

Power of Attorney for Property/ Protection Mandate (Quebec)

A Power of Attorney is a legal document that can bestow a wide range of powers to a named party or parties (the attorney/mandatary) by an individual (the donor/mandator).

A Power of Attorney may be broad or limited in its scope, and may be enduring in nature where it takes effect or continues beyond the mental incapacity of the donor/mandator. This article deals with a Continuing/Enduring Power of Attorney for Property or Protection Mandate (Quebec) where the donor/mandator can no longer act for themselves due to mental incapacity and the person acting under the Power of Attorney/protection mandate must take on the responsibilities for the donor/mandator's financial affairs, specifically when dealing with life insurance companies.

The following chart outlines general rules about the types of transactions a person acting under a Continuing/Enduring Power of Attorney for Property ("POA")/protection mandate can perform with respect to a life insurance contract (including an insurance-based investment contract) when the person who made the POA/protection mandate becomes mentally incapacitated.

Note: For the chart, it is assumed the contract owner made the POA/protection mandate. If there are joint owners, the attorney/mandatary may require consent of the joint owner.

There may be differences in what the attorney/mandatary can do depending on the laws of the applicable jurisdiction and the specific terms set out in the POA/protection mandate.



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Peter works with independent advisors and other professionals raising awareness on issues and concerns faced by affluent individuals, professionals and business owners. He supports efforts in researching and developing optimal solutions for clients aimed at improving their financial well-being and supporting their personal wishes and lifestyles. He provides 1000s of workshops, seminars and technical support throughout the country on tax, retirement income and estate planning issues, concepts and strategies to both advisors and consumers. As an accredited Registered Financial Gerontologist, a good deal of his time is spent on building awareness and educating people of all professions who work with or specialize in the needs, expectations and issues of elders. Comprehensive lifestyle planning is an important element of these processes.

The Sales, Tax, Estate Planning, Underwriting & Product (STEPUP) team provides internal and broker support, including seminars, education, advanced concept illustrations & Client case technical consultations.

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Power of Attorney for Property Chart

Transaction	Allowed	Circumstance
Change or designate beneficiary in a document other than a will	Only in very limited situations	In most cases, the person acting under a POA/protection mandate CANNOT make or change a beneficiary designation. Permitted in BC (and may be permitted in other jurisdictions) to maintain a beneficiary designation made by the contract owner, while capable, for a life insurance contract that is being renewed, replaced with or converted to another similar contract.
Appoint successor owner	No	Person acting under a POA/protection mandate can only name the estate of the donor as successor owner
Change owner or contingent owner	No	Person acting under a POA/protection mandate cannot change the contract owner.
Apply for a life insurance contract	only in limited circumstances	Person acting under POA/protection mandate cannot answer health questions for mentally incapacitated life insured. Presumes owner and life insured are the same; it may be possible for guaranteed issue life insurance where there are no health questions; possible exceptions (eg. when parent applies on life of child)
Sign an application change form (ACF)	No	Cannot accept attorney/mandatary's signature for life insured if life insured is incapacitated and relates to evidence of insurability; possible exception when parent applies on life of child
Make a change that will reduce the death benefit	Yes	Permitted if allowed under contract terms. It is assumed the person acting under the POA/protection mandate is acting in good faith and in the owner's best interest.
Authorize internal reallocation of funds between investment funds and accounts	Yes	It is assumed the person acting under the POA/protection mandate is acting in good faith and in the owner's best interest.
Reset maturity guarantee	Yes	It is assumed the person acting under the POA/protection mandate is acting in good faith and in the owner's best interest.
Change term of GIC on reinvestment	Yes	It is assumed the person acting under the POA/protection mandate is acting in good faith and in the owner's best interest.
Change banking information to pay for premiums (includes investment premiums)	Yes	It is assumed the person acting under the POA/protection mandate is acting in good faith and in the owner's best interest.

Power of Attorney for Property Chart

Situation	Action	Circumstance
Change contract owner's banking information for payout policies (Annuities/RRIF/Interest incomes)	Yes	If the existing and new bank accounts are in the owner's name.
Authorize direct transfer of registered funds to another institution (T2033)	Yes	It is assumed that the person acting under the POA/protection mandate is acting in good faith and in the owner's best interest.
Apply for an Investment Policy	Yes	If no evidence of insurability required. See above comments regarding beneficiary designation.
Change address for correspondence	Yes	If the address is not the advisor's address as per our standard business rules.
Change dividend option	Yes	If no evidence of insurability required.
Full or Partial Contract Surrender with Cash Value Payout	Yes	Cheque made payable to the policy owner only.
		With electronic fund transfer, payment must be deposited into policy owner's bank account, using void cheque that shows policy owner's name
Withdrawals of dividend	Yes	Cheque made payable to the policy owner only
		With electronic fund transfer, payment must be deposited into policy owner's bank account, using void cheque that shows policy owner's name

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A description of the key features of the individual variable insurance contract is contained in the Information Folder for the product being considered. **Any amount that is allocated to a Segregated Fund is invested at the risk of the contract owner and may increase or decrease in value.**

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