

PLANNING YOUR WILL

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PLANNING YOUR WILL

Your Will is one of the most important documents you will ever sign. We recommend that you give full and careful consideration to the decisions necessary in planning your Will.

1. MATTERS TO CONSIDER WHEN DRAWING YOUR WILL

The purpose of this document is to give you some assistance in addressing the issues which should be addressed in planning your Will.

2. ESTATE SUMMARY

We also attach an estate summary sheet which should help you summarize all of the assets you own. This is useful information for yourself, in making decisions about beneficiaries; for the lawyer who will be drafting your Will; and for your executor, and beneficiaries in locating and dealing with your assets.

3. WILL INFORMATION SHEET

The last portion of this document is a Will Information sheet. This is useful for the lawyer who drafts your Will in advising them what you want to be included in your Will. Any portions that you do not understand should be discussed with a lawyer before your Will is prepared.

1. MATTERS TO CONSIDER WHEN DRAWING A WILL

a. ASSETS WHICH YOU MAY DISPOSE OF BY WILL

You may only dispose of property in a Will which is *solely owned* by you. You should note two types of property which you *cannot* dispose of by your Will:

I. JOINT PROPERTY

Any jointly owned assets (assets held as “joint tenants” by two or more people) that have a right of survivorship will pass by that right, and will go to the survivor of the joint owners. It will not pass according to your Will.

Assets which are not “joint” assets, but are instead assets held as “tenants in common” or “each having an undivided one-half (or one-quarter, one-third, etc.) interest” by two or more people *do not* have the rights of survivorship and your share of the assets would be a part of your Estate.

ii. CONTRACTS IN FAVOUR OF A SPECIFIC INDIVIDUAL

The best example of this is a contract of life insurance where you name your spouse or other person as a beneficiary. Other examples are pensions, annuities, RRSP’s, RRIF’s and death benefits which are payable to a specific person. None of these will pass through your Will unless you specifically name your Estate as the beneficiary of the contract.

b. SASKATCHEWAN LEGISLATION AFFECTING WILLS

I. *THE DEPENDENTS’ RELIEF ACT*

This law provides that when you make your Will you must make reasonable provision for your dependents, if you have any. *The Act* defines a dependent as:

- a wife or a husband of the deceased
- a person who has lived continuously with the deceased for a period of twenty-four months or more in a spousal relationship
- children under the age of majority
- children over the age of majority who are dependent due to their inability to care for themselves

If you have a dependent and do not make sufficient provision for the care of that dependent, your Will may be challenged in Court, and the Court may order that part or all of your Estate be made payable to the dependent.

ii. **THE FAMILY PROPERTY ACT**

This law applies to married persons or persons in a spousal relationship as defined by the *Family Property Act*, and provides that each spouse or person in a spousal relationship is entitled to an equal amount of the family property as defined in the *Act*, unless for good reason an equal division would be unfair.

This law also applies after the death of one of the spouses. If you are married or are living together in a spousal relationship continuously for two years or more, your gift to your spouse must be enough to ensure that she or he will receive half of the total family property. We recommend that if you have any concerns about this matter that you speak to a lawyer.

The rights of a spouse under this law are in addition to rights that she or he might have under *The Dependent's Relief Act*.

iii. **THE ADULT GUARDIANSHIP AND CO-DECISION-MAKING ACT**

This law provides for guardianship of adults who are mentally incapable of making decisions regarding their property or their personal care. If you are the lawful guardian for such an adult, you may appoint a successor in your will.

c. ESSENTIAL INGREDIENTS OF A WILL

I. EXECUTOR

This person is responsible for administering your will, and is a very important choice. More than one person may be named as your Executor, and they will then act together. Additionally, you may also name an alternate person to act as your Executor if something happens to your first choice and that person is no longer able to act.

The Executor may be your spouse, a close friend, or relative, or may even be a Corporate Trustee.

ii. CUSTODIAL GUARDIANS

It is often desirable to consider naming custodial guardians for your children, if you have any, in the event that both you and the children's other parent die.

It is preferable that you name one person, and not a couple, as the guardian for your children to prevent difficulties should the couple separate.

iii. BENEFICIARIES

Bearing in mind the property which you may dispose of by will, and the legislation mentioned earlier, you must choose the beneficiaries who will receive your property on your death. Common beneficiaries are spouses, children, relatives, friends, and sometimes charities.

For any gift, you may name alternate beneficiaries, to provide for the possibility that your first choice as a beneficiary may predecease you. The gift would then go to your alternate beneficiary.

If you name one of your children as a beneficiary in your will, and do not name an alternate beneficiary if that child should predecease you, the deceased child's spouse will (by law) automatically take a portion of the bequest. If you wish the bequest to go exclusively to your grandchildren, if your child should predecease you, then you must state this choice in your will.

You may make gifts of specific property to a beneficiary, such as a gift of a specific amount of money, or a specific item, or an automobile, or you may make a gift to a beneficiary in a general way, such as 'all of my estate' to a beneficiary, or you may make a combination of both specific gifts and general gifts.

ESTATE SUMMARY

NAME _____

DATE OF BIRTH _____

ADDRESS _____

TELEPHONE - Home (____) _____ **Work** (____) _____

MARITAL STATUS: ____ **Married** ____ **Widowed** ____ **Divorced** ____ **Single**

NAME OF SPOUSE [or equivalent to spouse]: _____

[person that you have lived in a spousal relationship with for a period of twenty-four months or more]

SPOUSE'S BIRTH DATE: _____

NAME(S) OF CHILDREN: _____ **Birthdate** _____

_____ **Birthdate** _____

_____ **Birthdate** _____

_____ **Birthdate** _____

_____ **Birthdate** _____

_____ **Birthdate** _____

_____ **Birthdate** _____

PERSONS YOU SUPPORT OTHER THAN IMMEDIATE FAMILY:

Name & Address

Relationship

Age

SUMMARY OF ASSETS

As stated in the information sheet attached to this summary, certain assets such as joint assets do not pass through the will. When you complete this summary please insert the total value of the assets, and indicate whether it is owned jointly or solely. Deduct only what is borrowed or owing against the assets. If space does not permit you to enter all the information, please use the back of this page and indicate what number you are dealing with.

SUMMARY OF ASSETS		
	JOINT	SOLE
1. Residence: _____ Market Value: _____ Less Mortgage: _____		
2. Personal effects, auto, furniture, etc.		
3. Farmland		
4. Farm Machinery		
5. Grain on hand/all other farm assets		
6. Other real estate		
7. Investments: Mutual Funds Stocks Bonds Mortgages Savings Certificates Other	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____
8. Pension Plan Annual Benefits Beneficiaries: _____ _____ If you have a named beneficiary, include value in joint column		
9. Tax deferred assets (RRSP's, etc.) Beneficiaries: _____ _____ If you have a named beneficiary, include value in joint column		
	JOINT	SOLE

SUMMARY OF ASSETS

<p>10. Name of Business, if any _____</p> <p>Incorporated: ___ yes ___ no ___ Sole ownership ___ Partnership</p> <p>Market Value</p>		
<p>11. Life Insurance: _____</p> <p>Group: _____</p> <p>Personal: _____</p> <p>Total: _____</p> <p>State ownership and beneficiaries: _____</p> <p>_____</p> <p>If payable to named beneficiary, include value in joint column</p>		
<p>12. Cash in bank</p>		
<p>13. Other assets (list on back of page if necessary)</p>		
<p>GROSS VALUE</p>		
<p>14. Less debts - bank loans, etc. include joint debts, if any, in joint debt column</p>		
<p>NET ESTATE</p>		

WILL INFORMATION SHEET

The information contained on this sheet will enable a lawyer to draw your will in accordance with your specific instructions. Please PRINT clearly. You also must use full names rather than "Mrs. J. Smith". If you are uncertain about a specific item leave it blank and discuss it with your lawyer when you give your final instructions.

There are a few definitions that you should know:

- 1. The TESTATOR is you; that is, the person making the Will. A TESTATRIX is a female testator.
- 2. An EXECUTOR is the person who will administer your estate. A female executor will be called an EXECUTRIX.
- 3. A BENEFICIARY is the person or charity who will receive your assets.

Full Name of Testator: _____
Residence of Testator: _____

PRIMARY EXECUTOR(S)

Name	Relationship to you

ALTERNATE EXECUTOR(S)

Name	Relationship to you

GUARDIAN(S) OF INFANT CHILDREN

_____ Not applicable

Name

Relationship to you

DISPOSITION OF ESTATE

(a) personal articles _____

I have no directions.

To distribute as I shall from time to time direct (a letter of direction to your Executor(s) to be kept with your Will, will be sufficient).

To distribute my personal articles as follows:

(b) specific gifts _____

I have no directions.

To give the following gifts to the following persons or organizations:

Description of Gift

Recipient

(c) cash legacies _____

I have no directions.

to pay cash legacies (gifts) to the following persons, organizations or charities:

Recipient

Amount

(d) disposition of residue

(this is the balance of your estate remaining after the personal articles, specific gifts and cash legacies have been designated above.)

1. spouse _____ everything to spouse if spouse survives me.
or _____ spouse is to receive:

[If you do not have a spouse proceed to children in paragraph 2 - Children.]

Others to receive: _____

2. children _____ everything to children in equal shares.
_____ if spouse predeceases everything to children in
_____ equal shares.
_____ to children in unequal shares as follows:

[if you do not have children, and do not expect to have any, proceed to paragraph 3 - friends or persons who are non-family members]

ONE OF THE FOLLOWING MAY BE CHECKED, IF APPLICABLE:

If child does not survive his or her share is to go to:

- _____ children of deceased child (your grandchildren) or, if none, to brothers and sisters of deceased child alive at the time of your death
- _____ brothers and sisters of deceased child alive at the time of your death

_____ estate of deceased child (this could include the spouse of a deceased child, eg. your daughter-in-law or son-in-law)

THE FOLLOWING CLAUSE SHOULD BE CONSIDERED ALTHOUGH IT IS OPTIONAL:

_____ if spouse and **ALL** children do not survive (entire family dies in a common disaster) the residue of my estate is to go to:

ONE OF THE FOLLOWING CLAUSES SHOULD BE CHECKED:

If a minor or infant person ('minor' or 'infant' in this province is someone under the age of 18 years) is entitled to share in your estate:

_____ the minor's share is to be invested until he or she attains the age of majority with the income paid for the maintenance and education of the minor during the minor's minority.

_____ if you wish payment to be made to a child or grandchild at some time **AFTER** the age of 18, check this box and the matter will be discussed with you when you give final instructions for drawing your will.

3. FRIENDS OR PERSONS WHO ARE NON-FAMILY MEMBERS

(These are the names of the person(s) to whom the residue of your estate goes when you do not have a spouse or children.)

(e) Miscellaneous Matters

1. Funeral or burial directions

- _____ I have no directions for my funeral or burial.
- _____ I desire cremation.
- _____ I desire a simple funeral.
- _____ I wish to be buried at: _____

_____ I have the following directions for my funeral and burial: _____

2. Tax deferred assets (RRSP, RESP, RRIF, etc.)

- _____ I have no directions concerning tax deferred assets.
- _____ I wish for my spouse to have my tax deferred assets if he or she survives me and if not, for these assets to be distributed in accordance with the residue provisions of my will.
- _____ I have the following directions: _____

3. Legal services

- _____ I have no directions.
- _____ I desire that the services of _____ be retained where any service of a legal nature is required with respect to my will or any of its trusts, provisions and administration.

4. Intention for the purposes of *The Family Property Act*

_____ I wish to include in my will a statement of my intent with respect to gifts to my children (but not to their spouses).

5. Accounting and financial services

_____ I have no directions.

_____ I desire the accounting services of: _____

_____ I desire the financial services of: _____

6. Other matters

I wish to deal with the following other matters in my will:

7. Directions for safekeeping of original will:

_____ my will is to be kept in my safety deposit box at: _____

_____ my will is to be kept with my solicitor: _____

_____ I will advise my Executor(s) of the location of my will.