

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Justice, Finland

Act on the Continuing Power of Attorney

(648/2007; amendments up to 1140/2019 included)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Scope of application

This Act applies to a power of attorney that its granter has given with the purpose that it shall enter into force in the event that the granter becomes incapable of managing his or her affairs due to illness, mental impairment or health impairment or for another equivalent reason (*continuing power of attorney*).

Section 2

Contents of a continuing power of attorney

By a continuing power of attorney, the granter may authorise an attorney to represent the granter in matters concerning his or her property and in other economic and financial matters. The attorney may also be authorised to represent the granter in matters pertaining to his or her person the significance of which the granter is unable to understand when the power of attorney should be exercised.

The scope of a continuing power of attorney may be limited so that it only applies to a specific legal transaction, matter or property.

The attorney shall not be competent, on behalf of the granter, to give consent to a marriage or adoption, to acknowledge paternity, to consent to acknowledgement of paternity, to make or revoke a will, or to represent the granter in any other personal matter comparable to these.

Section 3

Person of the attorney

A legal person cannot be appointed as attorney referred to in this Act.

Section 4

Replacement attorney and secondary attorney

The granter may appoint another attorney to represent him or her in case the original attorney becomes temporarily unable to exercise his or her mandate due to illness or disqualification or for another reason (*replacement attorney*) or in case the original attorney does not accept the mandate, resigns or becomes permanently unable to exercise the mandate (*secondary attorney*).

The provisions of this Act on an attorney apply to a replacement attorney and a secondary attorney, unless otherwise separately provided.

Chapter 2

Making and giving a continuing power of attorney

Section 5

Competence to make a continuing power of attorney

A continuing power of attorney may be made by a person who has reached the age of 18 years and is capable of understanding the significance of the document.

Section 6

Form of a continuing power of attorney

A continuing power of attorney shall be made in writing. The granter shall, in the simultaneous presence of two witnesses, sign the document or attest to the authenticity of his or her signature on it. After this, the witnesses shall attest to the document by signing it. The witnesses shall be aware of the document being a continuing power of attorney, but the granter may refrain from disclosing its contents to them.

The document shall also indicate:

- 1) that it constitutes an authorisation;
- 2) the matters in which the attorney is authorised to represent the granter;
- 3) the granter and the attorney; and
- 4) a provision stating that the continuing power of attorney shall enter into force in the event that the granter becomes incapable of managing his or her affairs due to illness, mental impairment or health impairment or for another equivalent reason.

Section 7

Attestation clause

The witnesses shall enter their date of birth, contact details and the place and time of witnessing next to their signature. They shall state that they both were present at the same time when the continuing power of attorney was made. They shall also enter information on the granter's ability to understand the significance of the power of attorney and any other matters that they consider to affect the validity of the document.

An attestation entered in a continuing power of attorney by witnesses to the effect that the provisions of section 6, subsection 1 have been observed in making the power of attorney shall be deemed credible unless there are reasonable grounds to question its reliability.

Section 8

Competence of witnesses

The following persons shall not act as a witness to a continuing power of attorney:

- 1) a person who is under 18 years of age or who, due to mental impairment or other equivalent reason, is unable to understand the significance of witnessing;
- 2) the spouse of the granter;
- 3) a child, grandchild, sibling, parent or grandparent of the granter or of the granter's spouse, or the spouse of any of the said persons;
- 4) the attorney or his or her spouse; and
- 5) a person who is in a relationship referred to in paragraph 3 to the attorney or to the attorney's spouse.

In subsection 1, 'spouse' means a married spouse and a person living in a joint household in marriage-like circumstances or in another intimate relationship with the person concerned. Step-relatives are equated with corresponding relatives.

Section 9

Giving a continuing power of attorney

A continuing power of attorney is given by handing over the document to the attorney or by otherwise notifying the attorney of it.

Chapter 3

Entry into force, termination and revocation of a continuing power of attorney

Section 10

Entry into force of a continuing power of attorney

A continuing power of attorney enters into force once it has been confirmed in the manner provided in section 24.

Notwithstanding the provisions of subsection 1, the attorney may, after having applied for the confirmation of the continuing power of attorney, undertake such measures under the power of attorney that are necessary for protecting the granter from any damage.

Section 11

Termination of a continuing power of attorney

A continuing power of attorney shall cease to be in force:

- 1) when the power of attorney is revoked or, if the revocation is effected after the entry into force of the power of attorney, when the revocation enters into force in accordance with section 12, subsection 3;
- 2) when the granter dies; or
- 3) when the attorney notifies the guardianship authorities that he or she resigns from the mandate.

If a guardian is appointed for the granter, the continuing power of attorney shall cease to be in force insofar as the duties of the guardian include managing the affairs covered by the power of attorney.

If the granter is declared bankrupt, a legal transaction entered into by the attorney after that shall have the same effect as if the transaction had been entered into by the granter.

Even if the continuing power of attorney has ceased to be in force for a reason referred to in subsection 2 or 3, the attorney has, however, before the guardian or the estate administrator can undertake the necessary measures, the right to take such measures under the power of attorney that are necessary for protecting the granter or the bankruptcy estate from any damage.

Furthermore, the provisions of section 21, subsection 2 on the termination of the mandate of a guardian apply to the termination of the mandate of a replacement attorney.

Section 12

Revocation of a continuing power of attorney

A promise not to revoke a continuing power of attorney is not binding.

The granter may revoke the continuing power of attorney if he or she is capable of understanding the significance of the revocation. The revocation shall be effected so that the granter repossesses the power of attorney or has it destroyed. If the granter gives a new continuing power of attorney, the previous power of attorney shall be deemed revoked insofar as the new power of attorney contains provisions conflicting with it.

If the revocation is effected after the entry into force of a continuing power of attorney, the revocation shall take effect once it has been confirmed in the manner provided in section 28.

Section 13

Supplementary provisions on the revocation of a continuing power of attorney

A person whom the granter has notified of revocation of a continuing power of attorney before its entry into force, with a special communication, is not entitled to invoke the fact that the power of attorney was not revoked in the manner specified in section 12, subsection 2.

If the granter has, before the continuing power of attorney entered into force and without revoking the power of attorney, prohibited the attorney from exercising the power of attorney or otherwise expressed that he or she does not want the power of attorney to be brought into force, a legal transaction that the attorney has entered into shall not be binding on the granter, if the third party knew or should have known about the said circumstance.

The provisions of sections 17 and 19 of the Contracts Act (228/1929) shall also apply to the revocation of a continuing power of attorney.

Chapter 4

Status of the granter and the attorney

Section 14

Granter's liability for a legal transaction

A legal transaction that the attorney enters into within the scope of the continuing power of attorney in the name of the granter entitles and obligates the granter immediately in his or her relationship to the third party.

Section 15

Exceeding competence or powers

A legal transaction that the attorney was not competent to enter into is not binding on the granter.

If, at the time of entering into a legal transaction, the attorney acted contrary to the instructions given to him or her by the granter, the transaction shall not be binding on the granter, if the third party knew or should have known that the attorney had exceeded his or her powers.

Section 16

General obligations of an attorney

When acting on behalf of the granter, the attorney shall conscientiously look after the rights of the granter and act in his or her best interests.

Before the attorney makes a decision in a matter falling within the scope of his or her mandate, the attorney shall ask the opinion of the granter, if the matter is to be deemed important for the granter and the consultation can take place without considerable difficulty. However, consulting the granter is not necessary if the granter is not capable of understanding the significance of the matter.

The attorney shall keep any funds and other assets of the granter separate from his or her own assets.

Section 17

Disqualification of an attorney

The attorney shall not represent the granter, if the opposing party is:

- 1) the attorney himself or herself, the spouse of the attorney, or someone the attorney represents;
- 2) a child, grandchild, sibling, parent or grandparent of the attorney or of the attorney's spouse, or the spouse of any of the said persons; or
- 3) a child of the attorney's sibling or a sibling of the attorney's parent.

In subsection 1, 'spouse' means a married spouse and a person living in a joint household in marriage-like circumstances or in another intimate relationship with the person concerned. Step-relatives are equated with corresponding relatives.

Furthermore, the attorney shall not represent the granter when the interests of the attorney and the granter may conflict in the matter for a reason other than those referred to in subsection 1.

Section 18

Donation of property

The attorney shall not donate the granter's property, unless otherwise provided in subsection 2.

The attorney may give a gift on behalf of the granter, if the grounds for giving the gift are specified in the continuing power of attorney.

Section 19

Legal transactions subject to permit

It may be provided in a continuing power of attorney that the provisions of section 34, subsection 1 of the Guardianship Services Act (442/1999) concerning a permit required for legal transactions entered into by a guardian shall apply to legal transactions entered into by the attorney. The provision may be limited to only apply to certain legal transactions.

If a continuing power of attorney contains a provision referred to in subsection 1, the permit shall be applied for from the guardianship authority that supervises the attorney's activities under section 29 of this Act. In other respects, the provisions of section 34, subsections 2 and 3, section 35 and section 36, subsection 2 of the Guardianship Services Act apply, as appropriate.

Section 20

Relationship to certain provisions on a power of attorney laid down elsewhere by law

If it is expressly provided in a continuing power of attorney that the attorney may, under the power of attorney, sell or otherwise convey a real estate, apply for a mortgage or raise a lien on a real estate, the attorney is competent to represent the granter in these legal transactions notwithstanding the provisions of chapter 2, section 3; chapter 4, sections 1–3; chapter 16, section 4, subsection 3; and chapter 17, section 1, subsection 2 of the Code of Real Estate (540/1995).

Notwithstanding the provisions of chapter 11, section 16, subsection 1 of the Code of Judicial Procedure, the attorney has the right to receive a summons in matters falling within the scope of the continuing power of attorney.

A provision laid down elsewhere by law limiting the period of validity of a power of attorney shall not apply to a continuing power of attorney.

The provisions of subsections 2 and 3 only apply unless otherwise provided in the continuing power of attorney.

Section 21

Appointment of a guardian to attend to the duties of an attorney

If the attorney is temporarily impeded from exercising his or her mandate due to illness or disqualification or for some other reason and the granter has not appointed a replacement attorney, the district court or, at the request of the attorney, the guardianship authority may appoint a guardian to attend to the duties of the attorney in accordance with the provisions of the Guardianship Services Act concerning the appointment of a substitute guardian.

The mandate of the guardian referred to in subsection 1 shall end when the attorney and the guardian, after the termination of the impediment, together notify the guardianship authority referred to in section 29 of the termination. If the attorney and the guardian disagree on whether the mandate of the guardian has ended, the district court referred to in section 70 or 71 of the Guardianship Services Act shall decide the matter upon application of either of the parties.

Section 22

Attorney's fee and reimbursement of costs

If no agreement has been made concerning the attorney's fee and reimbursement of costs and the granter has not ordered them to be paid, the attorney has the right to receive, from the granter's funds, reimbursement for his or her necessary costs and a fee that is reasonable in view of the nature and scope of his or her mandate.

Section 23

Liability for damages

The attorney is liable to compensate any damage that he or she has, intentionally or through negligence, caused to the granter when acting on his or her behalf.

The adjustment of damages and the allocation of liability for damages between two or more liable persons are governed by the provisions of chapters 2 and 6 of the Tort Liability Act (412/1974).

The granter is not liable, under chapter 3, section 1, subsection 3 of the Tort Liability Act, to compensate damage caused by the attorney while acting on his or her behalf.

The provisions of section 25 of the Contracts Act apply to the liability of the attorney to compensate any damage suffered by a third party because a legal transaction entered into by the attorney is not binding on the granter.

Chapter 5

Confirmation and registration of a continuing power of attorney and its revocation

Section 24

Confirmation of a continuing power of attorney

The guardianship authority shall, upon application of the attorney, confirm a continuing power of attorney if:

- 1) the granter had reached the age of eighteen years when he or she made the power of attorney;
- 2) the power of attorney has been made in the manner provided in section 6; and
- 3) the granter has, due to illness, mental impairment or health impairment or for some other equivalent reason, become incapable of managing the affairs covered by the power of attorney.

However, the continuing power of attorney shall not be confirmed if:

- 1) it is evident that, when the power of attorney was made, the granter was incapable of understanding its significance or that the persons acting as witnesses to the power of attorney had not been competent to act as witnesses under section 8;
- 2) there are reasonable grounds to suspect that the attorney is unable or unsuitable to act as an attorney; or
- 3) the granter has a guardian whose duties include managing the affairs covered by the power of attorney.

The attorney shall present the guardianship authority with the original continuing power of attorney document and a medical certificate or other comparable reliable evidence stating that the prerequisite for confirming the power of attorney laid down in subsection 1, paragraph 3 exists.

Section 25 (1140/2019)

Competent authority

Confirmation of a continuing power of attorney is applied for from the guardianship authority referred to in section 84, subsection 1 or 2 of the Guardianship Services Act. In this context, the provisions concerning the person whose interests are to be looked after apply to the granter.

Section 26

Examining a matter and hearing

The guardianship authority shall give the granter an opportunity to be heard on an application for the confirmation of a continuing power of attorney. However, an opportunity to be heard need not be given if, according to the evidence referred to in section 24, subsection 3, the granter is incapable of understanding the significance of the matter.

The guardianship authority shall give the granter's spouse an opportunity to be heard on the application, unless this is manifestly unnecessary in view of the circumstances.

The guardianship authority may, where necessary:

- 1) hear the attorney in person;
- 2) give the granter's parents, children or other close persons an opportunity to be heard; and
- 3) require the attorney to present evidence of circumstances that may be of relevance when assessing his or her ability and suitability to act as an attorney.

Section 27 (1140/2019)

Registration of a continuing power of attorney

If a continuing power of attorney concerns representing the granter in economic and financial matters, the guardianship authority shall, when confirming the power of attorney, enter it in the Register of Guardianship Affairs as provided in the Act on Certain Personal Data Files of the Digital and Population Data Services Agency (1156/2019).

When a court makes a decision that results in a continuing power of attorney being entered in the Register of Guardianship Affairs or that results in a change of a state of affairs recorded in the Register, the court shall notify the guardianship authority of this immediately after the decision has

been issued or pronounced. If the decision is to be complied with only after it has become final, the notification shall, however, be submitted only after the decision has become final. In the latter case, the notification shall be submitted by the court where the matter was last considered.

Section 28

Confirmation and registration of revocation of a continuing power of attorney

The guardianship authority shall, upon application of the granter, confirm the revocation of a continuing power of attorney, if the granter is capable of understanding the significance of the revocation.

Confirmation of the revocation of a continuing power of attorney is applied for from the guardianship authority that supervises the attorney's activities under section 29.

If the matter is urgent, the guardianship authority may, without hearing the attorney, temporarily confirm the revocation of the continuing power of attorney. An interim decision is in force until the final decision in the matter is made, unless the interim decision is repealed or amended prior to this.

If the continuing power of attorney has been entered in the Register of Guardianship Affairs, the guardianship authority shall, when confirming the revocation of the power of attorney, make an entry about the revocation in the Register of Guardianship Affairs.

Chapter 6

Supervision of the activities of attorneys

Section 29

Supervisory authority

The guardianship authorities shall supervise the activities of attorneys as provided below. The guardianship authority that has confirmed the continuing power of attorney is responsible for the supervision. If the continuing power of attorney has not been confirmed in Finland, the guardianship authority that would be competent to confirm the power of attorney under section 25 is responsible for the supervision.

The guardianship authority that is responsible for supervision under subsection 1 may transfer the supervision to another guardianship authority, if the granter has a municipality of residence within the area of operation of the latter guardianship authority or if the transfer is otherwise necessary for the supervision. Before the supervision is transferred, the attorney and the guardianship authority to whom the supervision is to be transferred shall be heard.

Section 30

Property inventory

If a continuing power of attorney concerns representing the granter in economic and financial matters, the attorney shall, within three months of the confirmation of the power of attorney, present the guardianship authority with an inventory of the granter's assets and debts in respect of which the attorney is competent to represent the granter under the power of attorney. If the granter later receives property in respect of which the attorney is competent to represent the granter under the continuing power of attorney, an inventory of the received property shall be presented within one month of the acquisition. The obligation to present an inventory does not, however, apply to such repeated payments that the granter receives based on a right recorded in the inventory.

If the granter becomes a party to a death estate and if, under the continuing power of attorney, the attorney is competent to represent the granter in matters concerning the death estate, the attorney shall submit a copy of the deed of estate inventory to the guardianship authority within one month of the estate inventory.

Upon application of the attorney, the guardianship authority may extend the period referred to in subsection 1, if this is necessary due to the amount of the property or for some other reason.

Section 31

Attorney's declaration concerning the property inventory

The attorney shall, in the inventory referred to in section 30, declare that the information provided by him or her is correct and that he or she has not deliberately left anything out. A district court may oblige the attorney to attest to his or her declaration in the district court under oath or affirmation, if the guardianship authority so requests.

Section 32

Obligation to keep accounts

If a continuing power of attorney concerns representing the granter in economic and financial matters, the attorney shall keep accounts of the granter's assets and debts and the transactions made during the accounting period.

If a continuing power of attorney concerns representing the granter in other than economic and financial matters, the attorney shall keep accounts that will enable him or her to report on the measures he or she has taken on behalf of the granter.

Section 33

Obligation to provide information to the guardianship authority

If a continuing power of attorney concerns representing the granter in economic and financial matters, it may be provided in the power of attorney that the attorney shall give a statement of accounts to the guardianship authority at regular intervals, however, at most once a year. The provisions of sections 51 and 53–56 of the Guardianship Services Act apply, as appropriate, to such a statement.

Even if the power of attorney does not contain a provision referred to in subsection 1, the guardianship authority may request the attorney to give a statement on the exercise of his or her mandate, if there is reason for this.

Whenever requested to do so, the attorney shall provide the guardianship authority with a statement referred to in subsection 2 and any other necessary information, receipts and documents related to his or her mandate and to present the securities being managed by him or her.

Section 34

Coercive measures available to the guardianship authority

If an attorney fails to provide an appropriate statement of accounts, inventory or receipt or other information requested from him or her, the provisions of section 57 of the Guardianship Services Act apply to the coercive measures available to the guardianship authority.

Section 35

Measures when a continuing power of attorney ceases to be in force

When a continuing power of attorney has ceased to be in force, the attorney shall, without delay, surrender the power of attorney and the property being managed by him or her to the granter, his or her guardian, the secondary attorney or another person entitled to the property.

If a continuing power of attorney ceases to be in force due to the death of the granter and the property cannot be surrendered to the joint administration of the parties to the death estate without delay, the attorney may surrender the property to such a party to the estate who can take care of the property of the estate in the manner provided in chapter 18, section 3 of the Code of Inheritance (40/1965). The attorney shall notify all those parties to the estate whose identity and whereabouts are known of the surrender of the property.

Section 36

Final statement

Unless otherwise provided in the continuing power of attorney, the attorney shall, once the power of attorney has ceased to be in force, without delay give a statement on the exercise of his or her mandate to the person who has the right to receive the property. The latter has the right, upon request, to obtain from the attorney any receipts relating to the final statement and to the statements given earlier to the guardianship authority.

The attorney may be obliged to present the receipts under threat of a fine as provided in section 57 of the Guardianship Services Act.

Section 37

Measures after the death of an attorney

If the attorney has died, the provisions of this chapter on an attorney apply, as appropriate, to the obligations of the parties to his or her death estate, the estate administrator and the bankruptcy estate.

The person responsible for the administration of the death estate shall take care of the granter's property as long as it is in the possession of the estate.

Chapter 7

Provisions of private international law

Section 38

International jurisdiction in matters concerning the confirmation and registration of a continuing power of attorney

The Finnish authority may confirm a continuing power of attorney if the granter is habitually resident in Finland. If the granter is not habitually resident in Finland but the continuing power of attorney concerns property located in Finland, the Finnish authority may confirm the power of attorney in respect of this property. If the Finnish authority is competent to confirm a continuing power of attorney as described above, it is also competent to enter the power of attorney in the Register of Guardianship Affairs.

A continuing power of attorney that concerns representing the granter in economic and financial matters shall be entered in the Register of Guardianship Affairs even if it has not been confirmed in Finland, if the granter is habitually resident in Finland.

If a continuing power of attorney shall be entered in the Register of Guardianship Affairs under subsection 2, the attorney shall notify the guardianship authority referred to in section 29, subsection 1 of this.

Section 39

International jurisdiction in other matters concerning a continuing power of attorney

The Finnish authority is competent in other matters concerning a continuing power of attorney than those referred to in section 38, if:

- 1) the granter is habitually resident in Finland; or
- 2) the continuing power of attorney has been confirmed in Finland and the consideration of the matter in Finland is to be deemed appropriate in view of the circumstances.

In addition to what is provided in subsection 1, the Finnish authority is competent in a matter referred to in section 21, subsection 2 if the guardian has been appointed in Finland.

The Finnish authority may decide to discontinue the supervision of the activities of an attorney, if the granter is not habitually resident in Finland nor does he or she have such property in Finland that the attorney shall manage. Supervision shall not, however, be discontinued if this would endanger the interests of the granter. The decision to discontinue supervision shall be recorded in the Register of Guardianship Affairs.

Section 40

Applicable law

The law of the state where the granter was habitually resident at the time of giving the continuing power of attorney shall apply to the existence, scope, amendment and termination of the power of attorney, unless the granter has ordered in writing that the law of one of the states mentioned in subsection 2 shall be applied.

The granter may order that one of the following shall be applied instead of the law referred to in subsection 1:

- 1) the law of the granter's state of nationality;
- 2) the law of the granter's former state of habitual residence; or
- 3) the law of the state in which the granter has property, in respect of that property.

Finnish law applies to the procedure to be followed by a guardianship authority and a court when they consider a matter referred to in this Act and also in other respects to the manner in which the continuing power of attorney is exercised.

The reference to the law of a foreign state in subsections 1 and 2 does not cover the provisions of private international law in the law of that state.

Section 40a (781/2010)

Status of the other party to a legal transaction

A legal transaction in which the granter was represented by a person who had no power to represent the granter under the law applicable to the continuing power of attorney shall, nevertheless, be valid if:

- 1) the transaction was entered into between persons who were within the territory of the same state;

- 2) the representative of the granter was entitled to act as a representative under the law of the state where the transaction took place; and
- 3) the other party to the transaction did not know or should not have known that the law of another state was applied to the power of representation.

Chapter 8

Miscellaneous provisions

Section 41

Provisions on administration

In the guardianship authority, matters concerning the confirmation of a continuing power of attorney or its revocation and a permit or obligation referred to in this Act shall be decided, upon presentation, by such a public official with a master's degree in law other than a master's degree in international and comparative law who is responsible for the task under the rules of procedure. In other respects, the guardianship authority shall decide matters as separately provided on the resolution of matters falling within the competence of the Digital and Population Data Services Agency or the State Department of Åland. (1140/2019)

Unless otherwise provided in this Act, the Administrative Procedure Act (434/2003) applies to the consideration of matters and to the disqualification of public officials.

Charges are collected for the services of the guardianship authorities as provided in the Act on Criteria for Charges Payable to the State (150/1992). However, the guardianship authority may, in an individual case, decide that no charge shall be collected for its performance, if the liable party's ability to pay, considering his or her disposable income and assets, is substantially reduced due to a maintenance obligation, unemployment, illness or other special reason or if collecting the charge would be unreasonable for some other reason.

Section 42

Compliance with a decision

A decision of a guardianship authority or an administrative court concerning the confirmation of a continuing power of attorney or its revocation shall be complied with even if it has not become final, unless otherwise ordered by the appellate court.

Section 43 (909/2015)

Request for review

A decision of a guardianship authority may be appealed against to an administrative court as provided in the Administrative Judicial Procedure Act (808/2019). A decision of the administrative court may be appealed against as provided in the said Act. (1140/2019)

However, a decision of a guardianship authority concerning transfer of supervision under section 29, subsection 2, extension of the period referred to in section 30, subsection 3, or the time for fulfilling the obligation to give a statement of accounts referred to in section 51, subsections 1–3 of the Guardianship Services Act in cases referred to in section 33, subsection 1 of this Act is not subject to appeal.

Section 44

Right of access to information by the granter's successor and by the administration of a death estate

After the granter has died, his or her successor has the right of access to the information concerning the granter that is contained in the guardianship authority's documents and that should have been provided to the granter himself or herself under the Act on the Openness of Government Activities (621/1999). The estate administrator or the executor of a will in whose administration the granter's death estate is has the same right.

Section 45

Attorney's right of access to information

Notwithstanding secrecy provisions, a social welfare or healthcare authority or unit, a healthcare professional and a private social service provider are obliged, upon request and even before the continuing power of attorney is confirmed, to provide the attorney with the information and evidence necessary for establishing whether the granter, in the manner referred to in section 24, subsection 1, paragraph 3, has become incapable of managing the affairs covered by the power of attorney.

Once the continuing power of attorney has been confirmed, the attorney has, in matters covered by the power of attorney, the right of access to the information to which the granter himself or herself has the right of access, unless otherwise separately provided.

The attorney has the right, without the granter's consent, to open letters and other comparable closed messages addressed to the granter only if it can be concluded from the sender's name or other specific circumstances that the message concerns a matter falling within the scope of the continuing power of attorney.

Section 46

Obligation to provide information

Notwithstanding secrecy provisions, government authorities, local authorities and other bodies governed by public law, the Social Insurance Institution of Finland, the Finnish Centre for Pensions, pension funds and other pension institutions, insurance institutions, banks and other financial institutions, healthcare and social welfare units, healthcare professionals and private social service providers are obliged, upon request, to provide the guardianship authorities and courts with the information and evidence that are necessary for resolving a pending matter.

A guardianship authority or a court may request a municipal body responsible for social welfare or healthcare to issue a statement, if obtaining evidence of the circumstances of the person concerned is necessary in a matter referred to in this Act. The request shall be addressed to the body responsible for social welfare or healthcare in the municipality that is the municipality of residence of the person concerned, or if the person does not have a municipality of residence in Finland, in the municipality where he or she primarily resides.

If providing the information or evidence other than those referred to in subsection 2 causes substantial costs or a considerable amount of additional work to the party obliged to provide it, a reasonable fee may be charged for providing the information.

Section 47

Secrecy obligation

The attorney shall not, without the granter's consent, disclose any information that he or she has gained knowledge of in connection with a task related to the continuing power of attorney and that shall be kept secret in order to protect the granter's economic interests or privacy.

The provisions of the Act on the Openness of Government Activities apply to the secrecy obligation of persons acting for a public authority.

The provisions of subsections 1 and 2 do not prevent the disclosure of information:

- 1) to a government authority, a local authority or another person for the purpose of performing duties under this Act;
- 2) to a prosecution authority and a police authority for the purpose of investigating an offence;
- 3) to a court, if this is necessary in a matter referred to in this Act; and
- 4) to a person who under the law has the right to be informed of the matter.

Section 48

Penal provisions

A person who refuses to provide information that he or she has the obligation to provide under section 46 shall be sentenced for *a violation of the obligation to provide information laid down in the Act on the Continuing Power of Attorney* to a fine.

The prosecutor shall not bring charges for an act referred to in subsection 1 unless the guardianship authority reports it for prosecution. (464/2011)

The punishment for breaching the secrecy obligation shall be imposed in accordance with chapter 38, section 1 or 2 of the Criminal Code (1889/39), unless the act is punishable under chapter 40, section 5 of the Criminal Code or unless a more severe punishment for the act is provided elsewhere by law.

Section 49 (1140/2019)

Section 49 was repealed by Act 1140/2019.

Section 50
Entry into force

This Act enters into force on 1 November 2007.

The provisions in force upon the entry into force of this Act apply to a continuing power of attorney that was made before the entry into force of this Act.