



## Mandate



### Warning

The information below summarizes the legal requirements concerning mandates, or powers of attorney. Some institutions or bodies may have additional requirements; you are encouraged to ask the relevant institution or body about its practices regarding powers of attorney.

There are many different situations in which you need to give another person responsibility for carrying out a particular action on your behalf. For example, you could be leaving on vacation and not have time to sell your car or sign the lease for a new apartment. Or you could be physically disabled, but mentally sound, and need someone to carry out your financial transactions. In each case, you can use a mandate to give a person you trust responsibility for handling these actions on your behalf.



A mandate is a contract by which one person designates another person to represent him or her, in other words act on his or her behalf, in legal dealings with a third party. The person who grants the mandate is called the *mandator*, and the person who accepts the mandate is called the *mandatary*. This power to act on another's behalf, as well as the written document which records the contract, if any, is called a [mandate](#)<sup>1</sup>, or power of attorney.

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## » The contract


The mandate can be oral or written. However, in the event of a dispute, statements are easier to prove if they are backed up by a written document. A written mandate also reassures third parties that they are not dealing with an impostor, but with a genuine mandatary.

A mandate may consist of a private written document or a more complex document drawn up with the help of a legal adviser.

It must contain

- the date on which it is drawn up,
- the name of the mandator,
- the name of the mandatary or mandataries,
- a description of the duties conferred on the mandatary, and
- the signature of the mandator.

No witnesses are needed and you are not required to register the document with a notary. The mandatary does not need to be present when the document is drawn up although he or she must have accepted the mandate.

There are special mandates for specific purposes, which must be formally expressed. In the case of you asking a friend to sell your car, a standard mandate form exists that has been prepared specifically for that purpose by the [Société de l'assurance automobile du Québec](#) .

Mandates can also be general. For example, you can ask a friend to manage all of your business, but if the mandate is expressed in broad terms and does not set out specific powers, the mandate is limited to simple administrative powers only and your friend will not be able, for instance, to sell your house or car without specific authorization.

The powers of the mandatary extend not only to what is specified in the mandate, but also to everything that is incidental to it. This means that you could mandate someone to sell your car, but if the transmission gives out and the potential buyer insists that it be replaced, the mandatary could have the repairs made if doing so is necessary to secure the sale.

The mandate should have provision for remuneration if the services are provided by a professional. Friends or family members are presumed to perform the services without charge.

Nothing prevents you, however, from stipulating that your friend or relative receive financial compensation. The two of you should discuss the matter and make sure everything is clear from the start, since the law will require you to pay the sum stipulated whether or not the mandate has been successfully completed, provided, of course, that the mandatary is not at fault. You can avoid this problem by including a clause in the contract stating that payment will not be made in the event of non-completion.

## »» Mandator's obligations

The person giving the mandate, the mandator, must cooperate with the mandatary accepting it, and on the mandatary's request, advance any sums required to execute the mandate. The mandator must also reimburse the mandatary for all reasonable expenses incurred in executing the mandate and pay any remuneration to which he or she is entitled. To refer back to the example given above, if the mandatary had the car's transmission replaced but was unable to complete the sale, the mandator would have to reimburse the mandatary for the cost of the repairs, plus interest.

The mandator must pay interest on the mandatary's expenses from the day of their disbursement.

## »» Mandatary's obligations

The mandatary must execute the mandate with prudence and diligence, act honestly and in good faith, and avoid any conflict of interest.

The mandatary must keep the mandator informed on the progress of the mandate when asked to do so by the mandator or as circumstances require, notify the mandator as soon as the task has been accomplished and hand over any money or documents received on the mandator's behalf.

The mandatary must perform the mandate personally, unless the mandator has given authorization to seek assistance. In unforeseen circumstances, however, the mandatary may be forced to get help and delegate duties, in which case the mandatary is responsible for the actions of any person providing assistance.

If the mandator has specifically stated that the mandatary may seek assistance, the mandatary is responsible only for the care used in selecting a substitute and giving instructions.

In all cases, the mandator can seek redress from the person chosen by the mandatary as a substitute.

## »» Termination of the mandate

The mandate terminates when

- both parties have fulfilled their obligations,
- it has become impossible to perform the obligations,
- the mandator revokes the mandate, or
- the mandatary withdraws from the mandate.

It also ends when either of the parties dies, becomes bankrupt or is declared incapable by being placed under [protective supervision](#)<sup>2</sup>.



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» **Sample mandate 1**  
***Special mandate for the lease of an apartment***

I, the undersigned, Mike Smith, currently residing at 2424, rue Rostand in Québec City, hereby name as my mandatary Shawn Jones, currently residing at 1212, rue Bellemare in Montréal.

I grant him the power to:

- Rent in my name and on my behalf, from Bloc Hugo inc., an apartment bearing the street address 114-233, rue Alexandre, in Montréal, from July 1, 2004 to June 30, 2005;
- Agree in my name to pay a sum of \$800 per month during that period;
- Sign all relevant contracts and documents including the standard lease for a dwelling, and perform any act necessary for the execution of this mandate.

Signed at Québec City, this 12th day of April, 2004.

\_\_\_\_\_

**Acceptance** (optional)

I, the undersigned, Shawn Jones, agree to perform the mandate entrusted to me in this document by Mike Smith.

Signed at Montréal, this 16th day of April, 2004.

\_\_\_\_\_

\_\_\_\_\_  
(address)

» **Sample mandate 2**  
***Special mandate for the administration of receipts***

I, the undersigned, Maryse Bowen, currently residing at 125, rue Champlain in Québec City, hereby name as my mandatary my son Julian Bowen, currently residing at 55, rue Taschereau in Québec City.

I grant him the power to:

- Have access to and open my safety deposit box No. 817 at the Caisse populaire XYZ, take possession of its contents and sign any relevant document;
- Endorse, in my name, any cheque, interest or dividend coupon;
- Deposit these amounts at the Caisse populaire XYZ in my savings account No. 76543;
- Deliver to me \$800 in cash on the first day of each month;
- Sign all relevant contracts and documents and perform any act necessary for the execution of this mandate.

Signed at Québec City, this 24th day of May, 2004.

\_\_\_\_\_

**Acceptance** (optional)

I, the undersigned, Julian Bowen, agree to perform the mandate entrusted to me in this document by my mother, Maryse Bowen.

Signed at Québec City, this 26th day of May, 2004.

\_\_\_\_\_

\_\_\_\_\_  
(address)

» **Sample mandate 3**  
***General mandate for the administration of property***

I, the undersigned, Peter Clark, currently residing at 321, rue Cartier in Montréal, hereby appoint as my mandatary Louis Duncan, currently residing at 482, avenue d'Iberville in Montréal.

I invest my mandatary with the power to administer my movable and immovable property according to the rules of simple administration.

Signed at Montréal, this 3rd day of June, 2004.

\_\_\_\_\_

**Acceptance** (optional)

I, the undersigned, Louis Duncan, agree to perform the mandate entrusted to me in this document by Peter Clark.

Signed at Montréal, this 8th day of June, 2004.

\_\_\_\_\_

\_\_\_\_\_  
(address)

1. There also exists a type of mandate intended to protect the person and well-being of the mandator and the mandator's property: the mandate given in anticipation of the mandator's incapacity. It becomes executory on approval by the Court based on proof of the mandator's incapacity. For additional information, consult the document [Mandate in Case of Incapacity](#) published by the Public Curator of Québec. This document does not concern that type of delegation of powers.

2. For information on all the causes for the extinction of obligations, please refer to [article 1671](#) of the *Civil Code*.

» **For more information**

Mandate in Case of Incapacity

- [Public Curator](#) 

Proxy form for any vehicle registration operation

- [Société de l'assurance automobile du Québec](#) 

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**The content of this document is strictly informative and has no legal value.**

If you find some of the information difficult to understand, do not hesitate to [contact us](#).

**Please note, however, that we cannot interpret the information to apply it to a specific situation.**



Latest update: July 14, 2006

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**Please note:** The personnel at the Service de renseignements of the Ministère de la Justice can help you understand the general rules for applying Québec legislation. They cannot, however, interpret these rules to respond to a specific case or situation.

When contacting us by mail or e-mail, please indicate your address and telephone number so that we can contact you when necessary.

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