

BASICS OF ENDURING POWERS OF ATTORNEY

Under the Enduring Power of Attorney Act 1996, one can appoint a person to act as your Attorney as if they were you yourself if you lose mental capacity.

The Attorney must be someone that you trust as they will have full use of all your assets as if they were you. Normally this would be a spouse or close next-of-kin. As part of the process of creating the Power of Attorney, you must notify two people to be your Notice Parties and again these people should be the closest next-of-kin unless there is some good reason not to do so.

The Solicitor creating the Enduring Power of Attorney must certify that in their view the person making the Enduring Power of Attorney has the mental capacity and understands the aspects of same and then further, that person must have their Doctor certify mental capacity also.

In the unfortunate situation where a person making the Enduring Power of Attorney loses mental capacity, then the Enduring Power of Attorney must be registered. Again the Notice Parties have to be notified and a Doctor has to certify that the person has lost the ability to manage their affairs.

The Enduring Power of Attorney is registered through the offices of the Wards of Court, who check that everything is in order before completing the registration. When registration is finalised, a Certificate of Registration is issued from the High Court Office and this gives the Attorney full power to act.

The alternative to creating the Enduring Power of Attorney, is that one can be made a Ward of Court when one loses mental capacity and this is a lengthy antiquated process and also quite expensive and means in effect that the State through the Courts, manage that person's affairs.

For further information please visit our website at <https://www.jgs.ie/> or call our office at 01-4540068

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