

ENDURING POWER OF ATTORNEY KIT

What is an Enduring Power of Attorney?

An Enduring Power of Attorney is a legal document. It is a tool that allows you to appoint a trusted family member or friend to take care of financial and legal matters for you. This might include paying bills, depositing or withdrawing money from your bank account, investing your money or selling your assets, including your house. You do not give up any rights by appointing an Attorney, you just create a duplicate authority to sign things on your behalf.

The person you give this power to is called the “Attorney” (in this case, Attorney does not mean a lawyer but instead an agent to look after things for you). You are called the “Donor” because you are appointing the Attorney. “Enduring” Power of Attorney is a Power of Attorney that does not expire if you lose mental capacity in the future. This way, your Attorney can assist you when you are most likely to need help.

Even if you own all of your assets jointly with your spouse, there is still a benefit to appointing each other as your Attorney. If you own your home jointly with your spouse and you lose mental capacity, your spouse will not be able to sell or re-mortgage your home without an Enduring Power of Attorney or an expensive court order.

How Do I Sign the Enduring Power of Attorney?

You can appoint an Attorney by completing an Enduring Power of Attorney and signing it. You must sign the document in the presence of a lawyer or notary who will certify your signature (the lawyer or notary is referred to as the “Officer”). If you do not have the Enduring Power of Attorney witnessed by a lawyer or notary, the document cannot be used to deal with real estate, and your Attorney may have difficulty using the document to deal with your other assets as well.

The Enduring Power of Attorney has two pages (or a single page with writing on the front and back). The first page titled “Enduring Power of Attorney” needs to be signed by you in front of a lawyer or notary in order to make a valid Enduring Power of Attorney. The second page titled “In the matter of an Enduring Power of Attorney...” must be signed by your Attorney (also in the presence of a lawyer or notary). However, the second page can be signed at any time in the future--so your Attorney doesn't need to go with you to see the lawyer or notary that will witness your signature.

What are the Rules my Attorney Must Follow?

The law imposes obligations on your Attorney. Your Attorney must:

- Keep proper records of his or her actions and involvement in you finances;
- Act honestly, in good faith and in your best interests;
- Act within his or her authority and with the standard of care of a reasonably prudent person (considering his or her qualifications and experience);
- Not benefit personally by acting as your Attorney or do anything that would be in conflict with his or her duty to act in your best interests (such as taking money from you or using your property for his or her own needs); and
- Follow instructions you have given him or her, and to try to determine your wishes if you are no longer able to instruct your Attorney.

What are the Risks?

An Enduring Power of Attorney is a very useful tool in case you ever need someone to look after your finances and assets for you. However, **THERE IS A RISK THAT YOUR ATTORNEY COULD USE THE DOCUMENT TO STEAL FROM YOU.**

Misuse of an Enduring Power of Attorney by your Attorney is wrong and against the law. Unfortunately, there are people who knowingly or inadvertently abuse the authority entrusted to them.

Appointing an Attorney creates an opportunity for your Attorney to steal from you or do other things that are not in your best interest. You should only appoint a family member or friend that you completely trust as your Attorney.

You can cancel an Enduring Power of Attorney by signing a written statement cancelling the document or by destroying the original. You cannot cancel an Enduring Power of Attorney after you have lost mental capacity.

If you have given the document to your Attorney it may be difficult to get it back. If your Attorney is abusing his or her authority, he or she may be able to steal from you before you are able to notify all of your financial institutions that your Attorney's authority has been cancelled. Your Attorney could try to mortgage or even sell your home without you knowing.

ENDURING POWER OF ATTORNEY
(British Columbia - for the appointment of one attorney)

THIS ENDURING POWER OF ATTORNEY is given on the date of execution stated below.

I, _____,
(insert name of person granting the Power of Attorney, known as the Donor)

of _____, BC _____,
(insert Donor's address) (postal code)

Appoint _____,
(insert name of person the Donor is naming as his/her Attorney)

of _____, BC _____,
(insert Attorney's address) (postal code)

to be my attorney in accordance with the *Power of Attorney Act* and to do on my behalf anything that I can lawfully do by an attorney.

In accordance with the *Power of Attorney Act* I declare that this Enduring Power of Attorney may be exercised during any subsequent mental infirmity on my part.

The effect of subsection 56(1) of the *Land Title Act* is excluded.

This Enduring Power of Attorney is not subject to any conditions or restrictions.

EXECUTION:

OFFICER CERTIFICATION:

Officer Signature

Execution
Date

Donor's Signature

Y	M	D

(Officer's signature and contact information)

(Donor must sign above line and print name below line)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996 c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

WITNESSED AS TO EXECUTION ONLY: The Officer witnessed the document as to execution only.
The Donor did not request or receive any legal advice from the Officer.

CANADA PROVINCE OF
BRITISH COLUMBIA

IN THE MATTER of an Enduring
Power of Attorney granted by

(insert Donor's name)

unto

(insert Attorney's name)

dated _____, 200__.

TO WIT:

DECLARATION

I, _____,
(insert Attorney's name)

of _____, BC _____,
(insert Attorney's address) *(postal code)*

do solemnly declare that:

1. I am the Attorney appointed by the foregoing Enduring Power of Attorney; and
2. At the time of such appointment, I was an adult, being 19 years of age or older

and I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at
_____, British Columbia
on _____, 200__.

A Commissioner for taking Affidavits for the
Province of British Columbia.
A Notary Public in and for the Province of British
Columbia.

(Attorney must sign above line and print name below line)

[Note: This Declaration is included to satisfy the requirement of the British Columbia Land Titles Office that the appointed Attorney prove he/she was an adult at the time the Enduring Power of Attorney was signed by the Donor. **It is not necessary to sign this Declaration at the time the Enduring Power of Attorney is signed by the Donor.** It only needs to be signed before the document is used by the named Attorney. It can be signed before or after the Donor loses capacity, if ever.]