**Capacity and Guardianship (Amendment No. 18) Law, 5776-2016**

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| Addition of section 67B. | 30. | The following shall be inserted after section 67A of the main Law: | | |
|  |  | “Appointment of decision supporter | 67B. | (a) The functions of a decision making supporter will be all or part of the following –  (1) to assist a person in obtaining information from any entity;  (2) to assist a person in understanding the information he needs to make decisions, including the possible alternatives and their repercussions, and to explain all this to him in simple and clear language that is understandable to him, using the means of assistance in his possession and in any way possible that is reasonable in the specific circumstances;  (3) to assist a person in implementing his decisions and in exhausting his rights, including assistance in expressing his decisions *vis-à-vis* third parties, in the scope and in the manner to be prescribed in the Regulations under subsection (f).  (b) To perform his functions, the powers of a decision making supporter will be all or part of the following:  (1) to approach any entity and obtain information on behalf of a person;  (2) to assist a person in expressing his desires and decisions *vis-à-vis* third parties;  (3) to perform on behalf of a person, at his request, acts to implement his decisions and exhaust his rights, in the scope and in the manner to be prescribed in the Regulations.  (c) A decision making supporter will not make decisions on behalf of the person he is supporting.  (d) The Court may appoint a decision making supporter for an adult who, upon obtaining support, is able to make his own decisions in relation to his affairs.  (e) Where the Court has appointed a decision making supporter for a person, it will set forth in its decision the matters respecting which he will serve as decision making supporter and will determine the period of appointment, and will determine all or part of his functions and powers as stated in subsections (a) and (b).  (f) The Minister of Justice, with the consent of the Minister of Social Affairs and Social Services and the Minister of Finance, in consultation with the Minister of Health and with the approval of the Knesset Constitution, Law and Justice Committee, may prescribe additional provisions with respect to the functions and powers of a decision making supporter, and it may also prescribe additional provisions with respect to a decision supporter, including on the following matters:  (1) who may be appointed as a decision making supporter;  (2) the training required for a decision making supporter;  (3) the obligations, liability and courses of action of a decision making supporter;  (4) provisions concerning situations justifying a re-examination of the appointment, including an examination of other alternatives;  (5) determining the option of a capable person, within the meaning of Chapter Two 1, appointing a decision making supporter in the manner in which a continuing power of attorney is drawn up and to apply to this matter the provisions applying to a continuing power of attorney with the changes to be prescribed;  (6) rules on the revocation and lapse of an order of appointment;  (g) Nothing in the provisions of this section will derogate from the provisions of section 68. |

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The original Law

(From the existing Law)

**General power to take protective measures**

68. (a) The Court may, at any time, on application of the Attorney-General or his representative or of an interested party or of its own motion, take temporary or permanent measures which seem to it appropriate for protecting the interests of a minor, a legally incompetent person, and of a ward, either by appointing a temporary guardian or a guardian *ad litem*, or otherwise. The Court may also do so on application of the minor, the legally incompetent person or the ward himself.

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The original Law

**When a guardian may be appointed**

33. (a) The Court may appoint a guardian –

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(4) for any other person who, permanently or temporarily, is unable to look after all or any of his affairs, there being no person authorized and willing to do so on his behalf;

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The Amendment to the Law

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| “Court’s discretion in appointing guardian for adult | 33A. | (a) The Court will not appoint a guardian for an adult person under section 33(a)(4) unless it saw that all the following have been satisfied:  (1) without the appointment, there is likely to be a violation of the person’s rights, interests or needs;  (2) a continuing power of attorney drawn up by the person on the matters respecting which the appointment was requested, was not deposited with the Administrator-General;  (3) it is impossible to achieve the purpose for which the appointment of a guardian was requested and protect the best interests of the person in a manner less restricting the person’s rights, freedom and independence, after having examined the alternatives in the specific circumstances, including the option of appointing a decision making supporter under section 67B.  (b) In addition to that stated in subsection (a), the Court will not appoint a guardian for a person who is incapable of looking after his affairs but is capable of making decisions in relation thereto, except in special circumstances and after having been convinced that there is nobody willing and capable of helping him look after his affairs without appointment as a guardian. Where the Court has appointed a guardian for such person, it will give instructions respecting the functions and powers of the guardian, with attention to the provisions of subsections (e) and (f), provided that the guardian is not given authority to make a decision on behalf of a person against his will.  (c) (1) Notwithstanding the provisions of subsection (a), the Court will not appoint a guardian for an adult person under section 33(a)(4) who has deposited a continuing power of attorney with the Administrator General as stated in subsection (a)(2), unless the conditions for appointment of an additional guardian to the lawful representative under section 32BB(B) are satisfied or the power of attorney or appointment thereunder were revoked under section 32CC.  (2) Where the Court has appointed a guardian for a person as stated in paragraph (1) and such person has deposited preliminary instructions with the Administrator General, the Court will order the guardian appointed to act in accordance with such instructions or to perform them as closely as possible to that stated in section 32EE, unless any of the conditions enumerated in subsections (c) to (d) of the above section have been satisfied.  (d) The Court appointing a guardian for an adult person according to section 33(a)(4) will set forth in its decision one or more of the following matters to be delivered to the guardian:  (1) a specific matter of specific matters to be determined by the Court;  (2) medical matters;  (3) personal matters;  (4) property matters.  (e) When the Court determines the matters to be delivered to the guardian appointed under this section, the Court shall limit as far as possible the matters to be delivered to the guardian if it is possible to achieve the purpose for which the guardian was appointed and protect the best interests of the person without the determination of additional matters.  (f) When the Court determines the period of appointment of the guardian appointed under this section, it will consider limiting the period if it is possible to achieve the purpose for which the guardian was appointed in a shorter period.  (g) In the order of appointment the Court may grant instructions concerning the activity of the guardian and determine conditions and restrictions with respect to such activity.  (h) In its reasons for the appointment, the Court will refer to the considerations it took into account in the appointment of the guardian under this section, including with respect to the term of appointment. |

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