

What if I already have a guardianship order under the *Incompetent Persons Act*?

Guardianship orders continue as representation orders. Guardians become representatives. This means that an existing guardian now has the same duties and obligations as new representatives under the new law. If a guardian knows or believes that the adult can make decisions in some areas, the guardian must return to court to have the order reviewed. Any person, including the adult, can now ask the court to review an order. If you became a guardian under the *Incompetent Persons Act* and you believe the adult can make decisions in some areas, you can get more information about how to return to court to have the order reviewed by visiting the Public Trustee Office's website.

Where can I go if I have concerns about a guardianship order or a representation order being misused?

Anyone with such concerns can make a complaint to the Public Trustee's Office. Call [902-424-7760](tel:902-424-7760).

Where can I go for more information?

For more information, visit the Public Trustee Office's website: novascotia.ca/just/pto/adult-capacity-decision.asp

Becoming a Representative for a Loved One:

Nova Scotia's Adult Capacity and Decision-making Act



Nova Scotia has a new law called the *Adult Capacity and Decision-making Act*. It became law on December 28, 2017. It replaces the *Incompetent Persons Act*.

This new law is for adults who cannot make some or all decisions for themselves. They may not be able to make some decisions because of a learning disability, mental health problems, brain injury, or for other reasons. This law allows another person to make some important decisions for them.

Purpose of the new law

- Provide a fair and respectful way to protect the safety of adults who are not able to make some or all of their own decisions.
- Promote the dignity, autonomy, independence, social inclusion, and freedom of decision-making of adults.
- Make sure that the least restrictive and least intrusive supports and interventions are considered before seeking a court order under this new law to help an adult.

Under this law

- All people are entitled to respect for their dignity and autonomy.
- Every adult is presumed to be able to make a decision until it is established that they cannot.
- Making risky or unwise decisions does not mean that an adult is unable to decide for themselves.
- Adults can communicate in any way that helps them to be understood and how they communicate is not relevant to whether they can make decisions or not.
- When an adult is unable to make a decision for themselves, the least restrictive and least intrusive type of decision-making must be provided to protect that adult's well-being and financial interests.

Alice's story: an example of how the new law works

Alice had a stroke a few years ago. Today she is mostly recovered and lives on her own. Alice can cook and clean and take care of herself. But she cannot manage her money any more.

Alice's brother Fred is worried about her. When Alice's husband died, he left her some money. Fred doesn't think Alice can manage that much money. He wants to take care of it for her. So, Fred applied to the court to represent Alice in making decisions about her money.

First, the court asked for proof that Alice can no longer manage her money. Alice's doctor did an assessment and agreed Alice cannot manage her money.

After Fred satisfied the court that he is able to manage the money and is the appropriate person to do so, the court gave Fred permission to make decisions about Alice's money. Those are the only decisions Fred can make for her. Alice is still able to make all other decisions for herself.

If she decides she doesn't want Fred managing her money, she can ask the court to change the order. She can also complain to the Office of the Public Trustee if she doesn't like the way Fred manages her money or if she has other concerns.