

# The Dependant Adults Act is Replacing the Adult Guardianship and Trusteeship Act

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This fall new legislation is being put into place to assist with decision making for adults unable to make decisions about their assets or personal care. Before October 30, 2009, these issues were governed by the *Dependant Adults Act*, legislation which was originally passed in 1978. The new legislation, the *Adult Guardianship and Trusteeship Act* (the "new Act"), was given Royal Assent in December 2008 and has been proclaimed into force effective October 30, 2009.

Under the old *Dependant Adults Act*, when an adult is unable to make decisions regarding his or her personal care, a guardian may be appointed to make those decisions and when an adult cannot take care of his or her financial matters, a trustee may be appointed to assist.

The new *Act* dramatically changes guardianship for adults. Under the new *Act*, there will be a variety of decision making options, including both supportive and substitute decision making options, in contrast to the previous legislation under which only substitute decision making was available. Also, the concept of a continuum has been incorporated with respect to mental capacity, to allow the adult more autonomy with regards to his or her personal decisions. The opinion of the adult may be considered when decisions are made, and the least intrusive options will be preferred.

The new *Act* also brings significant changes to trusteeship as well. Under the new *Act*, persons residing outside Alberta will be eligible to act as trustee, with the appropriate safeguards in place. Also, trustees will have the power to make gifts in limited circumstances without Court authorization. The compensation of trustees will change to include the option of following a fee schedule.

Transition legislation will guide the shift between the two acts. Current Guardianship and Trusteeship Orders under the *Dependant Adults Act* will remain in effect after October 30, 2009.

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