

THE NOTARY AND YOUR RETIREMENT

As you embark on your retirement years, content to have made your contribution to society, you have earned the right to enjoy those years in complete peace of mind. Your notary can help you work out solutions for any legal concerns you may have.

POWER OF ATTORNEY: A GOOD THING TO HAVE WHEN THINGS ARE GOING WELL

If you are planning to go on a trip or if you expect to spend time in the hospital, it is comforting to know that someone can attend to your affairs and administer your property or assets while you are away. That person may be your spouse, one of your children or a good friend. How is this done?

You have only to sign a document called a power of attorney or mandate by which you, the constituent or mandator, appoints an attorney or mandatary to act on your behalf.

The power of attorney may make provision for entrusting your attorney with a fairly comprehensive list of powers.

If you plan to be away for an extended period of time, you may wish to authorize your attorney to take action on your behalf without incurring any problems.

Your attorney may pay your rent, make your mortgage (hypothec) payments, make deposits or withdrawals at your bank, or renew your insurance policies, etc.

You may wish to confer on your attorney only limited powers, and authorization to sign only certain deeds. You may grant authorization, for instance, to sell your property during your absence, but only in accordance with conditions laid down by you.

Your notary can advise you on the contents of the power of attorney and draw up such authorization, adapting it to your special needs. Note that a power of attorney is automatically cancelled in the event of your or the attorney's death.

REVOCAATION: A NECESSARY RESPONSE TO A BREACH OF TRUST

If you no longer trust your attorney, you may revoke the mandate. This will prevent him from continuing to act on your behalf.

To exercise this right, you must sign another document, preferably a notarial one, called a revocation. This is basically a declaration that you no longer wish the attorney to represent you or act on your behalf.

You should let your attorney know that you have changed your mind. You may do this by simply sending him a copy of the revocation, preferably by registered mail. You may oblige the mandatary to return the power of attorney to you in order to note on it the termination of the

mandate. If the power of attorney has been made before a notary, it is important to advise him. For your own protection, you should inform financial institutions with which you do business.

MENTAL INCAPACITY: MEANS OF PROTECTION

Mental faculties can deteriorate with age, to the point where some people can no longer manage their own affairs or take care of themselves (loss of memory, impaired judgment, etc.).

If, while you are still in full possession of your mental faculties, you sign a mandate in anticipation of mental incapacity, the designated mandatary can take over when necessary. In most cases, instead of presenting a motion to the court to have the mandate homologated, the mandatary may apply to a notary, specially certified by his professional order, to have the mandate declared enforceable by following the procedure prescribed by law. **Consult the leaflet concerning mandates given in anticipation of incapacity.**

If, prior to your becoming incapable, you do not give such a mandate, the law will provide for the institution of protective supervision. Depending on the degree of your incapacity, protective supervision may be in the form of curatorship, tutorship or advisership.

A curatorship is instituted if you are totally and permanently unable to take care of yourself or administer your property. A tutorship is instituted if your inability to take care of yourself or administer your property is partial or temporary. An advisership is instituted if you are generally capable of taking care of yourself and your property, but require assistance for certain acts. These different forms of protective supervision are reviewed periodically under the law. You do not have control over the type of protective supervision that is exercised over you or the person who will be appointed your curator, tutor or adviser.

Here again, instead of a motion presented in court, an application for the institution or review of protective supervision may be submitted to a notary specially certified by his professional order.

Unlike the institution of protective supervision, a mandate given in anticipation of **incapacity allows you to choose, yourself**, the person who will administer your property and take care of you should you become incapable, and allows you to choose the powers that person will have. The choice of such a person is too important to be left to someone else... **To ensure that your choice is respected, consult your notary.**

CANCELLATION OF YOUR LEASE

You will want to end your lease if you have, happily, finally obtained low-rental housing or if, unhappily, a handicap affects your autonomy to the point where you can no longer occupy your present dwelling. You will also want to cancel your lease if you are admitted permanently into a residential and long-term care centre or a public or private foster home. All you have to do is notify your lessor in writing and include proof of your acceptance by the home in question. The cancellation takes effect three months after the notice. The lessor cannot evict you before three months have elapsed, even if he claims that the apartment has already been relet. A word of caution however. In some cases the lease may be terminated more quickly. Also, the original lease may contain special provisions. Consult your notary for more information.

MAKING YOUR WILL: A TOKEN OF LOVE

You will spare your loved ones much grief at the time of your death if you take the time to draw up a will.

No matter how much or how little property you have, a properly drawn-up will ensures that your assets are distributed according to your wishes.

Of course, you may make changes to your will or replace it at any time. You must, however, remember to inform a person you trust of the existence of the last version of the will and the type of burial you would like to have, since the will is unfortunately often read only after the funeral.

The leaflet entitled *The Will/The Register of Wills* explains the three types of wills recognized by law: holograph wills, wills made in the presence of witnesses and, of course, the notarial will. **Do not hesitate to ask your notary for it.**

THE LIVING WILL

More and more people have expressed the desire to not be kept alive by artificial means. These people wish to die with dignity, as nature intended. The idea of a living will is gaining ground. It is a document dated and signed by a person of full age who is of sound mind and who may or may not be physically ill. It indicates the type of medical treatment he would like to receive in his last hours on earth.

The force of this document is strictly moral. In other words, even if it is a good indication of the patient's wishes, it does not legally bind physicians or hospitals. However, a living will is a very important document and it should be given to your physician and entered into your medical record.

Having a living will made in notarial form will not render it immune from contestation or automatically enforceable, but it will reassure the physician that it is an authentic document and it will help remove any doubts your loved ones may have as to your last wishes.

A LIQUIDATOR FOR A SUCCESSION: A COMFORTING THOUGHT

It is a mark of confidence to have been appointed the liquidator of a loved one's succession. Your responsibility will include the settlement of the deceased's succession.

Your task as liquidator will involve

- seeing to the funeral arrangements;
- opening the safety-deposit box;
- opening an account in a financial institution;
- filing income-tax returns and paying taxes;
- drawing up an inventory of the assets;
- identifying the successors;
- obtaining clearance certificates from the tax authorities;
- settling debts and paying out particular legacies;
- rendering account of your administration;
- suggesting a partition of the succession;
- etc.

Your notary is the best person with whom to share the numerous tasks involved. He will be able to help you, provide judicious advice and spare you a lot of worry...

For more information on the settlement of a succession, consult the leaflet on that subject.

FUNERAL ARRANGEMENTS MADE IN ADVANCE

It may be a good idea to make your own funeral arrangements in advance to ensure that your last wishes are strictly observed.

The Office de la protection du consommateur is responsible for enforcing the law governing this sector of activities. Contact the office in your area for further information on this subject.

Consult your notary: he leaves nothing to chance.

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Detail



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