

Appointment of Enduring Guardian

For New South Wales

(Guardianship Regulation 2010, Schedule 1)

Complete your details in the space provided.

Appointor -

The person who makes an Enduring Guardian appointment is known as the appointor.

Enduring Guardians -

You may appoint one or more people to be your Enduring Guardian/s.

If you are appointing more than one Enduring Guardian complete details for each guardian.

Note: an Enduring Guardian must be 18 years of age and not have any connection with those who provide you with accommodation, health care or services for a fee.

1. Appointment of Enduring Guardian/s

I, *[your full name]*: _____

Of *[your address]*: _____

Occupation: _____

Phone number: _____

Date of birth: _____

Appoint *[guardian's name]*: _____

Of *[guardian's address]*: _____

Phone number: _____

Occupation: _____

Appoint *[guardian's name]*: _____

Of *[guardian's address]*: _____

Phone number: _____

Occupation: _____

Appoint *[guardian's name]*: _____

Of *[guardian's address]*: _____

Phone number: _____

Occupation: _____

to be my Enduring Guardian/s.

Complete this section if you wish to appoint an alternative guardian.

An alternative guardian is someone who you appoint to be your Enduring Guardian if your Enduring Guardian/s dies, resigns or becomes incapacitated.

Note: Cross out this section if you do not wish to appoint an alternative guardian.

2. Optional - alternative guardian

I **appoint** *[alternative Enduring Guardian's name]*: _____

Of *[address]*: _____

Phone number: _____

Occupation: _____

to be my alternative Enduring Guardian.

Tick applicable box/es to indicate how you wish your Enduring Guardians to make decisions on your behalf.

Jointly

This means the Enduring Guardians must make all decisions together.

If you have appointed your Enduring Guardians to act jointly your Enduring Guardianship appointment will automatically terminate if one of your Enduring Guardians dies, resigns or becomes incapacitated. If you do not want the appointment to terminate but want the remaining Enduring Guardian/s to continue in their role then tick the appropriate box.

Severally

This means the Enduring Guardians can make decisions separately of each other.

If you have appointed your Enduring Guardians to act severally your Enduring Guardianship appointment will automatically continue if one of your Enduring Guardians dies, resigns or becomes incapacitated.

Jointly and severally

This means the Enduring Guardians can either make decisions together or separately.

If you have appointed your Enduring Guardians to act jointly and severally your Enduring Guardianship appointment will automatically continue if one of your Enduring Guardians dies, resigns or becomes incapacitated. If you do not want the appointment to continue but want it to terminate then tick the appropriate box.

3. How I wish my Enduring Guardians to act

[Complete only if more than one Enduring Guardian has been appointed]

Tick the applicable box below to indicate whether you are appointing your Enduring Guardians to act jointly, severally or jointly and severally.

Also indicate by ticking the appropriate box whether you want your jointly/jointly and severally appointed Enduring Guardian/s to continue in their role in the event of death, resignation or loss of capacity.

3a) Joint appointment

I appoint my Enduring Guardians to act jointly and *[tick applicable box below]*

I want the appointment to be terminated if one of my Enduring Guardians dies, resigns or loses capacity.

OR

I do not want the appointment to be terminated if one of my Enduring Guardians dies, resigns or loses capacity.

3b) Several appointment

I appoint my Enduring Guardians to act severally.

3c) Joint and several appointment

I appoint my Enduring Guardians to act jointly and severally and *[tick applicable box below]*

I want the appointment to be terminated if one of my Enduring Guardians dies, resigns or loses capacity.

OR

I do not want the appointment to be terminated if one of my Enduring Guardians dies, resigns or loses capacity.

Select what functions you wish your Enduring Guardian/s to have should you lose capacity to make decisions yourself.

You may place limits on these functions. If you wish to place a limit on the function provide details in the space below each function.

Note:
Your Enduring Guardian/s can only exercise these functions if you have lost the capacity to make decisions yourself.

You may add any additional functions you wish your Enduring Guardian/s to exercise on your behalf.

For example other functions could include:

- access (making decisions about who you should have contact with).
- restrictive practices (deciding whether to consent to the use of physical restraint for a limited period to protect you from self harm).

4. Functions and limits of my Enduring Guardian/s

Should I become incapable of making my own personal decisions I authorise my Enduring Guardian/s to exercise the following functions:

[tick any one or more boxes below]

to decide where I live

Limits on authority of Enduring Guardian: _____

to decide what health care I receive

Limits on authority of Enduring Guardian: _____

to decide what other kinds of personal services I receive

Limits on authority of Enduring Guardian: _____

to consent to the carrying out of medical or dental treatment on me
(in accordance with Part 5 of the Guardianship Act 1987)

Limits on authority of Enduring Guardian: _____

to decide:

You and your Enduring Guardian can sign this page at the same time, in front of the same witness.

If your Enduring Guardians signature is witnessed at a different time or by a different witness, they will need a separate witness certificate. Complete additional signature and witness certificate pages.

Note:
Before you sign here you must arrange for a witness to watch you sign this appointment and certify that you appear to understand this appointment. Your witness needs to complete their details in section 6d) below.

If you are physically unable to sign ask the person signing for you to sign and complete their details opposite.

The witness cannot be the Enduring Guardian, or an alternative Enduring Guardian.

The witness must be an Australian legal practitioner/ Registrar of the NSW Local Court/overseas-registered foreign lawyer/ approved employee of the NSW Trustee and Guardian or the Office of the Public Guardian. Only these persons can witness the execution of this appointment.

6. Appointor's signature and witness certificate

(Option - for Enduring Guardian signature/witness)

6a) My signature

Signature _____ Date _____

6b) Optional - signature on my behalf

The appointor instructed me to sign this appointment on their behalf.

Signature on behalf of appointor _____

Date _____

Signer's full name _____

Signer's address _____

Signer's phone number: _____

6c) Acceptance by Enduring Guardian

[Complete only if witnessed at the same time and by the same witness as appointor. Cross out if this does not apply]

I accept my appointment as Enduring Guardian.

Full name _____

Signature _____ Date _____

6d) My witness certificate

I, *[your full name]*: _____

Of *[your address]*: _____

Phone number: _____

- Occupation: Australian legal practitioner
 Registrar of the NSW Local Court
 Overseas-registered foreign lawyer
 Approved employee of the NSW Trustee and Guardian/ the Office of the Public Guardian

Certify that *[Tick applicable boxes below, cross out those which do not apply]*

The appointor appeared to understand the effect of this instrument and voluntarily executed the instrument in my presence.

The appointor voluntarily instructed *[insert signer's full name]* _____
to sign the instrument on their behalf and that person executed the instrument in my presence.

[insert name of person accepting appointment as Enduring Guardian]
appeared to understand the effect of this instrument and voluntarily executed the instrument in my presence.

Signature _____ Date _____

Note:

Before the alternative Enduring Guardian signs here they must arrange for a witness to watch them sign this form. The witness needs to complete their details in section 7b) below.

The witness cannot be the Enduring Guardian, or an alternative Enduring Guardian/s.

The witness must be an Australian legal practitioner/Registrar of the NSW Local Court/ overseas-registered foreign lawyer/approved employee of the NSW Trustee and Guardian or the Office of the Public Guardian. Only these persons can witness the execution of this appointment.

7. Optional - alternative Enduring Guardian's acceptance and witness certificate

7a) Acceptance by alternative Enduring Guardian

[Complete only if alternative Enduring Guardian appointed]

I accept my appointment as Enduring Guardian.

Full name _____

Signature _____ Date _____

7b) Alternative Enduring Guardian's witness certificate

I, *[full name]*: _____

Of *[address]*: _____

Phone number: _____

- Occupation: Australian legal practitioner
 Registrar of the NSW Local Court
 Overseas-registered foreign lawyer
 Approved employee of the NSW Trustee and Guardian/
the Office of the Public Guardian

Certify that _____

[insert name of person accepting appointment as alternative Enduring Guardian]

appeared to understand the effect of this instrument and voluntarily executed the instrument in my presence.

Signature _____ Date _____

Note:

Before the Enduring Guardian signs here they must arrange for a witness to watch them sign this form. The witness needs to complete their details in section 8b) below.

The witness cannot be the Enduring Guardian, or an alternative Enduring Guardian/s.

The witness must be an Australian legal practitioner/Registrar of the NSW Local Court/overseas-registered foreign lawyer/approved employee of the NSW Trustee and Guardian or the Office of the Public Guardian. Only these persons can witness the execution of this appointment.

8. Enduring Guardian’s acceptance and witness certificate

8a) Acceptance by Enduring Guardian

[Cross out if Enduring Guardian has already signed and Enduring Guardian’s witness certificate has been completed]

I accept my appointment as Enduring Guardian.

Full name _____

Signature _____ Date _____

8b) Enduring Guardian’s witness certificate

I, *[full name]*: _____

Of *[address]*: _____

Phone number: _____

- Occupation: Australian legal practitioner
- Registrar of the NSW Local Court
- Overseas-registered foreign lawyer
- Approved employee of the NSW Trustee and Guardian/
the Office of the Public Guardian

Certify that _____

[insert name of person accepting appointment as Enduring Guardian]

appeared to understand the effect of this instrument and voluntarily executed the instrument in my presence.

Signature _____ Date _____

Note:

Before you sign here you must arrange for a witness to watch you sign this form. The witness needs to complete their details in section 9b) below.

The witnesses cannot be the Enduring Guardian, or an alternative Enduring Guardian/s.

The witness must be an Australian legal practitioner/Registrar of the NSW Local Court/ overseas-registered foreign lawyer/approved employee of the NSW Trustee and Guardian or the Office of the Public Guardian. Only these persons can witness the execution of this appointment.

9. Additional Enduring Guardian’s signature and witness certificate/s

[Cross out if Enduring Guardian has already signed and Enduring Guardian’s witness certificate has been completed]

9a) Acceptance by Enduring Guardian

I accept my appointment as Enduring Guardian.

Full name _____

Signature _____ Date _____

9b) Enduring Guardian’s witness certificate

[Cross out if Enduring Guardian’s signature already witnessed]

I, *[full name]*: _____

Of *[address]*: _____

Phone number: _____

- Occupation: Australian legal practitioner
- Registrar of the NSW Local Court
- Overseas-registered foreign lawyer
- Approved employee of the NSW Trustee and Guardian/ the Office of the Public Guardian

Certify that _____

[insert name of person accepting appointment as Enduring Guardian]
appeared to understand the effect of this instrument and voluntarily executed the instrument in my presence.

Signature _____ Date _____

Note:

Before you sign here you must arrange for a witness to watch you sign this form. The witness needs to complete their details in section 9bb) below.

The witnesses cannot be the Enduring Guardian, or an alternative Enduring Guardian/s.

The witness must be an Australian legal practitioner/Registrar of the NSW Local Court/ overseas-registered foreign lawyer/approved employee of the NSW Trustee and Guardian or the Office of the Public Guardian. Only these persons can witness the execution of this appointment.

9aa) Acceptance by Enduring Guardian

[Cross out if Enduring Guardian has already signed and Enduring Guardian's witness certificate has been completed]

I accept my appointment as Enduring Guardian.

Full name _____

Signature _____ Date _____

9bb) Additional Enduring Guardian's witness certificate

[Cross out if Enduring Guardian's signature already witnessed]

I, *[full name]*: _____

Of *[address]*: _____

Phone number: _____

- Occupation: Australian legal practitioner
 Registrar of the NSW Local Court
 Overseas-registered foreign lawyer
 Approved employee of the NSW Trustee and Guardian/ the Office of the Public Guardian

Certify that _____

[insert name of person accepting appointment as Enduring Guardian]
appeared to understand the effect of this instrument and voluntarily executed the instrument in my presence.

Signature _____ Date _____

CHECKLIST

Please read below and tick to ensure you have completed all details of your Enduring Guardianship appointment correctly.

- 1. I have spoken to my proposed Enduring Guardian/s and discussed this appointment with them to ensure they are willing and able to take on this role and exercise the functions I wish to give them as described in sections 3 and 4.
- 2. I have spoken to my Enduring Guardian/s about the kind of lifestyle decisions I wish them to make on my behalf should I lose capacity.
- 3. I have discussed the appointment of my Enduring Guardian/s with my close friends/family to let them know of my decision to appoint an Enduring Guardian.
- 4. I have considered the option in section 2 of appointing an alternative guardian should my first appointed Enduring Guardian die, resign or become incapacitated.
- 5. I have indicated how I wish my Enduring Guardians to act (ie jointly, severally or jointly and severally) by completing section 3.
- 6. I understand I can ask someone to sign this appointment on my behalf in section 6 if I am physically unable to sign. This person must be over the age of 18 and cannot be my Enduring Guardian/s or a witness to this appointment.
- 7. I understand the certificate of witness needs to be completed by an eligible witness, ie an Australian legal practitioner/Registrar of the NSW Local Court/overseas-registered foreign lawyer/approved employee of the NSW Trustee and Guardian or the Office of the Public Guardian.
- 8. I understand my Enduring Guardian/s need to sign their acceptance of the Enduring Guardian appointment before it can operate.
- 9. I understand it is important to give a copy of this Enduring Guardianship appointment to my Enduring Guardian/s and other relevant people, such as my GP and I will keep a copy in a safe place.

Appointor's signature _____ Date _____