



YIGAL ARNON & Co.
LAW FIRM

Client Update – April 20, 2020

Continuous Power of Attorney

Following the Coronavirus Outbreak, the General Custodian has issued new guidelines that allow for the making of Continuous Power of Attorneys under the existing restrictions.

In accordance with the new guidelines, and until the end of the emergency, a Continuous Power of Attorney may be made **also by video call with the lawyer**, subject to the following conditions:

1. The video call is held in a way that allows the attorney to fulfil all his duties relating to the making of the Continuous Power of Attorney, including providing full explanations to the Appointer and the Empowered regarding the nature of the continuous power of attorney, and their respective obligations and powers;
2. When signing the Continuous Power of Attorney via video call, the lawyer must witness the signing of both the Appointer and the Empowered;
3. After signing the Continuous Power of Attorney, one must give the original copy of the signed document to the attorney for him to submit to the General Custodian.
4. When the emergency period comes to an end, the attorney will be required to have a physical meeting with the Appointer to validate the document and verify the Appointer's competency. In addition, the attorney is required to notify the General Custodian of the meeting. If such notice is not sent, the Continuous Power of Attorney will be canceled. However, if the Continuous Power of Attorney comes into effect before the end of the emergency period, no physical meeting will be required, and the power of attorney will remain valid.

Please note: Only an attorney who is certified by the General Custodian is authorized to make a Continuous Power of Attorney.

In our office Adv. Guy Sagiv and Adv. Avi Schoen from the Family and Wealth Management Department are certified to make Continuous Power of Attorney.

What is a "Continuous Power of Attorney"?

Continuous Power of Attorney allows any competent individual (the "**Appointer**") to determine his course of life, when he or she is unable or unfit to make decisions for himself or herself. Furthermore, one can determine what shall be done with his or her body and assets when he or she is deprived of the ability to take care of his or her own belongings and/or personal and medical matters; all the above while maintaining asset care continuity, saving time and the need for legal proceedings for appointing a custodian, and minimizing the state (through the General Custodian) and court involvement.



In contrast to the customary power of attorney which expires when the Appointer loses his legal competence, the Continuous Power of Attorney comes into effect exactly at that time, when a person is incompetent and unable to take care of his own affairs, all with minimal state intervention. The Appointer may grant the person authorized power and give particular instructions on the following matters:

- **Asset Matters** – This includes giving permission and authority to make decisions and act on matters pertaining to the Appointer's assets, including managing funds in bank accounts, establishing investment policies, and the managing of real estate, etc.
- **Personal Matters** – This includes giving permission and authority to make decisions and act in regards to the welfare of the Appointer, his quality of life, his place of residence, and includes deciding on transferring the Appointer to sheltered housing.
- **Medical Matters** – This includes giving permission and authority to make decisions and act on matters regarding the health of the Appointer, including consent to perform surgeries and urgent medical treatments.

Please note: The continuous power of attorney in medical matters **will not apply** to decisions regarding refraining from medical care or refraining from renewing treatment made by a patient with an incurable disease, in accordance with the provisions of the Terminally Ill Patient Law 2005-5766. These matters are organized in special forms which can be downloaded from the [Ministry of Health website](#).

Preliminary Guidelines for Continuous Power of Attorneys

As part of a Continuous Power of Attorney, the Appointer may set "preliminary instructions" to the Empowered and instruct him on how to act on a particular matter or on all matters in which the power was delegated. For example, one can set preliminary guidelines regarding financial management, asset rentals, and financial support for family members, etc.

In addition, if a number of Empowered are appointed, the Appointer may determine decision-making mechanisms for the Empowered (ordinary or special majority, appeal to a decisive third party, and more), whether for a particular matter or for all purposes.

When the Continuous Power of Attorney Enters into Effect

The Continuous Power of Attorney is kept by the General Custodian until the it is put into effect.

Unless the Appointer determines otherwise, the Continuous Power of Attorney will take effect when a request is made to the General Custodian alongside a psychiatric opinion stating that the Appointer is unfit to make decisions regarding his own affairs.

Amending, Cancelling and Expiration of Continuous Power of Attorney

As long as the Appointer is fit to make decisions regarding his affairs, the Continuous Power of Attorney may be amended, renewed and, of course, revoked. In addition, the Appointer may determine whether he wishes to retain the option of revoking the Continuous Power of Attorney even after it enters into effect and may also determine circumstances in which the Continuous Power of Attorney will expire.

The Continuous Power of Attorney expires upon the death of the Appointer. However, the Empowered may continue to carry out regular activities three months after the Appointer's death, (i.e.: authorising payments, managing bank accounts, managing assets, etc.), provided no other authorisation was made (temporary estate manager, etc.).



The Signing and Submission of the Continuous Power of Attorney

The Continuous Power of Attorney can be made only by a lawyer with the special authorization of the General Custodian (except for a power of attorney solely regarding medical matters). A lawyer is required to hold meetings (which for the time being can be held via video) with the Appointer and the Empowered, and explain the meaning of the Power of Attorney and their respective roles and their responsibilities, witness the signing of the document and submit the document to the General Custodian.

Contact

We are here for any question or clarification you may need: Adv. Guy Sagiv guys@arnon.co.il.

This update is informative only and should not be treated as legal advice or legal opinion.

