

ESTATE PLANNING GUIDE



Wills on Wheels

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Your Will

A Will is a legally binding document that expresses your last wishes. It comes into effect at the time of your death and allows you to deal with such things as the disposition of your assets and the care of your children after your death.

Everyone should have a Will in place and having access to legal counsel while preparing your Will ensures that all issues relating to your personal situation are considered and dealt with properly.

These terms should be considered when preparing a Will:

- **Executor:** An Executor and an alternate should be chosen who will carry out your wishes.
- **Specific Gifts:** You can give certain items or specific amounts of money to certain individuals. You may include instructions relating to the disposition of certain items such as your business or other personal property, including keepsakes, jewellery or artwork. You can also designate or re-designate insurance policies, registered retirement savings plans and registered income funds, depending on the legislation governing those plans.
- **Residue:** The funds and assets remaining after payment of debts and specific gifts can be divided in accordance with your wishes.
- **Guardians:** If you have minor children, you should appoint a guardian of these children. You can also set up trusts to provide for their needs until adulthood, including support and education.

It is important to address certain circumstances in your Will such as a common law relationship, second marriage or dependent child. As well, your Will should be reviewed regularly. In the following circumstances, you may wish to revise an old Will or write a new one:

- Change in marital status (remarriage revokes a Will, while divorce does not);
- Birth or death in your family;
- Either you or your Executor moving out of the Province;
- Change in your wishes.

It is important to note that making any physical changes to your Wills, such as crossing out or adding words, may invalidate provisions of your Will. It should also be noted that the use of “Will Kits” may also invalidate the provisions of your Will. Having a new Will prepared, or a separate Codicil for minor changes, is essential.

Enduring Power of Attorney

While a Will is essential to establishing a good estate plan, it is also prudent to have an Enduring Power of Attorney (EPA) in place. An EPA enables you to appoint someone to look after your finances should you no longer be able to. This document will come into effect when you no longer have the ability to make decisions on your own as a result of injury or illness. Your incapacity will generally have to be confirmed in writing by two medical practitioners.

Personal Directive

In addition to having a Will and Enduring Power of Attorney, it is important to have a Personal Directive in place. A Personal Directive allows you to appoint someone to make decisions about such things as your personal care, medical care, your residence and your social needs should you no longer be able to make these decisions yourself.

If you do not have an Enduring Power of Attorney or Personal Directive, it will be necessary for someone to apply to the Courts for an order appointing a trustee to handle your financial and personal affairs should you become incapacitated. This is a procedure that can be very costly, time consuming and traumatic to your family.

Your Next Step

We have provided you with Will, Enduring Power of Attorney and Personal Directive Questionnaires to be completed by yourself and your spouse. Once you have completed these questionnaires, please contact Lee Olesen to arrange for the preparation of an estate plan suited to your situation and family's needs.

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