

What Do The Words Mean?





This publication explains the law in a general way as it applies in Nova Scotia, Canada. The information is not intended as legal advice. If you have a legal problem, contact a lawyer for advice about what steps you should take in your situation. We thank the Law Foundation of Nova Scotia, the Department of Justice Canada, and the Nova Scotia Department of Justice for providing core funding for our services, which makes publications like this possible.



Definitions

| | |
|--------|----|
| A..... | 4 |
| B..... | 5 |
| C..... | 5 |
| D..... | 6 |
| E..... | 7 |
| F..... | 7 |
| H..... | 8 |
| I..... | 8 |
| J..... | 8 |
| L..... | 9 |
| M..... | 9 |
| N..... | 9 |
| O..... | 9 |
| P..... | 10 |
| R..... | 11 |
| S..... | 11 |
| T..... | 12 |
| U..... | 12 |
| W..... | 12 |

WHAT DO THE WORDS MEAN?

K

a

- abuse:** any act or neglect to act which threatens the health, security, or well-being of a person. Abuse of older adults is sometimes also called senior abuse or elder abuse. Abuse can be acts, words, or neglect.
- access:** a privilege which refers to the child's legal right to visit or spend time with a parent or guardian. *See parenting time. The term is no longer used in family law.*
- access order:** a court order that provides for contact between a dependent and the person applying for contact, such as visits, phone calls, emails, mail. The term access is no longer used in family law.
- account:** the act of proving what one has done to meet one's responsibilities. For example, an attorney must account for steps they take on behalf of the donor of a power of attorney.
- administrator:** When a person dies without a will, there is no executor to see that everything is handled properly. Or sometimes a will does not name an executor, or none of the executors named in a will are able to act. In these cases, someone needs to fill the executor's role and see that everything is handled properly. This person is called an administrator. The court uses the general term 'personal representative' for a person appointed as an administrator.
- adult:** in Nova Scotia, the age of adulthood is 19. It is also called the age of majority.
- Adult Capacity and Decision-making Act:** the Nova Scotia law that allows a judge to appoint a representative for an adult who cannot make some or all of their own decisions.
- affidavit:** a legal statement that is sworn or affirmed before a Commissioner of Oaths or a notary public.
- affidavit of execution:** a statement sworn by a witness about the signing of a document. For example: witnesses to a will or power of attorney.
- assessor:** a doctor or psychologist has the power to assess an adult's capacity under the *Adult Capacity and Decision-making Act*. With training, an occupational therapist, nurse, social worker, or other qualified health care professional can assess capacity.
- asset:** A legal term for property. This can mean anything of value, such as a house, vehicle, or bank account.
- assisted suicide:** the act of intentionally killing oneself with the help of another person.
- attorney:** the person who receives the authority to act on another's behalf under power of attorney. This person is not necessarily a lawyer.

b

beneficiary: a person who is entitled to receive property through a will as an inheritance. The plural is beneficiaries. Also called an heir.

bond: a type of insurance policy.

c

capacity: to be competent to perform a specific task, such as writing one's own will. *Also see testamentary capacity.* In decision-making, capacity means generally that you can understand the information needed to make a decision, and what could happen because of a decision.

capacity assessment: testing by a health care professional (assessor) to find out if an adult has the ability to make important decisions on their own.

capacity assessment report: a report by a health care professional (assessor) to explain whether an adult can make important decisions on their own. The report may also include information from other sources, like family and friends.

clause: section of a legal document, for example, of a will.

codicil: a legal document written to change part of an existing will. It is always better to do a new will instead of a codicil.

cohabitation agreement: a written agreement between a couple who are living or plan to live together which sets out their rights and responsibilities to one another.

commissioner of oaths: an officer who has the authority to administer oaths on legal documents.

common law partner: a person in an unregistered live-in 'marriage-like' relationship with another person. *See common law relationship.*

common law relationship: an unregistered, live-in 'marriage-like' relationship between two people. They are not married but they share a home, refer to themselves in public as spouses or partners, and share things like bills and other finances. *See registered domestic partnership.*

competent: a legal term which means to be of sound mind and able to make reasonable decisions. *Also see incompetent person.*

conciliation: a process in family court for negotiating an agreement between two parties with assistance from a conciliator talking to the parties separately.

WHAT DO THE WORDS MEAN?

K

consent: Before engaging in sexual activity with someone, the law requires that you take reasonable steps to be sure the other person agrees freely and voluntarily.

consent order: the name of the agreement reached between two parties when the issue is resolved using mediation or conciliation.

consumer fraud: the intentional deception of a person who buys something.

contact: the time a child spends with someone other than their parent or guardian because of a court order or agreement. This can be a grandparent, or anyone else who is close to the child.

custodian: a person who has legal care and control of property that belongs to someone else, and to keep it safe.

custody: having the responsibility to care for the child, and to make the major decisions about the child's health, well-being, and upbringing. Custody can also mean who the child lives with. The term custody is no longer used in family law. *See decision-making responsibility, contact, interaction, parenting time.*

cyberbullying: when someone uses electronic communication, like email, text messaging, or social media, to harm your health or well-being.

d

decision-making responsibility: a general term describing who is responsible to make significant decisions for and about a child. For example, this includes decisions about a child's health, education, culture, language, religion, spirituality, and significant extracurricular activities. This has traditionally been called 'custody'. The term 'custody' is no longer used. *See also parenting time, contact, interaction.*

delegate: the person legally authorized to make decisions for another person, specifically under a personal directive for health and other personal care decisions. Also informally called a proxy.

dependent: a person another person has a legal obligation to support, such as a spouse or a child.

domestic partnership: *see registered domestic partnership.*

donor: the person giving someone else the authority to act on their behalf, particularly under a power of attorney document.

e

elder abuse: see *senior abuse, abuse*.

enduring power of attorney: a legal document which authorizes a person, called an attorney, or company to act on behalf of another person, even if the person loses capacity. One type of power of attorney.

estate: all of the property owned by a deceased person when they die. It includes land, vehicles, investments, cash, jewellery, and furniture. A person's estate is often called their 'property'.

ethanasia: an act taken by one person to end the life of another to relieve that person's suffering.

execution: the formal signing of a legal document.

executor: the person named in the will of a person who has died. The executor is responsible for seeing that everything is handled properly. They gather assets of the deceased, pay debts and taxes, and distribute the remaining money and property according to instructions in the will. The court uses the general term 'personal representative' for a person appointed as an executor.

f

fraud: intentional deception. Also called a scam.

fraudster: a person who commits a fraud.

general power of attorney: a power of attorney that gives your full authority to your attorney.

guardian: a person who had applied to the court for guardianship of an adult under the old *Incompetent Persons Act*. Now considered to be a representative under the *Adult Capacity and Decision-making Act*. A guardian made all decisions for an adult under their care; a representative makes only the decisions the adult cannot make. Guardian is also the legal term for someone who has legal responsibility for the personal or financial interests of a minor (person under 19) child.

WHAT DO THE WORDS MEAN?

K

h

health care: any examination, procedure, service, or treatment that is done for a health-related purpose, including a therapeutic, preventative, palliative, or diagnostic purpose. It includes a course of health care or a care plan.

holograph will: a handwritten will signed and written by the testator but not witnessed.

i

identity theft: the illegal act of using personal information, for example personal identification numbers or Social Insurance Numbers, to steal from a person.

incompetent person: anyone who is legally incapable of managing their own affairs because of mental infirmity. This may be because of an accident, disease, or psychiatric illness.

instruction directive: a person's expression of wishes for health care measures they want taken for them if they become unable to express their wishes themselves, as laid out in a personal directive.

interaction: communicating with a child outside of parenting time or contact time. Includes phone calls, emails, or letters, sending gifts or cards, attending the child's school activities or other activities, receiving copies of report cards or school photos, video chats.

intestacy: the state of dying without leaving a will.

intestate: to die without a will.

inventory: a listing of all of a person's possessions, such as for the purpose of probating a will.

j

joint tenancy: a type of ownership of property in which each person has equal ownership, such as a house or bank account. The owners have equal right to use and control the property. If one owner wants to sell the property, any other owners must agree. See *tenancy in common*.

L

least intrusive: a representative must not interfere with the privacy and freedom of an adult in need of representation unless absolutely necessary.

living will: a form of instruction directive in which a person sets out their wishes for health care measures they do or do not want if they become unable to communicate. In Nova Scotia the term used is a personal healthcare directive or personal directive.

M

marriage contract: a written agreement between two persons who are married to one another. Sets out the details of property ownership, how property will be divided upon separation, and any support obligation between the spouses.

mediation: a process for using a neutral third party (the mediator) to help two parties come to an agreement.

mediator: a person who helps negotiate agreement between two parties. *See mediation.*

medical consent: an agreement to a medical treatment or procedure. It can be a signed document which shows agreement to your own medical treatment or sometimes it can be verbal or implied; for example, when you roll up your sleeve to give a blood sample.

N

neglect: the failure to provide a person to whom you owe responsibility with what they need, for example adequate food, medical attention, shelter, assistance, care, or clothing. A form of abuse.

notary public: a person, usually a lawyer, who serves the public in drawing up and certifying legal documents and authenticating documents as valid.

O

order: a document authorized and signed by a judge that is the law between the parties to the order.

ordinary power of attorney: *see power of attorney.*

WHAT DO THE WORDS MEAN?

K

p

parenting time: the time a child spends with a parent or guardian because of a court order or agreement. A term used in family law. *See also contact.*

permanent care: the placement of a child in care which resembles that of wise and conscientious parents.

personal care decisions: decisions about what a person will eat or drink, where they will live, what they will wear, what activities they will do, and what support they will need to live. Includes what health care treatment they get, such as tests, procedures, or services to keep them healthy.

personal directive: a type of advance health care directive which allows you to give instructions and/or authorize someone else to make decisions about personal care and consent to medical treatment on your behalf. *See also delegate.*

personal representative: an executor of a will or administrator or an estate.

phishing: a scam used by identity thieves, such as an email which threatens serious consequences if you don't immediately update personal electronic information.

probate: a legal process to deal with a person's estate after they die.

property: a legal term which indicates all possessions owned by a person, not just real estate.

power of attorney: a legal document in which you give another person authority to act on your behalf during your lifetime. Also called ordinary power of attorney. *See also, donor and attorney.*

proxy: a person who acts as the decision maker. If a person becomes unable to consent to treatment, a proxy has the authority to make health care decisions for that person. *See also delegate.*

proxy directive: the appointment of a person to act as the decision maker, or proxy, as laid out in your advance health care directive, if you become unable to consent to treatment. *See also instructional directive.*

Public Trustee: the provincial office which has authority to act for people in certain situations if they are unable to care for their own affairs, for example, mentally incompetent persons.

r

registered domestic partnership: any two people who are living in a common law relationship can register their relationship with the Nova Scotia government (Vital Statistics) as a registered domestic partnership. This gives common law partners many, but not all, of the same rights as married spouses.

renunciation: a refusal to act or fulfill a function to which you have been named, such as refusing to act as an executor.

representative: a person with legal authority by court order (representation order) to make decisions for another adult under the *Adult Capacity and Decision-making Act*.

representation order: a court order that appoints someone to be a representative under the *Adult Capacity and Decision-making Act*.

representation plan: a plan to manage the well-being and financial matters of an adult who cannot manage those matters for themselves.

residue: any property remaining after funeral expenses, debts, taxes and costs of managing an estate have been paid, and any specific gifts in a will have been paid or given to one or more beneficiaries.

retainer: an advance fee paid to a professional who will act for you, such as a lawyer.

revoke: a legal term which means to cancel an existing legal document, such as a will.

s

scam: *see fraud.*

seeking leave of the court: getting the court's permission to make an application to ask it for something, such as decision-making responsibility.

senior abuse: any action which threatens the health, security, or well-being of an older person. Also called elder abuse or abuse of older adults.

serve: properly notify a person of a court proceeding. Personal service is where someone hand delivers the court documents directly to that person to notify them of a court proceeding. Personal service cannot be done by mail, courier, fax or registered mail.

shoulder surf: a tactic used by identity thieves who watch as you punch your access codes and passwords on ATMs, debit machines, telephones, and computers.

WHAT DO THE WORDS MEAN?

K

specific power of attorney: a power of attorney that limits exactly what authority you give to your attorney.

spouse: two people who are married to each other.

springing power of attorney: a specialized power of attorney document which says what future event will cause it to come or “spring” into effect. Sometimes also called ‘contingent’ power of attorney. *Also see power of attorney.*

surety: the person or company which guarantees to pay money or perform acts if a bond fails.

t

tenancy in common: a type of joint ownership of property in which two or more people each own part of a shared asset. Their shares may not have the same value. Each owner can use their share how they like or sell it without permission from any other owner. *See joint tenancy.*

testamentary capacity: to be mentally competent to make a will. Also called “being of sound mind.” *Also see testator.*

testator: a person who makes their will.

trust company: a corporation organized to perform legal duties, such as a trustee in managing estates.

trustee: someone who has legal responsibility to manage something, such as property, because of a court order or other legal document.

trustee in bankruptcy: court-appointed trustee who administers the affairs of a bankrupt company or person. Also called Licensed Insolvency Trustee.

u

undue influence: a situation in which someone exerts an inappropriate amount of pressure on another person. For example: forcing someone to write a will.

w

will: a legal document in which you say what you want done with your property after death.