

What is an Enduring Power of Guardianship

An Enduring Power of Guardianship (EPoG) authorises a person of your choice to make important personal, lifestyle and treatment decisions on your behalf if you become incapable of making such decisions for yourself.

An enduring guardian can be authorised to make decisions about things such as where you live, the support services you have access to and the treatment you receive. An enduring guardian cannot make property or financial decisions on your behalf (such a person is known as an 'Administrator' and, if required, involves a separate appointment process).

An EPoG is an important document and to be validly created needs:

- You to be 18 years of age or older;
- You to have full legal capacity (this means you must be able to understand the nature and effect of the EPoG);
- The person you appoint as your enduring guardian to also be 18 years of age or older and have full legal capacity;
- To be signed by you and the enduring guardian;
- To be witnessed by two persons who are not party to the agreement, are at least 18 years of age and have full legal capacity. At least one of these two witnesses must be a person authorised to witness legal documents under *the Oaths, Affidavits and Statutory Declarations Act 2005*; and
- To be substantially in the form, specified in Schedule 1 of [the Guardianship and Administration Regulations 2005](#).

You can appoint more than one enduring guardian, but they must act jointly which means they must agree on any decisions they make on your behalf. If you plan to appoint more than one enduring guardian it is important that they be able to work together on your behalf.

You may also appoint substitute enduring guardians who would take over decision-making responsibilities in the event one or more of your enduring guardians was unable to continue in the role.

You may decide the scope of power given to your enduring guardian. It can be limited to certain decisions or 'plenary'. If plenary, it is unlimited and allows the enduring guardian to:

- decide where you live, whether permanently or temporarily;
- decide who you live with;
- decide whether or not you work and, if so, any matters related to that work;

- make treatment decisions on your behalf to any medical, surgical or dental treatment or other health care (including palliative care and life-sustaining measures such as assisted ventilation and cardio-pulmonary resuscitation);
- decide what education and training you receive;
- determine who you associate with;
- commence, defend, conduct or settle any legal proceedings on your behalf, except proceedings that relate to your property or estate;
- advocate for and make decisions about the support services you access; and
- seek and receive information on your behalf.

When making an Enduring Power of Guardianship you must also determine the circumstances under which your enduring and substitute enduring guardians will act. For example, you might direct that your enduring guardian act only when they are in the same State as you.

Once you have decided upon its scope, Now Legal can prepare your EPoG for a low, fixed fee. Also, we can combine your EPoG with other documents such as an Advance Health Directive, Enduring Power of Attorney and/or Will – all for a low, fixed fee.

Contact us today for a quote or, alternatively, see our website for details.