

POWER OF ATTORNEY ACT

CHAPTER 370

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SCHEDULE

Definitions

1 In this Act:

“**agent**” includes an attorney acting under a power of attorney;

“**knowledge**” includes knowledge of circumstances that would put a reasonable person on inquiry;

“**terminated**”, when used with reference to the status of an agent’s authority, means that the authority has been terminated by revocation, or by operation of law or both.

Application

2 (1) Sections 3 and 4 do not apply to agency relationships that

(a) are created by section 7 of the *Partnership Act*, or

(b) arise under common law out of the relationship of partners to a firm and to each other.

(2) For the purposes of this Act, if a person has knowledge of the occurrence of an event that has the effect of terminating the authority of an agent, that person is deemed to have knowledge of the termination of the authority.

Liability of agent

3 If an agent purports to act on behalf of a principal at a time when the agent’s authority to do so has been terminated and

(a) the act is within the scope of the agent’s former authority, and

(b) the agent has no knowledge of the termination,

then, for the purpose of determining the liability of the agent for the act, the agent is deemed to have had the authority to so act.

Section 4

Effect of termination**4** (1) If

- (a) the authority of an agent has been terminated, and
- (b) a person who has no knowledge of the termination purports to deal with the principal through the agent,

then, for the purpose of determining the legal rights and obligations of the principal in relation to that person, the transaction is, in favour of that person, deemed to be as valid as if the authority had existed.

(2) Despite subsection (1), if the principal has

- (a) by express revocation terminated the authority of an agent, and
- (b) given notice of the termination to the agent,

the liability of the principal to any person for the subsequent acts of the agent must be determined without regard to this Act.

(3) If the authority of an agent to act on behalf of the agent's principal has been terminated, but

- (a) the agent purporting to act for the principal enters into a transaction with a person (called in this section "the intermediate party"),
- (b) the rights of another person (called in this section "the stranger") are dependent on the validity of the transaction entered into by the agent with the intermediate party, and
- (c) the stranger had, at the material time, no knowledge of the termination of the authority of the agent,

then, for the purpose of determining the legal rights and obligations of the principal in relation to the stranger, the intermediate party is conclusively deemed to have had no knowledge of the termination.

Probate or administration granted to an attorney

- 5** If probate or letters of administration have been granted to a person as attorney for some other person, sections 1 to 4 apply as if the payments made or acts done under the grant had been made or done under a power of attorney of which that other person was the donor.

Corporation may appoint attorney

- 6** (1) A corporation within the legislative jurisdiction of the Legislature may, by instrument in writing under its corporate seal, empower a person, in respect of a specified matter or purpose, as its attorney, to execute deeds or documents on its behalf.
- (2) An instrument executed by an attorney on behalf of the corporation is, if it comes within the scope of the attorney's authority, binding on the corporation and of the same effect as if it had been executed by the corporation.

Deeds

- 7 A deed executed by an attorney under the seal of the attorney on behalf of a donor, whether an individual or corporation,
- (a) is binding on the donor if it comes within the scope of the attorney's authority, and
 - (b) is of the same effect as if it were under the seal of the donor.

Enduring power of attorney

- 8 (1) The authority of an attorney given by a written power of attorney that
- (a) provides that the authority is to continue despite any mental infirmity of the donor, and
 - (b) is signed by the donor and by a witness to the signature of the donor, other than the attorney or the spouse of the attorney,
- is not terminated only because of subsequent mental infirmity that would but for this Act terminate the authority.
- (2) The authority of an attorney under a power of attorney referred to in subsection (1) terminates on the making of an order under section 3 of the *Patients Property Act* or on the appointment of a committee under section 6 (1) of that Act.

Short form

- 9 (1) A general power of attorney may be in Form 1 or Form 2 of the Schedule.
- (2) A general power of attorney, in Form 1, confers authority on the attorney and in Form 2 confers authority on more than one attorney acting separately or acting together, as the case may be, to do on behalf of the donor anything that the donor can lawfully do by an attorney, subject to the conditions and restrictions, if any, that are contained in the power of attorney.
- (3) This section applies to a power of attorney made before, on or after October 14, 1987.

SCHEDULE**FORM 1***(Section 9)*

Power of Attorney
(For the appointment of one attorney)

This GENERAL POWER OF ATTORNEY is given on (Date)

by (Donor) of (Donor's Address)

I appoint the following person:

..... (Name of Attorney) of (Address of Attorney)

Schedule

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.

(The following paragraph may be included if the donor wishes the authority granted by this power of attorney to continue despite any subsequent mental infirmity on the donor's part:)

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

This power of attorney is subject to the following conditions and restrictions:

(Cross this line out if there are no conditions or restrictions.)

WITNESSED BY:

.....
(Signature of Witness)

.....
(Print Name of Witness)

.....
(Donor)

.....
(Address of Witness)

FORM 2

(Section 9)

Power of Attorney (For the appointment of more than one attorney)

This GENERAL POWER OF ATTORNEY is given on..... (Date)

by (Donor) of (Donor's Address)

I appoint the following persons:

..... (Name of Attorney) of (Address of Attorney)

..... (Name of Attorney) of (Address of Attorney)

Cross out one of the following alternatives)

(who may act separately (or) who must act together) to be my attorneys in accordance with the *Power of Attorney Act* and to do on my behalf anything that I can lawfully do by an attorney.

(The following paragraph may be included if the donor wishes the authority granted by this power of attorney to continue despite any subsequent mental infirmity on the donor's part:)

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

This power of attorney is subject to the following conditions and restrictions:

(Cross this line out if there are no conditions or restrictions.)

WITNESSED BY:

.....
(Signature of Witness).....
(Print Name of Witness).....
(Donor).....
(Address of Witness)

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POWER OF ATTORNEY — HISTORICAL TABLE

Amendments Not in Force

POWER OF ATTORNEY ACT

RSBC 1996, chapter 370

Section	Citation
8	RS1996 (Supp) -370-1; 1993-67-61.
10	RS1996 (Supp) -370-2; 1993-67-62.
Sch.	RS1996 (Supp) -370-Sch.; 1993-67-63.

Legislative History

POWER OF ATTORNEY ACT

RSBC 1996, chapter 370

Section	History
1	RS1979-334-1; 1987-42-90.
2	RS1979-334-2; 1987-42-90.
3	RS1979-334-3; 1987-42-90.
4	RS1979-334-4; 1987-42-90.
5	RS1979-334-5.
6	RS1979-334-6; 1989-69-34.
7	RS1979-334-6.1; 1989-69-35.
8	RS1979-334-7; 1995-11-35.
9	RS1979-334-8; 1987-42-91.
Sch.	RS1979-334-Sch.; 1987-42-92.

EXPLANATORY NOTE

Amendments Not in Force: If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

Legislative History: The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".