

Enduring power of guardianship

Instructions

Please read 'What is an enduring power of guardianship?' before filling in the form that follows.

As the person making the enduring power of guardianship, you are called the 'appointor'. To make an enduring power of guardianship you need to complete the following forms.

Enduring power of guardianship

You need to fill in the 'Enduring power of guardianship' form on the following pages. A guardian has the power to make decisions on your behalf as set out in the form.

If you do not cross out any powers in section 2, you will be authorising your guardian to have all the powers that a parent has over their child. If you have not made an enduring power of attorney (medical treatment), this will also include the power to consent to medical treatment on your behalf.

Two witnesses must sign this form together and in front of you. You, your guardian or your alternative guardian cannot be witnesses. You also cannot have anyone who is related to you, your guardian or your alternative guardian. One of the witnesses must be authorised by law to witness the signing of statutory declarations.

See 'Who can sign statutory declarations'.

Acceptance of appointment by guardian (or alternative guardian if applicable)

Your guardian (and alternative guardian, if applicable) must sign and date the 'Acceptance of appointment by guardian'.

Again two witnesses must sign this form. One of the witnesses must be authorised by law to witness the signing of statutory declarations.

See above for details about who cannot be a witness.

Make sure your guardian understands their responsibilities and your instructions and wishes before they sign this form.

See 'What do these words mean?' for an explanation of guardian, alternate guardian or any other words that you do not understand on these forms.

Information for witnesses

As a witness, your responsibility goes beyond making sure that the signature of the person making the power is genuine. You also need to certify that this person, called the appointor has:

- signed the document freely and voluntarily in your presence
- appeared to understand the effect of this document.

The appointor should be able to tell you things like:

- what sorts of powers the guardian will have
- what sorts of decisions the guardian will have the authority to make
- when and how the guardian will have the authority to exercise that power
- the effects that the guardian's power could have on the donor
- how the appointor could cancel or change the arrangement in the future.

If you have any doubts it is strongly recommended that you make a written record of your concerns and any questions you asked to work out the appointor's capacity. You can also make appropriate inquiries with their consent. For example, you could contact the appointor's doctor or ask for a medical certificate confirming their capacity.

If you think the appointor does not understand the nature and effect of the document, you should refuse to sign the form. You should also refuse to sign the form if the appointor appears to be signing it under duress, undue influence or pressure from another person.

Enduring power of guardianship

Form of appointment

Print name here 1. I, _____

Print your address here of _____

Print your occupation here _____

Print the full name of your guardian here appoint _____

Print your guardian's address here of _____

Print your guardian's occupation here _____

to be my guardian.

2. I authorise my guardian if, and only to the extent that, I subsequently become unable by reason of a disability to make reasonable judgements in respect of any matters relating to my person or circumstances, to exercise the powers of a guardian under section 24 of the *Guardianship and Administration Act 1986*, being all the powers that a parent may exercise in respect of his or her child, including -

- to decide where I am to live, whether permanently or temporarily;
- to decide with whom I am to live;
- to decide whether I should or should not be permitted to work and, if so -
 - the nature or type of work; and
 - for whom I am to work; and
 - matters related thereto; and
- to consent to any health care that is in my best interests;
- to restrict visitors to such extent as may be necessary in my best interests and to prohibit visits by any person if my guardian reasonably believes that visits by that person would have an adverse effect on me.

(Delete any powers you do not wish your guardian to exercise. If you do not delete any powers, you will be deemed to have authorised your guardian to exercise the full powers of a guardian under section 24 of the Guardianship and Administration Act 1986.)

List limitations you wish to place on your guardian's powers here

but subject to the following limitations:

List any wishes that you want your guardian to take into account when making decisions on your behalf

3. I require my guardian to take into account the following wishes in exercising, or in relation to the exercise of, the powers conferred by this appointment:

Four horizontal lines for listing wishes.

If applicable print the full name of your alternative guardian here

4. I appoint _____

Print your alternative guardian's address here

of _____

Print your alternative guardian's occupation here

to be my alternative guardian in place of, and with the same powers as, my guardian appointed under paragraph 1 if that person is incapable of acting as my guardian or is absent for a period.

This is an appointment of an enduring guardian made under Division 5A of Part 4 of the Guardianship and Administration Act 1986.

Sign your name and insert date here

Signature of appointor _____ Date _____

Certificate of witnesses

Print the full name of the person who is authorised to witness the signing of statutory declarations here

We, _____

Print the address of this first witness here

of _____

Print the occupation of your first witness here

Print the full name of your second witness here

and _____

Print the address of your second witness here

of _____

Print the occupation of your second witness here

certify -

- a) that the appointor has signed this instrument freely and voluntarily in our presence; and
b) that the appointor appeared to understand the effect of this instrument.

First witness signs and dates

Signature _____ Date _____

Second witness signs and dates

Signature _____ Date _____

Note: An enduring guardian will be able to make decisions on your behalf on all health care and lifestyle matters you empower your enduring guardian to make. If you give your enduring guardian power to make decisions about your health care, your enduring guardian will be able to consent or withhold consent to medical or dental treatment on your behalf.

If your enduring guardian withholds consent to proposed medical or dental treatment, a practitioner may only provide the treatment if the practitioner believes on reasonable grounds that it is in your best interests to do so and if the practitioner gives your enduring guardian the opportunity to refer the matter to the Victorian Civil and Administrative Tribunal (the Tribunal) for determination.

If you wish to appoint a person who can, unless the Tribunal otherwise determines, refuse medical treatment on your behalf, you will need to appoint a person as your agent under the *Medical Treatment Act 1988*.

If you are considering appointing an agent under the *Medical Treatment Act 1988* -

- you should ensure that you understand the rights and powers which an appointment under the *Medical Treatment Act 1988* confers on your agent; and
- you may wish to appoint the same person as your agent under the *Medical Treatment Act 1988* as the person you appoint as your enduring guardian, although you may choose a different person for each role; and

If you appoint or have already appointed a person as your agent under the *Medical Treatment Act 1988* and another person as your enduring guardian -

- the decision of your agent under the *Medical Treatment Act 1988* will have priority over the decision of your enduring guardian in relation to any proposed medical treatment; and
- your agent under the *Medical Treatment Act 1988* will be able to refuse to consent to medical treatment on your behalf in all circumstances regardless of any consent to the treatment that your enduring guardian may give or wish to give.

Acceptance of appointment by guardian

Print your guardian's full name here

I, _____

Print your guardian's address here

of _____

Print your guardian's occupation here

_____ accept appointment as a guardian under this instrument and undertake to exercise the powers conferred honestly and in accordance with the provisions of the *Guardianship and Administration Act 1986*.

Your guardian signs and dates

Signature _____ Date _____

Certificate of witnesses

Print the full name of the person who is authorised to witness the signing of statutory declarations here

We, _____

Print the address of this first witness here

of _____

Print the occupation of your first witness here

Print the full name of your second witness here

and _____

Print the address of your second witness here

of _____

Print the occupation of your second witness here

certify -

- a) that the proposed guardian has signed this instrument freely and voluntarily in our presence; and
- b) that the proposed guardian appeared to understand the effect of this instrument.

First witness signs and dates

Signature _____ Date _____

Second witness signs and dates

Signature _____ Date _____

Acceptance of the appointment by alternative guardian

Print your alternative guardian's full name here

I, _____

Print your alternative guardian's address here

of _____

Print your alternative guardian's occupation here

accept appointment as a guardian under this instrument and undertake to exercise the powers conferred honestly and in accordance with the provisions of the *Guardianship and Administration Act 1986*.

Your alternative guardian signs and dates

Signature _____ Date _____

Certificate of witnesses

Print the full name of the person who is authorised to witness the signing of statutory declarations here

We, _____

Print the address of this first witness here

of _____

Print the occupation of your first witness here

Print the full name of your second witness here

and _____

Print the address of your second witness here

of _____

certify -

- a) that the proposed alternative guardian has signed this instrument freely and voluntarily in our presence; and
- b) that the proposed alternative guardian appeared to understand the effect of this instrument.

First witness signs and dates

Signature _____ Date _____

Second witness signs and dates

Signature _____ Date _____