

What every older Canadian should know about POWERS OF ATTORNEY (for financial matters and property) and JOINT BANK ACCOUNTS

Supplementary information for B.C. residents

This document is a companion to the booklet, What every older Canadian should know about POWERS OF ATTORNEY (for financial matters and property) and JOINT BANK ACCOUNTS (http://www.seniors.gc.ca/eng/working/fptf/pdf/brochure_attorney.pdf), developed by the Federal, Provincial and Territorial Ministers Responsible for Seniors Forum. The page numbers refer to this booklet.

What types of powers of attorney are used in British Columbia? (p.3)

In British Columbia, two types of powers of attorney deal with finances and property: general power of attorney and enduring power of attorney. Both types of power of attorney must be entered into while you are capable of making decisions and both end if you die or become bankrupt. A general power of attorney will also end if you become mentally incompetent and can no longer make decisions. An enduring power of attorney continues even if you become mentally incompetent. See B.C.'s *Power of Attorney Act* (http://www.bclaws.ca/civix/document/id/complete/statreg/96370_01) for additional circumstances where an enduring power of attorney automatically ends.

Can my attorney make decisions about my health and personal care? (p.4)

Under a general power of attorney or an enduring power of attorney, an attorney cannot make medical, health or personal care decisions for you. In B.C., these decisions are covered by documents called representation agreements and advance directives. For more information, visit: www.gov.bc.ca/advancecare.

Understand the laws where you live. Changes to the *Power of Attorney Act*. (p.5)

On Sept. 1, 2011, a new *Power of Attorney Act* came into effect in British Columbia. The new act changed many enduring power of attorney laws. Power of attorney documents signed on or after this date must follow the new act. If you have an enduring power of attorney document signed before Sept. 1, 2011, it is a good idea to have a lawyer or notary look at the document to make sure your attorney retains the powers required to carry out your wishes.

B.C.'s legislation allows you to create a power of attorney with very specific duties, powers, limits on authority, accounting obligations, etc. For example, there are specific rules under the *Land Title Act* (http://www.bclaws.ca/Recon/document/ID/freeside/96250_00) for powers of attorney dealing with real estate. You can access any act through your local library or online at www.bclaws.ca.

To create an enduring power of attorney, a government form is available online at: www2.gov.bc.ca/gov/content/health/managing-your-health/incapacity-planning.

Who can I ask to be my attorney? (p.8)

According to B.C.'s *Power of Attorney Act*, you can ask an individual (e.g., spouse, close friend, family member or anyone you trust), the Public Guardian and Trustee, a respected professional (e.g., lawyer, notary or accountant), or a trust company or other authorized financial institution to be your attorney.

You can have more than one attorney, but your attorney cannot be someone who is paid to provide you with health or personal care services, or be an employee of a care facility you live in—unless that person is also your child, parent or spouse.

The minimum legal age for an attorney in British Columbia is 19. You can name an attorney who is under 19 years of age, but that person may not act as your attorney until he/she is an adult (aged 19+).

Do I have to pay my attorney? (p.8)

Your attorney is entitled to be reimbursed for amounts that he/she is required to spend in order to fulfill his/her duties (they must keep records and receipts of any claims), but you are not required to pay your attorney any other amounts. If you wish to make sure your attorney is paid for their services, then the enduring power of attorney document must specifically authorize the compensation. If a trust company or the Public Guardian and Trustee is your attorney and your enduring power of attorney specifies compensation, fees will be charged.



Where can I find more information? (p.21)

The **BC Centre for Elder Advocacy and Support** (<http://bcceas.ca>) offers legal information, workshops and the Seniors Abuse & Information Line.

Seniors Abuse & Information Line (SAIL)

Phone 8 a.m. to 8 p.m. daily, excluding holidays. Interpretation services are available.

Vancouver: 604 437-1940

Toll-free: 1 866 437-1940

TTY Teletype is available 9 a.m. to 4 p.m. weekdays, excluding holidays.

Vancouver: 604 428-3359

Toll-free: 1 855 306-1443

For more information or assistance, call your lawyer or notary.

To find a lawyer, contact the **Law Society of British Columbia** (www.lawsociety.bc.ca).

Phone 8:30 a.m. to 5 p.m. weekdays, excluding holidays.

Vancouver: 604 669-2533

Toll-free: 1 800 903-5300

TTY (Vancouver, 8:30 a.m. to 5 p.m. weekdays, excluding holidays): 604 443-5700

To find a notary, contact the **Society of Notaries Public of British Columbia** (www.notaries.bc.ca).

Phone 8:30 a.m. to 5 p.m. weekdays, excluding holidays.

Vancouver: 604 681-4516

Toll-free: 1 800 663-0343

Enduring powers of attorney can be registered at the **Nidus Personal Planning Resource Centre & Registry** (www.nidus.ca). Registering allows hospitals, banks and government service providers to find out who you have named as your attorney.

Contact the **Public Guardian and Trustee of British Columbia** (www.trustee.bc.ca) for information on powers of attorney.

Vancouver: 604 660-4444

Toll-free: Call 1 800 663-7867 and ask to be transferred to the Public Guardian and Trustee.