

## Why you need an up-to-date will

Unfortunately, far too many people do not have an up-to-date will.

In this province, if you die without a will, your estate is frozen until a court order is obtained identifying who will act as executor for the estate. This can be a time-consuming and expensive process and is totally unnecessary if you have a will that names the executor.

If there is a will, the estate is not frozen and the executor named in the will can start taking the appropriate actions the moment that the testator passes away. This allows for a much smoother processing of the estate and saves enormous cost. In many cases, depending upon the assets in the estate, it is not necessary to apply to the court in order to administer the estate.

If you die without a will our legislation provides a fixed table of relatives who will share in your estate. Therefore regardless of the testator's wishes, or obvious unsatisfactory results of applying the table, there is no alternative.

If you have a will you can clearly identify those people who you want to share in your estate and exclude those who you do not want to share in your estate.

However once you have prepared a valid will you should not put it away and forget about it. As your assets change, and time passes, wills that were appropriate years ago are now inappropriate. However if you have not up-dated your will the executor is bound to follow the wording of the will regardless of whether or not the executor is aware that you had changed your mind or the circumstances meant that the previous will was incorrect today.

For example, if you made a will when your children were infants and named an adult as the alternate executor, that choice may not be appropriate once your children are adults and can administer the estate themselves. This problem can be easily and inexpensively solved with a codicil to your existing will.

It is therefore important that even after you make a will that reflects your financial circumstances and wishes at that time, you review that will regularly going forward to ensure that it is still appropriate as you age and your assets and liabilities change.

If you do review your will and find that it does not express your present wishes, it is important not to procrastinate. Too often I hear from parties that the testator had changed his mind with respect to his wishes, and intended to change his will, but had not gotten around to doing so. Unfortunately, the will prevails regardless.

It is often devastating for the beneficiaries to see part of the estate go to a beneficiary who they know the testator had intended to exclude but had not gotten around to making the necessary amendments to his will.

When a person passes away it is an emotional time, to say the least. The last thing the family need is to have to deal with a will that creates difficulties because it does not accurately reflect the wishes of the testator.

A little effort now to prepare an up-to-date will, and then to review it regularly to ensure that it is accurate, can save a lot of money and heartbreak for family members going forward.

This article is not legal advice.