



June
2018



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Enduring Power of Attorney

Amendment 18 to the Legal Competency and Guardianship Law, 5722-1962, which relates to, inter alia, the circumstances under which an individual can designate/create an enduring power of attorney has recently come into effect. The amendment provides that an individual may prepare an enduring power of attorney, both medical and financial, for episodes of “incapacitation”.

The amendment reflects a tremendous change in Israel and global society with respect to the State’s has a responsibility to empower individuals to maintain some form of control over their future and fate by introducing various means for support, assistance and protection, for circumstances in which their legal capacities have been temporarily or permanently restricted.

Following are several key highlights regarding an enduring power of attorney:

- **What is an enduring power of attorney?**

An enduring power of attorney is a legal document enabling an individual to plan their future in the event that their decision-making capabilities are impaired. The individual granting power of attorney (the “**Donor**”) appoints a person (or persons) to act on his or her behalf with respect to his or her assets and/or personal affairs (including medical matters) (the “**Attorney**”). Under an enduring power of attorney, the Donor, may, at his or her sole discretion, outline the desired treatment of the Donor’s affairs, including with respect to:

1. Asset management (whether for the entire asset portfolio of the Donor or a specified portion);
2. The identity of the Attorney (or Attorneys) appointed to manage the assets and/or affairs of the Donor;
3. The scope of the appointment of the Attorney; and
4. Who will be responsible to supervise the Attorney (i.e. additional individuals who will receive information and reports directly from the Attorney).

- **The benefits of an enduring power of attorney**

An enduring power of attorney has many important benefits. Significantly, it allows the Donor to prepare for and preserve his or her authority and control over the administration of his or her personal affairs and assets in circumstances when his or her mental capacity is limited or lost. Additionally, it circumvents the need for engaging in costly and often lengthy court proceedings to appoint a guardian over the Donor and his or assets . The existence of an enduring power attorney avoids family arguments with respect to how the affairs of the Donor are to be handled (in the event of deterioration of the medical condition or cognitive functioning of the Donor) as well as ensures continuity in the management of the personal affairs and assets of the Donor.

- **Is an enduring power of attorney limited to personal property?**

No. An enduring power of attorney allows the Donor to determine not only the desired management and treatment of his or her assets, but also to leave instructions with respect to his or her medical treatment (including what medical treatment is not be administered), where the Donor is to live and the provision of other daily needs, in the event of a substantial deterioration in their capacities.

- **Is the preparation of an enduring power of attorney subject to any specific procedural requirements?**

Yes. An enduring power of attorney must be prepared by a lawyer who has undergone special training.

Please feel free to contact us should you have any questions or require any clarifications regarding an enduring power of attorney, as well as any related family wealth planning matters.



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