



*Power of Attorney Act*

POWER OF ATTORNEY REGULATION

**B.C. Reg. 20/2011**

Deposited February 3, 2011 and effective September 1, 2011

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**Consolidated Regulations of British Columbia**

*This is an unofficial consolidation.*

B.C. Reg. 20/2011 (O.C. 30/2011), deposited February 3, 2011 and effective September 1, 2011, is made under the *Power of Attorney Act*, R.S.B.C. 1996, c. 370, ss. 41 (2) and (4) and 41.1.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at [www.bclaws.ca](http://www.bclaws.ca).

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at [www.bclaws.ca](http://www.bclaws.ca).

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## *Power of Attorney Act*

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B.C. Reg. 20/2011

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### SCHEDULE

#### **Definition**

- 1 In this regulation, “**Act**” means the *Power of Attorney Act*.

#### **Records of attorneys**

- 2 (1) An attorney acting under an enduring power of attorney must make a reasonable effort to determine the adult’s property and liabilities as of the date on which the attorney first exercises authority on the adult’s behalf, and maintain a list of that property and those liabilities.
- (2) An attorney acting under an enduring power of attorney must keep the following records in relation to the period for which the attorney is acting:
  - (a) a current list of the adult’s property and liabilities, including an estimate of their value if it is reasonable to do so;
  - (b) accounts and other records respecting the exercise of the attorney’s authority under the enduring power of attorney;
  - (c) all invoices, bank statements and other records necessary to create full accounts respecting the receipt or disbursement, on behalf of the adult, of capital or income.

[am. B.C. Reg. 111/2011, s. 4.]

#### **Alternative process for witnessing signing and dating**

- 2.1 (1) In this section:

“**communicate**” means communicate using audiovisual communication technology, including assistive technology for individuals who are hearing impaired or visually impaired, that enables individuals to communicate with each other by hearing and seeing each other;

“**electronic presence**” or “**electronically present**” means the circumstances in which 2 or more individuals in different locations communicate simultaneously to an extent that is similar to communication that would occur if all the individuals were physically present in the same location.

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- (2) For the purposes of section 17.1 (1) [*signing enduring power of attorney – alternative process*] of the Act, an enduring power of attorney may be signed and dated while the following are in each other’s electronic presence:
    - (a) the adult who makes the enduring power of attorney, and, if applicable, the person signing the enduring power of attorney on behalf of the adult who makes the enduring power of attorney;
    - (b) the witness.
  - (3) For the purposes of section 17.1 (2) of the Act, before exercising authority granted in an enduring power of attorney, the enduring power of attorney may be signed while the attorney and the witness are in each other’s electronic presence.
  - (4) For certainty, in the case of a person signing the enduring power of attorney on behalf of the adult who makes the enduring power of attorney,
    - (a) the adult who makes the enduring power of attorney and the person signing on behalf of that adult must be in each other’s physical presence, and
    - (b) the person signing on behalf of the adult who makes the enduring power of attorney and the witness may be in each other’s electronic presence.
  - (5) The witness referred to in subsections (2), (3) and (4) must be a lawyer or a member in good standing of the Society of Notaries Public of British Columbia.
  - (6) An enduring power of attorney may be signed and dated, as applicable, by signing and dating, complete and identical copies of the enduring power of attorney in counterpart.
  - (7) Copies of an enduring power of attorney are identical even if there are nonsubstantive differences in the format between the copies.
  - (8) An enduring power of attorney made in accordance with the alternative process established in this section must include a statement that it was signed and dated in accordance with the alternative process.

[en. B.C. Reg. 278/2022, Sch.]

#### **Maximum value of gifts, loans and charitable gifts**

- 3 For the purposes of section 20 (1) (c) of the Act, the total value of all gifts, loans and charitable gifts made by an attorney in a year must not be more than the lesser of
  - (a) 10% of the adult’s taxable income for the previous year, and
  - (b) \$5 000.

#### **Extrajurisdictional powers of attorney**

- 4 (1) In this section, “**deemed enduring power of attorney**” means an instrument made in a jurisdiction outside British Columbia that is deemed under subsection (2) to be an enduring power of attorney made under the Act.
- (2) Subject to subsection (3), an instrument is deemed to be an enduring power of attorney made under the Act if the instrument

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- (a) grants a power of attorney to a person that continues to have effect while, or comes into effect when, the adult is incapable of making decisions about the adult's financial affairs,
  - (b) was made by a person who was, at the time of its making, ordinarily resident
    - (i) outside British Columbia but within Canada, or
    - (ii) within the United States of America, the United Kingdom of Great Britain and Northern Ireland, Australia or New Zealand,
  - (c) was validly made according to the laws of the jurisdiction in which
    - (i) the person was ordinarily resident, and
    - (ii) the instrument was made, and
  - (d) continues to be effective in the jurisdiction in which the instrument was made.
- (3) To be effective in British Columbia, a deemed enduring power of attorney must be accompanied by a certificate, as set out in the Schedule, from a solicitor permitted to practise in the jurisdiction in which the deemed enduring power of attorney was made indicating that the deemed enduring power of attorney meets the requirements set out in subsection (2) (a) to (c).
- (4) A person named as an attorney in a deemed enduring power of attorney must not, in British Columbia, exercise any powers or perform any duties as an attorney
- (a) that could not lawfully be exercised or performed by an attorney
    - (i) under the Act, or
    - (ii) in the jurisdiction in which the deemed enduring power of attorney was made, and
  - (b) unless both the person who made the deemed enduring power of attorney and the attorney are at least 19 years of age.
- (5) Unless the adult is ordinarily resident in British Columbia, sections 34 and 35 of the Act do not apply in relation to an adult who makes, or an attorney who acts for an adult under, a deemed enduring power of attorney.

**Transition – paid caregivers as attorneys**

- 5** If an adult, in a power of attorney that was validly made under section 8 of the Act before that section was repealed on September 1, 2011, appointed as attorney an individual described in section 18 (1) (a) of the Act,
- (a) section 18 (1) (a) of the Act does not apply, and
  - (b) the individual may act, or continue to act, as the adult's attorney.

[am. B.C. Reg. 111/2011, s. 4.]



**3** My contact information is as follows:

..... [name]  
..... [telephone number]  
..... [address]  
..... [city, province or state]  
..... [postal code or zip code]  
..... [e-mail (optional)].

**4** The regulatory body that governs the practice of law in my jurisdiction is

..... [name]  
..... [telephone number]  
..... [address]  
..... [city, province or state]  
..... [postal code or zip code].

**Part 2 – Certifications made by solicitor**

**1** I certify that

- (a) the power of attorney described in Part 1 of this certificate grants a power of attorney that continues to have effect while, or comes into effect when, the adult who made the power of attorney is incapable of making decisions about the adult’s financial affairs,
- (b) at the time of making the power of attorney, the adult who made it was to the best of my knowledge ordinarily a resident of ..... [province or state, if applicable, and country], and that jurisdiction is
  - (i) outside British Columbia but within Canada, or
  - (ii) within the United States of America, the United Kingdom of Great Britain and Northern Ireland, Australia or New Zealand, and
- (c) the power of attorney was validly made according to the laws of the jurisdiction in which
  - (i) the adult who made the power of attorney was ordinarily resident, and
  - (ii) the power of attorney was made.

....., ..... [date].  
[signature of solicitor]