

WHAT IS AN ENDURING GUARDIANSHIP?

An Enduring Guardianship is a legal document where you nominate someone (or more than one person), to make personal or lifestyle decisions on your behalf when you are not capable of doing this for yourself. It can also incorporate a medical directive regarding your wishes should you have a terminal illness, such as whether or not you wish to have life support intervention.

WHO SHOULD I APPOINT AS MY ENDURING GUARDIAN?

Your Enduring Guardian must be at least 18 years old and someone you trust to make decisions in your best interests.

WHAT SORT OF DECISIONS CAN AN ENDURING GUARDIAN MAKE?

You can give your Enduring Guardian as many or as few functions as you like. For example, you can give them the power to decide on your health care but not where you live.

You may give the Enduring Guardian directions about how to exercise the decision-making functions you give to them. For

example, you can direct your Enduring Guardian to consult with a particular close friend before making a decision.

WHAT DECISIONS CAN'T AN ENDURING GUARDIAN MAKE?

An Enduring Guardian cannot consent to anything unlawful and cannot:

- make a will for you,
- vote on your behalf,
- consent to your marriage,
- manage your finances, or
- override your objections, if any, to medical treatment.

If at the time decisions are made by your Enduring Guardian which conflict with your written directions in the form, the matter can be brought before the Guardianship Tribunal.

HOW MANY GUARDIANS CAN I APPOINT?

You can appoint one or more persons as Enduring Guardian. If you appoint more than one enduring Guardian, you can direct them to act jointly or separately (severally), and/or each can exercise different functions if you wish.

WHAT ARE JOINT AND ALTERNATIVE ENDURING GUARDIANS?

You can appoint Enduring Guardians to act **jointly** (the Enduring Guardians must agree on all decisions), **severally** (each Enduring Guardian can make decisions separately from the others), or **jointly and severally** (the Enduring Guardians can act together or separately).

You can choose to have the remaining Enduring Guardian(s) continue to act even though one or more die, resign or become incapacitated

WHEN DOES IT TAKE EFFECT?

The appointment of your Enduring Guardian takes effect only if you become unable to make your own personal or lifestyle decisions. Your Enduring Guardian must seek the opinion of a medical practitioner about your capacity to make decisions before acting on your behalf.

CAN I CHANGE MY MIND?

If you are capable of making your own decisions, you can revoke the appointment of

an Enduring Guardian. You can appoint a new person as your Enduring Guardian, or change the functions or directions given to your Enduring Guardian.

Only the Guardianship Tribunal can make changes to the appointment once you have lost the capacity to do this for yourself.

WHAT HAPPENS IF I GET MARRIED?

If you marry after appointing an Enduring Guardian, the appointment is automatically revoked or cancelled, unless the person you marry was already your Enduring Guardian. If you wish to appoint another Enduring Guardian, you will need to complete a new form appointing that person.

WHAT HAPPENS IF MY ENDURING GUARDIAN CANNOT CONTINUE?

If you have appointed more than one Guardian, then the remaining Guardian can still continue. However, if you have appointed only one Guardian then the Guardianship Tribunal may need to become involved.

WHEN DOES MY ENDURING GUARDIANSHIP END?

An Enduring Guardianship appointment ends when you die, or when you revoke the appointment. A joint Enduring Guardianship will also end if one of the Guardian's dies, resigns or becomes incapacitated unless you specify otherwise in the form. An Enduring Guardianship appointment is suspended if the Guardianship Tribunal makes a Guardianship Order. The Tribunal may revoke your initial appointment if that Guardian is not acting in accordance with your written wishes.

HOW MUCH WILL IT COST?

A consultation fee of \$220 + GST is charged by us to advise you, draw up the document appointing your chosen Guardian, plus postage and letter costs if we need to follow-up your chosen Guardian to sign the document accepting their appointment.

WHAT DO I DO NOW?

With a matter as important as an Enduring Guardianship it is advisable to act now.

Simply give Baker & Borthwick a call on (02) 6555 5555 to discuss your needs.

Planning
Planning
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Enduring
Enduring
Guardianship

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