

## DEFINITION OF ROUTINE MANAGEMENT OF FINANCIAL AFFAIRS

REPRESENTATION AGREEMENT REGULATION — SEPTEMBER 1<sup>ST</sup>, 2001

*One of the authorities from section 7 of the [Representation Agreement Act](#) is routine management of the adult's financial affairs, subject to the regulations. The reference in the RA Act is 7(1)(b). If this authority is included in a Representation Agreement, an **extra-safeguard** is required—UNLESS the representative is (and always is) the adult's spouse. Naming someone as monitor is the most flexible way to meet the extra-safeguard requirement. The requirement can also be met if the Agreement includes special legal wording that at least two representatives must act together for finances (jointly).*

*Below and next page is from section 2 of the [Representation Agreement Regulation](#) — in subsection (1) of the Regulation, it lists the things that are included under the authority for 'routine management of financial affairs'; in subsection (2) it lists the things that are excluded (not allowed)—see bottom half of next page.*

*It is always challenging to list everything that is included as something routine could easily be left off the list. This was the case with the first version in 2000—nothing was listed about re-directing the mail and Canada Post raised concerns. The 2001 version of the Regulation added re-directing the mail at 2(1)(z) and also added a 'catch-all' provision at 2(1)(aa).*

*As lawyers for financial institutions argued, the definition needs to take into account future innovation, changes in procedures and practices due to the passage of time and/or changes in technology. For example, the Registered Disability Savings Program (RDSP) promoted in the community living sector did not exist when the RA Act was put in place, but it seems sensible to expect it is included within the definition of routine management of financial affairs.*

*The Nidus Resource Centre has added some comments, shown in italics, to the Regulation based on legal practices.*

*We recommend you concentrate on the exclusions at 2(2) — listed on the next page.*

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*What a representative may do:*

2(1) For the purposes of section 7 (1) (b) of the Act, the following activities constitute "routine management of the adult's financial affairs":

- (a) paying the adult's bills;
- (b) receiving the adult's pension, income and other money;
- (c) depositing the adult's pension, income and other money in the adult's accounts;
- (d) opening accounts in the adult's name at financial institutions;
- (e) withdrawing money from, transferring money between or closing the adult's accounts;
- (f) receiving and confirming statements of account, passbooks or notices from a financial institution for the purpose of reconciling the adult's accounts;
- (g) signing, endorsing, stopping payment on, negotiating, cashing or otherwise dealing with cheques, bank drafts and other negotiable instruments on the adult's behalf;
- (h) renewing or refinancing, on the adult's behalf, with the same or another lender, a loan, including a mortgage, if
  - (i) the principal does not exceed the amount outstanding on the loan at the time of the renewal or refinancing, and
  - (ii) in case of a mortgage, no new registration is made in the land title office respecting the renewal or refinancing;
- (i) making payment on the adult's behalf on a loan, including a mortgage, that
  - (i) exists at the time the representation agreement comes into effect, or
  - (ii) is a renewal or refinancing under paragraph (h) of a loan referred to in that paragraph;
- (j) taking steps under the Land Tax Deferral Act for deferral of property taxes on the adult's home;
- (k) taking steps to obtain benefits or entitlements for the adult, including financial benefits or entitlements; *(for example, representatives have obtained Veteran benefits, home owner grant, Covid benefits)*
- (l) purchasing, renewing or cancelling household, motor vehicle or other insurance on the adult's behalf, other than purchasing a new life insurance policy on the adult's life;
- (m) purchasing goods and services for the adult that are consistent with the adult's means and lifestyle;
- (n) obtaining accommodation for the adult other than by the purchase of real property;
- (o) selling any of the adult's personal or household effects, including a motor vehicle;

- (p) establishing an RRSP for the adult;
- (q) making contributions to the adult's RRSP and RPP;
- (r) converting the adult's RRSP to a RRIF or annuity and creating a beneficiary designation in respect of the RRIF or annuity that is consistent with the beneficiary designation made by the adult in respect of that RRSP;
- (s) making, in the manner provided in the Trustee Act, any investment that a trustee is authorized to make under that Act; *(in section 15(2) of the Trustee Act, it sets out a standard of care such as acting like an experienced and reliable investor. Depending on the size and type of investment, representatives are most likely to delegate authority for some or all of the adult's investments to a qualified investment specialist as allowed under the RA Act, section 16(6.1). New investments must designate the adult/adult's estate as the beneficiary.)*
- (t) disposing of the adult's investments;
- (u) exercising any voting rights, share options or other rights or options relating to shares held by the adult;
- (v) making donations on the adult's behalf to registered charities, but only if
  - (i) this is consistent with the adult's financial means at the time of the donation and with the adult's past practices, and
  - (ii) the total amount donated in any year does not exceed 3% of the adult's taxable income for that year;
- (w) in relation to income tax,
  - (i) completing and submitting the adult's returns,
  - (ii) dealing, on the adult's behalf, with assessments, reassessments, additional assessments and all related matters, and
  - (iii) subject to the Income Tax Act and the Income Tax Act (Canada), signing, on the adult's behalf, all documents, including consents, concerning anything referred to in subparagraphs (i) and (ii);
- (x) safekeeping the adult's documents and property; *(The legal definition of property is quite broad and may include jewellery, tools, real estate, stamp collection, etc. Safekeeping might require changing locks.)*
- (y) leasing a safety deposit box for the adult, entering the adult's safety deposit box, removing its contents and surrendering the box;
- (z) redirecting the adult's mail;
- (aa) doing anything that is
  - (i) consequential or incidental to performing an activity described in paragraphs (a) to (aa), and
  - (ii) necessary or advisable to protect the interests and enforce the rights of the adult in relation to any matter arising out of the performance of that activity.

*What a representative cannot do:*

2(2) For greater certainty, the activities that are under subsection (1) constitute "routine management of the adult's financial affairs" do not include any of the following:

- (a) using or renewing the adult's credit card or line of credit or obtaining a credit card or line of credit for the adult;
- (b) subject to subsection (1) (h), instituting on the adult's behalf a new loan, including a mortgage;
- (c) purchasing or disposing of real property on the adult's behalf; *(Real property is a legal term that refers to real estate. Real estate must be registered with the Land Title Registry. Therefore, this provision refers to any real estate where the adult is 'on title' even if the adult is not the only name on title. A mobile home may be registered with the Mobile Home Registry but this is not the same as the Land Title Registry. In legal terms a mobile home is considered 'chattel' not real property. However, the adult may own real property [the pad] the mobile home sits on.)*
- (d) on the adult's behalf, guaranteeing a loan, posting security or indemnifying a third party;
- (e) lending the adult's personal property or, subject to subsection (1) (v), disposing of it by gift;
- (f) on the adult's behalf, revoking or amending a beneficiary designation or, subject to subsection (1) (r), creating a new beneficiary designation;
- (g) acting, on the adult's behalf, as director or officer of a company.

There are some requirements in [section 16 of the RA Act](#) related to this authority. For example:

- A representative must keep records and accounts. [See sec. 16(8) - bank statements are good for this]
- A representative cannot delegate their authority except with respect to investments. [See sec. 16(6.1)]
- A representative cannot create a joint ownership [like a joint bank account] with the adult. [See sec. 16(9)]