



SURPRISING AS IT MAY SOUND...

Some wills don't work well.

Some not at all. In other words, they don't produce the desired results.

It happens most often with homemade, do-it-yourself wills. But it can also happen with wills drawn up with the help of lawyers. Sometimes the will has simply become obsolete. Sometimes vital considerations were over-looked... or there were major family changes.

To plan a workable will, follow these steps:

Sit down, with pen or pencil in hand, and list your properties (including life insurance, real estate, securities, works of art-everything) and then list your liabilities. Then list the people you want to provide for, along with their full legal names, ages, addresses and relationships to you.

Next, summarize your wishes for your heirs and property. Then take these notes to your lawyer and ask him or her to put your wishes in legal form.

The following questions and answers offer general information to help you begin to plan or review your will.

1. Is it true that most people don't have wills?

Yes, there have been published reports that as many as 70 percent of the more than 1.5 million who die each year in the U.S.A. do not have valid wills.

2. Why don't more people have wills?

Because they don't realize how important a will is. Some think they don't own enough property to need one. Some believe that life insurance or joint ownership arrangements are sufficient. Some think their spouse inherits everything automatically. But most simply keep putting it off until it's too late.

3. What happens when people die without wills?

Their Province's laws of "descent and distribution" take over. They amount to a state written will for those who haven't written their own. The laws vary from Province to Province.

4. Aren't provincial laws adequate for most situations?

No, because they're impersonal. They don't make exceptions. They may deplete your estate unnecessarily by, for example, requiring the court appointed administrator to be bonded. Legal costs of dealing with an intestacy are almost always greater than for estates where there is a will.

The laws also "fly blind," trying to guess your desires concerning who should be your administrator, or who should be guardian of your surviving minor children (This is extremely important as in B.C. there is no automatic "default" list, and the Superintendent of Child Welfare may become involved). They also cannot make charitable bequests: only a personal will can do that.

(It may be helpful to define four terms: an EXECUTOR (EXECUTRIX if a woman) is the person you name in your will to pay your debts and distribute your property according to the terms of your will. An ADMINISTRATOR is appointed by the court when an executor is not named or is unable to serve. Some Provinces use the term PERSONAL REPRESENTATIVE to cover both of these functions. A TESTATOR (TESTATRIX) is a person having a will drawn up.)

5. Does everyone have an “estate”?

Yes, if they own anything at all. The term applies not just to real estate, but cash, cars, furniture, books...any property at all.

6. Do young couples without children need wills?

Yes, a will can cut probate costs. It can also name beneficiaries in case both husband and wife die in a common accident.

7. Should both husband and wife have wills?

Yes, it's important that each has a will, even when the two wills may be essentially the same. The wills should complement each other and take into account any special bequests to other family members.

8. Do I really need a will if my estate is small?

Yes, the smaller the estate, the more important that it be settled quickly; delays usually mean more expense. Besides, your estate may be larger than you realize. Don't make the mistake of thinking of your property in terms of what it cost originally. In many cases, its value may have increased substantially.

9. Can't I write my own will without hiring a lawyer?

You can, but it's not usually advisable. Homemade wills are generally valid if certain minimum requirements are met, at least in some provinces. Avoid stationer's pre-printed forms, as they generally lead to problems. There is no substitute for the professional expertise of a competent lawyer.

10. How much does it cost to have a lawyer draw up my will?

That depends on how simple or complicated the will is. But wills usually are less costly than most people expect and definitely less than the emotional and financial costs of not having one. Ask your lawyer in advance what it will cost. It's a question that they answer routinely.

11. Can I do anything to reduce legal fees?

Yes. Lawyers charge for their time and knowledge, so the more time you can save them, the less the cost should be. Jot down and take along all the basic information that will be needed, so you can avoid spending extra time in the lawyer's office.

Make the lists described in the opening paragraph 3. Name your executor and alternate executor, and suggest a guardian for your minor children, if any, as well as an alternate guardian.

List the charitable bequests you would like to make. Provide any information about deceased children who left surviving children.

12. Can I name my spouse as executor?

You can. Or a close relative, friend, or trust company (in B.C. only trust companies are authorized to carry out such activities, although in some jurisdictions, banks may act in this regard) may be named. Ask your lawyer for advice.

13. Must I get advance permission from the executor before naming him or her in my will?

You should. It's not a legal requirement, but it is a courtesy. As an executor is not required to accept the appointment, it is a good idea to confirm that it is alright with the person that you have chosen. The content of your will may dictate the qualifications your executor should have.

14. Should my will direct what compensation my executor is to receive for serving?

It's not necessary to put it in the will because executors are entitled to fees for their services. If the executor is your spouse, a close relative, friend, or beneficiary, he or she may choose to waive such compensation. If your executor is a trust company, a schedule of fees based on a percentage of the estate will be used. The probate court will approve the amount of the executor's or administrator's fee in cases where the beneficiaries cannot, or will not, approve the fee.

15. After agreeing to serve, can an executor later refuse?

Yes, and this does occur for reasons of ill health, travel, or the press of other business. That's one reason it's wise to name an alternate executor.

16. What happens if my executor dies before I do?

The court appoints an administrator, who may not be the one you would choose. That's why you should name an alternate executor, preferably younger than you are. Trust companies may be an option, although they are generally more expensive, and prefer not to deal with smaller estates.

17. What does the executor do?

- Obtains the death certificate and provides copies to your insurance companies and the Canada Pension Plan.
- Notifies banks where you have accounts or safe-deposit boxes.
- Arranges for appraisal of your estate.
- Safeguards your property.
- Has your will probated.
- Locates witnesses if necessary.
- Collects debts due your estate.
- If necessary, advertises for any just claims against your estate and pays them in order of priority.
- Provides interim management for your business if necessary.
- Inspects and maintains your real estate.
- Collects rents if and when due.
- Completes and files income tax returns, as required by law, and in time to avoid penalties.
- Defends the estate against improper tax assessments.
- Determines whether to keep or sell your securities, to continue or liquidate your business.
- Establishes any trust funds created by your will.
- Secures any payments due such trusts.
- Defends your will if challenged.
- Disposes of your property according to your instructions.

-Prepares final accounting and obtains receipts and releases from beneficiaries if appropriate.

18. Should I include funeral instructions in my will?

It's usually better to leave separate instructions, and to tell your close relatives where to find them, as funeral arrangements may have been made before the will is located and read.

It is also a good idea to leave instructions if you would prefer a donation in your memory to a charitable organization, in lieu of flowers, as these plans are usually made before the will is read.

19. Is my will confidential or can anyone read it?

It becomes a public document upon submission of the application for probate, available to anyone who wishes to see it.

20. How much detail should a will contain regarding the disposition of particular items of property?

Enough to prevent misunderstandings among beneficiaries, but not in such detail that you may inadvertently disinherit some beneficiaries by disposing of property, before death, that is "given" to them in your will. It's usually best to treat your property generally and divide it by percentages, or shares, among the heirs. Of course, your decision will depend on what you are distributing.

21. How far should I go in my will in trying to foresee future events?

Remember that as life goes on, children grow up, people tend to marry, have children, work, save and retire. Think ahead on behalf of your heirs. Try to make bequests appropriate to their future needs and family circumstances.

22. Should a trust be created in a will?

Ask your lawyer. A trust is a marvelous tool for accomplishing certain objectives. Through a trust, for instance, you can make your estate available to the guardian of your minor children to finance their food, clothing, education, and medical expenses.

Another type of trust can relieve a surviving spouse of the problems of managing investments. Another type can channel bequests to charitable associations while providing your survivors with a life income.

23. Aren't charitable bequests made mainly by people who have no close relatives, or whose estates are so large there is plenty left over for charities?

No, more and more people with modest estates are making charitable bequests. Even modest estates today are larger than the average estates of past generations, and people are finding it more and more convenient to make charitable bequests.

24. How do people usually make charitable bequests?

Many simply designate a percentage of the estate to go to one or more charitable organizations. Others name specific property or a specific dollar amount. Still others name the charity as the final beneficiary, to receive whatever remains in the estate after other beneficiaries are taken care of.

25. Which do most charitable causes prefer- cash or property bequests?

Either or both. It never occurs to some people to leave a farm, home or business inventory to a worthy organization. Yet such bequests are welcome.

26. Is there a limit to how much I can give to charitable institutions in my will?

No, there are no limits.

27. Should I tell a charitable institution that I have left them a bequest?

Yes, it can affect their planning, often in vital ways. We are always grateful to learn of a bequest which has been planned. And we are sometimes able to assist the person making the gift by providing information about various ways to give more economically.

28. Is there any danger that the charitable cause I name may not receive my bequest?

Yes, it sometimes happens, due to using an informal, unofficial name for the charity in your will...especially since some non-profit organizations have similar names. Be sure to obtain and use the full legal name and address of the institution.

29. How many witnesses does my will require?

In B.C. all wills must be witnessed, or they are not valid. Consult your lawyer to be sure your will is properly witnessed.

30. Must the witnesses be at least 18 years old?

No. But a person must be competent to be a witness. It is helpful if the witnesses are about the same age as or younger than the testator and well acquainted with the testator.

31. Must the witnesses sign in each other's presence?

Yes, in B.C. they must sign in the presence of the testator and in the presence of each other.

32. Must the witnesses read the will and know its contents?

No, they merely attest that you have said it is your will and have signed it in their presence.

33. Is it legal for a witness to also be a beneficiary of the will?

Neither a beneficiary nor his or her spouse should ever witness a will.

34. Once I have a will, should I ever have to change it?

Probably, because even the best wills become outdated. You should review your will periodically. Changes may be needed if your marital status, financial status, or charitable interests change. If you have more children, your designated executors or guardians can't serve, or you acquire property in another province, revisions may also be in order. Updating your will may only require a simple codicil(amendment.)

35. Am I required to change my will when moving to another province?

Most Provinces will recognize a will drafted in a Province where you resided (if the will was properly executed in that Province). But it is always a good idea to have your will reviewed by a lawyer in the Province of your new residence.

36. Once my will is completed, where should I keep it?

Sign only one copy and keep it in your office, home, or bank safe-deposit box, or ask your lawyer to keep it for you. Retain an unsigned duplicate, so you can easily check it periodically to see if it needs updating. It is a good idea to file a Wills Notice with the division of Vital Statistics stating where the original will is located.

37. Is there anything else I need to know about wills?

Probably. A booklet like this can only cover the main points. Each person's circumstances and wishes are different-another reason you should consult with a lawyer about your will.

38. What information do I require to include WRA Wildlife Rescue Association of British Columbia in my will?

Our official name is WRA Wildlife Rescue Association of British Columbia, 5216 Glencarin Drive, Burnaby, British Columbia, V5B 3C1, 604-526-7275, Federal Charity number 131373490RR0001.

THANK YOU FOR
CONSIDERING A BEQUEST
TO WILDLIFE RESCUE

WRA staff are pleased to work with you and your financial advisors
to set up a planned gift that best suits your lifestyle.
Contact us at 604-526-2747.

THE WILDLIFE RESCUE STORY

Wildlife Rescue Association of B.C. (WRA) is a non-profit organization whose primary goals are wildlife rehabilitation and public education.

WRA was established in 1979 in recognition of the increasing need to provide care for orphaned, injured and pollution-damaged wildlife. Since then, over 60,000 animals representing 294 species have been brought to us for care. WRA operates under Provincial & Federal permits which allow us to care for wild mammals and birds until they can be released back to the wild.

Specially trained WRA personnel work with volunteer veterinarians and advisors to provide medical treatment and support for our wildlife patients. Preparation for release to the wild is crucial for the animal's survival. This preparation may include flight training, water-proofing, or food and predator recognition. We take every effort to ensure that animals are wild upon release.

WRA is also the primary response group for oiled wildlife, working closely with government and industry to prepare and enact emergency response plans.

The majority of our wildlife cases are a result of human activity-either direct or indirect. Increasing urban expansion has an inevitable impact on wildlife, primarily from habitat destruction and a resulting loss of food, shelter and nesting sites. They're hit by cars, caught by cats and tangled in our fishing line and 'six-pack' holders. Birds also fly into power lines and windows.

Through our school and community education programs, we hope to increase awareness of the diversity of wildlife in urban areas. Our ultimate aim is to eliminate common hazards to wildlife and decrease the number that need our help.

For more information please contact us at your convenience.

Neither the author, the publisher, nor this organization is engaged in rendering legal or tax advisory service. For advice and assistance in specific cases, the services of a lawyer and accountant should be obtained. The purpose of this publication is to provide accurate and authoritative information of a general character only. Watch for tax revisions. Provincial laws govern wills, trusts and charitable gifts made in a contractual agreement. Advice from legal counsel should be sought when considering these types of contracts.

(Vancouver, B.C. Canada 1992)



THE WILDLIFE RESCUE ASSOCIATION OF B.C. REDUCES AND PREVENTS SUFFERING OF INJURED, ORPHANED, AND POLLUTION DAMAGED WILDLIFE THROUGH REHABILITATION AND EDUCATION.

Wildlife Rescue
ASSOCIATION

*WRA Wildlife Rescue Association of B.C.
5216 Glencarin Drive, Burnaby, B.C. V5B 3C1 604-526-7275*