

Fact Sheet

APPOINTING AN ATTORNEY
FOR YOUR OPTRUST PENSION

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IN THIS FACT SHEET

- What is a power of attorney for property?
- How does it work?
- What is it used for at OPTrust?
- Who should I appoint?
- When can I terminate a power of attorney?
- What if I want to appoint a new power of attorney?
- Does Great-West Life need a copy of my power of attorney?
- Should I speak to a lawyer?



Fact Sheets contain in-depth information on select topics for the members of OPTrust.

You may want to share this Fact Sheet with your family or friends.

Appointing an attorney for your OPTrust pension

Do you have a continuing power of attorney for property in place to handle your pension and financial matters if you become incapacitated? It's an important decision; one that you may want to think about now in the event that you are no longer able to deal with your financial affairs in the future.

When you appoint an attorney, you are granting someone the power to handle your financial matters including your OPTrust pension. OPTrust needs a notarized copy of your power of attorney for property to take direction from the person you appoint as your attorney. (OPTrust must retain the original Notarial document for future reference).

AN ATTORNEY CAN:

- update your bank account
- request additional taxes to be withheld from your pension
- change your mailing address or redirect OPTrust materials (e.g. *Pension Connection*, T4A slips, *Pensioner Information Change Statement*) to be sent to a third-party (e.g. an adult child)
- make most any other pension-related transactions.

AN ATTORNEY CANNOT:

- change your life insurance designations, nor can he or she designate beneficiaries under the OPSEU Pension Plan.

If there is no power of attorney in place and you are physically and/or mentally unable to make pension-related decisions, your family may be required to seek legal advice from the proper authorities and make the necessary arrangements. OPTrust cannot accept changes without the proper authority, i.e. power of attorney or court order.

Questions and Answers

Question: What is a continuing power of attorney for property?

Answer: A continuing power of attorney for property is a legal document you sign when you want to give someone you trust the authority to act on your behalf for matters related to your property. When you sign a power of attorney, you are known as the “grantor.” The person you appoint is known as the “attorney.” As the name suggests, a “power of attorney” grants the attorney the power to handle the legal affairs of the grantor. Pension benefits are considered “property,” and may be handled by your attorney.

There are two types of power of attorney. A continuing power of attorney for property handles financial matters such as your OPTrust pension. A power of attorney for personal care makes decisions related to your medical and other care.

Question: How does it work?

Answer: By signing a continuing power of attorney for property, you are giving permission through a legal document to have someone handle your financial affairs in the event you are no longer capable of doing so. A continuing power of attorney for property authorizes an attorney to handle your financial and pension-related matters on your behalf.

Question: What is the power of attorney used for at OPTrust?

Answer: If a power of attorney is in effect, OPTrust needs a notarized copy of the document before we can take directions from your attorney. The person appointed under the power of attorney can make address and banking information changes on your behalf. The person you appoint can make most any other pension-related transactions, too.

Question: What happens if I do not have a power of attorney on file with OPTrust?

Answer: If you have not made a valid power of attorney for property and you become incapable of managing your property, another person — most likely a family member or friend — will need to seek legal advice and consult the proper authorities to make financial decisions for you, including decisions about your pension. It may be necessary for them to seek a court appointment as your court appointed guardian of property.

If you are incapable of managing your property, OPTrust cannot accept changes to your pension information or other pension-related decisions without the proper authority, i.e. power of attorney for property or statutory/court appointed guardian of property.

You can assist us by signing a power of attorney before incapacity occurs and provide OPTrust with a notarized copy of the power of attorney document.

Question: What is the difference between the estate trustee of a will and a power of attorney designation?

Answer: A power of attorney authorizes the person you appoint to manage your financial affairs on your behalf while you are alive. Your will names

an estate trustee to manage them after you die. You may appoint a relative, friend or professional as your attorney or estate trustee. A power of attorney for property is only in effect while you are alive. A regular will, on the other hand, takes effect only after you have died.

Question: Do I need to authorize any change to my mailing address or banking information?

Answer: If you want to redirect your pension material to another address (e.g. to a daughter's address, so there is assistance available in reading and understanding material), you can do so by sending OPTrust a written change of address notice. The person you appoint as your attorney could also make this change. Then everything we send will go to the new address. We cannot have two addresses on file.

Any bank change would require either your signature or the person you appoint as your power of attorney.

Question: Who should I appoint?

Answer: You are not required to appoint an attorney for property. This is your choice. If you decide to appoint an attorney for property, you can grant power of attorney to anyone who is at least 18 years of age and mentally competent. The person you appoint does not have to be a lawyer; he or she can be a spouse or an adult child — anyone you would trust to handle your financial affairs. You should carefully consider who to appoint.

Question: When can I terminate a power of attorney?

Answer: Your power of attorney is terminated when you die or revoke the power of attorney, a new power of attorney is submitted, the (sole) attorney dies or becomes incapable to manage property or resigns, or the court appoints a guardian over your property. An attorney is permitted to resign, but must provide notice of resignation.

Question: What if I want to appoint a new power of attorney?

Answer: If you appoint another power of attorney for property, you must provide OPTrust with a notarized copy of the new power of attorney document. This will replace your previous appointment.



A continuing power of attorney for property is a legal document you sign when you want to give someone you trust the authority to act on your behalf for matters related to your property.

Question: Will my attorney have access to my secure Online Services account?

Answer: No. Once OPTrust is notified of a power of attorney to manage your financial affairs, your *Online Services* account is suspended. We will advise your representative that all requests must be made to OPTrust, in writing.

Question: Can a notarized copy of the document be scanned and sent attached to an e-mail or by fax? Or, do you need to see an original document, in this case, too?

Answer: No. You are required to send in or deliver a notarized copy of the original power of attorney document. The Notarial document must be an original, and OPTrust will retain this document for future reference.

Question: Does Great-West Life need to be provided with a copy of my power of attorney, or will OPTrust provide it to them, on my behalf?

Answer: OPTrust can provide a copy to Great-West Life if it is requested by the insurance carrier.

Question: Should I speak to a lawyer?

Answer: You may wish to consult with a lawyer to discuss whether a power of attorney is appropriate for you. A lawyer can advise you on drawing up specific conditions and limitations when granting the power of attorney, advise you as to what type and form of power of attorney is appropriate in your circumstances and may also raise issues you have not considered.

OPTrust **cannot** provide you with legal advice. This information is provided for information purposes only and should not be considered to be legal advice.



FOR MORE INFORMATION

Ontario's Office of the Public Guardian and Trustee provides a **free** Power of Attorney Kit available from the Ministry of the Attorney General website at attorneygeneral.jus.gov.on.ca or by contacting the Office of the Public Guardian and Trustee at **1 800 366-0335**, or **416 314-2800**.

FOR MORE INFORMATION PLEASE CONTACT OPTRUST

This **Fact Sheet** is intended as a summary description of the OPSEU Pension Plan. The Plan text contains numerous provisions not described here that may apply to you. In the event of any conflict between this Fact Sheet and the OPSEU Pension Plan text, the Plan text will govern.



HOW TO REACH US

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