

Alzheimer *Society*

S A S K A T C H E W A N

Legal & Financial Issues

Learn More *Live Well*

DISCLAIMER

This booklet is for information only and should not be taken in place of professional legal, financial, or accounting advice.

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Table of Contents

	Page
Introduction	4
Legal	
Power of Attorney.....	5
The Adult Guardianship and Co-Decision-Making Act.....	7
Inter Vivos or Living Trust.....	9
Public Guardian and Trustee of Saskatchewan.....	10
Freezing of Funds.....	11
Authority to Investigate.....	11
Wills.....	12
Health Care Directives.....	14
Health Care Proxies.....	15
Financial	
Assets.....	16
Credit Cards.....	16
Bank Accounts.....	16
Real Property.....	17
Government Benefits	
Guaranteed Income Supplement.....	18
Involuntary Separation.....	19
Trusteeship under the Income Security Programs.....	19
Income Tax.....	20
Canadian Pension Plan Disability Benefits.....	21
War Veterans.....	22
Private Benefits	
Home Insurance.....	22
Life Insurance.....	22
Disability Insurance.....	23
Conclusion	23
Glossary of Terms	24
Further References	27

Introduction

A person diagnosed with Alzheimer's disease or a related dementia will experience mental deterioration over a period of years. Eventually, the person will not be able to manage their legal, financial and personal affairs.

Many individuals with Alzheimer's disease or a related dementia have long periods in which they are quite capable of understanding the nature of their problems and the decisions they are making.

Individuals with early symptoms should participate, with the assistance of their families and legal counsel, in planning for the future when someone else will have to take responsibility for their affairs.

Families of individuals with severe symptoms of Alzheimer's disease or a related dementia also need to understand their options and obligations in taking responsibility for the affairs of a person with Alzheimer's disease or a related dementia.

It is strongly recommended that families discuss legal and financial concerns as early as possible, and that the person with Alzheimer's disease or a related dementia and all family members be involved as much as possible in such decision-making.

Power of Attorney

A **power of attorney** is the legal authority, contained in a written document, which allows someone else to manage a person's personal and property affairs.

A **Personal Attorney** can be given the authority to make decisions about personal affairs. An amendment to The Powers of Attorney Act, 2002 was passed in 2004, which provided for a Personal Attorney (see note below). These responsibilities could include deciding where you should live and what kind of help you need around the home. A personal attorney cannot be given the power to make health care decisions for you. That must be done by making a health care directive. Health care decisions are covered in The Health Care Directives and Substitute Decision Makers Act (see section below for more information).

A **Property Attorney** can be given authority to make decisions about property and financial matters. This could include the ability to withdraw money from bank accounts, pay bills, and sell and purchase property.

The person who gives the power is called the grantor, and the person receiving the power is called the attorney. The grantor can still act on his own behalf and still has control of his affairs even if he has signed a power of attorney document.

The grantor must be mentally competent to understand the consequences of his decisions before he can sign a power of attorney. The grantor must be able to understand exactly what type of power, and what property, is being given to the attorney. Section 15(3) of The Land Titles Regulations, 2001 requires the Power of Attorney: a) to deal with real property, b) to deal with any title or interest held, and c) to perform any dealings with the Grantor pursuant to the Act.¹

A power of attorney must be in writing. The document must be signed by the grantor. One witness is required if the witness is a lawyer, otherwise two adult witnesses are required to sign the document and witness certificates. The witness must not be a family member of either the attorney or the grantor. The person named as attorney does not have to sign the document.

An **Enduring Power of Attorney (EPA)** allows the attorney's authority to continue even if the grantor is no longer mentally competent. The attorney's authority ends at the grantor's death, when the executor of the grantor's will assumes responsibility for the late grantor's affairs. There are two types of EPA's. The first takes effect immediately, whereas the second takes effect upon a specified future date or the occurrence of a specific event. The second type of EPA is also called a **contingent power of attorney**. For example, the grantor may stipulate that the enduring power of attorney will come into force only if the grantor is declared by a doctor to be no longer mentally competent.

¹ The Land Titles Regulations, 2001 RSS Chapter L-5.1 REG 1.

Before signing the enduring power of attorney, the grantor should ensure that the proposed attorney is willing to act. Should the grantor become incompetent, the attorney is obligated to act on the grantor's behalf. The attorney can avoid this obligation by providing a written letter of resignation to the appropriate person as stated in The Powers of Attorney Act, 2002.

The grantor may appoint any person, who is over the age of 18 and who is mentally competent, to be the attorney. An exception to this rule is that the attorney may not be an undischarged bankrupt and cannot have been convicted of criminal charges within the last ten years. A convicted person may be appointed if the grantor acknowledges the conviction in writing and consents in writing to that person acting as attorney. Any individual who is paid to provide personal or health care to the grantor is also ineligible to be that person's attorney.

The grantor may appoint more than one person as his attorney and, unless otherwise stated by the grantor, they will be deemed to act together and their decisions must be unanimous. If the grantor states that the attorneys are to act successively, the second named person will have authority to act only if the first named is unable to do so by reason of death, resignation of power, or being found to no longer have capacity by the court.

The grantor may name a person to whom the attorney must account on a regular basis. If no person is named in the enduring power of attorney, and the grantor is still competent, the attorney must account to the grantor. If no person is named in the enduring power of attorney, and the grantor is no longer mentally competent, the attorney must account to an adult relative of the grantor. If the attorney does not provide an accounting by request, he can be directed to provide an accounting by the Public Trustee or the Courts.

An enduring power of attorney may be terminated in one of several ways as set out in The Powers of Attorney Act, 2002.

An enduring power of attorney should be discussed with a lawyer.

***Note:** It is our understanding that a Power of Attorney document drawn up before 2005 does not include matters that would be covered under a personal power of attorney. If the grantor is still competent, a new personal power of attorney can be drafted. If the grantor is no longer competent and in a position where someone is required to make the personal decisions on their behalf, then an application for a personal guardian may have to be made.*

For further information on Power of Attorney, see The Powers of Attorney Act, 2002.

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/P20-3.pdf

Public Legal Education Association (PLEA) pamphlet Power of Attorney

www.plea.org

The Adult Guardianship and Co-Decision-Making Act

If there is no legal authority for family members to make decisions or deal with property, such as a power of attorney, it may become necessary to apply to court to become the person's personal or property co-decision maker. This can be an expensive process.

A personal or property co-decision-maker or guardian is a person, or agency appointed by the court to administer the personal and property/financial affairs of a person whose capacity is impaired and therefore requires assistance with decision-making (co-decision-maker) or who is completely unable to make decisions on his own (guardian).

The court must take into account the ability of the proposed co-decision-maker or guardian to carry out the duties in a satisfactory manner, and the relationship between the co-decision-maker or guardian and the adult. No person is to be appointed if that person's interest may conflict with the adult's interest.

If no power of attorney has been executed and if the person with Alzheimer's disease is not competent to appoint a power of attorney, it may be necessary for the spouse or other relative of a person with Alzheimer's disease to apply to court for permission to act as a personal or property co-decision-maker or a personal or property guardian depending upon the circumstances of the person regarding whom the application is about.

The personal co-decision-maker or guardian assists or makes decisions about issues such as:

- Where the individual is to live;
- With whom the individual is to live;
- Who may have access to or visitation with the individual;
- Types of activities the individual will be involved in;
- Decisions regarding the individual's health care, diet and day to day activities.

The property co-decision-maker or property guardian makes decisions about the financial welfare of the adult, including decisions regarding assets, debts, and income.

Appointment of a personal/property co-decision-maker or guardian may, in some cases, be preferable to appointing a power of attorney because of the security of the Public Guardian and Trustee supervision over the accounts involved. The appointment by the court of a property guardian will override the appointment of an attorney under a power of attorney.

The family may wish to request a corporate trustee (such as a trust company) to apply as guardian depending on the size of the estate, the financial needs of the person, and the nature and location of the assets or particular family needs.

To be appointed as a personal and/or property co-decision-maker or guardian, one should seek legal assistance, as it is necessary to apply to and possibly appear before a judge in the Saskatchewan Court of Queen's Bench for an order appointing a property or personal co-

decision-maker or guardian. The application must be supported by assessments of the adult's capacity from at least two physicians, and/or other health care professionals. It is important to note that once a person is appointed as a personal and/or property co-decision-maker or guardian by the courts he can only be relieved of his duty by application to the court.

It is the responsibility of the property guardian or co-decision-maker to keep a record "accounting" of all of his dealings with the person's income, assets and debts. The Court may also require the property guardian or co-decision-maker to post a bond equal to or greater than the value of the person's net assets. Further, the accounts must be submitted to the Court and Public Guardian and Trustee on a regular basis, usually every year, to ensure that the person's property is being well cared for.

For further information, see

The Adult Guardianship and Co-decision-making Act

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/A5-3.pdf

Public Legal Education Association (PLEA) booklet Abuse of Older Adults

www.plea.org

Inter Vivos Trust or Living Trust

An **inter vivos** or **living trust** is created during your lifetime and allows assets to be transferred immediately to the trust and the trustee becomes responsible for managing the assets and investments in it.

A trust is where one person or entity holds and/or distributes the property of another according to certain stipulated conditions and responsibilities.

If a person with Alzheimer's disease or a related dementia has a very large estate, or where there may be family conflict surrounding financial matters or second marriages, it may be advisable to speak to a lawyer about an inter vivos trust.

A person's assets, such as an investment portfolio, could be transferred to an inter vivos trust managed by trustees for the benefit of the person during his lifetime. Issues regarding Trusts and Trustees are dealt with in The Trustees Act, 2009.

For further information, see

The Trustee Act, 2009

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/t23-01.pdf

Public Legal Education Association (PLEA) booklet Wills and Estates

www.plea.org

Public Guardian and Trustee of Saskatchewan

The Public Guardian and Trustee of Saskatchewan is a statutory body which is given the right, by legislation, to operate and manage the income, debts and assets of certain individuals who are no longer mentally competent.

There are two ways that the public guardian and trustee can become involved in an individual's affairs.

1. Under *The Mentally Disordered Persons Act*, a chief psychiatrist, after a review of the patient by a physician designated, can issue a certificate of incapacity which he forwards to the public guardian and trustee, and at the same time notifies the person and his nearest relative. A chief psychiatrist has the authority to immediately notify the public guardian and trustee, if a chief psychiatrist believes that it is imperative that the individual's estate be brought immediately under the public guardian and trustee's control.

The public guardian and trustee may, upon receiving a notice from the chief psychiatrist, sign a document that immediately designates it the person's property guardian. Before doing so, the Public Guardian and Trustee will usually encourage family members to apply to the court to become the person's property guardian unless those family members are suspected of financial abuse.

2. Although rarely done, the public guardian and trustee may, at any time, apply to the Court to replace a person who was appointed personal and/or property guardian. It is unlikely that the public guardian and trustee will seek to remove an appointed personal and/or property guardian who is deemed competent and acting in the person's best interests.

Even if the public guardian and trustee has guardianship, a spouse or dependent can apply to court to take over from the public guardian and trustee, pursuant to The Adult Guardianship and Co-decision-making Act.

Freezing of Funds

The Public Guardian and Trustee may require a financial institution to suspend the withdrawal or payment of funds from a person's account for up to 30 days and may require that the financial institution provide the Public Guardian and Trustee with any financial information held by the financial institution respecting that person if:

- the Public Guardian and Trustee has reasonable grounds to believe that the person is a vulnerable adult; and
- the Public Guardian and Trustee receives an allegation that the person:
- he is being subjected to financial abuse by another person, including a person appointed as his or her property decision-maker; or
- he is unable to make reasonable judgments respecting matters relating to his or her estate and the estate is likely to suffer serious damage or loss.

Authority to Investigate

The Public Guardian and Trustee may investigate an allegation referred to above. In the investigation, the Public Guardian and Trustee may:

- at any reasonable time, examine any record, whether in the possession of the person believed to be a vulnerable adult or any other person; and
- request any person to provide any information and explanations considered necessary to the investigation.

For further information on Termination of Authority see

The Public Guardian and Trustee Act, s. 38(1)(b).

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/p36-3.pdf

The Public Guardian and Trustee Act, s. 30 and s. 31.

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/p36-3.pdf

Wills

In order to have the capacity to make a will a person with Alzheimer's disease or a related dementia must:

- understand the nature of the act of making a will and its effects
- understand the extent of the property of which he is disposing
- be able to understand the gifts that he would ordinarily be expected to make in a will
- not be suffering from a disorder of the mind or delusion that influences the gift.

If a will is made after diagnosis has been confirmed, it is possible that the will may be contested if there is any reason for others to suspect its validity.

Specifically, a will can be challenged on grounds that the testator (person making the will) was under duress or did not have testamentary capacity (mental competency) at the time the will was executed.

Legal advice at the time of execution of the will can often deal with these issues. The lawyer must be alerted to the issues regarding a diagnosis of Alzheimer's disease or related dementia, so that measures can be taken to reduce the likelihood that there would be a challenge to the will after his death. These could include a video tape of the person's instructions and other measures to assist the court after the testator's death.

A will names one or more individuals as the executor(s) of the estate. It is the executor's responsibility to administer the estate of the deceased by collecting all assets, paying all debts, including taxes, and distributing the assets or the proceeds in accordance with the terms of the will.

If the person with Alzheimer's disease or a related dementia does not have a will and is not competent to make one, he will die intestate. Contrary to what many people believe, this does not mean that his estate goes to the government. After the payment of debts and funeral expenses, all assets forming part of the estate will be divided amongst the person's spouse and/or next-of-kin according to The Intestate Succession Act, 1996.

The powers and duties of the executor of the estate commence only upon the death of the testator.

A will should be kept in a safe place where the executor can easily locate it after the testator's death. Care should be taken to protect it from being accidentally destroyed or lost. If the testator has a lawyer prepare their will, they may offer to store the will at no cost. The testator should be provided a copy to keep with other important papers that his executor may need. The copy should indicate contact information for the lawyer who prepared the will. The testator's executor can obtain the will from the lawyer after the person's death and is not under any obligation to use that lawyer's services.

Queen's Bench courthouses throughout the province provide for safekeeping of a will for a one-time fee (currently \$10). The person can take their will to the nearest Court of Queen's Bench for storage. They will be given a certificate to keep with their other important papers, indicating the whereabouts of their Will. A copy of the certificate is also filed in a central registry at the Court of Queen's Bench in Regina.

For further information see

The Wills Act, 1996.

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/W14-1.pdf

The Intestate Succession Act, 1996

www.qp.gov.sk.ca/documents/English/Statutes/Statutes/I13-1.pdf

See also Public Legal Education Association (PLEA) booklet Wills and Estates

www.plea.org

Health Care Directives (also referred to as Living Wills)

An individual can write a health care directive, communicating his wishes for future health care or treatment in a legally binding manner.

In order to make a health care directive, a person with Alzheimer's disease or related dementia must:

- have the mental capacity to make decisions regarding his health care;
- be able to understand the nature and consequences of those treatment decisions; and
- be able to communicate his decision.

The directive comes into effect only when the person becomes incompetent to make health care decisions. A directive cannot permit active euthanasia or assisted suicide.

A health care directive may document an individual's choices regarding:

- consent to treatment
- type of treatments desired
- type of treatments refused
- when treatment is to be terminated.

A health care directive must be clear and precise, to avoid problems in interpretation. It's a good idea to consult a family physician and a lawyer.

For a health care directive to be legally binding, it must be in writing, signed by the writer and dated.

It is the responsibility of the person or his proxy to make health care providers aware of the health care directive and the proxy's decision-making power. Health care providers are responsible to follow the directives, and they are not liable if they are unaware of the directives.

If a person does not have a health care directive and becomes ill and incapable of making health care decisions, another person may still make decisions for them. That person will be the individual's nearest family member, determined in the following order: a spouse or person living with the individual as a spouse, an adult son or daughter, a parent or legal custodian, an adult brother or sister, a grandparent, an adult grandchild, an adult uncle or aunt, an adult nephew or niece, according to *The Health Care Directives and Substitute Health Care Decision Makers Act*.

It is important to keep a directive in a place where it can easily be found when the person needs health care. A copy may be kept in the person's wallet and other copies given to the proxy, doctor, and family members.

For further information see
The Health Care Directives and Substitute Care Decision Makers Act
www.qp.gov.sk.ca/documents/English/Statutes/Statutes/H0-001.pdf
Public Legal Education Association (PLEA) Booklet Health Care Directives (Living Wills)
www.plea.org

Health Care Proxies

A health care directive may include a health care proxy.

An individual can designate a person, known as a health care proxy, to make health care decisions for him in the event that he is no longer able to make his own decisions.

A person named as a health care proxy must:

- be over age 18
- know the person's wishes
- be trusted and conscientious
- be able to speak on the person's behalf
- be able to understand the nature and consequences of the proposed medical treatments
- use his best judgement in making decisions if the person's directive is not clear or unknown.

The proxy is not legally obliged to make medical decisions for the person. Therefore the person should let the proxy know that the proxy has been chosen and name in the healthcare directive ahead of time. The individual making the proxy should choose his proxy carefully, and ensure his wishes are understood.

Some experts suggest that a health care directive naming a health care proxy provides the best solution. The health care directive can act as a guide not only for the person's physician but also for the proxy. If the proxy is unable or unwilling to act, the physician can still follow the health care directive.

If you do not have a health care proxy your nearest relative makes the decisions for you, according to The Health Care Directives and Substitute Health Care Decision Makers Act.

For further information, see Part III: Proxies, Nearest Relatives and Personal Guardians of The Health Care Directives and Substitute Health Care Decision Makers Act
www.qp.gov.sk.ca/documents/English/Statutes/Statutes/H0-001.pdf

Assets

Early in the diagnosis process the Person with Dementia and the Power of Attorney should establish a list of assets along with their location, and the Financial Advisor(s) to contact.

- Banking information, including credit cards
- Stocks, bonds, annuities
- RRSP, RR income funds
- Insurance
 - Home
 - Life
 - Disability

All assets belonging to a person with Alzheimer's disease or a related dementia will be considered part of his property if incapacity is established, and will fall under the jurisdiction of either:

- the power of attorney, if any or
- the property co-decision-maker or property guardian, if any.

Credit Cards

Because of the high risk associated with credit card theft and fraud, it is suggested that all credit accounts in the name of a person with Alzheimer's disease or a related dementia be reviewed upon diagnosis to determine whether they be destroyed or to have only one card. If you decide to keep a credit card active, you may also consider lowering the card's limit.

Bank Accounts

If a person with Alzheimer's disease or a related dementia cannot sign his name, the bank will not usually allow withdrawals.

Sometimes joint accounts are established with a family member for convenience. Extreme caution should be exercised when establishing such accounts. After the death of the person, most joint accounts contain a "survivorship clause" which permits the survivor to continue to use the funds for his own use.

It may be preferable to retain the account in the person's sole name. The bank account can still be managed by the person's attorney under a power of attorney or a property guardian.

"It is not the policy of any bank to insist on clients using the bank's own form of POA. Bank forms may deal only with bank transactions and possibly only transactions with that bank. Unless you have consulted a legal professional, there is the potential that using a bank form might invalidate or conflict with the terms of the earlier POAs and lead to unintended

consequences. A valid, general POA will usually meet the bank's requirements. You can read more about the importance of setting up a valid POA in Understanding Banks' Power of Attorney Requirements."²

Real Property

If both spouses, married or common-law, are still alive, the family home cannot be sold or mortgaged unless both individuals consent in writing to the sale or mortgage.

The attorney under an enduring power of attorney may sign a transfer of land or mortgage on behalf of a person with Alzheimer's disease or a related dementia who is no longer mentally competent, as long as the power of attorney document has not restricted the attorney from doing so

A property co-decision-maker or guardian may also sign a transfer of land or mortgage unless the court order appointing him says otherwise. If an individual wishes to allow the EPA to do this they should consider adding into their Power of Attorney a section stating "I give my Property Attorney power to perform any dealings on my behalf relating to my real property or titles or interests in real property as required by The Land Titles Act, 2000 and any amended Land Titles Act of Saskatchewan and other land titles jurisdiction". If contemplating this, please ask a lawyer beforehand.

If there is no attorney or guardian in place, the competent spouse can apply to the Court for permission to sell or mortgage the home. Any sale or transfer must be in the best interests of the person with Alzheimer's or related dementia. It is always a good idea to check with a lawyer before dealing with real property.

² Canadian Bankers Association, "Protecting Yourself from Financial Abuse"

<http://www.cba.ca/powers-of-attorney-what-consumers-need-to-know>

Further info at:

<http://www.cba.ca/powers-of-attorney-bank-requirements?l=en-us>

Guaranteed Income Supplement

The Guaranteed Income Supplement (GIS) provides a monthly non-taxable benefit to Old Age Security (OAS) recipients who have a low income and are living in Canada. To be eligible, you must be a legal Canadian resident, be receiving an Old Age Security Pension, and your annual income (or in the case of a couple, your combined income) must be lower than the maximum annual income allowed. You must apply in writing. There are two ways to apply:

- You must initially apply in writing.
- You must file an income tax return by April 30th of each year to have the benefit automatically renewed if you still qualify.

You can request that an application form be mailed to you by calling the toll-free number, 1-800-277-9914, or you can download and print the Guaranteed Income Supplement or Statement of Income for the Allowance or Allowance for the Survivor application form (ISP3025), for the payment year that applies to you, from the Old Age Security Forms page on the Service Canada website. Once the GIS application is completed, you may bring it, and your copy of your previous year's income tax return, to your local Service Canada Centre to be submitted, or mail it directly to the Winnipeg Processing Centre.

Using the information from your Income Tax Return, Service Canada will review your eligibility for the GIS every year. If you still qualify, your benefit will be automatically renewed. In July, you will receive a letter telling you either that your benefit will be renewed, that your benefit will be stopped, or that your income information is required. Please contact Service Canada if one of the following situations occur, since it might change the amount of your GIS payment:

- You or your spouse or common-law partner has a lower annual income due to a retirement or a reduction of pension income (in such cases, we can calculate your GIS by estimating your income for the current year instead of using last year's income).
- You experience a change in circumstance, such as a change of address, marriage, separation, divorce, or your spouse or common-law partner is incarcerated or dies.
- You and your spouse or common-law partner are both receiving the Old Age Security pension and are living apart for reasons beyond your control: for example, one of you is in hospital or living in a nursing home (in these cases, each of you may be allocated the GIS at the single rate if that gives you a higher monthly payment and is to your advantage).

If you want to give permission to a person you are comfortable with, such as a son/daughter, relative or friend, to give and receive information to Service Canada on your behalf, you will need to complete a Consent to Communicate form. You can call the toll-free number, 1-800-277-9914, and request that it be mailed to you, or you can download and print the Consent to Communicate Information to an Authorized Person form (ISP1603OAS) from the Old Age Security Forms Page on the Service Canada website. Once the Consent to Communicate form is

completed, you may submit it to your local Service Canada Centre, or mail it to the Winnipeg Processing Centre. This form does not provide authority for the person to apply for benefits on your behalf, change your payment address, or request/change the withholding of tax.

**For further information, please contact
Service Canada www.servicecanada.gc.ca
or call 1-800-277-9914 with any questions you may have**

Involuntary Separation

If you and your spouse or common-law partner are both receiving the Old Age Security pension, and are living apart for reasons beyond your control, Service Canada considers you to be involuntarily separated. An example is one of you is in the hospital or living in a personal care home or a nursing home. In these cases, please let Service Canada know, and each of you may be allocated the GIS at the single rate, if that gives you a higher monthly payment, and is to your advantage.

**For information on how to apply for Involuntary Separation, call 1-800-277-9914.
For more information see Service Canada www.servicecanada.gc.ca**

Third Party Administrator/Trusteeship for Canada Pension Plan, Old Age Security and/or Guaranteed Income Supplement Benefits

If an individual is incapable of managing his/her own affairs, another person or agency (a Trustee or someone with a Power of Attorney) may be appointed to act on the individual's behalf.

It is important that seniors in Canada receive the Canada Pension Plan (CPP), Old Age Security (OAS) and/or Guaranteed Income Supplement (GIS) benefits they are eligible for. There may be vulnerable seniors in our communities – particularly those who are homeless or at risk of becoming homeless, and who are incapable of managing their own affairs – who are not receiving the benefits for which they are eligible. For these seniors, third-party administrators act on their behalf to ensure they receive their benefits.

Third-party administrators can also act on behalf of other CPP, OAS and/or GIS-eligible recipients if they are incapable of managing their own affairs due to a mental or physical illness or impairment.

Qualified individuals (such as a family member, friend, lawyer, social worker), agencies, non-profit and registered charitable organizations, and municipalities can request to act as

administrators of CPP, OAS, and/or GIS benefits on behalf of individuals who are incapable of managing their own affairs, when there is no authorized person or agency already appointed under a federal law or provincial law to manage their affairs. This includes administering CPP, OAS and/or GIS benefits on behalf of vulnerable and homeless seniors, as well as other eligible recipients.

In order to apply to administer benefits on someone's behalf, the following forms must be completed:

- Certificate of Incapability (ISP-3505);
- Whichever of the following applies:
 - For administration by an individual, complete the Agreement to administer benefits under the Old Age Security Act and/or the Canada Pension Plan by a Private Trustee (ISP-3506)
 - For administration by an agency, a charitable organization or municipality, complete the Agreement to administer benefits under the Old Age Security Act and/or the Canada Pension Plan by an Agency or Institution (ISP-3507)

The forms you submit to act as a third-party administrator will be carefully reviewed and assessed before an individual's, agency's or organization's request for trusteeship is granted or declined. It is important to note that Service Canada-appointed trustees and organizations undertake the responsibility to administer benefits in the best interest of the individuals they represent. When the review is complete, Service Canada will contact you to advise you if your request to act as a third-party administrator has been granted.

Income Tax

Income tax returns must continue to be prepared and filed for a person with Alzheimer's disease or a related dementia. A professional tax consultant should be used as there are many deductions available to the person with Alzheimer's disease or a related dementia and their family.

You may wish to ask your tax consultant about:

- medical expenses
- disability tax credits
- Long Term Care fees

Be sure to refer to your current year's tax guide under "medical expenses" for allowable medical expenses including long-term care fees.

The Disability Tax Credit may reduce the amount of income tax that a person with a disability, or their supporting person may have to pay.

If the person is unable to sign his name, a person's mark such as an "X" is acceptable on the tax return, if witnessed.

Once appointed, a power of attorney, property co-decision-maker or property guardian or public guardian and trustee is responsible for the filing of the return.

**For further information, see
Canada Revenue Agency**

<http://www.cra-arc.gc.ca/tx/ndvdl/tpcs/ncm-tx/rtrn/cmpltng/prvncl/08-eng.html> 15

Canada Pension Plan Disability Benefits

The Canada Pension Plan (CPP) provides pensions and benefits when contributors retire, become disabled, or die.

The Canada Pension Plan (CPP) disability benefit is a taxable monthly payment that is available to people who have contributed to the CPP and who are not able to work regularly at any job because of a disability.

The CPP disability benefit is not designed to pay for such things as medications and assistive devices.

To qualify for a CPP disability benefit, you must:

- have a severe and prolonged disability
 - **Severe** means that you have a mental or physical disability that regularly stops you from doing any type of substantially gainful work.
 - **Prolonged** means that your disability is long-term and of indefinite duration or is likely to result in death.
- be under the age of 65
- have contributed to the CPP in four of the last six years, or three of the last six years if you have contributed for at least 25 years.

You should apply as soon as you develop a severe and prolonged or terminal medical condition that prevents you from working regularly at any job. The date your application is received affects the date your benefit begins.

If you are applying for a CPP disability benefit but stopped working so long ago that you are now too late to apply but you meet all the other conditions of eligibility, you may still be eligible for a benefit. This is called the late applicant provision.

You may be eligible if:

- you had enough years of CPP contributions when you first became severely disabled

- you have been continuously disabled (as defined by CPP legislation) from that date up to the present time.

You must apply in writing. If you are unable to fill out the forms, a family member or a friend can help you. Make sure that you sign where necessary. You can request that a CPP Disability application kit be mailed to you by calling the toll-free number, 1-800-277-9914, or you can download and print the Disability application form (ISP 1151) and other necessary forms from the Service Canada website. The Disability kit includes: Disability application form, General Information and Guide, Questionnaire, Consent for Service Canada to Obtain Personal Information form, Medical Report and Child Rearing Provision form. Once the Disability application forms are completed, you may bring them to your local Service Canada Centre to be submitted, or mail them directly to the Winnipeg Processing Centre.

**For further information, see
Service Canada
1-800-277-9914 (toll-free)
or visit www.servicecanada.gc.ca**

War Veterans

Veterans who are eligible for War Veteran's Allowance may be entitled to certain types of free medical and dental treatment not covered by Saskatchewan Health. Veterans Affairs Canada will pay the registration fees of qualified veterans for the Medic Alert® Safely Home® program.

**For further information, see
Veterans Affairs Canada
<http://www.veterans.gc.ca/>**

Home Insurance

It is possible that a home will be unoccupied while a person is in a hospital, personal care home or long-term care facility. It is imperative you contact your insurance agency immediately to discuss issues regarding ways to maintain full coverage. Read your policy carefully.

Life Insurance

If a person with Alzheimer's disease or a related dementia has a life insurance policy, it is important to keep the policy up-to-date, as it is hard to reinstate a lapsed policy for a person with a degenerative disease.

Disability Insurance

In the event of serious illness, disability insurance provides monthly payments to the insured. A person diagnosed with Alzheimer's disease or a related dementia may be entitled to receive these benefits from his employer. Check with the insurance carrier for details.

Conclusion

It is strongly recommended that families discuss legal and financial concerns as early as possible, and that the person with Alzheimer's disease or a related dementia and all family members be involved as much as possible with such decision-making.

Community professionals, such as lawyers and financial planners or accountants, can assist to make difficult decisions in the best interest of all concerned.

Glossary of Terms

Administrator / Administratrix

The person (administrator if male, administratrix if female) appointed to handle the estate of someone who has died without a will, or who has not named an executor in the will.

Annuitant

A person named to receive a benefit of an annuity.

Attorney

A person authorized by a power of attorney to manage another person's personal and/or financial affairs.

Beneficiary

A person named in a will to receive a benefit or advantage under a will.

Bequeath

To make a gift of personal property by means of a will.

Chief Psychiatrist

A psychiatrist designated by the minister to be responsible for clinical services in each mental health centre, psychiatric ward and mental health clinic.

Devise

To make a gift of real estate by means of a will.

Dispose

The name for making a gift that includes both a bequest and a devise.

Estate

All of the assets (real estate, investments and personal property) of a deceased person.

Execute

To sign a will in the presence of witnesses and in accordance with other legal formalities.

Executor / Executrix

The person (executor if male, executrix if female) entrusted in the will to administer the estate.

Fraud

Using deception to gain a material advantage for oneself.

Grantor

A person who gives power over his personal and/or financial affairs to another by way of a power of attorney.

Health Care Directive (Living Will)

A written document that states a person's preference as to the type and level of medical care he would or would not want to receive, and/or names a person (known as a proxy) to make medical decisions for the maker of the directive. The directive is legally binding if the maker is incompetent to make medical treatment decision or unable to communicate his or her wishes.

Health Proxy

The person, named in a health care directive, entrusted to make health care decisions, in the event that an individual is no longer able to make his own decisions.

Inter Vivos Trust

Also called a Living Trust. An Inter Vivos or living trust is created during a person's lifetime and allows assets to be transferred immediately to the trust and an appointed trustee/s becomes responsible for managing the assets and investments within it.

Intestate

Not having a valid will at one's death.

Joint Tenancy

A form of ownership in property, in which there is a right of survivorship to the other person (or people) on the title.

Legacy

A gift of personal property by a will. Personal property includes all types of property other than real estate.

Letters of Administration

A document granted by the court appointing someone to administer the estate of a person who has died without a will, or without having appointed an executor under a will. Generally, the closest relative who applies is entitled to the appointment.

Personal Property

Chattels, goods, property other than real property.

Personal or Property Co-decision-maker or Guardian

A person appointed by court order pursuant to The Adult Guardianship and Co-decision-making Act to assist an adult in making decisions regarding person or property or that make decisions for such adults, depending on the adult's capacity.

Power of Attorney

A document signed by a competent person, authorizing another person or corporation to manage his personal, financial and/or legal affairs.

Public Guardian and Trustee

An official appointed by the provincial government to manage the affairs of legally incapacitated persons, or the estates of deceased persons where there is no one else willing and able to do so.

Real Property

A property interest in land; i.e. land and all buildings, structures or objects affixed to that land. Contrasted with personal property.

Suspicious Circumstances

Anything in a will that arouses the suspicion of the court.

Testament

Generally used to mean a will, but strictly it is the statement of a person's wishes concerning the disposition of his personal property after death.

Testate

Having left a valid will at one's death.

Testator / Testatrix

A person (testator if male, testatrix if female) who makes a will.

Trust

A right to property held by one person for the benefit of another.

Trustee

A person who holds legal title to property in trust for the benefit of another person or has been given power affecting the disposition of property for another person's benefit.

Undue Influence

Pressuring someone so as not to allow that person to exercise free judgement in making a decision.

Will

A person's declaration of how his property is to be disposed of upon death. It may also contain other declarations of the maker's wishes.

Further References

Canada Revenue Agency (CRA)

www.cra-arc.gc.ca

Regina District Taxation Office

1955 Smith Street
Regina, SK S4P 2N9
Phone: (306) 780-6015

Saskatoon District Taxation Office

340 Third Avenue North
Saskatoon, SK S7K 0A8
Phone: (306) 975-4595 Toll Free: 1-800-959-8281

Provides information on Income Tax

Office of the Queen's Printer

www.qp.gov.sk.ca

8th Floor, Chateau Tower, 1920 Broad Street
Regina, SK – Canada S4P 3V7
Phone: (306) 787-6894
Toll Free: 1-800-226-7302

E-mail: qprinter@justice.gov.sk.ca

The public can purchase copies of provincial Acts, Regulations, and forms, such as those required to apply for guardianship for dependent adults. All orders must be pre-paid. Phone for prices.

Copies can be viewed online and printed free of charge.

The Law Society of Saskatchewan

www.lawsociety.sk.ca/newlook/Programs/senior.htm

Lawyer Referral Service
Phone: (306) 359-1767
Toll Free: 1-800-667-9886

E-mail: reception@lawsociety.sk.ca

The Law Society offers a legal assistance service to seniors in Saskatchewan who receive the Federal Guaranteed Income Supplement. Through the service, seniors are referred to lawyers who have agreed to act in certain areas of law free of charge. It is a voluntary service and not all eligible persons can be provided legal service.

For a list of Law Firms in Saskatchewan visit:

www.lawsociety.sk.ca/NewLook/Links/LawFirms.htm

Public Guardian and Trustee

100 - 1871 Smith Street, Regina, SK, S4P 4W4

Phone: (306) 787-5424

Email: pgt@gov.sk.ca

Fax: (306) 787-5065

The Office of the Public Guardian and Trustee:

- protects the property rights of children under the age of eighteen;
- administers the property and finances of adults who are incapable of managing their financial affairs, monitors other property guardians and investigates allegations of financial abuse;
- administers the estates of deceased persons; and
- holds and administers unclaimed property.

If you would like further information about our organization or if you would like to make a donation,
please contact us:

PROVINCIAL OFFICE

201-2550 12th Avenue Regina, SK S4P 3X1
Phone: 306-949-4141 or Toll-free: 1-800-263-3367
Info@alzheimer.sk.ca
Fax: 306-949-3069

RESOURCE CENTRES

Cypress Resource Centre

Swift Current
306-773-2683
cypress@alzheimer.sk.ca

Prairie North Resource Centre

Battleford
306-445-2206
prairienorth@alzheimer.sk.ca

Prince Albert Parkland Resource Centre

Prince Albert
306-922-2296
paparkland@alzheimer.sk.ca

Regina Qu'Appelle Resource Centre

Regina
(306)-949-4141
regina@alzheimer.sk.ca

Saskatoon Resource Centre

Saskatoon
306-683-6322
saskatoon@alzheimer.sk.ca

Sun Country Resource Centre

Estevan
306-842-2273
suncountry@alzheimer.sk.ca

Sunrise Resource Centre

Yorkton
306-786-3600
sunrise@alzheimer.sk.ca

Get access to support, information, and education in your community:

Call us throughout the province toll-free on the
DEMENTIA HELPLINE 1-877-949-4141



The Standards Program Trustmark is a mark of Imagine Canada and is not an endorsement by the Alzheimer Society of Saskatchewan