:

- Whakarite kia noho haepapa tō attorney ki te uiui ki ngā tāngata i whakaingoatia e koe ki te EPA
- Whakarite kia noho haepapa tō attorney ki te whakarato mōhiohio ki ngā tāngata e whakaingoa ai koe ki te EPA
- Whakatū i te attorney piki tūranga (whakakapi) ki te kore e āhei tō attorney te mahi.

Me mātakitaki tō waitohu e tō rōia, e tētahi āpiha mahi ture rānei, e tētahi tangata kua whakamanahia nō te kamupene kaitiaki rānei. Me hoatu ia i te tiwhikete e kī ana kua whakamārama ia i te whakaaweawe o te EPA ki a koe, i tōna tū motuhake i tō attorney, ā, kāore he take kia whakaaro ia kua ngaro kē i a koe tō āheinga hinengaro.

Me waitohu e te/ngā attorney e whakatū ai koe i te puka, ā, me mātakitaki tō rātou waitohu e tētahi tangata rerekē i a koe, i tō kaimātakitaki rānei.

Ki te hiahia kōrua ko tō hoa, tō hoa tākunekune rānei i ngā EPA e whakatū ana i a kōrua hei attorney, ka whakamārama tō kaitohutohu ture me pēhea te mātakitaki.

Me whiwhi kōrua ko tō attorney ki tētahi tārua ake kua waitohua o tō EPA. Me whakaatu tō attorney i tōna tārua me te tiwhikete rongoā tika ina mahi ana ki ngā pēke, ki ētahi atu rōpū whakahaere rānei e pā ana ki ō kaupapa.

Me pupuri koe ki te tārua kua waitohua ki tētahi wāhi haumaruru. He whakaaro pai hoki kia whakaputa i ētahi atu tārua me te tuku ki ētahi atu tāngata e tika ana kia mōhio kua hanga koe i tētahi EPA me ō whakaaro.

“Ka whakamārama tō kaitohutohu ture i ngā mōhiohio me whakauru me ngā mea me whakatau koe”

ME PĒHEA AU E WHAKARITE I MUA I TAKU HAERE KIA KITE I TAKU KAITOHUTOHU TURE ME TE WHAKATŪ I TE ATTORNEY?

- 1) Tikina ngā puka ki te pānui me te kōrerorero ki tō whāmere/whānau me ētahi atu tāngata. Tuhia ō whakaaro me ō pātai
- 2) Whakatauria he aha ngā mea e hiahia ana koe ki te mahi māu, ā, he ngā mea kāore koe e hiahia kia mahia e rātou, kia whakaurua tēnei ki tō EPA
- 3) Tono atu ki te/ngā tāngata e hiahia ana koe hei attorney
- 4) Whakatauria te wā e hiahia ana koe kia whakaaweawetia tō EPA mō te rawa – ināianei, ā te wā kāore e taea e koe te whakahaere i ō kaupapa rānei.
- 5) Whakarārangihia ō rironga matua me ō nama. Waihoki whakaatuhia mēnā e noho nama ana ētahi ki a koe.
- 6) Whakaarohia me whiwhi a wai ki te tārua o ō tuhinga EPA.
- 7) He utu mō tēnei kaupapa, nā reira me mahere kia kōrerotia ēnei ki tō kaitohutohu ture, te Kōti Whānau, te ngāio e mahi tahi ana koe rānei.

“Me whakarewa tō attorney i tō toiora me ō kaupapa ake i ngā wā katoa.”



8) Whakatauria he aha ngā hātepe e hiahia ana koe kia aroturukitia, kia tautokohia tō attorney i tāna mahi.

Hei tauira:

- Ka whakarite kia kōrerorerohia tētahi whakataunga e pā ana ki tō wāhi noho, tō maimoatanga hauora/rongoā rānei ki ētahi tāngata kua whakaingoatia
- Ka whakatū i te tangata tuarua ki te tiro tiro i ō mauhanga ahumoni, kia whiwhi rānei ki ngā tārua o ō tauākī pēke me ngā kurutete katoa
- Ka whakarite kia tātarihia, kia arotakehia rānei i ia tau, ā, kia whiwhi koe (tētahi tangata i whakaatuhia rānei) ki ngā tārua. He nui pea te utu, ā, māu anō e utu.
- Ko te whakatū i tētahi atu tangata pono ki te hui riterite ki tō attorney me te hoatu kupu āwhina me te tautoko i a ia i tana mahi.
- Whakatūturu kia hoatu ngā tārua o tō EPA ki aua tāngata e aroturuki ana, e tautoko ana hoki, i tō/ō attorney.

PĀTAINGIA ĒNEI PĀTAI KI A KOE ANŌ:

1. E mōhio pū ana au ko te tangata e whakatū ana au hei attorney ka mahi ki te tiaki i a au i ngā wā katoa?
2. Ka whakatū au i te attorney kotahi mō te rawa, i te tokorua, neke atu rānei? Ka whakatū rānei au i te kamupene kaitiaki?
3. Ka hiahia au kia whakamanahia taku attorney ki te whakarite i ngā mea katoa e pā ana ki taku tiaki whaiaro me te toiora, i ētahi mea noa iho rānei?
4. Ka hiahia au kia whakamanahia taku attorney ki te whakarite i ngā mea katoa e pā ana ki taku rawa, i ētahi mea anake rānei?
5. Ka hiahia au kia tīmata taku attorney rawa ki te whakahaere i ngā mea ināianei, ā muri ake nei rānei hei te wā e kore e taea e au te whakahaere i aku kaupapa?
6. Ko wai te tangata e hiahia ana au ki te whakatau mēnā kāore au i te āhei ā-hinengaro? Ka āhei au te tautuhi i tētahi momo rata hauora, mēnā e māraurau ana ia ki te kawē i tēnei aromatawai.
7. Ka hiahia au kia aroturukihia me te tautokohia taku attorney i tāna mahi mā te uiui ki ētahi atu?
8. Mēnā he EPA kē tāku, kua tiro rānei au mēnā e tutuki ana i aku hiahia, inā rā kua rerekē āku āhuetanga (pērā i te mate o taku hoa, i te whiwahi hoa hou rānei)?
9. Kua pānui au i ngā tuhinga āwhina ki ngā puka EPA?

ME HAERE AU KI HEA MŌ ĒTAHI ATU MŌHIOHIO?

Mō ētahi atu mōhiohio e pai ana kia whakapā atu koe ki te He Manaakitanga Kaumātua (Age Concern) ki tō tauwāhi, ki He Manaakitanga Kaumātua Aotearoa rānei. Tirohia te uhi ki muri o tēnei mātārere mō ngā taipitopito whakapā. E whakarārangihia ana ngā Age Concerns ki tō pukapuka waea ā-rohe.

E āhei ana koe te tuihono ki te Community Law Manual mō te kore utu. Mō ētahi atu mōhiohio me te kite i te Pokapū Ture Hapori (Community Law Centre) tata haere ki:

www.communitylaw.org.nz



ageconcern.org.nz

MŌ ĒTAHI ATU TĀRUA O TĒNEI MĀTĀRERE
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Ko tēnei tānga te rawa ā-hinengaro nō Age Concern New Zealand. Me kua e whakarerekētia, tāngia anōtia rānei (tae atu ki te whakamāoritanga, whakatikatikatanga, whakatakatoranga rānei) ki te kore e tuhia te whakaaetanga o te Tumu Whakarae me te whāki ko Age Concern New Zealand te kaituhi.

Ko te kaupapa o tēnei mātārere ko te whakamōhio ki te hunga tūmatanui mō te hiahia ki te enduring power of attorney. He mōhiohio kei roto, engari ehara i te whakakapinga mō te kupu āwhina ture motuhake ki tēnei kaupapa.

*E whakamihī ana a Age Concern New Zealand
i Community Law Wellington me Hutt
Valley mō te āheinga ki ō rātou
ratonga me te tautoko i te
whakawhanaketanga o
tēnei mātārere.*

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