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Guide to Wills and Estates is a comprehensive “how to” practice manual for the legal assistant. It pertains to British Columbia Wills and Estates procedure and complies with the *Wills, Estates and Succession Act*, in force as of March 31, 2014 (“WESA”). The *Guide* is well-known as the procedural “bible” on the subject and contains a wealth of information.

Contents

The *Guide* consists of four main chapters: Overview, Wills, Estates, and Helpful Information.

- **Chapter I - Overview** covers:
 - intestacy – in other words, what happens if a person dies without a Will;
 - survivorship rules;
 - detailed description of what makes a valid Will;
 - the purpose and, therefore, importance of a Will;
 - the legal effect of a Will;
 - international Wills.
- **Chapter II - Wills** covers the steps from initial instructions to the preparation of a Will, including:
 - the flow of the file; and
 - the documentation and correspondence.
- **Chapter III - Estates** is an extensive chapter which relates to representation grant applications, administration and distribution of the Estate and deals with the issue of the spousal home. Covered are:
 - what an Estate is;
 - the duties of the personal representative and the lawyer;
 - the flow of the file;
 - the correspondence; and documentation, including all the forms.
- **Chapter IV - Helpful Information** contains a compilation of helpful information where you will find:
 - a handy list of Addresses and Links;
 - detailed Will Checklist and Estates Checklists;
 - Fee Schedule;
 - information on the Electronic Filing System.

Each chapter is treated separately to minimize “searching”. Because of this, some of the text may be repeated, unless it was too lengthy or cumbersome to do otherwise. Also, the information is arranged chronologically so as to assist in a natural flow of work to be formed.

We have endeavoured to cater to users of every level of experience, even those with very little experience in the field of Wills and Estates.

Statutes and Probate Rules

Some parts of the main statutes (or Acts) as they relate to the field of Wills and Estates are covered in this *Guide*. The Probate Rules (Part 25 of the Supreme Court Civil Rules) are also covered. As the legal assistant starts working in the field of Wills and Estates, it is recommended that they become familiar with those Acts, including:

1. ***Wills, Estates and Succession Act*** (“WESA”);
2. ***Probate Fee Act*** (governs the fees payable to obtain the issuance of a grant or resealing);
3. ***Family Law Act*** (governs, among other things, the entitlement to matrimonial property).

Precedents -- Printed and Digital

The *Guide* contains many precedents. To clarify, a precedent is a sample document or letter detailing its basic structure. Obviously, they contain many blanks. The precedents allow the user to prepare actual documents or letters quickly and easily.

In the printed *Guide*, precedents are set out on the right-hand side (odd-numbered pages) with explanations and instructions set out opposite on the left-hand side (even-numbered pages). This efficient, at-a-glance format minimizes flipping back and forth through the *Guide* and assists in ready-access to the needed information. Blank spaces in the precedents are handled thusly:

- where the information to be insert is self-evident, the blank has a line. For example, “City of _____, Province of British Columbia”;
- where the information is to be inserted requires only a minor explanation, the explanation is contained between {}. For example, *{Name of the Deceased}*. Pressing F11 will get you to the next blank and will prompt the reader to insert the name of the Deceased;
- where the information to be inserted requires more elaborate information, a reference number (❶, ❷, or ❸, etc.) is set out in the blank and the correspondingly numbered explanation is set out on the opposite page.

The precedents should be used with the understanding that *Wills, Estates and Succession Act* is a new Act and many procedures and precedents have not been fully tested in the field.

All of the precedents set out in the *Guide* are also provided, in digital format, on the accompanying USB Flash Drive (formerly CD) (NB the Digital Precedents are not included in the student edition but available separately). Each precedent has been carefully formatted with descriptive stop-codes in MSWord.

The *Guide* sets out standard Wills precedents clauses. The clauses are lawyer-edited and written in plain language to be easily understood by the most important person in the whole process, the Will-Maker. The supervising lawyer or notary may prefer to use their own specifically worded precedents. Accordingly, the ones set out in the *Guide* provide a general

concept. They enable the user to recognize and understand how to choose the appropriate clauses, which are the “building blocks” of a well-constructed Will.

Author -- Gabrielle M. Komorowska

The *Guide* was first published in 1995 and has been kept continually up to date ever since. It was completely revised and rewritten with the advent of the *Wills, Estates and Succession Act*. The distinguished author, paralegal and instructor, Gabrielle M. Komorowska, has many years of hands-on experience as a paralegal in the field of Wills and Estates. Ms. Komorowska is highly regarded as a long time, knowledgeable paralegal at the law firms where she works. She has taught the subject at community colleges and various education institutions. She wrote the *Guide* from her perspective and experience.

Editor -- Leah Sandhu, LL.B

Prior to original publication in 2014, the *Guide* was edited by Leah Sandhu LL.B Leah was called to the Bar in 2007 after articling at the BC Law Institute and Canadian Center for Elder Law Studies, where she worked on the 2006 publication which formed the basis for WESA: *Wills, Estates and Succession: A Modern Legal Framework*.

Leah also contributed to the Aging with Challenges project, authoring a paper on the rights of older adults with respect to smoking assisted living and long term care, as well as co-authoring a paper on criminal elder abuse published in the Elder Law Journal of the University of Illinois Faculty of Law. Leah has been a three-time volunteer at the Canadian Conference on Elder Law and presented a paper on opiate use in dying patients at the 2008 Canadian Elder Law Conference. She practices in the areas of Wills and Estates, personal planning, personal injury and general litigation.

Updates

In the time to come, there will be many changes to the legislation affecting Wills and Estates (especially, *Wills, Estates and Succession Act*) and the procedures will continue to evolve. Updates to the *Guide* will be issued on a consistent basis so that it continues to be reliable.

Disclaimer

The *Guide* is intended as a tool for legal support staff to be used under the guidance and direction of the supervising lawyer. It is therefore *mandatory that the lawyer or notary review the Guide, make preference notations and authorize its use in office*. As well, the *Guide* should not be relied upon for legal advice, which is lawyer’s sole duty -- the person ultimately responsible for the work at hand.

Although not intended as a primer for lawyers and notaries, they will find it helpful when dealing with matters that are usually handled by support staff.

The *Guide* is not intended to be used by the lay person in preparing a Will or obtaining a representation grant. However, it is useful to the lay person in understanding the basic concepts.

The **Guide** is to be used with the understanding that the publisher, author and editor are not responsible for the results of any actions taken on the basis of information in this work, or for any errors or omissions. The **Guide** does not providing any legal or other professional advice. The publisher, author and editor, expressly disclaim all and any liability to any person, whether a purchaser of this **Guide** or not, in respect of the consequences of anything done or omitted to be done by any such person in reliance, whether in whole or in part, upon the whole or any part of this publication. Users are specifically cautioned to seek the advice of the supervising solicitor regarding the correctness or applicability of any materials contained in this **Guide**.

Conclusion

It is the sincere desire of the author, editor and publisher that the **Guide** be useful to anyone (whether new or very experienced in the field of Wills and Estates) who has the responsibility of managing a Will or a Estate file. Any comments you have are welcome!



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