



Make Your Own Wills

Enduring Power of Attorney Questionnaire

also known as an Enduring Power of Attorney for Property, Enduring Power of Attorney Appointing a Property Manager and a Continuing Power of Attorney for Property

*Please complete the following questionnaire and upload with payment
You will receive your documents (ready for signing) in 2-3 business days or sooner.*

An Enduring Power of Attorney is a legal document that allows you to name a person (an “Attorney”) to make decisions, on your behalf, regarding your property and financial matters when you no longer have the required mental capacity to do so. An Enduring Power of Attorney is also known in some provinces/territories in Canada as an Enduring Power of Attorney for Property, Enduring Power of Attorney Appointing a Property Manager and a Continuing Power of Attorney for Property. **For the purposes of this Questionnaire, we will refer to the document being created as an “Enduring Power of Attorney”.**

In the absence of a completed Enduring Power of Attorney, interested parties would have to retain a lawyer and apply to the courts to become your trustee or financial guardian under your province/territory’s applicable legislation. This is an expensive and extremely lengthy process, one that your assets would likely be required to pay for in the end.

To avoid the expenses of litigation and court procedures, it is important to prepare and complete an estate plan.

NOTE: a complete estate plan consists of **three** documents:

- An **Enduring Power of Attorney**: this document is only in effect while you are alive and lack mental capacity and only touches your property and financial matters;
- A **Personal Directive (also known in other jurisdictions in Canada as a Health Care Directive, Advance Directive, Enduring Power of Attorney Appointing a Personal Attorney and a Power of Attorney for Personal Care)**: this document is only in effect while you are alive and lack mental capacity and only touches personal and health matters; and
- A **Will**: this document comes into effect when you die and deals with all matters: property, financial matters and personal decisions such as funeral wishes and organ and tissue donation.

Please note that the law requires that the maker/donor/grantor has mental capacity at the time of giving instructions (ie. completing this document) and at the time of signing the Enduring Power of Attorney document. By completing this document and by uploading this document to makeyourownwills.com you are hereby agreeing to all our terms and conditions and acknowledge and represent that the maker/donor/grantor has the required mental capacity to complete this document. You further acknowledge that makeyourownwills.com does not assess capacity nor does makeyourownwills.com make any representations as to capacity of the maker/donor when documents are delivered.

**Note: Completing this document only provides instructions to makeyourownwills.com to prepare your Enduring Power of Attorney documentation for you to sign. Your Enduring Power of Attorney documentation will only be considered “completed” once you print and properly sign the document.*

Section 1: Your Information

Name: _____
(insert your full legal name)

Any known alias: _____
(*include only if you have different names on your birth certificate and other government/banking/official documentation, and/or on title to any real estate or mines and mineral rights, etc. (for example: your name is Robert, but some of your documentation states "Bobby" or "Bob" as your first name)

Your Address; _____

Section 2: Attorney Information

The word "Attorney" does not mean lawyer in Canada (that is an American term for lawyer). The word Attorney comes from the British and means "agent". Your Attorney can be any person you choose. Unlike in the case of Wills, your Attorney can live anywhere and there is no requirement for posting a performance bond.

Typically, people appoint one person to act as their Attorney and then an alternate Attorney should the first appointed person be unable to act. However, some people prefer to have two or more people do the job together and appoint joint/co-Attorneys to act on their behalf. There are two different ways to appoint joint/co-Attorneys to act:

The first is to appoint them as "joint" Attorneys. This means they must act together and agree unanimously on all property and financial matters. Both Attorneys, acting together, MUST sign financial instruments and appear in person before lawyers, bankers, accountants, etc. when dealing with your financial and property matters.

The second is to appoint them as "joint and several" Attorneys. Joint and several means your Attorneys may act together or separately on your behalf. This appointment allows for one Attorney to sign financial instruments, appear in person before lawyers, bankers, accountants, etc. when dealing with your financial and property matters. NOTE: when appointment Attorneys "Joint and Several", the document generated will require the Attorney who has acted alone to provide an informal report of the actions taken to other joint/co-Attorney on a monthly basis.

****IMPORTANT** - individuals you appoint below, MUST be of legal age (NO MINORS)**

First Appointed Attorney:

**Note: if you are in a happily married relationship or common law partnership, your spouse/common law partner is typically the first appointed Attorney.*

Name: _____
(insert your full legal name)

Relation to you: _____
(example: spouse, friend, sister, brother, mother, etc.)

Address: _____

In the event your first appointed Attorney is unable to carry out the duties of Attorney, you need to appoint an alternate/second Attorney to deal with and manage your financial matters on your behalf.

Second Appointed Attorney:

Name: _____
(insert your full legal name)

Relation to you: _____
(example: spouse, friend, sister, brother, mother, etc.)

Address: _____

Appoint this Attorney to act: *(you MUST select **ONE** of the options below)*

After the first Attorney is unable to act;

Jointly with the first Attorney;

(both MUST do everything together no matter what the circumstances);

Joint and Several with the first Attorney

(both can act together or one can act alone if necessary, example: one is away on vacation and cannot sign an important document in person. In the event one act(s) alone, he/she shall be required to provide an informal report to the other attorney, detailing his/her actions)

Third Appointed Attorney:

Note, it is rare to have a third appointed Attorney, but some people prefer to have three.

Name: _____
(insert your full legal name)

Relation to you: _____
(example: spouse, friend, sister, brother, mother, etc.)

Address: _____

Appoint this Attorney to act: *(you MUST select one of the options below)*

After the first two Attorneys are unable to act;

Jointly with the first and second Attorney;

(all three MUST do everything together no matter what the circumstances)

Joint and Several with the first and second Attorneys;

(all three can act together or one can act alone if necessary, example: only one is able to sign an important document in person, but should one act alone or only two act together without the third, they must provide an informal report detailing his/her actions)

Jointly with the second named Attorney only;

(both MUST do everything together no matter what the circumstances)

Joint and Several with the second named Attorney;

(both can act together or one can act alone if necessary, ie. only one is able to sign an important document in person, but should one act alone, he/she shall be required to provide an informal report to the other attorney, detailing his/her actions)

Section 3: Coming into Effect

An Enduring Power of Attorney typically comes into effect (also known as springing into effect) once it is determined that you lack mental capacity. In order to determine when or whether the document springs into effect you can either specify one (1) physician or two (2) physicians to assess and determine your capacity. There is also the third option of specifying that the Enduring Power of Attorney comes into effect immediately upon signing. However, since an immediate Enduring Power of Attorney carries financial and various other risks, makeyourownwills.com will only allow for the creation of a springing Enduring Power of Attorney. Should you desire or wish to make an immediate Enduring Power of Attorney, please consult and seek the assistance of a lawyer.

Please select how you would like your Enduring Power of Attorney to come into effect:

- When one (1) physician determines that I am mentally incapacitated
- When two (2) physicians determine that I am mentally incapacitated

Section 4: Guardianship for Minor Children

Note: only complete this section if you have children under the age of eighteen (18) years

In the event you are alive, but are mentally incapacitated, and your spouse (if applicable) or other legal guardian or parent of your child(ren) has died or is unable to care for your child(ren), please specify who you would like to act as guardian for your minor child(ren) while you are mentally incapacitated:

NOTE: if you are naming a guardian in this section, you MUST name the SAME person you named as guardian in your Personal Directive (If you named a guardian in your Personal Directive)

Name of the Guardian you wish to appoint: _____
(insert full legal name)

Relation to you: _____
(example: spouse, friend, sister, brother, mother, etc.)

Section 5: Attorney Powers

Because an Attorney is governed by the *Trustee Act*, he/she can only act within the scope of the powers given to him/her in a legal document (such as the Enduring Power of Attorney). As a result, if an Enduring Power of Attorney does not give an Attorney the power to fund a certain activity, the Attorney will need permission from the court (via a court application and order) to use funds for a specific purpose. This can be costly and time consuming.

Please specify the powers you wish to grant to your Attorney:

Note: These powers are only used by your Attorney if your estate has sufficient funds to support you during your incapacity and these matters will only be funded if they are reasonable given the circumstances

The power to use my assets to maintain and support the family residence for my spouse/common law partner and any children residing in the home at the time of my incapacity

The power to use my assets for the benefit of my dependent children if they are attending post-secondary education and they require funds for tuition, books and other reasonable living expenses

The power to use my estate to make gifts to my

children or grandchildren

nieces or nephews

Other: _____

on special occasions up to a maximum amount of \$ _____

The power to use my assets to make or continue to make gifts to charitable organizations in amounts same/similar to donations I made when I was capable of managing my own estate

The power to use my assets to make whatever expenditures necessary, including home renovations, to allow me to remain in my home for as long as possible

Section 6: Dispute with Agent under Personal Directive

Should there be a dispute among my Agent (in my Personal Directive) and my Attorney (in my Enduring Power of Attorney) which requires the use of funds from my estate, I wish for my: (select only one)

My Attorney (under my Enduring Power of Attorney) to have the final decision-making authority in such dispute; **OR**

My Agent (under my Personal Directive) to have the final decision-making authority in such dispute

Section 7: Signing

The date of signing on the documents generated by makeownwills.com defaults to the year that you have paid for the documents. The day and month will be blank for completion by you. The year defaults to ensure that you sign the documents in a timely manner once generated. **Instructions for signing will be provided with your Enduring Power of Attorney.**