

Common Nova Scotia legal documents you should know about

| Legal Document | Purpose | If no document | Scope/Limitations |
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| Power of Attorney | Enables a person (the donor) to give another person (the attorney) power to act on his/ her behalf within the limits set out in the Power of Attorney | A relative or friend may be able to provide some help. They may have to seek a representation order from the courts | <ul style="list-style-type: none"> - Deals with financial and property issues only, not medical treatment/ personal matters. - Does not prevent or limit the donor's right to make decisions provided the donor has capacity. - Ceases to have effect if the donor or the person receiving the power becomes incompetent, lacks capacity, or dies. - Can be revoked at any time by the donor provided donor has capacity. |
| Enduring Power of Attorney | Enables a person (the donor) to give another person (the attorney) power to act on his/her behalf within the limits set out in the Power of Attorney. Continues in effect if donor becomes incapacitated. | A relative or friend may be able to provide some help. They may have to seek a representation order from the courts | <ul style="list-style-type: none"> - Must specifically say that it will continue in effect if the donor loses capacity. - Deals with financial and property issues only NOT medical treatment/ personal matters. - Does not prevent or limit the donor's right to make decisions provided donor has capacity. - Can be revoked at any time provided the donor has capacity. - Ceases to have effect if the attorney becomes incompetent, lacks capacity, or dies or if the donor dies. |
| Medical Consent | Before April 2012 , under the Medical Consent Act (MCA), a person could appoint another person to give medical consent on his/her behalf if the person was unable to do so due to loss of capacity. | A person appointed by a court as a representative, guardian or (if none) the nearest relative or, if the person is in hospital or psychiatric facility, a substitute decision maker as listed in the NS Hospitals Act would be asked to consent | <ul style="list-style-type: none"> - Limited to medical decisions. Did not include personal or financial property matters. - Delegate did not have to follow person's wishes. - The MCA was replaced by the Personal Directives Act in 2012. An appointment made under the MCA is still valid. - The appointment of the delegate can be revoked at any time provided person has capacity. |
| Personal Directive | Since April 2012 , a person can appoint another person (delegate) to make decisions about all personal care decisions and healthcare decisions. | A person appointed by a court as a representative, guardian or (if none) the nearest relative or, if the person is in hospital or psychiatric facility, a substitute decision maker as listed in the NS Hospitals Act would be asked to consent | <ul style="list-style-type: none"> - Does not deal with financial matters. - The delegate must follow the expressed wishes of the person who appointed the delegate - The appointment of the delegate can be revoked at any time provided the person has capacity to revoke. - For more information visit novascotia.ca/just/pda |

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| Guardianship | Before December 28 2017 , under the Incompetent Persons Act (IPA), a Court Order appointing a person to act as the guardian of an adult who is deemed incompetent. Medical evidence required by the judge | <p>Relatives may be able to make some decisions for the person.</p> <p>There may be an Enduring Power of Attorney or a Personal Directive in place which would allow decisions to be made</p> | <ul style="list-style-type: none"> - The IPA was replaced by the Adult Capacity and Decision-Making Act (ACDA) in December 2017. An appointment under the IPA is still valid. However, a guardian appointed under the IPA is now a representative under the ACDA and has the same duties and responsibilities as a representative. |
| Representation Order | Since December 28 2017 , under the Adult Capacity and Decision-making Act (ACDA), a Court Order appointing a person to act as the representative of an adult who does not have capacity to make their own decisions on significant issues. Medical evidence required by the judge | <p>Relatives may be able to make some decisions for the person already.</p> <p>There may also be an Enduring Power of Attorney and/or a Personal Directive in place which would allow decisions to be made</p> | <ul style="list-style-type: none"> - Order can be revoked by a court if the person regains capacity - Medical evidence required (capacity assessment) - Capacity assessed by a physician, psychologist or other trained health professional to assess person's ability to understand relevant information and understand the reasonable foreseeable consequences of a decision. There can be degrees of capacity. - Representation order may authorize representative to make one or more decisions - Must be least restrictive and least intrusive. Representative must follow adult's wishes where possible, and encourage and support adult's own decision-making - The Order ceases to have effect on the death of the person or the representative. - For more information visit novascotia.ca/just/pto |
| Will | Enables a person (the testator) to decide who will inherit their property when the testator dies. | Person is said to die intestate (without a will) and property will be divided in accordance with the provisions of the NS Intestate Succession Act. | <ul style="list-style-type: none"> - Does not come into effect until the testator's death. The testator can deal with property as testator wishes during their lifetime. - The testator can change or revoke the will at any time provided testator has capacity. - Common-law spouses are not considered "spouses" under the NS Intestate Succession Act unless they are in a Registered Domestic partnership but they can apply to court for support or a share of the estate. |