

Life just got easier for Attorneys for Property. Well, sort of.

Property | Tax

13 February 2026

An Attorney for Property[1] has the “power to do on the incapable person’s behalf anything in respect of property that the person could do if capable, except make a will,” says subsection 31(1) of the *Substitute Decisions Act* (Ontario) (“**SDA**”).

Life can’t get much easier than that.

Except that, as most Attorneys I know would attest, it isn’t as easy as it seems.

When I explain to clients that the person they have named as their Attorney can do anything with their property that they could do if capable, they question me, “*anything?! That doesn’t seem right...*”, and in practice, financial institutions have agreed. Recognizing their possible liability for failing to oversee/question/test the actions and motivations of Attorneys, institutions have erected “red tape” to mitigate their risk in the face of wayward Attorneys. An example of such red tape is the restriction imposed on Attorneys from making a beneficiary designation on the incapable person’s RRSP, RRIF, TFSA or other registered plan.

When a person owns a registered plan, such as an RRSP or TFSA, they are entitled to name a beneficiary who will receive the proceeds of these plans on the person’s death. The plan holder names the beneficiary either by instrument (often the financial institution’s form) or by making a beneficiary designation under their will.

Until recently, many financial institutions restricted an Attorney’s ability to make a beneficiary designation on the incapable person’s registered plan when that plan was being renewed, replaced or converted.[2] They justified their position on the basis that the SDA takes its definition of a “will” from the *Succession Law Reform Act* (Ontario) (“**SLRA**”), which provides that a will includes a “testamentary disposition” – otherwise stated, a transfer of property made on death. Arguably, they asserted, the making of a beneficiary designation is instructing the transfer of property on death.

This position was particularly frustrating for Attorneys who, when the incapable person’s RRSP had to be converted to a RRIF in the year they turned 71, could not designate beneficiaries on the RRIF on the incapable person’s behalf. Equally frustrating was where the Attorney was dissatisfied with the financial institution’s management of the plan and they wished to transfer the plan to another institution, the Attorney could be prohibited from designating beneficiaries on the “new” plan. Similarly, if a separation or divorce occurred, an Attorney could be prohibited from altering the beneficiary designation of a plan to reflect the change in circumstances, unless by court approval.[3]

Therefore, following submissions by various professional groups, the legislature decided to make some changes to the SLRA, under the *Protect Ontario by Cutting Red Tape Act*, 2025, which received Royal Assent on December 11, 2025.

Now Section 51(1.1) of the SLRA provides:

51 (1) A participant may designate a person to receive a benefit payable under a plan on the participant’s death,

(a) by an instrument signed by him or her or signed on his or her behalf by another person in his or her presence and by his or her direction; or

(b) by will,

Gardiner Roberts

Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com

and may revoke the designation by either of those methods.

Designation by attorney or guardian

(1.1) If a participant has designated a person by an instrument referred to in clause (1) (a) to receive a benefit payable under a plan on the participant's death and *if the plan is being converted, renewed, replaced or transferred, the participant's attorney under a continuing power of attorney for property or the participant's guardian of property may make a designation under subsection (1),* by instrument signed by the attorney or guardian, in order to *permit the same person to be designated* under the plan that results from the conversion, renewal, replacement or transfer.

[Emphasis added.]

While the legislature has simplified matters for some Attorneys, others will not reap the benefits of these statutory amendments. The following issues remain:

1. If the incapable person originally made their beneficiary designation for certain plans under their will and not by instrument, the Attorney will be unable to make a designation on those plans. Note that Subsection 1.1 applies only to those designations made under 51(1)(a) – designations made by instrument, and not to 51(1)(b) – designations made by will.
2. Not all beneficiary designations for registered plans are governed by the SLRA. Many are governed by the *Insurance Act* (Ontario), but this statute was not similarly amended. Therefore, if the incapable person's RRSP, for example, is regulated under the *Insurance Act*, the Attorney cannot make a beneficiary designation in respect of it.
3. The power to make a beneficiary designation is limited to the power to name the same person initially designated. This will unlikely be helpful to Attorneys in cases of a separation or divorce, where part of the settlement requires a change to the person designated.

The amendments to the SLRA are no doubt a welcome step in the right direction. However, the legislature may not have gone far enough. PDF version is available for download [here](#).

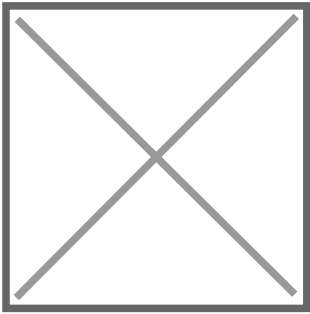
[1] References to Attorneys for Property in this post apply equally to guardians for property.

[2] Exceptions were sometime made where the Power of Attorney document expressly granted the Attorney the power to make beneficiary designations, or where the beneficiaries being named on the plan were the same as those on the old plan.

[3] Ontario Bar Association, *Amendments to Estate Law Beneficiary Designations*, 4 July 2024.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

Author



Nadia Bechai

Partner

416.865.6717

nbechai@grllp.com

Gardiner Roberts

Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com