

❧ ESTATES ❧
PROBATE FORMS
PART 25 OF THE SUPREME COURT CIVIL RULES

INDEX



- 1) **Save Time! Use the digital Forms in MSWord** (instead of preparing them from scratch). **To access the digital Forms, go to the internet link provided upon purchase.** If you are a subscriber and need the link, simply email contact@evinross.ca
- 2) **Be familiar with the Appendix at the end of this Chapter.**

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P30	25-10(9)	Withdrawal of Notice of Dispute	(*)	Preparation instructions (in pdf) are available online. If you need assistance, email: contact@evinross.ca
P31	25-10 (11)	Order for Removal of Notice of Dispute	(*)	
P32	25-11(1)	Citation	(*)	
P33	25-11(4)	Answer to Citation	(*)	Preparation instructions (in pdf) are available online. If you need assistance, email: contact@evinross.ca
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Form No.	Rule No.	Name of Form	Page No.	Remarks
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15	4-6(1)	Affidavit of Personal Service	N/A	Only electronic precedent provided
16	4-6(1)	Affidavit of Ordinary Service	N/A	
17	23-1(9)	Requisition	N/A	Only electronic precedent provided Request for court certified copies of documents
30.1	19-5	Request for Document Required by Judicial Authority of Another Jurisdiction	(*)	Form used when there are special requirements of foreign jurisdiction - - See Notes opposite Forms P32 to P43
31	8-3(1) and 8-4(1)	Requisition for Consent Order or for Order Without Notice	N/A	Only electronic precedent provided
32	4-1(3)	Notice of Application	N/A	
34	8-3(1)	Consent Order	N/A	

Form No.	Rule No.	Name of Form	Page No.	Remarks
35	8-4(1)	Consent Order	N/A	Administration without Will Annexed only (see Guide to Wills & Estates (Pre-WESA))
N.A.		Power of Attorney for Foreign Grants	N/A	If the foreign personal representative appoints an attorney to act as his representative and to act as applicant for an ancillary grant. See: Pre-Application Documents chapter

(*) There are no printed instructions or printed precedents in the *Guide* for the documents marked with (*) in the page number column.

All forms in the Probate Rules have a “P” before the form number. Sometimes, the Probate Rules refer to other forms (e.g. Form 31). Those are the *Supreme Court Civil Rules* forms.



When referring to a Will, if there is any other testamentary document filed with the application, include a reference to that document. For example: Will dated October 12, 2011 and Codicil dated December 10, 2012.

When there are several options and a paragraph is selected, delete the other options (see Appendix).

The forms cover the following grants and resealing thereof:

- “**grant of probate**” if there is a Will and the applicant is named as executor or alternate executor in the Will;
- “**grant of administration with will annexed**” if there is a Will and the applicant is not named as executor or alternate executor in the Will;
- “**grant of administration without will annexed**” if there is no Will;
- “**ancillary grant of probate**” if a grant of probate or equivalent grant was obtained in relation to the Deceased in a jurisdiction other than a jurisdiction prescribed for the purposes of section 138 of WESA;
- “**ancillary grant of administration with will annexed**” if a grant of administration with Will annexed or equivalent grant was obtained in relation to the Deceased in a jurisdiction other than a jurisdiction prescribed for the purposes of section 138 of WESA;
- “**ancillary grant of administration without will annexed**” if a grant of administration without will annexed or equivalent grant was obtained in relation to the Deceased in a jurisdiction other than a jurisdiction prescribed for the purposes of section 138 of WESA;
- “**the resealing of a foreign grant**” if a grant of probate or equivalent, or a grant of administration or equivalent, was obtained in relation to the estate of the Deceased in a jurisdiction prescribed for the purposes of section 138 of WESA.

FORM P1
(Rule 25-2(3))

NOTICE OF PROPOSED APPLICATION IN RELATION TO ESTATE

General Notes

Refer to the **Notice** chapter for information about who is entitled to Notice and the manner in which the Notice is delivered. This form is used for all applications (see ❸ below).

Preparation

- ❶ If there are several applicants, insert the full legal names of each of them. If the full legal name of an applicant differs from the name shown in the Will, insert the full legal name first and then the name shown in the Will as follows “JOHN WILLIAM DOE (named in the Will as JOE W. DOE”).
- ❷ Insert the location of the probate registry (e.g. Vancouver, New Westminster, Victoria, etc.).
- ❸ Insert the description of the representation grant that is applied for. Select one of the following:
 - a grant of probate;
 - a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate;
 - an ancillary grant of administration with will annexed;
 - an ancillary grant of administration without will annexed; or
 - the resealing of a foreign grant;
- ❹ Insert the full legal name of the Deceased. Do not show any other name by which the Deceased was known (also/otherwise known as/a.k.a.). The only places where the Deceased’s full name is to be shown is Part 1 of the two **Submissions** and later in the grant or Certificate of Resealing issued by the probate registry and in Schedule A to Statement of Assets, Liabilities and Distribution.
- ❺ Select this paragraph if there is no Will.
- ❻ Select this paragraph if the application relates to a physical Will and complete the date of the Will and list any other testamentary documents (e.g. codicil) and complete their dates.
- ❼ Select this paragraph if the application relates to an electronic will with a physical or electronic copy provided. In this case, the recipient is entitled to demand the will in its original electronic form (see **Form P46** – page 152).

If the will was created in PDF format and notice was given electronically, either amend the this paragraph to indicate that the recipient is receiving the will in its original electronic form or leave the wording as is. This will inform the recipient of Notice that are entitled to the will or access to it on demand.
- ❽ Select this paragraph for applications to reseal a foreign grant or ancillary grant and amend the wording to suit the situation – see explanation in ❼ above.
- ❾ This is a prescribed form of notice and the text below must not be changed or altered (Rule 25-2(3)(f) and (g)).

Continued...

FORM P1 (RULE 25-2(3))**NOTICE OF PROPOSED APPLICATION IN RELATION TO ESTATE****TAKE NOTICE THAT:**

The applicant(s) ❶ *{NAME OF APPLICANT(S)}* propose(s) to apply, in the ❷ *{Location}* court registry, for ❸ in relation to the estate of the deceased described below who died on *{date of death-dd/mmm/yyyy}*.

Full legal name of deceased: ❹ *{FIRST NAME} {MIDDLE NAME} {LAST NAME}*

Last residential address of the deceased: *{Include street number or post office paragraph, city/town, province, country and postal code}*

❺ This application does not relate to a will or a foreign grant.

❻ This application relates to the physical will of the deceased dated *{dated}*, a copy of which will is provided with this notice.

❼ This application relates to the electronic will of the deceased dated *{date}*, a copy of which will is provided with this notice. You are entitled to the will or access on demand to the will in its original electronic form, using Form P46.

❸ This application is to reseal a foreign grant or for an ancillary grant and a copy of the foreign grant is provided with this notice. If the foreign grant relates to the will of the deceased, and that will does not form part of the foreign grant, a copy of the will is provided with this notice. In addition, if the grant relates to the electronic will of the deceased, you are entitled to the will or access on demand to the will in its original electronic form, using Form P46.

❾ AND TAKE NOTICE THAT:

- (1) Before obtaining the foregoing grant or resealing, the applicant may be granted an authorization to obtain estate information or an authorization to obtain resealing information, as the case may be, in relation to that grant or resealing for the purposes of obtaining financial information in relation to the grant or resealing.
- (2) You have a right to oppose, by filing a notice of dispute in accordance with Rule 25-10(1):
 - (a) if the intended application is for an estate grant, the granting of either or both of an authorization to obtain estate information and the estate grant, or
 - (b) if the intended application is for a resealing, the granting of either or both of an authorization to obtain resealing information and the resealing.
- (3) You may or may not be entitled to claim against the estate for relief, including a claim under:
 - (a) the *Family Law Act*, or
 - (b) Division 6 of Part 4 of the *Wills, Estates and Succession Act*.
- (4) If you choose to take a step referred to in paragraph (2) or (3), you must do so within the time limited by any relevant rule of court or other enactment.
- (5) You may consult with your own lawyer concerning your interest in, or rights against, the estate.

FORM P1
(Rule 25-2(3))
NOTICE OF PROPOSED APPLICATION IN RELATION TO ESTATE

Preparation (Continued)

If there are several applicants:

- provide information for each of them;
- they must all share the same address for service; but
- they may have different mailing addresses.

❶ Insert the full legal name of each applicant. It should be the same as the name in ❶ on the first page of this form.

❷ Insert the mailing address of this applicant.⁽¹⁾ The address of the applicant may be the address of the applicant's lawyer.

Repeat ❶ and ❷ for each applicant. Attach an additional sheet if necessary.

❸ Select the appropriate paragraph and if you have selected the second paragraph ❸, complete the required information in items ❹ below.

❹ Select the appropriate paragraph and if you have selected the second paragraph ❹, complete the City and Country.

❺ Select the appropriate paragraph and if the applicant's address for service is not the mailing address in ❹ above, complete the information in the second ❺. Set out the complete delivery address for service. If available, include a fax number and/or an e-mail address as additional addresses for service.⁽¹⁾

If you are using the law firm's address as address for service, include the name of the supervising lawyer (e.g. c/o ABC Law Firm (John Smith))

Reminder: If there are several applicants, they must share the same address for service.

❻ The Notice may be signed by:

- the intended applicant (or if several applicants, one of them); or
- the intended applicant's lawyer.

Procedure

Ensure that the Form is dated at least 21 days before the application is filed – not counting the day of delivery and the last day.

Refer to the **Notice of Proposed Application in Relation to Estate** chapter for instructions with respect to the mailing and delivery of this form.

⁽¹⁾ See **Appendix** at the end of this chapter with respect to **Accessible Address for Service for Applicants** pursuant to Rules 4-1(1) and 4-1(2).

Form P1 – Page 2

- (6) After the applicant has filed a submission for estate grant or submission for resealing, you may apply for an order requiring the applicant to provide security unless the applicant is the Public Guardian and Trustee. Filing a notice of dispute will prevent a grant from being issued before you are able to apply for the order requiring security.
- (7) An authorization to obtain estate information, an authorization to obtain resealing information or a grant may issue to the applicant, or a foreign grant may be resealed, on any date that is at least 21 days after the date on which this notice is delivered to you or on any earlier date ordered by the court.
- (8) If an authorization to obtain estate information issues to the applicant, the applicant may apply for a grant without further notice. If an authorization to obtain resealing information issues to the applicant, the applicant may apply for the resealing of the foreign grant without further notice to you.
- (9) If a grant issues to the applicant, the applicant must provide, if there is a will, to the beneficiaries or, if there is no will, to intestate successors of the deceased, an accounting as to how the estate was administered and how the estate assets were distributed, and if a foreign grant is resealed as a result of the application, the intended applicant must provide, if there is a will, to the beneficiaries or, if there is no will, to intestate successors of the deceased, an accounting as to how the estate comprising the assets to which the resealed grant applies was administered and how those assets were distributed.

INFORMATION ABOUT EACH APPLICANT

Name: **①** *{FIRST NAME} {MIDDLE NAME} {LAST/FAMILY NAME}*

Mailing address: **②** *{Include street number or post office paragraph, city/town, province, country and postal code}*

③ This applicant is not an individual

③ This applicant is an individual and ordinarily lives

④ at the mailing address noted above

④ in the following city and country: *{City and Country}*.

ADDRESS FOR SERVICE OF APPLICANT(S)

⑤ The applicant's(s') address for service is the mailing address noted above.

⑤ The applicant's(s') address for service is

Street address for service: **⑤** *{Street and city address for service}*

Fax number address for service (if any): *{Fax number address for service}*

E-mail address for service (if any): *{E-mail address for service}*

Telephone number: *{Telephone number}*

Date: *{dd/mmm/yyyy}*.

Signature of **⑥** applicant

⑥ lawyer for applicant(s)

{type or print name}.

FORM P2
(Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT

General Notes

Form P2 is the originating document and replaces the previous **Requisition**. It contains:

- Part 1: Information about the Deceased
- Part 2: Information about the Applicant(s)
- Part 3: Documents filed with this *Submission for Estate Grant*
- Part 4: There are several Schedules included in *Form P2 – Submission for Estate Grant*, but only one is attached to the completed *Submission*, depending on the kind of estate grant that is applied for.

Each Schedule will contain additional information, such as the names of those applicants who are not applying and the names of the persons entitled to Notice pursuant to section 121 of WESA.

Preparation

Form P2 may be completed and signed by one of the applicants or their lawyer.

- ① See **Appendix to Forms** at the end of this chapter for the explanation of the style of proceeding.
- ② If the applicant is signing this Submission, select the first choice (“submitted by...”). If the lawyer is signing on behalf of the applicant, select the second choice “submitted on behalf of...”. In both cases, insert the names of all the applicants.
- ③ If the applicant is signing the Submission, select “I/we am/are applying...” and if the lawyer is signing the Submission, select “I {NAME OF LAWYER...} am applying...”
- ④ Insert the correct description of **estate grant**:
 - grant of probate;
 - grant of administration with will annexed;
 - grant of administration without will annexed;
 - ancillary grant of probate or ancillary grant of administration with will annexed;
 - ancillary grant of administration without will annexed;
- ⑤ Select this paragraph if you have all required information with respect to the assets and liabilities of the estate and have been able to complete the appropriate *Affidavit of Assets or Liabilities (Form P10)* for a domiciled estate grant or *Form P11* for a non-domiciled estate grant) and these forms are filed with the application.
- ⑥ Select this paragraph if you have not been able to obtain all the information with respect to assets and liabilities, and you require the court to issue a *Form P18 – Authorization to Obtain Estate Information*. The *Affidavit of Assets and Liabilities* will be filed at a later time.
- ⑦ As the probate registry does not issue an original estate grant, estimate the number of court-certified copies of the estate grant, the *Affidavit of Assets and Liabilities* and/or *Authorization to Obtain Estate Information* that you will require to transmit, or deal with, the assets (e.g. land, accounts at banks, Canada Revenue Agency, etc.) and indicate that number. Note: For Land Title Office purposes, only one certified copy of the documents is required as everything is filed centrally online through LTSA.

Continued...

FORM P2 (RULE 25-3(2))

No. _____
{Location} Registry*In the Supreme Court of British Columbia*

In the Matter of the Estate of

① *{LEGAL NAME OF DECEASED}*, Deceased**SUBMISSION FOR ESTATE GRANT**This submission for estate grant is submitted ② by/on behalf of: ② *{NAME(S) OF APPLICANT(S)}*③ I am/We are/ I, *{NAME OF LAWYER FOR APPLICANT(S)}*, am/ applying for the following in relation to the estate of the deceased described in Part 1 of this submission for estate grant (the “deceased”): ④

⑤ I am/We are submitting with this submission for estate grant an affidavit of assets and liabilities in Form P10 or P11 and therefore do not require an authorization to obtain estate information.

⑥ I am/We are seeking an authorization to obtain estate information so that I/we can secure the information necessary to prepare and submit an affidavit of assets and liabilities for estate grant.

⑦ I/we request *{number of copies}* certified copy(ies) of the estate grant.⑦ I/we request *{number of copies}* certified copy(ies) of the Authorization to Obtain Estate Information.⑦ I/we request *{number of copies}* certified copy(ies) of the of the Affidavit of Assets and Liabilities for domiciled estate grant.⑦ I/we request *{number of copies}* certified copy(ies) of the of the Affidavit of Assets and Liabilities for non-domiciled estate grant.

This submission for estate grant has 4 Parts:

- | | |
|---------|---|
| Part 1: | Information about the Deceased |
| Part 2: | Contact information about the Applicant(s) |
| Part 3: | Documents Filed with this Submission for Estate Grant |
| Part 4: | Schedule |

Date: *{dd/mmm/yyyy}*.

 Signature of applicant
 lawyer for applicant(s)
{type or print name}

FORM P2
(Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT

PART 1 – INFORMATION ABOUT THE DECEASED

- ❶ Insert the legal name of the Deceased. Usually, the legal name is the one used in the Will, and if there is no Will, it is the name on the *Death Certificate* (see the **Appendix**) or, if applicable, the name in the foreign grant.
- ❷ The Deceased may have been known by several names, and/or the Deceased’s assets may have been registered in several names (or several variations thereof). For example, a married woman may have assets registered in her maiden name, in her married name, and perhaps in her second married name. Sometimes the different name variations are the result of misspelling or clerical error. Insert all those names, including names in:
 - any testamentary documents;
 - which the Deceased’s real property is registered.

If there are no other names, insert “**NONE**”. Do not leave the statement blank and do not insert “N/A”.

Ensure that all the names are included in the *Results of a Search for a Wills Notice* (see **Pre-Application Documents**). If they are not, order a new search, listing all the names in the application. Additional names listed in the Search, are acceptable.

- ❸ Insert the street number and street name *or* the post office paragraph (whichever is available) and then the remainder of the address.
- ❹ Copy this information from the *Death Certificate*.
- ❺ Select the appropriate paragraph indicating that the Deceased was – or was not – a Nisga’a citizen or a member of a treaty first nation.⁽¹⁾
- ❻ If you have selected the second ❺, select this paragraph and complete name of treaty first nation.
- ❼ Insert the street address of the address for service (street number and name, city and postal code). A fax number and/or an e-mail address may also be given as additional addresses for service.⁽²⁾ If there is more than one applicant, all applicants must have the same address for service.

If the applicant is represented by a lawyer, this may be the lawyer’s office contact information, **including the name of the supervising lawyer** (especially the telephone number and email address, as this will be the contact that the probate registry will use to communicate at a later date).

Continued...

⁽¹⁾ This Guide does not cover any issues relating to Nisga’a citizens and treaty first nations.

⁽²⁾ See **Appendix** at the end of this chapter with respect to **Accessible Address for Service for Applicants** pursuant to Rules 4-1(1) and 4-1(2) of the *BC Supreme Court Civil Rules*.

Form P2**PART 1 – INFORMATION ABOUT THE DECEASED**

Full legal name of deceased: **①** *{FIRST NAME} {MIDDLE NAME} {LAST/FAMILY NAME}*

Other names in which the deceased held or may have held an interest in property:

② *{other names - alias} or NONE*

② *{other names - alias}*

Last residential address of the deceased:

Street number and street name: **③** *{Street number and street name}*

[OR]

Post office paragraph: **③** *{Post office paragraph}*

City/Town: **③** *{City/Town}*

Province/State: **③** *{Province/State}*

Country: **③** *{Country}*

Postal Code: **③** *{Postal Code}*

Deceased's date of death: **④** *{dd/mmm/yyyy}*.

⑤ The deceased was neither a Nisga'a citizen nor a member of a treaty first nation.

⑤ The deceased was a Nisga'a citizen.

⑥ The deceased was a member of the **⑥** *{Name of treaty first nation}* treaty first nation.

PART 2 - CONTACT INFORMATION ABOUT THE APPLICANT(S)

⑦ Applicant's(s') address for service:

Street address for service: **⑦** *{Street and city address for service}*

Fax number address for service (if any): *{Fax number address for service}*

E-mail address for service (if any): *{E-mail address for service}*

Telephone number: *{Telephone number}*

FORM P2 (Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR ESTATE GRANT

Preparation (Continued)

- ❶ If there is **only one applicant**, select this paragraph and insert the affidavit number that is filed with this *Submission*:
 - **P3** Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed (*short form*); or
 - **P4** Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed (*long form*); or
 - **P5** Affidavit of Applicant for Grant of Administration without Will Annexed; or
 - **P6** Affidavit of Applicant for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed; or
 - **P7** Affidavit of Applicant For Ancillary Grant of Administration without Will Annexed.
- ❷ If there **are several applicants** and they all jointly and severally swear this Affidavit – that is together at the same time and place, select this paragraph and insert the number of the affidavit that is filed with this *Submission* – same choices as in ❶:
- ❸ If there are several **applicants** and they are not planning on swearing a joint affidavit (see ❷ above), select this paragraph and insert the number of **Form P8** affidavits that are filed with this *Submission*.
- ❹ If there are several *Affidavits of Delivery (Form P9)*, list them all showing the names and the dates they are sworn. If no one is entitled to Notice, select the second option.

The following five selections of paragraph 4 refer to the fact that the Will, a copy of it, or a copy of the foreign grant is attached to this *Submission*.

- ❺ Select this paragraph if the **original** of the Will is available, and complete the date of such a Will. If there are other testamentary documents (e.g. a codicil), list them and complete their dates.
- ❻ Select this paragraph if only a **copy** of the Will is available. In this case, prepare Form **P4 Affidavit**.

Note: Notaries in the Province of **Quebec** do not release original Wills, as they are retained by them and form part of the notary's official "deeds". When a person dies, the notary provides only a notarially-certified copy (or a "notarial copy") of the Will. In other words, the original Will, once executed, never leaves the notary's office. Section 36 of the *Evidence Act* provides that such a copy has the same force and effect as the original. In this case, replace "a copy of the Will" with:

"a notarial copy of the Deceased's original Will dated __ day of _____, 20__, certified by *{name of notary}* of *{City}* Province of Quebec, who retains the original according to the laws of Quebec and two additional copies thereof."

and prepare **Form P3**.

- ❼ Select this paragraph if there is no Will.

Continued...

Form P2**PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR ESTATE GRANT**

1. **❶** *{Optional paragraph 1}* There is one applicant to this submission for estate grant and P3/P4/P5/P6/P7 affidavit is filed with this submission for estate grant.
1. **❷** *{Optional paragraph 1}* There are 2 or more applicants to this submission for estate grant and a joint P3/P4/P5/P6/P7 affidavit on behalf of all applicants is filed with this submission for estate grant.
1. **❸** *{Optional paragraph 1}* There are 2 or more applicants to this submission for estate grant and a joint P3/P4/P5/P6/P7 affidavit is filed with this submission for estate grant and **❸** affidavit(s) in Form P8 is/are filed with this submission for estate grant.
2. **❹** *{Optional paragraph 2}* Filed with this submission for estate grant is/are the following Affidavit(s) of Delivery in Form P9 that confirms/collectively confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered:
 - (a) **❹** Affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*.
 - (b) **❹** Affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*.
2. **❹** *{Optional paragraph 2}* No affidavit of delivery is attached. In accordance with Rule 25-2, no one, other than the applicant(s), is entitled to notice.
3. Filed with this submission for estate grant are 2 copies of the certificate of the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased.
4. **❺** *{Optional paragraph 4}* This application is for a grant of probate, or a grant of administration with will annexed, in relation to the will of the deceased dated *{dd/mmm/yyyy}* (and codicil dated *{dd/mmm/yyyy}*), and filed with this submission for estate grant is the originally signed version of the will (and codicil) and two copies of the will.
4. **❻** *{Optional paragraph 4}* This application is for a grant of probate, or a grant of administration with will annexed, in relation to the will of the deceased dated *{date}*, and, because the originally signed version of the will is not available, filed with this submission for estate grant are 3 copies of the will.
4. **❼** *{Optional paragraph 4}* This application is for a grant of administration without will annexed.

FORM P2
(Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR ESTATE GRANT

Preparation (Continued)

- ❶ Select this paragraph if this is an application for an ancillary grant of probate or of administration with will annexed; that is to say that there is a Will and a foreign grant was issued. Then complete:
- the name, the province and country of the issuing court (e.g. Probate Office/District Probate Registry of Dublin, Ireland); and
 - the date the foreign grant was issued;
 - the date of the Will.

Note: Unlike for British Columbia estate grants, often Wills are not attached to foreign grants, so a copy of the Will certified by the court in the foreign jurisdiction must be submitted with the application as a separate document.

- ❷ Select this paragraph if this is an application for an ancillary grant of administration without will annexed and a foreign grant was issued, and complete:
- the name the province and country of the issuing court (e.g. Probate Office/District Probate Registry of Dublin, Ireland);
 - the date the foreign grant was issued.

The following paragraphs 5 refer to existing orders that affect the validity of the Will.

- ❸ For an application for a grant of probate or a grant of administration with will annexed: select the appropriate paragraph depending on whether or not there are orders affecting the validity or content of the Will. If you have selected ❹, select one of the paragraphs in ❺.
- ❹ For each order, complete the appropriate paragraph and insert the date of the order. If you selected the second paragraph for any order, ensure that it is attached to this ***Submission***. Repeat the information for each order.
- ❺ Select either paragraph and if the Order has not been filed, attach it to the ***Submission***.

Continued...

Form P2**Paragraph 4 Continued**

4. **①** *{Optional paragraph 4}* This application is for an ancillary grant of probate, or an ancillary grant of administration with will annexed, in relation to the grant issued by the **①** *{name of issuing court}* of **①** *{province or country of issuing court}* on **①** *{dd/mmm/yyyy}* (the “foreign grant”), which grant was issued in relation to the will of the deceased dated **①** *{dd/mmm/yyyy}*, and filed with this submission for estate grant is a copy of the following, each of which is certified by the court out of which probate or administration with will annexed has been granted:
- (a) the foreign grant;
 - (b) if a copy of the will to which the foreign grant relates is not attached to the foreign grant, a copy of the will.
4. **②** *{Optional paragraph 4}* This application is for an ancillary grant of administration without will annexed in relation to the grant issued by the *{name of issuing court}* of *{province or country of issuing court}* on *{dd/mmm/yyyy}* (the “foreign grant”), and filed with this submission for estate grant is a copy of the foreign grant certified by the court out of which administration without will annexed has been granted.
5. **③** *{Optional paragraph 5}* This application is for a grant of probate or a grant of administration with will annexed and there are no orders affecting the validity or content of the will referred to in section 4.
5. **④** *{Optional paragraph 5}* This application is for a grant of probate or a grant of administration with will annexed and the following order(s) affect(s) the validity or content of the Will referred to in section 4:
- (i) **④** Order dated *{dd/mmm/yyyy}*
 - ⑤** This order has been filed in this proceeding.
 - ⑤** This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for estate grant.
 - (ii) **⑤** Order dated *{dd/mmm/yyyy}*.
 - ⑤** This order has been filed in this proceeding.
 - ⑤** This order has not yet been filed in this proceeding and I am/ we are therefore filing a copy of the order with this submission for estate grant.

**FORM P2
(Rule 25-3(2))**

SUBMISSION FOR ESTATE GRANT

PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR ESTATE GRANT

Preparation (Continued)

Continuation of paragraph 5 - orders that affect the validity of the Will.

- ① For an application for an ancillary grant of probate or ancillary grant of administration with will annexed, select the appropriate paragraph depending on whether or not there are orders affecting the validity or content of the Will. If there are any orders, select the appropriate paragraphs in ②.
- ② For each order, complete the appropriate paragraph and insert the date of the order. If you selected the second paragraph for any order, ensure that it is attached to this *Submission*. Repeat the information for each order.
- ③ Select this paragraph for an application for a grant of administration without will annexed or an ancillary grant of administration without will annexed.

The five options in paragraph 6 relate to documents referred to in the Will that are either attached to the Will or filed with this *Submission* as separate documents (for example: a Memorandum dated as at the date of the Will, referred to in the Will but not attached to it).

- ④ Select this paragraph if the Will does not refer to any attachments or the attachments referred to in the Will are attached to the Will and are filed with the Will and insert the kind of application:
 - a grant of probate;
 - a grant of administration with will annexed;
 - an ancillary grant of probate; or
 - an ancillary grant of administration with will annexed; and
- ⑤ If there are other testamentary documents (e.g. a codicil), list them (see paragraph 4).
- ⑥ Select this paragraph only if the Will refers to documents (or attachments) that are actually attached to it (for the same kinds of applications as in ⑤) and list each such attachment separately with the description and the date and ensure that each is filed with this *Submission*. This does not apply to a document that sets out the allowance to be paid to an executor or administrator of the Will. In this case, go to ⑨
- ⑦ Select this paragraph if there is no Will and delete the other options of paragraph 6.
- ⑧ Select this paragraph if the Will refers to any documents that are not attached to it and that cannot be obtained by the applicant(s).
- ⑨... Select this paragraph if the document is not testamentary and complete the name and the reason why it is not, for example: not witnessed or not related to the disposition of the deceased's estate, or the document sets out the allowance to be paid to an executor or administrator of the will.



In the case of administration without will annexed, if you delete the optional paragraphs (4), (5) and (6), you are left with the same paragraph “*This application is for a grant of administration without will annexed.*” repeated three times. Delete two of the paragraphs and number the remaining paragraph as follows:

“(4)(5)(6) This application is for a grant of administration without will annexed.”

Paragraphs (7) and (8) must remain numbered as (7) and (8).

Continued...

Form P2

5. **❶** *{Optional paragraph 5}* This application is for an ancillary grant of probate or an ancillary grant of administration with will annexed and there are no orders affecting the validity or content of the Will referred to in section 4.

5. **❶** *{Optional paragraph 5}* This application is for an ancillary grant of probate or an ancillary grant of administration with will annexed and the following order(s) affect(s) the validity or content of the will referred to in section 4:
 - (i) **❷** Order dated *{dd/mmm/yyyy}*
 - ❷** This order has been filed in this proceeding.
 - ❷** This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for estate grant.
 - (ii) **❷** Order dated *{dd/mmm/yyyy}*
 - ❷** This order has been filed in this proceeding.
 - ❷** This order has not yet been filed in this proceeding and I am/ we are therefore filing a copy of the order with this submission for estate grant.

5. **❸** *{Optional paragraph 5}* This application is for a grant of administration without will annexed or an ancillary grant of administration without will annexed.

6. **❹** *{Optional paragraph 6}* This application is for **❹** and the will **❺** referred to in section 4 do(es) not refer to any documents or refers only to documents attached to the will.

6. **❻** *{Optional paragraph 6}* This application is for **❹** and filed with this submission for estate grant is/are the following document(s), which document(s) is/are all of the documents referred to in, but not attached to, the will **❻** referred to in section 4:
 - (i) *{describe document filed with this application};*
 - (ii) *{describe document filed with this application};*

6. **❼** *{Optional paragraph 6}* This application is for a grant of administration without will annexed or an ancillary grant of administration without will annexed.

6. **❸** *{Optional paragraph 6}* The will refers to one or more documents not attached to the will that cannot be obtained by the applicant(s).

6. **❾** *{Optional paragraph 6}* The will refers to one or more of the following document(s) not attached to the will that cannot be filed because the document(s) mentioned in the will is/are not testamentary:
 - (i) ***{Enter document name and briefly state why the document is not testamentary, for example: not witnessed or not related to the disposition of the deceased's estate.}***

FORM P2 (Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR ESTATE GRANT

Preparation (Continued)

① The two options in paragraph 7 refer to any other documents in existence and not described elsewhere in this *Submission* for any estate grant. Always leave this paragraph as paragraph No. 7.

② Select this paragraph if no documents other than those described in this *Submission* are in existence.

③ Select this paragraph and list additional documents not described elsewhere in this *Submission*, inserting their date and description. If there are none, insert “None”. For example:

- Form P17 – *Notice of Renunciation*;
- Power of Attorney for foreign grant (when applying for an ancillary grant); and
- other Affidavits, Consents, properly witnessed memos specifying distribution of personal effects, Orders or Requisitions (pre-WESA deaths).

Rule 25-3 (23) provides that if “a reference in the will to a document raises a question as to whether the document ought to form part of the will, the registrar must require the applicant to file the document, or if the applicant is unable or unwilling to file the required document, an affidavit explaining why the document is not being filed.”

④ The two options in paragraph 8 refer to the language the documents are written in and to any documents that require a translation from their original language into English. Always leave as paragraph No. 8.

⑤ Select this paragraph if all documents are in English.

⑥ Select this paragraph if there are any documents that are not in English and require translation. Prepare a *Form P12 – Affidavit of Translator*, insert the name of the translator, and describe the documents that were translated.

⑦ Select the Schedule name that is applicable and delete references to the others.

Complete the applicable Schedule only, and delete the others.

Processing

As you complete the *Submission*, make a note of:

- affidavits;
- Consents;
Orders; and
- any other documents (paragraph 7);

referred to in the *Submission* and ensure that they are filed with (but not attached to) the application documents when you submit them to the probate registry. Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant, and to the *Checklist for Filing of Application Documents with the Probate Registry*.

Form P2

- ①
7. ② *{Optional paragraph 7}* No documents other than those described elsewhere in this submission for estate grant are filed with this submission for estate grant.
7. ③ *{Optional paragraph 7}* In addition to the documents described elsewhere in this submission for estate grant, the following documents are filed with this submission for estate grant:
- (i) ③ *{describe document filed with this application};*
- (ii) ③ *{describe document filed with this application}.*
- ④
8. ⑤ *{optional paragraph 8}* All documents filed with this submission for estate grant are written in the English language.
8. ⑥ *{optional paragraph 8}* Filed with this submission for estate grant is an affidavit of translator in Form P12 of ⑥ *{name of translator}*, who translated the ⑥ *{identify document}* filed with this submission for estate grant.

PART 4 - SCHEDULE

- ⑦ Attached to this submission for estate grant is a Schedule for Grant of Probate or Grant of Administration with Will Annexed.
- ⑦ Attached to this submission for estate grant is a Schedule for Grant of Administration without Will Annexed.
- ⑦ Attached to this submission for estate grant is a Schedule for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed.
- ⑦ Attached to this submission for estate grant is a Schedule for Ancillary Grant of Administration without Will Annexed.

FORM P2 (Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
SCHEDULE FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED

Complete and attach this Schedule to the *Submission for Estate Grant* only if there is a Will and the application is for:

- a grant of probate; or
- a grant of administration with will annexed.

① By answering this question, the applicant establishes whether or not there is no co-executor who is named in the Will and is not applying for the grant with the applicant. In other words, show the name of a non-applying co-executor named in the Will. Doing so will determine whose right to apply at a later date should they desire is being reserved. This information would go on the estate grant itself. For example:

A and B are named as first Executors in the Will.

C and D are named as alternate Executors.

A has renounced and B has did not survive the Deceased.

C is the applicant and D cannot make up his mind (and is obviously alive), has not renounced, and is capable of managing his affairs.

Select the second and insert the name of D.

② This paragraph sets out the classes of persons to whom Notice (and documents described in Rule 25-2(1)) must be delivered (Rule 25-2(2)(a)) and who:

- are the spouse and children (if any) of the deceased;
- are beneficiaries under the Will;
- would be entitled on an intestacy or partial intestacy; and
- are citors.

Continued...

Form P2**SCHEDULE FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED**

1. Criteria:
 - (a) he or she is named in the will as executor or alternate executor;
 - (c) he or she is a co-executor with the applicant(s) (i.e. has a right to make an application for an estate grant that is equal to the applicant's(s') right to make that application);
 - (d) he or she has not renounced executorship;
 - (e) he or she is alive at the date of this submission for estate grant;
 - (f) he or she has not become incapable of managing his or her affairs.
 - ❶ There is no person who meets all of the foregoing criteria.
 - ❶ The following person(s) meet(s) all of the foregoing criteria:
 - (1) ❶ *{Name of Executor who meets all the criteria}*.

Continued...

FORM P2 (Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
SCHEDULE FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED

Continued:

List the name of each person on a separate line and only once. So, if the spouse's name is listed in (a) and the spouse is also a beneficiary under the Will in (c) and would have been an intestate successor if the Deceased left no Will in (d), insert the spouse's name in (a) only. Do not leave any paragraph blank or indicate as "Not applicable". Explain why a paragraph does not apply or insert "None".

A person who does not survive a deceased person by five days, or a longer period provided in an instrument, is conclusively deemed not to have survived deceased (to have predeceased the deceased). If a person survives a deceased person by five days, or longer if required by the will or an instrument, for the purposes of this Form, the person is referred to as "surviving".

- ❶ Insert the name of the spouse (see section 2 of WESA and the **Glossary – Helpful Information** chapter for a definition of "spouse") and select the appropriate option.
If you have selected "**None**" describe the reason why (see examples of reasons opposite).
- ❷ Insert the names of all the children of the Deceased. If there are none, insert "None." If a child did not survive the Deceased and left (no) descendants surviving him/her, explain: "The Deceased's son, Adam Smith did not survive the Deceased and had no descendants" or "The Deceased's daughter, Beryl Smith, did not survive the Deceased but left surviving her one daughter, Alana Smith". List Alana's name in (c) or (d) as appropriate.
- ❸ Insert the names of all beneficiaries under the Will who are neither the Deceased's spouse (listed in (a)) nor the Deceased's children (listed in (b)). The list of beneficiaries must include contingent beneficiaries or beneficiaries who did not survive the Deceased and must explain the situation (see **Parties entitled to Notice – Notice** chapter). If there are none, insert "None". If the legal name of a beneficiary is different from the name in the Will, show the legal name and add "(named in the Will as ...)".
- ❹ Insert the names of all persons who would have been intestate successors if the Deceased died without a Will and who are neither: the Deceased's spouse in (a), the Deceased's children in (b) nor beneficiaries under the Will in (c) (see **Parties entitled to Notice – Notice** chapter). If there are none, insert "None". Insert additional explanation if the relationship is unclear (e.g. "son of Deceased's daughter, Jane Smith, who did not survive the Deceased").
- ❺ List anyone who has filed a citation or indicate that no citation has been received. For an explanation of "citor", see *Form P32 Citation* and the **Glossary – Helpful Information**).

Form P2

4. Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:
- (a) spouse, if any, of the deceased:
 - ① *{Name of Spouse}*
 - ① *no currently surviving spouse as defined by section 2 of the Wills, Estates and Succession Act*
 - ① *{Name of Spouse}* did not survive the Deceased
 - ① **never married;**
 - (b) child(ren), if any, of the deceased:
 - (i) ② *{Name of Child}; or None* or did not survive the Deceased
 - (ii) ② *{Name of Child};*
 - (c) each person, if any, who is a beneficiary under the will and is not named in paragraph (a) or (b):
 - (i) ③ *{Name of Beneficiary}; or None* or did not survive the Deceased
 - (ii) ③ *{Name of Beneficiary};*
 - (d) each person, if any, who would have been an intestate successor if the deceased had not left a will and who is not named in paragraph (a), (b) or (c):
 - (i) ④ *{Name of Intestate Successor}; or None* or did not survive the Deceased
 - (ii) ④ *{Name of Intestate Successor};*
 - (e) ⑤ each citor, if any, not named in paragraph (a), (b), (c) or (d):
 - (i) ⑤ *{Name of Citor}; or None*
 - (ii) ⑤ *{Name of Citor};*

FORM P2
(Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
SCHEDULE FOR GRANT OF ADMINISTRATION WITHOUT WILL ANNEXED

Complete and attach this Schedule to the *Submission for Estate Grant* only if there is no Will and the application is for a grant of administration without will annexed.

This Schedule establishes the persons entitled to Notice pursuant to Rule 25-2 to whom documents described in Rule 25-2(1)) must be delivered and who:

- are the spouse and children (if any) of the Deceased;
- are entitled on an intestacy or partial intestacy;
- are creditors whose claim exceeds \$10,000; and
- are citors.

List the name of each person on a separate line and only once. So, if the spouse's name is listed in (a) and would have been an intestate successor if the Deceased left no Will in (c), insert the spouse's name in (a) only. Do not leave any paragraph blank or indicate as "Not applicable". Explain why a paragraph does not apply or insert "None".

A person who does not survive a deceased person by five days is conclusively deemed not to have survived the deceased (predeceased the deceased). If a person survives a deceased person by five days, for the purposes of this Form, the person is referred to as "surviving".

- ❶ Insert the name of the spouse (see section 2 of WESA and the **Glossary – Helpful Information** chapter for a definition of "spouse"). If there is no spouse, insert "none" and describe the reason why – see opposite.
- ❷ Insert the names of all the children of the Deceased. If there are none, insert "None". If a child did not survive the Deceased and left (no) descendants surviving him/her, explain: "The Deceased's son, Adam Smith did not survive the Deceased without descendants" or "The Deceased's daughter, Beryl Smith, did not survive the Deceased leaving surviving her one daughter, Alana Smith". List Alana's name in (c) or (d) as appropriate.
- ❸ Insert the names of all been intestate successors who are neither: the spouse (listed in (a)), nor the children of the Deceased (listed in (b)) (see **Parties entitled to Notice – Notice** chapter –and section 23 of WESA). If there are none, insert: "None". Insert additional explanation if the relationship is unclear (e.g. "son of Deceased's daughter, Jane Smith, who did not survive the Deceased").
- ❹ Insert the names of all creditors whose claim exceeds \$10,000. If there are none, insert: "None".
- ❺ List anyone who has filed a citation or indicate that no citation has been received. For an explanation of "citor", see *Form P32 – Citation* and the **Glossary – Helpful Information**.

Form P2**SCHEDULE FOR GRANT OF ADMINISTRATION WITHOUT WILL ANNEXED**

Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

- (a) spouse, if any, of the deceased:
 - ① *{Name of Spouse}*
 - ① *no currently surviving spouse as defined by section 2 of the Wills, Estates and Succession Act*
 - ① *{Name of Spouse}* did not survive the Deceased
 - ① **never married;**
- (b) child(ren), if any, of the deceased:
 - (i) ② *{Name of Child}*; or **None** or did not survive the Deceased
 - (iii) ② *{Name of Child}*;
- (c) each person, if any, not named in paragraph (a) or (b), who is entitled to receive all or part of the estate of a person who dies without a will:
 - (i) ③ *{Name of Intestate Successor}*; or **None** or did not survive the Deceased
 - (iv) ③ *{Name of Intestate Successor}*;
- (d) each creditor of the deceased, if any, not named in paragraph (a), (b) or (c) whose claim exceeds \$10,000:
 - (i) ④ *{Name of Creditor}*; or **None**
 - (v) ④ *{Name of Creditor}*;
- (e) ⑤ each citor, if any, not named in paragraph (a), (b), (c) or (d)
 - (i) ⑤ *{Name of Citor}*; or **None**
 - (vi) ⑤ *{Name of Citor}*;

FORM P2
(Rule 25-3(2))
SUBMISSION FOR ESTATE GRANT
SCHEDULE FOR ANCILLARY GRANT OF PROBATE OR
ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED

Complete and attach this Schedule to the Submission for estate grant only if there is a Will and the application is for:

- an ancillary grant of probate; or
- an ancillary grant of administration with will annexed.

This Schedule establishes the persons entitled to Notice pursuant to Rule 25-2 to whom documents described in Rule 25-2(1)) must be delivered and who:

- are the spouse and children (if any) of the Deceased;
- are beneficiaries in the Will;
- would be entitled on an intestacy or partial intestacy; and
- are citors.

List the name of each person on a separate line and only once. So, if the spouse's name is listed in (a) and the spouse is also a beneficiary under the Will in (c) and would have been an intestate successor if the Deceased left no Will in (d), insert the spouse's name in (a) only. Do not leave any paragraph blank or indicate "Not applicable". Explain why a paragraph does not apply.

A person who does not survive a deceased person by five days, or a longer period provided in an instrument, is conclusively deemed not to have survived the deceased (to have predeceased the deceased). If a person survives a deceased person by five days, of longer if required by the Will, for the purposes of this Form, the person is referred to as "surviving".

- ❶ Select the appropriate option and insert the name of the surviving spouse (see section 2 of WESA and the **Glossary – Helpful Information** chapter for a definition of "spouse"). If there is no spouse, insert "none" and describe the reason why – see opposite.
- ❷ Insert the names of all the children of the Deceased. If there are none, insert "None". If a child did not survive the Deceased and left (no) descendants surviving him/her, explain: "The Deceased's son, Adam Smith did not survive the Deceased without descendants" or "The Deceased's daughter, Beryl Smith, did not survive the Deceased leaving surviving her one daughter, Alana Smith". List Alana's name in (c) or (d) as appropriate.
- ❸ Insert the names of all beneficiaries under the Will who are neither the Deceased's spouse (listed in (a)) nor the Deceased's children (listed in (b)). The list of beneficiaries must include contingent beneficiaries or beneficiaries who have did not survive the Deceased and an explanation (see **Parties entitled to Notice – Notice** chapter). If there are none, insert "None".
- ❹ Insert the names of all persons who would have been intestate successors if the Deceased died without a Will and who are neither: the spouse (a), the children of the Deceased (b) nor beneficiaries (c). (see **Parties entitled to Notice – Notice** chapter). If there are none, insert "none". Insert additional explanation if the relationship is unclear (e.g. "son of Deceased's daughter, Jane Smith, who did not survive the Deceased").
- ❺ List anyone who has filed a citation or indicate that no citation has been received. For an explanation of "citor", see **Form P32 Citation** and the **Glossary – Helpful Information**.

Form P2**SCHEDULE FOR ANCILLARY GRANT OF PROBATE OR
ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED**

1. Each person to whom the foreign grant was issued is an applicant under this submission for estate grant or is represented by an attorney who is an applicant under this submission for estate grant.
2. Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:
 - (a) spouse, if any, of the deceased:
 - ① *{Name of Spouse}*
 - ① *no currently surviving spouse as defined by section 2 of the Wills, Estates and Succession Act*
 - ① *{Name of Spouse}* did not survive the Deceased
 - ① **never married;**
 - (b) child(ren), if any, of the deceased:
 - (i) ② *{Name of Child}; or None* or did not survive the Deceased
 - (ii) ② *{Name of Child};*
 - (c) each person, if any, who is a beneficiary under the will and is not named in paragraph (a) or (b):
 - (i) ③ *{Name of Beneficiary}; or None* or did not survive the Deceased
 - (ii) ③ *{Name of Beneficiary};*
 - (d) each person, if any, who would have been an intestate successor if the deceased had not left a will and who is not named in paragraph (a), (b) or (c):
 - (i) ④ *{Name of Intestate Successor}; or None* or did not survive the Deceased
 - (ii) ④ *{Name of Intestate Successor};*
 - (e) ⑤ each citor, if any, not named in paragraph (a), (b), (c) or (d):
 - (i) ⑤ *{name of citor}; or None*
 - (ii) ⑤ *{name of citor};*

FORM P2
(RULE 25-3(2))
SUBMISSION FOR ESTATE GRANT
SCHEDULE FOR ANCILLARY GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED

Complete and attach this Schedule to the *Submission* for estate grant only if there is no Will and the application is for an ancillary grant of administration with will annexed.

This Schedule establishes the persons entitled to Notice pursuant to Rule 25-2 to whom documents described in Rule 25-2(1)) must be delivered and who:

- are the spouse and children (if any) of the Deceased;
- are entitled on an intestacy or partial intestacy;
- are creditors whose claim exceeds \$10,000; and
- are citors.



List the name of each person on a separate line and only once. So, if the spouse's name is listed in (a) and is also an intestate successor if the Deceased left no Will in (c), insert the spouse's name in (a) only. Do not leave any paragraph blank or indicate "Not applicable". Explain why a paragraph does not apply.

A person who does not survive a deceased person by five days, is conclusively deemed not to have survived the deceased (to have predeceased the deceased). If a person survives a deceased person by five days, for the purposes of this Form, the person is referred to as "surviving".

- ① Insert the name of the spouse (see section 2 of WESA and the **Glossary – Helpful Information** chapter for a definition of "spouse"). If there is no spouse, insert "none" and describe the reason why – see opposite.
- ② Insert the names of all the children of the Deceased. If there are none, insert "None". If a child did not survive the Deceased and left descendants surviving him/her, explain: "The Deceased's son, Adam Smith did not survive the Deceased without descendants" or "The Deceased's daughter, Beryl Smith, did not survive the Deceased leaving surviving her one daughter, Alana Smith". List Alana's name in (c).
- ③ Insert the names of all intestate successors (see **Parties entitled to Notice – Notice** chapter, and section 23 of WESA) who are neither: the spouse (a), nor the children of the Deceased (b). If there are none, insert: "None". Insert additional explanation if the relationship is unclear (e.g. "son of Deceased's daughter, Jane Smith, who did not survive the Deceased").
- ④ Insert the names of all creditors whose claim exceeds \$10,000. If there are none, insert: "None".
- ⑤ List anyone who has filed a citation or indicate that no citation has been received. For an explanation of "citor", see *Form P32 Citation* and the **Glossary – Helpful Information**.

Processing

See page 20.

Form P2**SCHEDULE FOR ANCILLARY GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED**

1. Each person to whom the foreign grant was issued is an applicant under this submission for estate grant or is represented by an attorney who is an applicant under this submission for estate grant.
2. Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:
 - (a) spouse, if any, of the deceased:
 - ① *{Name of Spouse}*
 - ① *no currently surviving spouse as defined by section 2 of the Wills, Estates and Succession Act*
 - ① *{Name of Spouse}* did not survive the Deceased}
 - ① **never married;**
 - (b) child(ren), if any, of the deceased:
 - (i) ② *{Name of Child}; or None* or did not survive the Deceased
 - (ii) ② *{Name of Child};*
 - (c) each person, if any, not named in paragraph (a) or (b), who is entitled to receive all or part of the estate of a person who dies without a will:
 - (i) ③ *{Name of Intestate Successor}; or None* or did not survive the Deceased
 - (ii) ③ *{Name of Intestate Successor};*
 - (d) each creditor of the deceased, if any, not named in paragraph (a), (b) or (c) whose claim exceeds \$10,000:
 - (i) ④ *{Name of Creditor}; or None*
 - (ii) ④ *{Name of Creditor};*
 - (e) each citor, if any, not named in paragraph (a), (b), (c) or (d):
 - (i) ⑤ *{Name of Citor}; or None*
 - (ii) ⑤ *{Name of Citor};*

FORM P3
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR GRANT OF
ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)

If there is only one applicant, prepare this Affidavit as is.

If there are several applicants and they will jointly and severally swear this Affidavit – that is together at the same time and place – include all their names, occupations and addresses and the appropriate jurat (see Appendix to Forms – Affidavits).

If there are several applicants and they are not planning on swearing a joint affidavit, prepare this Affidavit for one of them (preferably the one who is swearing the other affidavits) and prepare a Form P8 Affidavit for each of the remaining applicants (who do not swear this Affidavit).

General Notes

Form P3 is sworn after delivery of the Notice and the documents required to be delivered with the Notice pursuant to Rule 25-2(1) (see the **Notice** chapter) when:

- there is a Will and the application is only for a grant of probate or a grant of administration with will annexed. There are specific affidavits for other grants (administration, ancillary, resealing);
- the various affidavits to be filed with *Form P2 – Submission for Estate Grant* have been prepared and sworn (e.g. *Form P9 – Affidavit of Delivery* or any affidavits required with the *Submission*);
- the statements in subrule (6) of Rule 25-3 (see below), paragraphs (a) to (k) are correct.

Note: If even one statement in subrule (6) of Rule 25-3, paragraphs (a) to (k) does not apply, you have to prepare the long form Affidavit in *Form P4* which is an expanded version of this Form.

Subrule 25-3 (6) only permits the **short** form affidavit (*Form P3*) if:

- the applicant swearing the affidavit:
 - is either named in the Will as an executor or alternate executor (application for grant of probate) or is a person referred to in section 131 of WESA (application for grant of administration with will annexed);
 - is satisfied that a diligent search for a testamentary document of the Deceased has been made in all reasonable places where a Will may be found and that no testamentary document dated later than the date of the Will being probated has been found;
 - believes that the Will being submitted is the last Will of the Deceased that deals with property in British Columbia;
 - is not aware of there being any interlineations, erasures or obliterations in, or other alterations to the Will;
 - is not aware of any issues arising from the appearance of the Will;

- is not aware of any grant of probate or administration, or equivalent, having been issued in relation to the Deceased in British Columbia or in any other jurisdiction;
- the Will:
 - complies with the requirements of Division 1 of Part 4 of WESA (see **Wills and Wills-Makers – Overview**), and the originally-signed version of the Will⁽¹⁾ is being filed with the *Submission for Estate Grant*; and
 - is not recognized as a military Will executed in accordance with the requirements of Section 38 of WESA.
- **Results of Search of Wills Notice** indicates that **no Wills Notice** has been filed by or on behalf of the Deceased in relation to a testamentary document that is dated later than the date of the Will, or that there is no **Wills Notice** filed at all; and
- any documents referred to in the Will are attached to the Will.

If the applicant has found one or more testamentary documents that the applicant believes are invalid or otherwise not relevant to the application and if the application is for:

- a grant of probate or a grant of administration with will annexed, and one or more testamentary documents of the deceased dated later than the date of the will have been found; or
- a grant of administration without will annexed, and one or more testamentary documents of the deceased have been found;

and the reasons why the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application (Rule 25-3(14.1)), use **Form P4** used instead of **Form P3** and attach a copy of those testamentary documents as an exhibit to the affidavit; and complete the relevant paragraphs of **Forms P4, Form P5** and **Form P6** setting out the reasons.

⁽¹⁾ Refer to page 14 with respect to Quebec Wills.

FORM P3
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR GRANT OF
ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)

Preparation

- ① This affidavit may be sworn by **one** of the applicants or jointly by all applicants (see preceding page for an explanation). If there are several applicants and only one of them swears this affidavit, the remaining applicants who do not swear this affidavit must swear the **Form P8** Affidavit.
- ② Select the appropriate paragraph to indicate the kind of grant you are applying for (see explanation in ④ below and **Form P4** for options).
- ③ Select this paragraph if the applicant is an individual and is the executor (or alternate executor) named in the Will and complete the applicant's name as shown in the Will even if it is the same as in the application (see **Revocation of gifts or appointments** (s. 56 of WESA) – **Wills and Will- Makers - Overview**). If you have selected this paragraph, select one of ⑤, ⑥ or ⑦ on this page and continue with the first option of ④ on the next page (relationship of the applicant to the Deceased).
- ④ Select this paragraph if the application is an organization and is the executor (or alternate executor) named in the Will and complete the applicant's name as shown in the Will.
- ⑤ Add this paragraph to paragraph 2 if there are no other persons named in the Will as Executor who have an equal or prior right to apply for probate or administration with will annexed. If you have selected this paragraph, select one of ⑤, ⑥ ⑦ or on this page and continue with the second option of ④ on the next page (relationship of the applicant to the Deceased).
- ⑥ Add this paragraph to paragraph 2 if there is another co-applicant (and co-executor named in the Will) not swearing this Affidavit, but swearing **Affidavit P8**. Pursuant to Rule 22-3, you may modify this paragraph as follows:

“{NAME OF OTHER EXECUTOR} is named in the Will as Executor, is named as a co-applicant on the submission for estate grant and his affidavit in Form P8 made {date} is filed in this proceeding.”
- ⑦ Add this paragraph to paragraph 2 if other persons (other than the applicant(s)) are named in the Will as executors and have an equal or prior to apply with the applicant but are not named as applicants on the **Submission**. In this instance, alternate executors behind the applicant(s) are not considered.
- ⑧ If you have selected paragraph ⑦, complete the information for each other person, for example:

“(a) *JOE DOE is not named as an applicant on the submission for estate grant because he did not survive the Deceased.*

“(b) *JANE DOE is not named as an applicant on the submission for estate grant because she has renounced executorship and Form P17 – Notice of Renunciation dated {date} signed by her is filed with the Submission.”*

For additional information, see **Form P17 – Notice of Renunciation**.

If none of options in paragraph 3 on this page apply, go to the next page and select paragraph ① and complete the information – in other words, you have indicated that no executor is named in the Will and you will apply for Administration with Will Annexed.

Continued...

FORM P3 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR GRANT OF ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)

I, *{NAME OF APPLICANT}*, of *{address}*, *{Occupation}*, SWEAR/AFFIRM THAT:

1. ❶ I am the applicant ❶ one of the applicants ❶ referred to in the submission for estate grant in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “Deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”) and am applying for:

- ❷ a grant of probate.
- ❷ a grant of administration with will annexed.

2. ❸ *{Optional paragraph 2 when the applicant is an individual}* I am named as an executor or alternate executor as *{NAME AS IT APPEARS IN THE WILL}* in the will and my appointment has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will.

2. ❹ *{Optional paragraph 2 when the applicant is an organization}* **{NAME OF ORGANIZATION}** is named as an executor or alternate executor as **{NAME AS IT APPEARS IN THE WILL}** in the will and the appointment of **{NAME OF ORGANIZATION}** has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will. I am the **{Organizational Title}** of **{NAME OF ORGANIZATION}** and I am authorized by **{NAME OF ORGANIZATION}** to swear this affidavit on the **{NAME OF ORGANIZATION}**'s behalf as applicant.

{Insert and complete the appropriate paragraph below after ❸ or ❹}

- ❺ No other persons are named in the will as executor.
- ❻ No other persons are named in the will as executor who are not parties to this application.
- ❼ Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after that/those person(‘s/s’) name(s):
 - ❽ *{NAME}* is not named as an applicant on the submission for estate grant because
 - ❽ that person has renounced executorship / is deceased / other ❽ .

Continued...

FORM P3
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE
OR GRANT OF ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)

Preparation (Continued)

- ❶ Select this paragraph if you have not selected paragraph ❸ on the preceding page because:
- there is no executor named in the Will; or
 - the executor(s) named in the Will renounced executorship; or
 - the executor(s) named in the Will is/are unable or unwilling to apply for a grant of probate (for example, an executor did not survive the Deceased).

If you have selected this paragraph, the applicant is applying for a grant of administration with will annexed and is justifying his entitlement to apply.

- ❷ Section 131 of WESA sets out the list of individuals who may apply for a grant of administration with will annexed in the following order of priority (insert the reference to sub-paragraph (a), (b), or (c) depending on where the applicant fits in the list).

Insert (a) if the applicant is a beneficiary who applies with the consent of the beneficiaries representing a majority in interest of the estate, including the applicant; or

- (a.1) if the applicant is nominated by a beneficiary and has the consent of the beneficiaries representing a majority in interest of the estate, including the beneficiary who nominated the applicant;
- (b) if the applicant is a beneficiary who applies without the consent of the beneficiaries representing a majority in interest of the estate; or
- (c) if the applicant is any other person the court considers appropriate to appoint, including the Public Guardian and Trustee, subject to the Public Guardian and Trustee's consent.

Notes: If you have selected sub-paragraph (c), see **Application for Administration with Will Annexed pursuant to section 131(c)** in the **Supplemental Information**.

For pre-WESA deaths, sections 6 and 7 of the former *Estate Administration Act* apply, see **Pre-WESA Deaths** in the **Supplemental Information**.

- ❸ Select this paragraph if you have not selected paragraph ❹ on the preceding page.
- ❹ Select one of these paragraphs describing the relationship of the applicant to the Deceased depending on whether the applicant is an individual or an organization and add it at the end of paragraph 2.
- ❺ Select the appropriate paragraph (see the **Notice** chapter) with respect to **minors or mentally incompetent persons**.
- If you have selected the second paragraph, ensure that the Public Guardian and Trustee is included in **Form P9 – Affidavit of Delivery**.

Continued...

Form P3

2. **1** {Optional paragraph 2 when the applicant is an individual not named in the Will} I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph **2** (a) / (a.1) / (b) / (c) of section 131 of the Wills, Estates and Succession Act.
2. **3** {Optional paragraph 2 when the applicant is an organization not named in the Will} {NAME OF ORGANIZATION} is not named as an executor or alternate executor in the will, and {NAME OF ORGANIZATION} is a beneficiary or nominee referred to in paragraph (a) / (a.1) / (b) / (c) of section 131 of the Wills, Estates and Succession Act. I am the {organizational title} of {NAME OF ORGANIZATION} and I am authorized by {NAME OF ORGANIZATION} to swear this affidavit on {NAME OF ORGANIZATION}'s behalf as applicant.
- 4** {Continuation of paragraph 2 when the applicant is an individual} My relationship to the deceased is {state your relationship of the applicant to the deceased}.
- 4** {Continuation of paragraph 2 when the applicant is an organization} {NAME OF ORGANIZATION}'s relationship to the deceased is {state the organization's relationship to the Deceased}. I am the {organizational title} of {NAME OF ORGANIZATION} and I am authorized by {NAME OF ORGANIZATION} to swear this affidavit on {NAME OF ORGANIZATION}'s behalf as applicant.
3. **5** {Optional paragraph 3} I am not obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
3. **5** {Optional paragraph 3} I am obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
4. {Paragraph 4} I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places, both physical and electronic, where the deceased usually kept important documents and that no testamentary document that is dated later than the date of the will has been found.
5. {Paragraph 5} I believe that the will is the last will of the deceased that deals with property in British Columbia.
6. I believe that the will complies with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* and
- (a) I am not aware of there being any issues that would call into question the validity or contents of the will,
 - (b) I am not requesting that the will be recognized as a military will executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*,
 - (c) I am not aware of there being any interlineations, erasures or obliterations in, or other alterations to, the will, and
 - (d) I am not aware of there being any issues arising from the appearance of the will.

Continued...

FORM P3
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE
OR GRANT OF ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)

Preparation (Continued)

- ❶ Insert paragraphs 8 to 13 in their entirety. The only change you may make is to change the wording from singular to plural.
- ❷ This jurat is for one applicant swearing the Affidavit. If several applicants are swearing the affidavit jointly, see the **Appendix to Forms - Affidavits**

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant; and the **Checklist for Filing of Application Documents with the Probate Registry**.

Because of the statement in paragraph 10 of this Affidavit, it must be dated on or after the date of the **Submission for Estate Grant**.

Reminder: If there is **only one applicant**, prepare this Affidavit as shown.

If there **are several applicants** and they all jointly and severally swear this Affidavit, – that is together at the same time and place, refer to the **Appendix to Forms** chapter – **Affidavits**.

If there are **several applicants** and they are not planning on swearing a joint affidavit, prepare this Affidavit for one of them (preferably the one who is swearing the other affidavits) and prepare a **Form P8 Affidavit** for each of the remaining applicants (who do not swear this Affidavit).

FORM P4 (Rule 25-3(2))

**AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)**

General Notes

Form P4 (long form) is an expanded version of **Form P3** (short form), but it is sworn when there are issues relating to the Will and one or more of the statements in subrule Rule 25-3(6), paragraphs (a) to (k) is not correct (with respect to the execution of, or alterations to the Will or appearance of the Will, etc.) (see **General Notes** on page 32). Ideally, when a Will has been prepared by a lawyer, you will seldom need to use this form, which is rather long and complicated to complete. To assist you, we have prepared a “road map” which you can find on the Evin Ross Publications Ltd. website where the probate forms are located.

Preparation

- ❶ This affidavit may be sworn by **one** of the applicants or jointly by all applicants (see page 32 for an explanation). If there are several applicants and only one of them swears this affidavit, the remaining applicants who do not swear this affidavit must swear the **Form P8** Affidavit.
- ❷ Select the appropriate paragraph to indicate the kind of grant you are applying for.
- ❸ Select this paragraph if the applicant is an individual and the executor (or alternate executor) is named in the Will. Complete the name of the applicant as shown in the Will even if it is the same as in the application (see **Revocation of gifts or appointments – Wills and Will- Makers – Overview** chapter). If you have selected this paragraph, add one of ❹, ❺ or ❻ and continue with the with the first paragraph on the next page describing the applicant’s relationship to the Deceased.
- ❹ Select and complete this paragraph if the applicant is an organization and the executor named in the Will. If you have selected this paragraph, add one of ❹, ❺ or ❻ and continue with the with the second paragraph on the next page describing the applicant’s relationship to the Deceased.
- ❺ Add this paragraph to paragraph 2 (❸) if there is no other person named in the Will who has a prior or equal right with the applicant to apply for a grant of probate or grant of administration with will annexed.
- ❻ Add this paragraph to paragraph 2 (❸) if there is another co-applicant (and co-executor named in the Will) not swearing this Affidavit, but swearing **Affidavit P8**, or you may apply Rule 22-3 to modify paragraph as follows:

“{NAME OF OTHER EXECUTOR} is named in the Will as Executor, is named as a co-applicant on the submission for estate grant and his affidavit in Form P8 made {dd/mm/yyyy} is filed in this proceeding.”
- ❼ Select this paragraph if other persons (other than the applicant(s)) are named in the Will as executors ahead of, or equally with the applicant (i.e. have a prior or equal right to apply), and are not named as applicants on the **Submission**.
- ❽ If you have selected paragraph ❷, complete the information for each other person, for example:

“(a) *JOE DOE is not named as an applicant on the submission for estate grant because he did not survive the Deceased.*

“(b) *JANE DOE is not named as an applicant on the submission for estate grant because she has renounced executorship and Form P17 – Notice of Renunciation dated {dd/mm/yyyy} is filed with the Submission.”*

If you have not selected any paragraph in paragraph 2 on this page, go to the next page and select either paragraph ❶ or ❸ and complete the information. In other words, if you have indicated that there is no executor named in the Will or if the executor named in the Will does not apply, and you will apply for a grant of administration with will annexed.

Continued...

FORM P4 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)**

I, *{NAME}*, of *{address}*, *{Occupation}*, SWEAR/AFFIRM THAT:

1. **1** I am the applicant **1** one of the applicants referred to in the submission for estate grant in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”), and am applying for:

- 2** a grant of probate.
- 2** a grant of administration with will annexed.

2. **3** *{Optional paragraph 2 when the applicant is an individual named in the Will}* I am named as an executor or alternate executor as **4** *{NAME AS IT APPEARS IN THE WILL}* in the will and my appointment has not been revoked under section 56(2) of the Wills, Estates and Succession Act or by a codicil to the will.

2. **4** *{Optional paragraph 2 when the applicant is an organization named in the Will}* *{NAME OF ORGANIZATION}* is named as an executor or alternate executor as *{NAME AS IT APPEARS IN THE WILL}* in the will and the appointment of *{NAME OF ORGANIZATION}* has not been revoked under section 56(2) of the Wills, Estates and Succession Act or by a codicil to the will. I am the *{Organizational Title}* of *{NAME OF ORGANIZATION}* and I am authorized by *{NAME OF ORGANIZATION}* to swear this affidavit on the *{NAME OF ORGANIZATION}*'s behalf as applicant.

*{Insert and complete one of the paragraphs below after **3** or **4**}*

- 5** No other persons are named in the will as executor.
- 6** No other persons are named in the will as executor who are not parties to this application.
- 7** Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after that/those person('s/s') name(s):

8 *{NAME}* is not named as an applicant on the submission for estate grant because **8** that person has renounced executorship / is deceased / other **8**.

Continued...

FORM P4 – (Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

If you have not selected any options in paragraph 2 on the preceding page, select either paragraph ① or ③.

- ① Select either of these paragraphs if you have not selected any options in paragraph 2 on the preceding page because:
- there is no executor named in the Will; or
 - the executor(s) named in the Will renounced executorship; or
 - the executor(s) named in the Will is/are unable or unwilling to apply for a grant of probate (for example, because an executor did not survive the Deceased).

If you have selected this paragraph, the application is for a grant of administration with will annexed.

- ② Section 131 of WESA sets out the list of individuals who may apply for a grant of administration with will annexed in the following order of priority (insert sub-paragraphs (a), (a.1), (b), or (c) depending on where the applicant fits in the list):

Insert (a) if the applicant is a beneficiary who applies with the consent of the beneficiaries representing a majority in interest of the estate, including the applicant; or

(a.1) if the applicant is nominated by a beneficiary and has the consent of the beneficiaries representing a majority in interest of the estate, including the beneficiary who nominated the applicant;

(b) if the applicant is a beneficiary who applies without the consent of the beneficiaries representing a majority in interest of the estate; or

(c) if the applicant is any other person the court considers appropriate to appoint, including the Public Guardian and Trustee, subject to the Public Guardian and Trustee's consent.

Notes: For pre-WESA deaths, sections 6 and 7 of the former *Estate Administration Act* apply (see **Pre-WESA Deaths** in the **Supplemental Information**).

If you have selected sub-rule (c), see **Application for Administration with Will Annexed pursuant to section 131(c)** in the **Supplemental Information**.

- ③ Select one of these paragraphs to describe the relationship of the applicant who is an individual or an organization and append it to paragraph 2 (this paragraph does not have its own number..
- ④ Select the appropriate paragraph (see the **Notice** chapter with respect to **minors or mentally incompetent persons**). If you have selected the second paragraph, ensure that the Public Guardian and Trustee is included in **Form P9 – Affidavit of Delivery**.
- ⑤ Select the appropriate option of paragraphs 4
- ⑥ If you have selected the second option in paragraph 5, provide the reason why the later dated testamentary document is invalid or not relevant to the application and attach it to this Affidavit as Exhibit.

Form P4

2. **1** {Optional paragraph 2 when the applicant is an individual not named in the Will} I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph **(2)** of section 131 of the *Wills, Estates and Succession Act*.

2. **3** {Optional paragraph 2 when the applicant is an organization not named in the Will} {NAME OF ORGANIZATION} is not named as an executor or alternate executor in the will, and {NAME OF ORGANIZATION} is a beneficiary or nominee referred to in paragraph (a) / (a.1) / (b) / (c) of section 131 of the *Wills, Estates and Succession Act*. I am the {organizational title} of {NAME OF ORGANIZATION} and I am authorized by {NAME OF ORGANIZATION} to swear this affidavit on {NAME OF ORGANIZATION}'s behalf as applicant.

{Continuation of paragraph 2 when the applicant is an individual} My relationship to the deceased is {state your relationship of the applicant to the deceased}.

{Continuation of paragraph 2 when the applicant is an organizatin} {NAME OF ORGANIZATION}'s relationship to the deceased is {state the organization's relationship to the Deceased}. I am the {organizational title} of {NAME OF ORGANIZATION} and I am authorized by {NAME OF ORGANIZATION} to swear this affidavit on {NAME OF ORGANIZATION}'s behalf as applicant.

3. **4** {Optional paragraph 3} I am not obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee

2. **4** {Optional paragraph 3} I am obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

3. {Paragraph 4} A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is filed with this application, and the certificate indicates that

5 no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will included with this application.

5 no wills notice has been filed at all. ,

4. {Paragraph 5} I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places both physical and electronic where the deceased usually kept his or her important documents and

6 no testamentary document of the deceased dated later than the will has been found.

6 one or more testamentary documents dated later than the will have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the later testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons: **6** {briefly state the reasons}.

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

Paragraph 6 on this page and the three pages that follow refers to issues regarding the execution of the Will, attestation clause, and Military Wills.

- ❶ Select this paragraph if there are no issues with the Will, delete the remainder of paragraph 6 and go to paragraph 7 on page 51.
- ❷ Select this paragraph if there are issues with the Will, and complete the appropriate sub-options (a) to (d) of paragraph 6 as required.
- ❸ Select the applicable paragraph. If you have selected the second paragraph (❸) stating that the Will does not contain an attestation clause or contains an attestation clause that is not sufficient to show that the requirements of Division 1 of Part 4 of WESA were met when the Will was executed (see **The Will – Statutory Formalities to Make a Valid Will – Wills and Will-Makers – Overview** chapter), select one of the five options ❹ to ❸ that apply to the situation and complete the information. Delete the options that do not apply.
- ❹ Select this paragraph if an affidavit from at least one subscribing witness is available, and complete the name of the witness and the date the affidavit was sworn.
- ❺ Select this paragraph if ❹ does not apply but you can obtain an affidavit from another person present at the time the Will was signed (for example, the lawyer present at the signing of the Will who did not act as a witness) and complete the name of that person and the date the affidavit(s) was/were sworn.
- ❻ Select this paragraph if neither ❹ nor ❺ applies but you can obtain one or more affidavits from one or more persons deposing from personal knowledge that affirm the signature of the Will-Maker in the Will is in the handwriting of the Will-Maker and that the signatures of the witnesses are in the handwriting of the witnesses (for example: one affidavit sworn by a business associate of the Deceased who knew the Deceased's handwriting well and a colleague of the witnesses who knew the writing of the witnesses). Complete the name(s) of that/those persons and the date the affidavit(s) was/were sworn.
- ❼ Select this paragraph if none of the circumstances described in ❹, ❺ or ❻ apply but you can obtain an affidavit regarding the circumstances sworn by a person deposing from personal knowledge that raise a presumption in favour of the proper execution of the Will.
- ❽ Select this paragraph if the Will is valid as to the formal requirements of other laws.

Continued...

Form P4***Paragraph 6.(a) continued***

5. **❶** *{Optional paragraph 6}* I am not aware of there being any issues respecting execution of the will.

6. **❷** *{Optional paragraph 6}* I believe that the following issue(s) respecting execution apply/ies to the will and I am not aware of there being any other issues respecting execution of the will:

(a) Attestation Clause [the portion of the will that identifies the persons who signed the will as witnesses to the will-maker's signature]:

❸ None of this paragraph (a) applies to the will.

❹ The will does not contain an attestation clause or contains an attestation clause that is not sufficient to show that the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* were met when the will was signed.

❺ pursuant to Rule 25-3(15), submitted for filing with the submission for estate grant is an affidavit of *{NAME}* sworn *{dd/mmm/yyyy}* who was a subscribing witness.

❻ an affidavit from a subscribing witness cannot be obtained, and pursuant to Rule 25-3(16)(a), submitted for filing with the submission for estate grant, is an affidavit of *{NAME}* sworn *{dd/mmm/yyyy}* who was a person present when the will was signed.

❼ neither an affidavit from a subscribing witness nor an affidavit sworn by a person present when the will was signed can be obtained, and pursuant to Rule 25-3(16)(b), submitted for filing with the submission for estate grant is/are the following affidavit(s) confirming the signatures of the will-maker and subscribing witnesses:

1. the affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*;

2. the affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*.

❽ none of an affidavit from a subscribing witness, an affidavit sworn by a person present when the will was signed and an affidavit confirming the signatures of the will-maker and subscribing witnesses can be obtained, and pursuant to Rule 25-3(16)(c), submitted for filing with the submission for estate grant, is an affidavit of *{NAME}* sworn *{dd/mmm/yyyy}* which affidavit sets out circumstances intended to raise a presumption in favour of the proper execution of the will.

❾ the will is valid as to the formal requirements for making the will and is admissible to probate under section 80 of the *Wills, Estates and Succession Act*, and submitted for filing with the submission for estate grant is/are the following affidavit(s) confirming that validity:

1. the affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*;

2. the affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*.

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

Sub-paragraph (b) of paragraph 6 – Military Wills

- ❶ Select this paragraph if it is not a military Will and go to sub-paragraph (c) on the next page.
- ❷ If you have selected this paragraph (for a military Will), describe the nature of evidence attached. Military Wills are extremely rare (see **Wills by Members of Military Forces – Wills and Will-Makers – Overview** chapter).

Sub-paragraph (c) of paragraph 6 – Special Circumstances

- ❸ Select this paragraph if there are no special circumstances surrounding the execution of the Will and none of the five circumstances below apply, and then go to sub-paragraph (c.1).
- ❹ If one or more of the special circumstances described in paragraph (c) on top of the opposite page is correct (for example, the Will Maker was blind and signed with an “X” instead of his/her signature), select the appropriate paragraph(es)).
- ❺ If you selected one or more of the paragraphs in ❷, select:
 - the first paragraph if the attestation used in the Will correctly identifies the circumstances, for example that the Will-Maker was blind – see **Attestation Clauses – Will Clauses** chapter); or
 - the second paragraph if the attestation clause did not indicate the circumstances (in other words, the regular attestation clause was used without mentioning that the Will-Maker was, for example, blind). In this case, prepare the appropriate affidavits to explain the facts and then describe the affidavits submitted for filing with the **Submission**.

If there is only one affidavit to be attached as evidence for this requirement, change the words: “the following affidavit(s)...” with:

“The affidavit of {NAME} sworn {dd/mmm/yyyy} is submitted for filing with the submission for estate grant as evidence that the requirements of the Wills, Estates and Succession Act relating to the execution of the will were met and that the will-maker knew and approved of the content of the will.”

- ❻ This applies to formal requirements of other laws (see **Validity of Wills Made in Accordance with other Laws – Wills and Will-Makers – Overview** chapter).
- ❼ If you have selected ❹ above, prepare the affidavit(s) confirming the validity of the will in another jurisdiction and then list each affidavit.

Form P4**Continuation of paragraph 6(c)**(b) Military Will

❶ This paragraph (b) does not apply to the will.

❷ I believe that the will was made by a person referred to in Rule 25-3(17) and is in a form permitted by section 38 of the *Wills, Estates and Succession Act*, and attached as Exhibit to this affidavit is ❷ as evidence that the will-maker was authorized to make a will in that form at the time the will was made and that the will was executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*.

(c) Special circumstances

❸ None of this paragraph (c) applies to the will.

❸ I believe that at the time of the making of the will, the will-maker:

❹ was blind

❹ was illiterate

❹ did not fully understand the language in which the will was written

❹ signed by a means of a mark instead of handwritten words

❹ directed another person to sign the will on behalf of the will-maker in the will-maker's presence

and

❹ the attestation clause in the will indicates that the circumstance(s) referred to above applied to the will-maker at the time of the signing of the will.

❹ the following affidavit(s) is/are submitted for filing with the submission for estate grant as evidence that the requirements of the *Wills, Estates and Succession Act* relating to the execution of the will were met and that the will-maker knew and approved of the content of the will:

1. the affidavit of {NAME} sworn {dd/mmm/yyyy};

2. the affidavit of {NAME} sworn {dd/mmm/yyyy}.

❹ the will is valid as to the formal requirements for making the will and is admissible to probate under section 80 of the *Wills, Estates and Succession Act*, and submitted for filing with the submission for estate grant is/are the following affidavit(s) confirming that validity:

1. ❷ the affidavit of {NAME} sworn {dd/mmm/yyyy};

2. ❷ the affidavit of {NAME} sworn {dd/mmm/yyyy}.

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued) (sub-rule 6 (c.1))

Sub-paragraph (c.1) of paragraph 6 – Copy of Will

With respect to copies of Quebec Wills (quite rare), refer to page 14 and prepare a Form P3 instead of Form P4.

- ❶ Select one of the five options of paragraph 6.(c.1).
- ❷ If you selected this option of sub-paragraph (c.1), set out the explanation as follows:
 - if you have direct knowledge of the reason why the original cannot be filed, set out the reason here;
 - if you do not have direct knowledge of the reason the original cannot be attached, include the last sentence “attached is an affidavit of...” and prepare an affidavit explaining why a copy of the Will is available but the original is not.
- ❸ Insert here the information about electronic repository, for example: URL, user ID, password, etc.

Note: If the password would give access to more than just the will in its original electronic form then an applicant could advise that the password would be provided “on request” with the understanding that there may be a delay in the processing of their application while the probate registry tries to get in touch with them to obtain the password so that they can access the original will.

- ❹ If you selected this paragraph, select one of the two options:
 - if you have direct knowledge of the reason why the original cannot be filed, set out the reason here;
 - you do not have direct knowledge of the reason the original cannot be attached, include the last sentence “attached is an affidavit of” and prepare an affidavit explaining why a copy of the Will is available but the original is not.

Sub-paragraph (c.2) of paragraph 6 – Foreign Will

- ❺ Select whichever one of the three paragraphs is correct.
- ❻ If you have selected the third option of this paragraph, prepare and attach an Affidavit why section 80 of WESA applies. Refer the **Overview** chapter – **Validity of Wills Made in Accordance with Other Laws**.

Continued...

Form P4***Continuation of paragraph 6***(c.1) **① Copy of the Will**

① The will being filed is the physical original.

① The will being filed is a physical copy or PDF copy of a physical original. The applicant(s) cannot file the originally signed physical version of the will because **②** Submitted for filing with the submission for estate grant is an affidavit of {NAME} sworn {dd/mm/yyyy} explaining why a copy is available, but the original is not.

① The will being filed is a PDF and the original electronic form of the will was a PDF.

① The will being filed is a physical copy or PDF copy of an electronic original and, in addition, I am providing access information for a third-party electronic repository where the will in its original electronic form is stored which is **③**.

① The will being filed is a physical copy or PDF copy of an electronic original. The applicant(s) cannot file the will in its original electronic form because: **④**

④ the will in its original electronic form is in a format other than PDF and therefore is not able to be electronically filed in the court registry because

④

or:

④ the will in its original electronic form cannot be submitted because

④ Submitted for filing with the submission for estate grant is an affidavit of {NAME} sworn {dd/mm/yyyy} explaining why a copy is available, but the original is not.

(c.2) **⑤ Foreign Will**

⑤ {Optional paragraph c.2} The will was made in British Columbia.

⑤ {Optional paragraph c.2} The will was made outside of British Columbia, but complies with the requirements for making a will that are set out in Division 1 of Part 4 of the *Wills, Estates and Succession Act*.

⑥ {Optional paragraph c.2} The will was made outside of British Columbia and does not comply with the requirements for making a will that are set out in Division 1 of Part 4 of the *Wills, Estates and Succession Act*, but the will was validly made in accordance with paragraph **⑥** of section 80 of WESA. Submitted for filing with the submission for estate grant is an affidavit of {NAME} sworn {dd/mm/yyyy} explaining why section 80 applies.

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

Sub-paragraph (d) of paragraph 6 deals with other issues regarding the execution of the Will

- ❶ Select this paragraph if there are **no** other issues with respect to the execution of the Will.
- ❷ If there is another issue (or several other issues) with respect to the execution of the Will, describe the issue(s). For example:

“the witness printed his/her name but did not affix his/her signature, the affidavit of the witness is available and submitted with this application for grant is the affidavit of {name of witness} sworn {dd/mm/yyyy}.”

Note: List this affidavit in paragraph 7 of Part 3 of **Form P2 – Submission**.

Paragraph 7 deals with: (a) interlineations, (b) erasures or obliterations, or (c) other alterations or issues in a physical Will. Depending on the circumstances, you may select several paragraphs.

- ❸ Select this paragraph if there are no interlineations, erasures or obliterations in, or other alterations to the Will, then skip (or delete) the remainder of paragraph 7 and go to paragraph 8 on page 55 .
- ❹ If you selected this paragraph, complete the information with respect to (a) interlineations, (b) erasures and obliterations and (c) other issues to the Will if they apply. If the will is an electronic one, go to section 7.1, otherwise go to section 8.
- ❺ Select the appropriate option of the first paragraph 7(a) and if you have selected the third option, prepare the requisite **Form P16 – Affidavit of Interlineation, Erasure, Obliteration or Other Alteration** and list the affidavits filed with the application. List this affidavit in paragraph 7 of Part 3 of **Form P2 – Submission**.

Continued...

Form P4(d) **Other Issues**

- ① There are no other issues relating to proper execution of the will.
- ② The following is/are the other issue(s) relating to proper execution of the will:
② *{describe the issue}* and attached as Exhibit A/B to this affidavit is ② *{describe the document}*.

6. ③ *{Optional paragraph 7}* I am not aware of there being any interlineations, erasures or obliterations in, or other alterations to, the will. ④

7. ④ *{Optional paragraph 7}* There are interlineations, erasures or obliterations in, or other alterations to, the will.

(a) **⑤ Interlineations**

⑤ *{Optional paragraph 7(a)}* There are one or more interlineations in the will, and the following applies to each of those interlineations:

⑤ I believe that the interlineation was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will.

⑤ I believe that the interlineation was authenticated by the re-execution of the will or by the subsequent execution of a codicil.

⑤ I cannot confirm that the interlineation was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will or was authenticated by the re-execution of the will or by the subsequent execution of a codicil but believe that the interlineation should form part of the will as it was present when the will was signed, and, pursuant to Rule 25-3 (20) (a), submitted for filing with the submission for estate grant is/are the following affidavit(s):

1. the affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*;
2. the affidavit of *{NAME}* sworn *{dd/mmm/yyyy}*.

⑤ I have no information to suggest that the interlineation reflects the will-maker's intentions.

Continued...

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

Continuation of paragraph 7: sub-paragraph 7(b) deals with erasures or obliterations, and 7(c) with other alterations or issues.

- ❶ Select whichever one of the two following paragraph ❶ is correct.
- ❷ Select one of the 3rd options of ❶. list the affidavits to be filed with the application, then list them in paragraph 7 of Part 3 of *Form P2 – Submission*.
- ❸ Select the appropriate paragraph, and if there are other issues – usually dealing with the appearance of the Will and if you have selected the last paragraph ❹, explain the issue For example: “Staples were removed from the original will, but no pages were removed.” (see Evin Ross Supplemental Information website “Inadvertent Tampering with Wills).

If you have selected any of the paragraph ❸, go to the next page and complete ❶. Prepare an affidavit explaining the issue that you have selected and file the affidavit with the application. List the Affidavit in paragraph 7 of Part 3 of the *Form P2 - Submission*.

Continued...

Form P4
Paragraph 7

(b) Words Erased or Obliterated

❶ *{Optional paragraph 7(b)}* In each erasure or obliteration in the will, the words erased or obliterated are entirely effaced and cannot be ascertained on inspection.

❶ *{Optional paragraph 7(b)}* At least some of the words erased or obliterated are not entirely effaced and can be read, and none of the following boxes apply to all of those erasures or obliterations.

❶ *{Optional paragraph 7(b)}* Words in the will were erased or obliterated and

❷ I believe that the erasure or obliteration was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will.

❷ I believe that the erasure or obliteration was authenticated by the re-execution of the will or by the subsequent execution of a codicil.

❷ I believe that the words erased or obliterated should not form part of the will and, pursuant to Rule 25-3 (21) (a), submitted for filing with the submission for estate grant is/are the following affidavit(s):

(i) the affidavit of {NAME} sworn {dd/mmm/yyyy}

(ii) the affidavit of {NAME} sworn {dd/mmm/yyyy}

❷ I have no information to suggest that the erasures or obliterations reflect the will-maker's intentions.

(c) Other issues

❸ I believe that the following issue(s) arise from the appearance of the will:

❸ It appears that an attempt was made to revoke the will.

❸ It appears that a page or document was previously attached to the will but is missing.

❸ It appears that the will is incomplete.

❸ It appears that the will has been altered by an alteration that was not made by the will-maker in compliance with the *Wills, Estates and Succession Act*.

❹ It appears that *{specify}* (continued on the next page)

Continued...

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

Continuation of sub-paragraph 7(c) with deals with other issues.

- ① *(Continuation of paragraph 7(c) – other issues)* If you have selected any of the paragraph ④ on the preceding page, attach the affidavits that explain the issues you have selected. List these affidavits in paragraph 7 of Part 3 of *Form P2 – Submission*.

Paragraph 7.1 deals with electronic wills. Delete if physical Will

- ② Select these two paragraphs if there are issues with the electronic will.
- ③ Select this paragraph if the applicant is not aware of any issues.
- ④ If you have selected this box, select one of the options below (see ⑤ and ⑥ below).
- ⑤ Select this option If the electronic signatures do not appear visually in the will, describe how the will was signed.
- ⑥ Select this option if there are any issues other than the signature and describe them.

Paragraph 8 deals with attachments to wills, both electronic and physical

- ⑦ Select the appropriate paragraph depending on whether the will is a physical or an electronic one. Note that the instructions for both kind of wills regarding the attachments are the same.
- ⑧ Select one of the paragraphs. If you selected the second paragraph in ⑧, complete the options in ⑨, describing the document that is referred to in the Will but not attached to it or not saved as part of the same file as the will.
- ⑨ If you have described a document not attached to the Will, select the appropriate paragraph: either attach the missing document as Exhibit (A, etc.) to the affidavit or specify that you cannot obtain the missing document or that it is not attached to the will or not saved as part of the same file as the will because it is not testamentary. For example:

“The will refers to one or more documents not attached to the will (or saved as part of the same file as the Will) and:

1. *a copy of the Memorandum to the Will dated {date} referred to in paragraph 3(c) of the Will is attached as Exhibit A to this affidavit; and*
2. *a copy of the instructions to the trustees dated {date} and referred to in paragraph 5(a) of the Will cannot be obtained by the applicant.”*

Form P4***Continuation from Paragraph 7(c)***

① and submitted for filing in support of the submission for estate grant is/are the following affidavit(s):

- ① 1. the affidavit of {NAME} sworn {dd/mmm/yyyy};
- ① 2. the affidavit of {NAME} sworn {dd/mmm/yyyy}.

7.1 ② The electronic will has the following issues:

7.1 ③ I am not aware of there being any issues in relation to the electronic will.

7.1 ④ The following issues arise in relation to the electronic will:

- ⑤ the electronic signatures do not appear visually in the will
- ⑥ {briefly state any other issues}

8. ⑦ {Optional paragraph 8} The Will is a physical will and:

⑧ the will does not refer to any documents or refers only to documents attached to the will.

⑧ the will refers to one or more documents not attached to the will and a copy of **⑧** {identify document},

- ⑨ is attached as Exhibit A/B to this affidavit.
- ⑨ cannot be obtained by the applicant.
- ⑨ is not attached because it is not testamentary.

8. ⑦ {Optional paragraph 8} The will is an electronic will, and

⑧ the will does not refer to any documents or refers only to documents saved as part of the same file as the will.

⑧ the will refers to one or more documents not saved as part of the same file as the will, and a copy of **⑧** {identify document}....

- ⑨ is attached as Exhibit A/B to this affidavit.
- ⑨ cannot be obtained by the applicant.
- ⑨ is not attached, because it is not testamentary.

Continued...

FORM P4
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)

Preparation (Continued)

- ❶ Select the appropriate paragraph. If you have selected the second paragraph, complete the jurisdiction where another grant may have been issued and briefly set out the reason why such a grant is not relevant to the application.

Processing

If interlineations, erasures, obliterations or other alterations to the Will are referred to in the affidavit, prepare and file *Form P16 – Affidavit of Interlineation, Erasure, Obliteration and other Alteration*.

As you complete this affidavit, make a note of any exhibits and of any affidavits and/or documents listed in it and then list them in paragraph 7 of Part 3 of *Form P2 – Submission*.

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant; and the *Select list for Filing of Application Documents with the Probate Registry*.

Because of the statement in paragraph 10 of this Affidavit, it must be dated on or after the date of the *Submission for Estate Grant*.

Reminder: If there is **only one applicant**, prepare this Affidavit as shown.

If there **are several applicants** and they jointly and severally swear this Affidavit, – that is together at the same time and place, refer to the **Appendix to Forms** chapter – Affidavits –

If there are **several applicants** and they are not planning on swearing a joint affidavit, prepare this Affidavit for one of them (preferably the one who is swearing the other affidavits) and prepare a *Form P8 Affidavit* for each of the remaining applicants (who do not swear this Affidavit).

FORM P5 – (Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF ADMINISTRATION
WITHOUT WILL ANNEXED

General Notes

Form P5 is similar to *Form P3*, in that it is sworn after delivery of the Notice and the documents required to be delivered with the Notice (see the *Notice* chapter) but when:

- there is no Will and the application is for a grant of administration without will annexed; and
- the various affidavits filed with *Form P2 – Submission for Estate Grant* have been prepared and sworn (e.g. *Form P9 – Affidavit of Delivery* or any affidavits required with the *Submission*).

When there is no Will, section 130 of WESA sets out the list of individuals to whom the court may grant administration of the Deceased's estate, in the following order of priority:

- (a) the surviving spouse of the Deceased or a person nominated by the spouse;
- (b) a child of the Deceased, having the consent of a majority of the children of the Deceased;
- (c) a person nominated by a child of the Deceased, if that person has the consent of a majority of the Deceased's children;
- (d) a child of the Deceased, not having the consent of a majority of the Deceased's children;
- (e) an intestate successor other than the spouse or child of the Deceased, having the consent of the intestate successors representing a majority in interest of the estate, including the intestate successor who applies for a grant of administration;
- (e.1) a person, other than the spouse or child of the deceased person, nominated by an intestate successor of the deceased if that person has the consent of the intestate successors representing a majority in interest of the estate, including the intestate successor who nominated the person to apply for a grant of administration;
- (f) an intestate successor other than the spouse or child of the Deceased, not having the consent of the intestate successors representing a majority in interest of the estate, including the intestate successor who applies for a grant of administration;
- (g) any other person the court considers appropriate to appoint, including, without limitation, the Public Guardian and Trustee, subject to the Public Guardian and Trustee's consent.

Note: If you have selected sub-paragraphs (g), see **Application pursuant to section 130(g) of WESA** in the **Web Supplement**.

Preparation

- ❶ This affidavit may be sworn by one of the applicants. If there are several applicants and only one of them swears this affidavit, the applicants who do not swear this affidavit must swear the *Form P8 Affidavit*.
- ❷ If the applicant is an individual, select: the first option if the applicant is one of the persons referred to in section 130 of WESA (above), and insert the appropriate sub-paragraph number from the above list (for example: "(d)" if the applicant is a child of the Deceased, and does not have the consent of a majority of the Deceased's children). Select the second option if the applicant is **nominated** by the spouse (a) or by a child (c). Paragraph marked ❸ forms part of paragraph 2.
- ❹ If the applicant is an organization, and depending on whether the organization is referred to or nominated, select the first or second option. Paragraph marked ❺ forms part of paragraph 3.
- ❻ Select the appropriate paragraph (see the *Notice* chapter with respect to **minors** or **mentally incompetent persons**). If you have selected the second paragraph, ensure that the Public Guardian and Trustee is included in *Form P9 – Affidavit of Delivery*.

Continued...

FORM P5 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT OF APPLICANT FOR GRANT OF ADMINISTRATION
WITHOUT WILL ANNEXED**

① I, *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”) and am applying for a grant of administration without will annexed.

2. **②** *{Optional paragraph 2}* I am a person referred to in paragraph (**②**) of section 130 of the *Wills, Estates and Succession Act*.

2. **②** *{Optional paragraph 2}* I am a person nominated in paragraph (a) / (c) / (e.1) of section 130 of the *Wills, Estate and Succession Act*.

③ My relationship to the deceased is *{state your relationship}*

2. **④** *{Optional paragraph 2}* *{NAME OF ORGANIZATION}* is a person referred to in paragraph (g) of section 130 of the *Wills, Estates and Succession Act*. I am the *{organizational title}* of *{NAME OF ORGANIZATION}* and I am authorized by *{NAME OF ORGANIZATION}* to swear this affidavit on *{NAME OF ORGANIZATION}*’s behalf as applicant.

2. **④** *{Optional paragraph 2}* *{NAME OF ORGANIZATION}* is a person nominated under paragraph (a) / (c) or (e.1) of section 130 of the *Wills, Estates and Succession Act*. I am the *{organizational title}* of *{NAME OF ORGANIZATION}* and I am authorized by *{NAME OF ORGANIZATION}* to swear this affidavit on *{NAME OF ORGANIZATION}*’s behalf as applicant.

⑤ *{NAME OF ORGANIZATION}*’s relationship to the deceased is *{state the organization’s relationship}*. I am the *{organizational title}* of *{NAME OF ORGANIZATION}* and I am authorized by *{NAME OF ORGANIZATION}* to swear this affidavit on the *{NAME OF ORGANIZATION}*’s behalf as applicant.

3. **④** *{Optional paragraph 3}* I am not obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

3. **④** *{Optional paragraph 3}* I am obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

FORM P5
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR GRANT OF ADMINISTRATION
WITHOUT WILL ANNEXED

Preparation (Continued)

- ❶ Select the appropriate paragraph. If you have selected the second paragraph, provide the reason why the testamentary document is invalid or not relevant to the application and attach it to this Affidavit as Exhibit.
- ❷ Select the appropriate paragraph. If you have selected the second paragraph, complete the name of the other jurisdiction and briefly set out the reason why such grant is invalid or irrelevant to the application.
- ❸ If there is a person or persons that has or have applied for a grant of probate or administration, but no grant has been issued, select this paragraph and insert the name(s) of the person(s).

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant, and the ***Checklist for Filing of Application Documents with the Probate Registry***.

Because of the statement in paragraph 8 of this Affidavit, it must be dated on or after the date of the ***Submission for Estate Grant***.

Reminder: If there is **only one applicant**, prepare this Affidavit as shown.

If there **are several applicants** and they jointly and severally swear this Affidavit, – that is together at the same time and place, refer to the **Appendix to Forms** chapter – **Affidavits**.

If there are **several applicants** and they are not planning on swearing a joint affidavit, prepare this Affidavit for one of them (preferably the one who is swearing the other affidavits) and prepare a ***Form P8 Affidavit*** for each of the remaining applicants (who do not swear this Affidavit).

Form P5

4. I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and:

- ① no testamentary document of the deceased has been found.
- ① one or more testamentary documents have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons: *{briefly state the reasons}*.

5. I believe that there is no will of the deceased.

6. ② *{Optional paragraph 6}* I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

6. ② *{Optional paragraph 6}* The following grant(s) of probate or administration, or equivalent, has/have been issued in relation to the deceased in British Columbia or in another jurisdiction: *{describe jurisdiction}*. I believe that / that grant is / those grants are not relevant to this application for the following reasons *[briefly state the reasons]*.

6. ③ *{Optional paragraph 6}* The following person(s) has/have also applied for a grant of probate or administration:

- (a) *{insert name(s)}*

7. I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.

8. I will administer according to law all of the deceased’s estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, {British Columbia},)
 this ___ day of _____, 20__)
)
 _____)
 A commissioner for taking affidavits)
 for British Columbia)
{print name or affix stamp of commissioner})

_____)
{NAME}

FORM P6
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF PROBATE OR
ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED

General Notes

When there is a foreign grant issued in a “non-prescribed” jurisdiction, in order to transfer and transmit any assets of the Deceased located in British Columbia (especially an interest in land), the foreign grant must be “brought” to British Columbia. The new British Columbia grant is called an “ancillary grant”.

Form P6 is sworn in support of the application for an “ancillary grant”. The primary grant must be obtained in a jurisdiction other than those prescribed by:

- section 138(1) of WESA: other provinces or territories of Canada; or
- Regulation 3 of the *Wills, Estate and Succession Regulations*, that is:
 - any member of the British Commonwealth of Nations⁽¹⁾;
 - any of the states of the United States of America;
 - Hong Kong (Special Administration Region of China).

Note: Foreign grants from prescribed jurisdictions are resealed in British Columbia (see *Submission for Resealing (Form P21)*, page 111).

This affidavit may only be sworn:

- after delivery of the Notice and the documents required to be delivered with the Notice (see the *Notice* chapter), and
- the various affidavits filed with *Form P2 – Submission for Estate Grant* have been prepared and sworn (e.g. *Form P9 – Affidavit of Delivery* or any affidavits required with the *Submission*).

If the foreign personal representative cannot apply to obtain an ancillary grant in British Columbia, he or she may appoint an attorney. The court will grant probate or administration to the attorney, limited to the Deceased’s estate situated in British Columbia. In this case, prepare (or obtain) a *Power of Attorney for Foreign Grants* (see **Pre-Application Documents** chapter) to be signed by the personal representative.

Preparation

- ① This affidavit may be sworn by one of the applicants. If there are several applicants and only one of them swears this affidavit, the applicants who do not swear this affidavit must swear the *Form P8 Affidavit*.
- ② Select the appropriate paragraph and if you have selected the second paragraph, provide the required information for the individual.
- ③ Select the appropriate paragraph (see the **Notice** chapter with respect to **minors or mentally incompetent persons**). If you have selected the second paragraph, include the Public Guardian and Trustee in *Form P9 – Affidavit of Delivery*.

Continued...

⁽¹⁾ As the British Commonwealth countries may vary from time to time, check if the originating country is still located in the Commonwealth.

FORM P6 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF PROBATE OR
ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED**

① I, *{NAME}*, of *{address}*, *{Occupation}*, SWEAR/AFFIRM THAT:

1. I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”), and am applying for an ancillary grant of probate or an ancillary grant of administration with will annexed.

2. **②** *{Optional paragraph 2}* The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

2. **②** *{Optional paragraph 2}* I am an individual and ordinarily live at the following location:

City/Town: *{City/Town}*

Province/State: *{Province/State}*

Country: *{Country}*

3. All of the persons to whom the foreign grant was issued are applicants in the submission for estate grant.

4. **③** *{Optional paragraph 4}* I am not obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

4. **③** *{Optional paragraph 4}* I am obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

FORM P6
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF PROBATE OR
ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED

Preparation (Continued)

- ❶ Select the appropriate paragraph. If you have selected the second paragraph, provide the reason why the later dated testamentary document is invalid or not relevant to the application and attach it to this Affidavit as Exhibit.

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and the Checklist *for Filing of Application Documents with the Probate Registry*.

Because of the statement in paragraph 6 of this Affidavit, it must be dated on or after the date of the *Submission for Estate Grant*.

Reminder: If there is **only one applicant**, prepare this Affidavit as shown.

If there **are several applicants** and they jointly and severally swear this Affidavit, – that is together at the same time and place, refer to the **Appendix to Forms** chapter – **Affidavits**.

If there are **several applicants** and they are not planning on swearing a joint affidavit, prepare this Affidavit for one of them (preferably the one who is swearing the other affidavits) and prepare a **Form P8 Affidavit** for each of the remaining applicants (who do not swear this Affidavit).

Form P6

5. I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places both physical and electronic where the deceased usually kept his or her important documents and

❶ no testamentary document of the deceased other than the will has been found.

❶ one or more testamentary documents other than the will have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the other testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons: ❶ *{briefly state the reasons}*.

6. A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is filed with this application, and the certificate indicates that:

❷ no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will included with this application.

❷ no wills notice has been filed at all.

7. I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.

8. I will administer according to law the deceased’s estate to which the submission for estate grant relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, {British Columbia},)
 this ___ day of _____, 20__)

_____))
 A commissioner for taking affidavits)
 for British Columbia)
{print name or affix stamp of commissioner})

{NAME}

FORM P7
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED

General Notes

Form P7 is sworn in an application when an ancillary grant of an administration without will annexed has been obtained in non-prescribed jurisdiction. For a full explanation of prescribed jurisdictions, see *Form P6 – Affidavit of Applicant for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed*, (page 62).

This affidavit may only be sworn:

- after delivery of the Notice and the documents required to be delivered with the Notice (see the **Notice** chapter); and
- the various affidavits filed with *Form P2 – Submission for Estate Grant* have been prepared and sworn (e.g. *Form P9 – Affidavit of Delivery* or any affidavits required with the *Submission*).

If the foreign personal representative cannot apply to obtain an ancillary grant in British Columbia, he or she may appoint an attorney. The court will grant administration to the attorney, limited to the Deceased's estate situated in British Columbia. In this case, prepare (or obtain a *Power of Attorney for Foreign Grants* (see **Pre-Application Documents** chapter) to be signed by the personal representative.

Preparation

- ❶ This affidavit may be sworn by one of the applicants. If there are several applicants and only one of them swears this affidavit, the applicants who do not swear this affidavit must swear the *Form P8 Affidavit*.
- ❷ Select the appropriate paragraph and if you have selected the second paragraph, provide the required information for the individual.
- ❸ Select the appropriate paragraph (see the **Notice** chapter with respect to **minors or mentally incompetent persons**). If you have selected the second paragraph, ensure that the Public Guardian and Trustee is included in *Form P9 – Affidavit of Delivery*.

Continued ...

FORM P7 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED**

① I, *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”), and am applying for an ancillary grant of administration without will annexed in relation to the grant of administration without will annexed (the “foreign grant”) issued by the *{name and province or country of issuing court}* on *{dd/mmm/yyyy}* in relation to the estate of the deceased.

2. **②** *{Optional paragraph 2}* The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

2. **②** *{Optional paragraph 2}* I am an individual and ordinarily live at the following location:

City/Town: *{City/Town}*

Province/State: *{Province/State}*

Country: *{Country}*

3. All of the persons to whom the foreign grant was issued are applicants in the submission for estate grant.

4. **③** *{Optional paragraph 4}* I am not obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

4. **③** *{Optional paragraph 4}* I am obliged under Rule 25-3(11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

FORM P7
(Rule 25-3(2))
AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED

Preparation (Continued)

- ① Select the appropriate paragraph and if you have selected the second paragraph, provide the reason why such testamentary document is invalid or irrelevant to the application.

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and the ***Checklist for Filing of Application Documents with the Probate Registry***.

Because of the statement in paragraph 6 of this Affidavit, it must be dated on or after the date of the ***Submission for Estate Grant***.

Reminder: If there is **only one applicant**, prepare this Affidavit as shown.

If there **are several applicants** and they jointly and severally swear this Affidavit, – that is together at the same time and place, refer to the **Appendix to Forms** chapter – **Affidavits**.

If there are **several applicants** and they are not planning on swearing a joint affidavit, prepare this Affidavit for one of them (preferably the one who is swearing the other affidavits) and prepare a ***Form P8 Affidavit*** for each of the remaining applicants (who do not swear this Affidavit).

**FORM P8
(Rule 25-3(2))**

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ESTATE GRANT

General Notes

If there are several applicants and only one of them has sworn affidavits in *Forms P3, P4, P5, P6, or P7*, each of the remaining applicants (who do not swear one of these affidavits) must swear this affidavit.

Prepare a separate affidavit for each of applicant.

Preparation

- ❶ If the name of the other applicant is different from the name in the Will, you may add the following words at the end of this paragraph:

“I am named as an executor *{or alternate executor}* as *{NAME AS IT APPEARS IN THE WILL}* in the will of the deceased dated *{dated}* (the “will”) and my appointment has not been revoked under section 56(2) of the *Wills, Estates and Succession Act* or by a codicil to the will.”

- ❷ Select the correct form number:
- P3 Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed (Short form)
 - P4 Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed (Long form)
 - P5 Affidavit of Applicant for Grant of Administration without Will Annexed
 - P6 Affidavit of Applicant for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed
 - P7 Affidavit of Applicant For Ancillary Grant of Administration without Will Annexed
- ❸ Insert the date one of the *Forms P3, P4, P5, P6, or P7* affidavits is sworn. Ensure that the date is before the date of this affidavit.
- ❹ Insert the name of the person swearing one of the *Forms P3, P4, P5, P6, or P7* affidavits.

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and the ***Checklist for Filing of Application Documents with the Probate Registry***.

Because of the statement in paragraphs 2 and 3 of this Affidavit, it must be dated on or after the date of the ***Submission for Estate Grant*** and on or after the date of the applicable Affidavits of Applicant in Form P3, P4, PS, P6 or P7.

FORM P9
(Rule 25-3(2))
AFFIDAVIT OF DELIVERY

General Notes

This affidavit is sworn by the person (or persons) who **actually attended to the delivery of the documents** pursuant to Rule 25-2, whether by personal delivery, mail, fax, or electronic means. The person or persons swearing this affidavit need not be applicants. Separate affidavits should be prepared and sworn if different people actually attend to the delivery, for example if:

- the legal assistant (and not the lawyer) mails all the letters (with the documents attached) and the covering letter is prepared on the law firm's letterhead; and
- one of the applicants personally delivers by hand the documents to his close family.

The only requirements are that, if there are several affidavits, they must collectively confirm that the documents described in Rule 25-2(1.1) were properly delivered to all persons entitled to them (see the **Notice** chapter) and listed in the **Submission**.

If no one is entitled to Notice, this Affidavit is not required and you should ensure that paragraph (2) of Part 3 of the **Form P2 – Submission for Estate Grant** has been amended accordingly.

Preparation

- ① Describe the document(s): copy of Will and any other testamentary documents that the applicant is required to deliver under Rule 25-2(1.1)– see the **Notice** chapter.

Complete only the names in ②, ③ and ④. There is no requirement to provide addresses for the recipients of the documents.

With respect to ②, ③ and ④ below, there may be a combination of methods of mailing the Notice by one person.

- ② **Mail:** If any documents were mailed, select this paragraph and list the name (only) of the person(s) to whom the Notice (and other testamentary documents) was mailed.
- ③ **Delivery:** If any documents were delivered, select this paragraph and list the name (only) of the person(s) to whom the Notice (and other testamentary documents) was delivered.
- ④ **Email of fax or other electronic means:** If any documents were sent by electronic means, select this paragraph and list the name (only) of the person(s) to whom the Notice (and other testamentary documents) was sent.
- ⑤ If you have selected paragraph ④ listing people to whom the Notice was sent by e-mail, fax, or other electronic means, verify whether or not acknowledgements of receipt were received from each of the recipients. If any of the recipients have not provided the required acknowledgement, re-send or re-deliver the notice and other testamentary documents (see Rule 25-2(1)(b)) by mail or personal delivery and swear a new Affidavit showing the new date of that delivery under either paragraph ② or ③. The 21 days are then counted from the new delivery date.
- ⑥ If you have selected paragraph ④, select this paragraph as well.

Continued...

FORM P9 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT OF DELIVERY

I, *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. Attached to this affidavit and marked as Exhibit A is a copy of a notice of proposed application in Form P1 (the “notice”).
2. I delivered a copy of the notice, along with ❶ to the following persons as follows:
 - ❷ by mailing it/them to the following persons by ordinary mail:
 - ❷ (a) *{name of person who received delivery by ordinary mail}* on *{date of delivery}*;
 - ❷ (b) *{name of person who received delivery by ordinary mail}* on *{date of delivery}*;
 - ❸ by handing it/them to and leaving it/them with the following persons as follows:
 - ❸ (a) *{name of person who received personal delivery}* on *{date of delivery}*;
 - ❸ (b) *{name of person who received personal delivery}* on *{date of delivery}*;
 - ❹ by sending it/them to the following persons by e-mail, fax or other electronic means to that person:
 - ❹ (a) *{Name of person who received delivery bye-mail, fax or other electronic means}* on *{date of delivery}*
 - ❹ (b) *{Name of person who received delivery bye-mail, fax or other electronic means}* on *{date of delivery}*
 - ❺ Each of the persons who received delivery by e-mail, fax or other electronic means has, in writing, acknowledged receipt of the document(s) referred to in this section.
 - ❻ I will retain a copy of those acknowledgements until the personal representative of the deceased is discharged and will produce those acknowledgements promptly after being requested to do so by the registrar.

FORM P9
(Rule 25-3(2))
AFFIDAVIT OF DELIVERY

Preparation (Continued)

- ① If there are **minors or mentally incompetent persons** or if any person entitled to notice and listed in ②, ③ and/or ④ on the preceding page did not survive the Deceased, and if the notice (and copies of testamentary documents, if any) were sent to their guardians, committees or other personal representatives (if there are any), insert this paragraph as many times as there are people who received the documents on behalf of another person(s). If one person is the guardian of several minors, show the guardian once and then group all the minors in one paragraph (see **Parties Entitled to Notice – Notice of Proposed Application in Relation to Estate** chapter for more information).

Although *Form P9* as prescribed by the Rules does not include the date of such delivery, it is prudent to add this information as the application may be rejected without it.

- ②③④ Follow the instructions on page 72, and if the paragraph ④ was selected listing people to whom the Notice was sent by e-mail, fax, or other electronic means, verify whether or not acknowledgements of receipt were received from each of the recipients and insert the last two paragraphs from page 72 (⑤ and ⑥).

If this paragraph is not applicable, either delete the whole paragraph or change the wording to read:

“No person received delivery of the document(s) referred to in section 2 of this Affidavit on behalf of another person.”

- ⑤ If you have completed paragraph 3, you should have sent a copy of the Notice and relevant testamentary document(s) to the Public Guardian and Trustee. Select the paragraph describing how the Notice was sent to the Public Guardian and Trustee.

If paragraph 3 is not applicable, delete the whole of paragraph 4.

Here too, although *Form P9* as prescribed by the Rules does not include the date of such delivery to the Public Guardian and Trustee, it is prudent to add this information as the application may be rejected without it.

- ⑥ This paragraph only applies to electronic wills. If the will is a physical one, delete the whole paragraph.
- ⑦ If it application is with an electronic will, select one of the options and, and if a person has demanded access to the will in its original electronic form, list the name of that person.

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and the ***Checklist for Filing of Application Documents with the Probate Registry***.

Form P9

13. I delivered the document(s) referred to in section 2 to *{name of parent, guardian, committee, etc.}* in his/her capacity as the *{parent, guardian, committee, etc.}* of *{name of minor or of a mentally incompetent person}* as follows:

2 by mailing it/them to the following persons by ordinary mail:

2 *{name of person who received delivery by ordinary mail}* on *{date of delivery}*;

3 by handing it/them to and leaving it/them with the following persons as follows:

3 *{name of person who received personal delivery}* on *{date of delivery}*

4 by sending it/them to the following persons by e-mail, fax or other electronic means to that person:

4 *{Name of person who received delivery bye-mail, fax or other electronic means}* on *{date of delivery}*

54. In accordance with Rule 25-2, I delivered a copy of the document(s) referred to in section 2 to the Public Guardian and Trustee as follows:

2 by mailing it/them to the Public Guardian and Trustee by ordinary mail on *{date}*.

3 by handing it/them to and leaving it/them with the Public Guardian and Trustee on *{date}*.

4 by sending it/them to the Public Guardian and Trustee by e-mail, fax or other electronic means to that person on *{date}*.

5. **6** In accordance with Rule 25-2 (1.1):

7 No person who received notice demanded the will in its original electronic form.

7 I provided the will or access to the will in its original electronic form to the following persons:

(a) *{name of person who received access to the eWill in its original electronic form}*

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, {British Columbia},)
this ___ day of _____, 20__)
)
)
)
_____)
A commissioner for taking affidavits)
for British Columbia)
{print name or affix stamp of commissioner})

{NAME}

FORM P10
(Rule 25-3(2))
AFFIDAVIT OF ASSETS AND LIABILITIES
FOR DOMICILED ESTATE GRANT

General Notes

Form P10 is used for a domiciled estate grant when:

- the Deceased was domiciled or ordinarily resident in British Columbia at the time of death; and
- most of the assets of the Deceased are situated in British Columbia.

If the above is not the case, then subrule 25-3(8) applies, and you have to prepare the *Form P11* Affidavit (see next pages).

If you have been unable to obtain any of the information required to complete the *Statement of Assets, Liabilities and Distribution* attached to this affidavit, prepare and file *Form P18 – Authorization to Obtain Estate Information* with the *Submission*. In due course, when you have received the missing information, you can finalize and file this affidavit.

If after the grant is issued, the applicant discovers additional assets or liabilities that are not included in this affidavit or discovers that the information contained in the affidavit is incorrect, prepare and file a *Form P14 – Supplemental Affidavit of Assets and Liabilities for Domiciled Estate Grants* listing the additional assets or liabilities (if they encumber and are registered against an asset) or listing the correct information. Additional probate fees, if any, must be paid for such assets.

Preparation

- ❶ If there are several applicants, *Form P10* must be sworn by at least one of the applicants (Rule 25-3(2)(g)).
- ❷ Insert the description of the correct type of application:
- ❸ Select one of paragraphs 4. If there is no real property or tangible personal outside British Columbia, delete the first option and do not include Exhibit B..

Processing

Ensure that the *Statement of Assets, Liabilities and Distribution* on the next page is properly completed and attached to this affidavit and that the exhibit is sworn on the same date as this affidavit.

FORM P10 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of *{LEGAL NAME OF DECEASED}*, Deceased

**AFFIDAVIT OF ASSETS AND LIABILITIES
FOR DOMICILED ESTATE GRANT**

I, **①** *{NAME}*, of *{address}*, *{Occupation}*, SWEAR/AFFIRM THAT:

1. I am an applicant for **②** in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”).
2. I have made a diligent search and inquiry to find the property and liabilities of the deceased.
3. Attached to this affidavit as Exhibit A is a Statement of Assets, Liabilities and Distribution that discloses
 - (a) the real property and tangible personal property within British Columbia, and intangible personal property anywhere in the world, that passes to the applicant in the applicant's capacity as the deceased's personal representative,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
4. **③** *{optional paragraph 4}* Attached to this affidavit as Exhibit B is a Statement of Real and Tangible Property Outside of British Columbia that discloses
 - (a) the real property and tangible personal property outside of British Columbia that passes to the applicant in the applicant’s capacity as the deceased’s personal representative,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
4. **③** *{optional paragraph 4}* There is no real property or tangible personal property outside of British Columbia that passes to the applicant in the applicant’s capacity as the deceased’s personal representative.
5. If I determine that there is any property or liability that has not been disclosed in Exhibit A, or that information contained in this affidavit is incorrect or incomplete, I will promptly after learning of the same file an affidavit of assets and liabilities in Form P14 to disclose the correct and complete information.
6. In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN/AFFIRMED BEFORE ME at

**FORM P10 - (Rule 25-3(2))
AFFIDAVIT OF ASSETS AND LIABILITIES
FOR DOMICILED ESTATE GRANT
STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION**

The *Statement of Assets, Liabilities and Distribution* (sometimes called “*Disclosure Statement*”) is:

- a list of the Deceased’s assets wherever situate (s 122 of WESA – that is, within or without – in or outside – British Columbia) passing to the personal representative; and
- a list of the Deceased’s liabilities that charge or encumber and are registered against real or tangible personal property.

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

There are two Exhibits to this Affidavit:

- **Exhibit A** that lists the real property and tangible personal property in British Columbia and intangible personal property anywhere in the world.:
- **Exhibit B** that lists Real Property and Tangible Personal Property outside British Columbia (see next page).

① PART I Real Property within British Columbia

Part I lists and describes all real property within British Columbia (relating to land in which the Deceased had a beneficial interest) except any property held in joint tenancy and shows all debts and liabilities charging or encumbering real property (such as mortgages registered against the property). The balance owing with respect to such loan is deducted from the value of the each asset so encumbered.

② PART II Tangible Personal Property in British Columbia

Part II lists and describes such as vehicles, furniture and other physical items. This part also shows all liabilities charging or encumbering personal property (such as a bank loan used to purchase a motor vehicle and registered in the Personal Property Registry). The balance owing with respect to such loan is deducted from the value of the each asset so encumbered.

③ PART III Intangible Personal Property anywhere in the World

Part III lists Intangible Personal Property anywhere in the world that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand).

- ④** Probate fees are payable on the gross value of assets less secured debts as shown on this line.

Processing:

The Exhibit stamp at the top of the form must be dated and sworn on the same date as the affidavit to which this document is attached.

EXHIBIT A

This is Exhibit A referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

A commissioner for taking affidavits for British Columbia

STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2}*
2. *{Include all names that have been listed in Form P2}*

Part I	Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
	① or NIL	
	TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA	\$ _____
Part II	Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)	Value at death
	② or NIL	
	TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA	\$ _____
Part III	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death
	③ or NIL	
	TOTAL INTANGIBLE PERSONAL PROPERTY	\$ _____
	④ GROSS VALUE OF ASSETS LESS SECURED DEBTS	④ \$ _____

FORM P10
(Rule 25-3(2))
AFFIDAVIT OF ASSETS AND LIABILITIES
FOR DOMICILED ESTATE GRANT
STATEMENT OF REAL AND TANGIBLE PROPERTY
OUTSIDE OF BRITISH COLUMBIA

Exhibit B that lists Real Property and Tangible Personal Property outside British Columbia (see next page).

If there are no assets **outside** British Columbia, delete the whole Schedule B.

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

❶ PART I Real Property outside British Columbia

Part I lists and describes all real property outside British Columbia (relating to land in which the Deceased had a beneficial interest) except any property held in joint tenancy and shows all debts and liabilities charging or encumbering real property (such as mortgages registered against the property). The balance owing with respect to such loan is deducted from the value of the each asset so encumbered.

❷ PART II Tangible Personal Property outside British Columbia

Part II lists and describes such as vehicles, furniture and other physical items located outside British Columbia. This part also shows all liabilities charging or encumbering personal property (such as a bank loan used to purchase a motor vehicle and registered in the appropriate registry. The balance owing with respect to such loan is deducted from the value of the each asset so encumbered.

Notes: No probate fees are payable on assets outside British Columbia

There is no Part III with respect to intangible personal property anywhere in the world that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand) as this should be shown in Schedule A.

Processing:

The Exhibit stamp at the top of the form must be dated and sworn on the same date as the affidavit to which this document is attached.

EXHIBIT B

This is Exhibit B referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

A commissioner for taking affidavits for British Columbia

STATEMENT OF REAL AND TANGIBLE PROPERTY OUTSIDE BRITISH COLUMBIA

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2}*
2. *{Include all names that have been listed in Form P2}*

Part I	Real Property outside British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
❶ or NIL		
TOTAL REAL PROPERTY OUTSIDE BRITISH COLUMBIA		\$_____
Part II	Tangible Personal Property outside British Columbia (including vehicles, furniture and other physical items)	Value at death
❷ or NIL		
TOTAL TANGIBLE PERSONAL PROPERTY OUTSIDE BRITISH COLUMBIA		\$_____
GROSS VALUE OF ASSETS OUTSIDE BRITISH COLUMBIA		\$_____

FORM P11
(Rule 25-3(2))

AFFIDAVIT OF ASSETS AND LIABILITIES
FOR NON-DOMICILED ESTATE GRANT

Form P11 is used when subrule 25-3(8) applies; that is, when:

- the Deceased was not domiciled or ordinarily resident in British Columbia at the time of death; and
- all property of the Deceased situated outside British Columbia has been, is, or will be administered by a foreign personal representative or otherwise administered under the laws of a foreign jurisdiction.

If the above is not the case, prepare *Form P10* Affidavit.

The main difference between *Form P10* and *Form P11* (apart from the Deceased's domicile and under which jurisdiction the assets are administered) is the disclosure of assets that pass to the applicant as personal representative:

- in *Form P10*, all assets, wherever located must be disclosed; and
- in *Form P11*, only the assets within British Columbia must be disclosed.

If you have been unable to obtain any of the information required to complete the *Statement of Assets, Liabilities and Distribution* attached to this affidavit, prepare and file with the *Submission* a *Form P18 – Authorization to Obtain Estate Information*. In due course, when you have received the missing information, you can finalize and file this affidavit.

If after the grant is issued, the applicant discovers additional assets or liabilities that are not included in it, or discovers that the information contained in it is incorrect, prepare and file a *Form P15 – Supplemental Affidavit of Assets, Liabilities for Non-Domiciled Estate Grants* listing the additional assets or liabilities (if they encumber and are registered against an asset) or the correct information. Additional probate fees, if any, must be paid for such assets.

Preparation

- ① If there are several applicants, *Form P11* must be sworn by at least one of the applicants (Rule 25-3(2)(g)).
- ② Insert the description of the correct type of application:
 - a grant of probate;
 - a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate;
 - an ancillary grant of administration with will annexed; or
 - an ancillary grant of administration without will annexed

Processing

Ensure that the *Statement of Assets, Liabilities and Distribution* on the next page is properly completed and attached to this affidavit and that the exhibit is sworn on the same date as this affidavit.

FORM P11 (RULE 25-3(2))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT OF ASSETS AND LIABILITIES
FOR NON-DOMICILED ESTATE GRANT**

① I, *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. I am an applicant for ② in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”).
2. The deceased was not ordinarily resident in British Columbia at the time of death.
3. All property of the deceased situated outside British Columbia, if any, has been, is being or will be administered by a foreign personal representative or otherwise under the law of a foreign jurisdiction.
4. I have made a diligent search and inquiry to find the property and liabilities of the deceased within British Columbia.
5. Attached to this affidavit as Exhibit A is a *Statement of Assets, Liabilities and Distribution* that discloses:
 - (a) all of the property of the deceased within British Columbia, irrespective of its nature or value, that passes to the applicant in the applicant’s capacity as the deceased’s personal representative;
 - (b) the value of that property; and
 - (c) the liabilities that charge or encumber that property.
6. If I determine that there is any property or liability within British Columbia that has not been disclosed in Exhibit A or that information contained in this affidavit is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for non-domiciled estate grant in Form P15 to disclose the correct and complete information.
7. In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN/AFFIRMED BEFORE ME (etc.) ...

**FORM P11
(Rule 25-3(2))**

**AFFIDAVIT OF ASSETS AND LIABILITIES
FOR NON-DOMICILED ESTATE GRANT
STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION**

This *Statement of Assets, Liabilities and Distribution* must list all of the non-resident Deceased's property and liabilities situated in British Columbia that will be administered by the applicant.

Note: Only list the assets and liabilities within British Columbia.

Do not list any property situated outside British Columbia that is or will be:

- administered by a foreign personal representative; or
- otherwise administered under the laws of a foreign Jurisdiction.

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

- ① See *Form P10 Affidavit*.
- ② See *Form P10 Affidavit*.
- ③ Part III of *Form P11* requires that separate information about intangible personal property both within and without British Columbia be listed. This is different from *Form P10* that requires that intangible personal property anywhere in the world that is not dealt with by the foreign grant be listed.

EXHIBIT A

This is Exhibit A referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

A commissioner for taking affidavits for British Columbia

STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2}*
2. *{Include all names that have been listed in Form P2}*

Part I	Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
❶ or NIL		
TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____
Part II	Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)	Value at death
❷ or NIL		
TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____
Part III	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death
❸ or NIL		
TOTAL INTANGIBLE PERSONAL PROPERTY		\$ _____
GROSS VALUE OF ASSETS LESS SECURED DEBTS		\$ _____

FORM P12
(Rule 25-3(2))
AFFIDAVIT OF TRANSLATOR

General Notes

If any of the documents filed with the *Submission* are not written in English, *Form P12* must be prepared by the person who translated the foreign document into English and who is “competent” in the language from which the documents were translated.

There is no requirement to show in the affidavit that the translator is certified or accredited.

Preparation

- ❶ Insert the language of the original document.
- ❷ Repeat these two paragraphs for each document for which a translation has been prepared by this deponent, providing new Exhibit letters as required. For example, the new paragraph 4 would have the original document in the foreign language as Exhibit E and the translation as Exhibit F; the next paragraph would have them as Exhibit G and Exhibit H respectively, and so on.
- ❸ Describe the document (e.g. “Will of the Deceased dated July 14, 1994”).

Processing

Ensure that the exhibits are properly identified and attached to this affidavit and that the exhibits are sworn on the same date as this affidavit.

This form must be filed concurrently with any documents that are the subject of translation.

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and the *Checklist for Filing of Application Documents with the Probate Registry*.

FORM P13
(Rule 25-3(13))
DIRECTION OF PUBLIC GUARDIAN AND TRUSTEE

General Notes

When the Public Guardian and Trustee is the applicant, section 125 of WESA permits the Public Guardian and Trustee to direct the registrar to seal a probate file for 180 days or for additional periods not to exceed 180 days. Sealing of a file prohibits public access to it.

When a court file is sealed, it will remain confidential for 180 days from the date the application was filed with the registrar of the court, unless either the Public Guardian and Trustee or the court authorizes all or part of the court file to be disclosed.

In addition, on application by the Public Guardian and Trustee, the court may, extend the time that the document remains sealed by one or more additional periods, not exceeding 18 months in total.

However, such sealing does not prohibit disclosing the fact that the application for an estate grant was made, or from sharing the date on which the Deceased died.

A person may apply to unseal a file that has been sealed and must give notice of the application to the Public Guardian and Trustee in order to provide the Public Guardian and Trustee with the opportunity to make submissions on the application.

Anyone who knowingly discloses information in a sealed file without the consent of the Public Guardian and Trustee or the court commits an offence and is liable to a fine of not more than \$10,000 or to imprisonment for not more than 12 months, or to both.

Preparation

❶ If specific documents have to be sealed, add the words:

“including the following related material:

- (a) *{identify material}*; and
- (b) *{identify material}*.”

Processing

This document is generally prepared by the office of the Public Guardian and Trustee.

FORM P13 (RULE 25-3(13))No. _____
{Location} Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased**DIRECTION OF PUBLIC GUARDIAN AND TRUSTEE**

Pursuant to Rule 25-3(13) of the Supreme Court Civil Rules, the Public Guardian and Trustee hereby directs that the court file in this proceeding **①** be sealed in the manner and for the period referred to in section 125 of the *Wills, Estates and Succession Act*.

Date: *{dd/mmm/yyyy}*.

Signature of
 Public Guardian and Trustee
 authorized signatory for the Public
Guardian and Trustee

{type or print name}.

**FORM P14
(Rule 25-3(9))**

**SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES
FOR DOMICILED ESTATE GRANT**

General Notes

At the time of filing the application, the applicant has sworn in *Form P10*:

“If I determine that there is any property or liability that has not been disclosed in Exhibit A, I will promptly after learning of the same file an Affidavit of Assets and Liabilities in Form P14 to disclose that information.”

Accordingly, *Forms P14 -- Supplemental Affidavit of Assets* disclosing the new information must be filed if after the issue of the grant, the personal representative learns of or discovers:

- another asset; or
- another liability (i.e. debt secured against an asset);
- the change in value of an asset as at the date of death because it was over or under-estimated or an asset was reported twice;
- that the value of an asset was reported in error (for example, it was in the joint names of the Deceased and another person or an account had a designated beneficiary);
- an error in the description of an asset; or
- any other information that renders the contents of the original *Affidavit of Assets* incorrect or incomplete;

If there is an increase in the estate’s value, the additional fee resulting from such increase must be paid. The probate registry will calculate the additional fee at the rate in effect at the time of the original filing. On the other hand, if there is a reimbursement, a refund of the overpayment may be requested when the affidavit is filed (see “**Obtain Amount of Probate Fees and Remit to Probate Registry**” in chapter III B-1 – **Application for Representation Grant**).

Preparation

- ① Insert the number stamped by the probate registry when the *Submission* was filed with the original application.
- ② If there are several applicants, at least one of them must swear *Form P14* (Rule 25-3(2)(g)).
- ③ Insert the description of the correct type of application:
 - a grant of probate or a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate or an ancillary grant of administration with will annexed; or an ancillary grant of administration without will annexed.
- ④ You may add here a paragraph explaining the situation, for example:

“The gross value of the estate as shown in the Exhibit A to the Form P10 – Affidavit of Assets and Liabilities as filed was: $\{original amount on Form P10\}$ and the amended gross value of the estate is now $\{new amount\}$, resulting in a difference of $\{calculate difference between the original amount and the new amount\}$ on which the refund is to be calculated.”

Prepare Exhibit the *Statement of Assets, Liabilities and Distribution* on the next page.

Continued...

FORM P14 (RULE 25-3(9))

This is the {1st/2nd/3rd/etc.} affidavit of {Name} in this case and was made on {dd/mmm/yyyy}.

No. 1 _____ {Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of

{LEGAL NAME OF DECEASED}, Deceased

SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES FOR DOMICILED ESTATE GRANT

I, 2 {NAME}, of {address}, {Occupation}, SWEAR/AFFIRM THAT:

1. I am an applicant for: 3 in relation to the estate of {LEGAL NAME OF THE DECEASED}, (the "deceased").

2. An affidavit of assets and liabilities for estate grant has been filed in this proceeding.

3. Attached to this affidavit as Exhibit A is a Supplemental Statement of Assets, Liabilities and Distribution that discloses

- (a) the real property and tangible personal property within British Columbia, and intangible personal property anywhere in the world, of the deceased that was not disclosed or was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this proceeding;
(b) the value of that property; and
(c) the liabilities that charge or encumber that property.

4. If I determine that there is any property or liability that has not been disclosed in Exhibit A or in any previous affidavit of assets and liabilities in Form P10 or Form P14 filed in this proceeding or that information contained in this affidavit or in any of those previous affidavits is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for domiciled estate grant in Form P14 to disclose the correct and complete information.

5. In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased's personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, {British Columbia}, this)
day of _____, 20__)

A commissioner for taking affidavits)
for British Columbia)
{print name or affix stamp of commissioner})

_____ {NAME}

**FORM P14
(Rule 25-3(9))**

**SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES
FOR DOMICILED ESTATE GRANT
SUPPLEMENTAL STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION**

This *Supplemental Statement of Assets, Liabilities and Distribution* must list only:

- all of the property of the Deceased that was not disclosed, or was improperly disclosed, in any earlier *Affidavit of Assets and Liabilities* filed in this application wherever situate (see *Form P10*);
- the value of that property, and
- the liabilities that charge or encumber that property also not disclosed in the earlier *Affidavit of Assets and Liabilities*.

This applies to all additional property, whether within or without British Columbia.

Preparation

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

- ❶ See also *Form P10* on page 76.

Processing

Ensure that the exhibit is sworn on the same date as this affidavit.

In order to file this Affidavit, prepare a *Form P41 – Requisition* and insert the following under “Required”:

- the rule or other enactment relied on: Rule 25-3(9);
- calculation of additional probate fees payable with respect to this filing.

or, if a refund is requested insert the following:

- calculation of refund of probate fees to be sent by cheque made payable to *{name and address of law firm or name of personal representative}*.

Do not include the amount. The probate registry will calculate the additional fee or refund and advise you in due course.

Form P14

EXHIBIT A

This is Exhibit A referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

A commissioner for taking affidavits for British Columbia

SUPPLEMENTAL STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2}*
2. *{Include all names that have been listed in Form P2}*

Part I	Real Property within British Columbia not disclosed or inaccurately disclosed (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
	1 or NIL	
	TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA	\$_____
Part II	Tangible Personal Property within British Columbia not disclosed or inaccurately disclosed (including vehicles, furniture and other physical items)	Value at death
	1 or NIL	
	TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA	\$_____
Part III	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia not disclosed or inaccurately disclosed, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death
	1 or NIL	
	TOTAL INTANGIBLE PERSONAL PROPERTY	\$_____
	GROSS VALUE OF ASSETS LESS SECURED DEBTS	\$_____

FORM P15
(Rule 25-3(9))
SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES
FOR NON-DOMICILED ESTATE GRANT

General Notes

At the time of filing the application, the applicant has sworn in *Form P11*:

“If I determine that there is any property or liability that has not been disclosed in Exhibit A, I will promptly after learning of the same file an Affidavit of Assets and Liabilities in Form P15 to disclose that information.”

Accordingly, *Forms P15 -- Supplemental Affidavit of Assets* disclosing the new information must be filed if after the issue of the grant, the personal representative learns of or discovers:

- another asset; or
- another liability (i.e. debt secured against an asset);
- the change in value of an asset as at the date of death because it was over or under-estimated or an asset was reported twice;
- that the value of an asset was reported in error (for example, it was in the joint names of the Deceased and another person or an account had a designated beneficiary);
- an error in the description of an asset; or
- any other information that renders the contents of the original *Affidavit of Assets* incorrect or incomplete;

If there is an increase in the estate’s value, the additional fee resulting from such increase must be paid. The probate registry will calculate the additional fee at the rate in effect at the time of the original filing. On the other hand, if there is a reimbursement, a refund of the overpayment may be requested when the affidavit is filed (see “**Obtain Amount of Probate Fees and Remit to Probate Registry**” in chapter III B-1 – **Application for Representation Grant**).

Preparation

- ❶ Insert the number stamped by the probate registry when the *Submission* was filed with the original application.
- ❷ If there are several applicants, at least one of them must swear *Form P15* (Rule 25-3(2)(g)).
- ❸ Insert the description of the correct type of application:
 - a grant of probate or a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate or an ancillary grant of administration with will annexed; or an ancillary grant of administration without will annexed.

- ❹ You may add here a paragraph explaining the situation, for example:

“The gross value of the estate as shown in the Exhibit A to the Form P11 – Affidavit of Assets and Liabilities as filed was: $\{original\}$ and the amended gross value of the estate is now $\{new\}$, resulting in a difference of $\{calculate\}$ on which the refund is (or additional probate fees are) to be calculated.”

Prepare the *Statement of Assets, Liabilities and Distribution* on the next page.

Continued...

FORM P15 (RULE 25-3(9))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. **①** _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES
FOR NON-DOMICILED ESTATE GRANT**

I, **②** *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. I am an applicant for **③** in relation to the estate of ***{LEGAL NAME OF THE DECEASED}*** (the “deceased”).
2. The deceased was not ordinarily resident in British Columbia at the time of death.
3. An affidavit of assets and liabilities for estate grant has been filed in this proceeding.
4. Attached to this affidavit as Exhibit A is a Supplemental Statement of Assets, Liabilities and Distribution that discloses:
 - (a) the property of the deceased in British Columbia that was not disclosed or was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this proceeding; and
 - (b) the value of that property; and
 - (c) the liabilities that charge or encumber that property.
- ④**
5. If I determine that there is any property or liability that has not been disclosed in Exhibit A or in any earlier affidavit of assets and liabilities filed in this proceeding or that information contained in this affidavit or in any of those previous affidavits is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for non-domiciled estate grant in Form P15 to disclose the correct and complete information.
6. In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN/AFFIRMED BEFORE ME ...

etc.

FORM P15
(Rule 25-3(9))
SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES
FOR NON-DOMICILED ESTATE GRANT

General Notes

This *Supplemental Statement of Assets, Liabilities and Distribution* must list only:

- all property of the non-resident Deceased that was not disclosed in earlier *Statement of Assets, Liabilities and Distribution* filed in this proceeding,
- the value of that property, and
- the liabilities that charge or encumber that property.

that will be administered by the applicant.

Note: Only list the assets and liabilities within British Columbia. Additional probate fees (if any) will be payable only on the additional assets (if any) within British Columbia.

Preparation

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

- ❶ See also *Form P10* on page 76.

Processing

Ensure that the exhibit is sworn on the same date as this affidavit.

In order to file this Affidavit, prepare a *Form P41 – Requisition* and insert the following under “Required”:

- the rule or other enactment relied on: Rule 25-3(9);
- calculation of additional probate fees payable with respect to this filing.

or, if a refund is requested insert the following:

- calculation of refund of probate fees to be sent by cheque made payable to *{name and address of law firm or name of personal representative}*.

Do not include the amount. The probate registry will calculate the additional fee or refund and advise you in due course.

Form P15

EXHIBIT A

This is Exhibit A referred to in the affidavit of *{NAME}* sworn / affirmed before me on {dd/mmm/yyyy}.

A commissioner for taking affidavits for British Columbia

SUPPLEMENTAL STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2}*
2. *{Include all names that have been listed in Form P2}*

Part I	Real Property within British Columbia not disclosed or inaccurately disclosed (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
	1 or NIL	
TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____

Part II	Tangible Personal Property within British Columbia not disclosed or inaccurately disclosed (including vehicles, furniture and other physical items)	Value at death
	1 or NIL	
TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____

Part III	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia not disclosed or inaccurately disclosed that is not dealt with by a foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death
	1 or NIL	
TOTAL INTANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____
GROSS VALUE OF ASSETS LESS SECURED DEBTS		\$ _____

FORM P16
(Rule 25-3(20))

**AFFIDAVIT OF INTERLINEATION, ERASURE,
OBLITERATION OR OTHER ALTERATION**

General Notes

Form P16 Affidavit should be prepared and sworn by a witness to the execution of the Will (or any other person described in paragraph 6(a) of **Form P4**) if the applicant has disclosed in **Form P4 – Affidavit of Applicant for Grant of Probate or Administration with Will Annexed** that there were interlineations, obliterations, or other alterations which were not made in accordance with the requirements of Division 1 of Part 4 of WESA relating to the execution of a Will, and they were not authenticated by the re-execution of the Will or by the subsequent execution of a codicil, and:

- the interlineations should form part of the Will; and/or
- erasures and obliterations, should not form part of the Will.

For example: if the date the Will was signed is inserted by hand at the time the Will was executed, and the signature or initials of the Will-Maker and the two witnesses are properly affixed next to the hand-written date at the time of execution of the Will, that interlineation forms part of the Will and this affidavit is not required.

On the other hand, if the Will-Maker added the words “my step-daughter” before the name of a person to clarify that person’s relationship to the Will-Maker (for example, there are two people in the family with the same name) but neither the Will-Maker nor the witnesses initialled the interlineation, then this affidavit would be required.

Note: Reference to “Will” in this affidavit includes all documents that are included within the definition of “Will” in WESA, e.g. Codicil.

Preparation

- ① This affidavit may be sworn by the witness to the signature of the Will-Maker or by the lawyer who was present when the Will was signed by the Will-Maker or by any other person described in **Form P4**.
- ② Describe the exact location in the text (page, paragraph, and line numbers) where the interlineation, erasure, obliteration, or other alteration is. If there are several confusing interlineations, describe them as well.

For example:

“the words “my step-daughter” were added in the second line of paragraph 2(a)” of the Will”.

Processing

Once this affidavit is prepared, sworn, and the date in the top section is completed, reference to it should be inserted in paragraph 7 of Part 3 of **Form P2 – Submission**.

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and to the **Checklist for Filing of Application Documents with the Probate Registry**.

FORM P16 (RULE 25-3(20))

This is the {1st/2nd/3rd/etc.} affidavit of {Name} in this case and was made on {dd/mmm/yyyy}.

No. _____ {Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of {LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT OF INTERLINEATION, ERASURE, OBLITERATION OR OTHER ALTERATION

1 I, {NAME}, of {address}, {Occupation}, SWEAR/AFFIRM THAT:

- 1. The will of {LEGAL NAME OF THE DECEASED}, deceased, (the “will-maker”) dated {dd/mmm/yyyy} contains an interlineation, erasure, obliteration or other alteration at 2.
2. I was present when the will was signed and the will contained the interlineation, erasure, obliteration or other alteration when the will was signed.

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, {British Columbia},)
this ___ day of _____, 20__)
)
)
)
)
A commissioner for taking affidavits)
for British Columbia)
{print name or affix stamp of commissioner})

_____ {NAME}

**FORM P17
(Rule 25-3(2))**

NOTICE OF RENUNCIATION

General Notes

Pursuant to Rule 25-3(2)(i)(i), the *Notice of Renunciation* must be filed with the application. Pursuant to Rule 25-1(4), the renunciation is only effective when *Form P17 – Notice of Renunciation* is filed, since until it is filed, there is always a chance it may be withdrawn. The executorship is terminated once the *Notice of Renunciation* is filed, but not before.

A renunciation is a declaration of abandonment of a person's right to something. A "*Renunciation*" is required if a person named in the Will as executor is unable or does not wish to act as executor. For example:

- A1 and A2 are named as first executors in the Will of Will-Maker X. B1, B2, and B3 are named as alternate executors if both A1 and A2 are unable or unwilling to act; and C1 and C2 are named as further alternate executors if B1, B2, and B3 are all unable or unwilling to Act.
- A1 did not survive X, and A2 does not want to apply and wishes to renounce his right to apply.
- B1 is uncertain as to whether she wants to apply, has not intermeddled in the administration of the estate but does not want to renounce her right to apply at this time;
- B3 does not want to apply and wishes to renounce his right;
- B2 is applying as executor and is the applicant.

A signed *Notice Renunciations* must be obtained from A2 (and not from A1 as he did not survive the Deceased) and from B3. Simply put, *Renunciations* must be obtained from any person named in the Will ahead of, or equally with, the applicant, or in legal jargon all persons who "have an equal or prior right to apply".

On the other hand, if a co-executor named in the Will (in this example, B1) does not wish to apply, the remaining Executor(s) may apply for probate reserving the right of the other executor(s) to apply at a later date. However, if none of the Executors named in the Will are able or wish to apply, a grant of administration with will annexed will be applied for.

In the example above, C1 and C2 are not considered as they have a lesser right to apply than B2.

A person named in the Will as executor cannot be forced to act as executor provided that he or she has not (or will not) intermeddle(d) in the estate (i.e. has not commenced his or her duties as executor).

Continued...

**FORM P17
(Rule 25-3(2))**

NOTICE OF RENUNCIATION

(Continued)

Preparation

- ❶ Insert the full legal name of the executor. If the name is different from the name shown in the Will, insert the full legal name first, and then the name shown in the Will as follows “JOHN WILLIAM DOE” (named in the Will as JOE W. DOE”).
- ❷ If the Will states “executor and trustee”, insert “and trustee of it”.
- ❸ The renouncing executor should sign here and his/her name printed underneath his/her signature.
- ❹ The witness to this acknowledgement must be at least 19 years of age. The signature of the person renouncing should be witnessed by a person who has no interest in the estate.

Note: If the person renouncing resides outside British Columbia, or if you anticipate any conflict, prepare and attach to this form either the *Affidavit of Witness* or the *Acknowledgement of Maker* found in the **Pre-Application Documents** chapter.

Processing

If any of the executors renounce their right to apply and sign and file the *Notice of Renunciation*:

- the fact that this person has renounced must be stated in:
 - paragraph 4 of *Form P3 – Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed*; or
 - paragraph 3 of *Form P4 - Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed*;
- the *Notice(s) of Renunciation* must be listed in paragraph 7 of Part 3 of *Form P2 – Submission for Estate Grant*.

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and to the *Checklist for Filing of Application Documents with the Probate Registry*.

For pre-WESA deaths, see the Index to the **Web Supplement** in Chapter IV.

FORM P18
(Rule 25-4(1))
AUTHORIZATION TO OBTAIN ESTATE INFORMATION

General Notes

In some instances, the holder of an asset may be unwilling to provide the applicant with the requested information (for example, a bank is concerned about privacy or security). In such cases, the application may be filed without the relevant *Affidavit of Assets and Liabilities* and the court will issue this *Authorization*.

The probate registry will not issue this authorization if a *Notice of Dispute* is filed with respect to this estate.

Complete and file this form with the other application documents.

Preparation

- ❶ Insert the name of all the applicants. If there are any aliases, they should match the aliases in Part 1 of the *Submission for Resealing*.
- ❷ Insert the description of the correct type of application:
 - a grant of probate;
 - a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate;
 - an ancillary grant of administration with will annexed;
 - an ancillary grant of administration without will annexed.
- ❸ If the asset is held in a name that is different from the Deceased's legal name and the name in the style of proceeding, insert that other name as "also known as".

Processing

File this form with the application but do not file the *Form P10* or *Form P11* at this time.

Once this form is received from the probate registry, mail it with the *Letter with Authorization to Obtain Estate/Resealing Information (Pre-Application Letters chapter)* to the institution that did not provide you with the information.

Notes: When you receive the information, finalize the appropriate *Affidavit of Assets and Liabilities* and file it with the probate registry.

Diarize the file when the *Authorization* is filed with the probate registry and then again, when the above *Letter with Authorization to Obtain Estate/Resealing Information* is sent.

FORM P18 (RULE 25-4(1))

No. _____
{Location} Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased**AUTHORIZATION TO OBTAIN ESTATE INFORMATION****TAKE NOTICE THAT ❶** {NAME(S)} (the applicant(s)):

1. has/have applied for ❷ in respect of the estate of {LEGAL NAME OF THE DECEASED}, ❸ also known as ❹ (the “deceased”), whose last residential address was {residential address of deceased};
2. is/are recognized as the person(s) to whom the grant will be issued once the court is satisfied that all remaining filings and fee payments have been made; and
3. is/are authorized to obtain information about the assets and liabilities of the deceased.

AND TAKE NOTICE THAT, unless you provide to the applicant(s), within 30 days after the date on which this authorization to obtain estate information is delivered to you, information respecting the nature and value of any assets of the estate of the deceased that are in your possession or control, the applicant(s) may make application under Rule 25-8(2), set out below, for an order requiring delivery of that information and seeking costs from you for that application.

THIS AUTHORIZATION TO OBTAIN ESTATE INFORMATION DOES NOT AUTHORIZE THE APPLICANT(S) TO TAKE DELIVERY OF ANY OF THE ASSETS OF THE DECEASED.

Registrar

Rule 25-8(2) of the Supreme Court Civil Rules states:

Order to provide information

- (2) A person to whom a copy of an authorization to obtain estate information or an authorization to obtain resealing information is delivered under subrule (1) must, within 30 days after the date of delivery:
 - (a) deliver to the applicant information as to the nature and value of those assets of the deceased’s estate that are in the person’s possession or control; or
 - (b) if the person:
 - (i) has possession or control of a safety deposit paragraph, a safe, a storage locker or any other thing or place where the deceased kept or may have kept records or assets; and
 - (ii) does not have a document that itemizes the contents of that thing or place,
 allow the holder of the authorization to obtain estate information or authorization to obtain resealing information to have access to that thing or place for the purposes of listing its contents.

FORM P19
(Rule 25-4(1))
IN PROBATE

General Notes

Some probate registries prefer that the law firm prepare this document and file it with the application. However, if the firm does not do it, the registry will complete the form when the application has been approved and the probate fees have been paid.

Preparation

- ❶ Insert the legal name as shown in the style of cause. If there are no other names, delete the remainder of this paragraph. If there are other names shown in Part 1 of the *Submission*, insert all the names.
- ❷ Insert these words and the date of the Will. If there is no Will, delete the remainder of the paragraph.
- ❸ Insert this paragraph for applications for probate, administration with will annexed and administration without will annexed. Copy the name(s) of the applicant(s) from the *Submission*. If there is no non-participating executor, delete the remainder of the paragraph.
- ❹ If an executor with an equal or prior right to the applicant(s) did not renounce his or her right to apply, insert these words and the name(s) of the non-participating executor(s). These are the name(s) of the person(s) listed in paragraph 1 of the Schedule to *Form P2 – Submission for Estate Grant*. If there is no such person, delete the text between the two ❹'s.
- ❺ ❻ If the grant of probate or administration is made for general, special, or limited purposes or is limited pursuant to an order, the probate registry will prepare the grant.
- ❽ Insert this paragraph when the grant is issued as a result of an order, for example, if an order is necessary for someone who died before March 31, 2014 (see below). Leave the date blank. It will be completed by the probate registry when the order is issued.
- ❾ Insert this paragraph for an application for an ancillary grant and insert the date of the foreign grant.
- ❿ Leave this date blank. It will be completed by the probate registry when the grant is issued.

Processing

File the form with the application documents.

If the Deceased died before March 31, 2014, and the application is for:

- a grant of administration with Will Annexed; or
- a grant of administration without Will Annexed;

prepare and file an *Order*. For a precedent, see chapters III B-2 or III B-3 of the scanned version of the pre-WESA Guide:

<http://www.evinross.ca/GWE/LINKS.htm>

FORM P19 (RULE 25-4(1))

No. _____
{Location} Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

IN PROBATE

WHEREAS ❶ {LEGAL NAME OF THE DECEASED}, ❶ also known as *{indicate any other names by which the deceased was known}* (the “deceased”) whose last known address was *{address of the deceased}* died on *{date of death-dd/mmm/yyyy}* ❷ and left a will dated *{dd/mmm/yyyy}*, a copy of which is attached.

❸ Administration of the estate of the deceased is granted to ❸ {NAME(S)} ❹ reserving the right of {NAME(S)} to apply for and obtain a grant of probate at a later date if that executor/those executors should so desire ❹.

❺ The will in relation to which this grant is issued is to be read in conjunction with an order dated *{dd/mmm/yyyy}*, a copy of which is attached.

❻ This grant is limited pursuant to an order dated *{dd/mmm/yyyy}* a copy of which is attached.

❼ This grant is issued pursuant to an order dated *{dd/mmm/yyyy}*, a copy of which is attached.

❽ This grant is ancillary to a foreign grant dated *{dd/mmm/yyyy}*, a copy of which is attached, and is limited to property in British Columbia.

Sealed by the Supreme Court of British Columbia on ❾ *{dd/mmm/yyyy}*

By the Court.

Registrar

FORM P20
(Rule 25-5(2))
CORRECTION RECORD

General Notes

Pursuant to Rules 25-5(1) and (2), if the person to whom an estate grant is issued or on whose behalf a foreign grant is resealed determines that there is a clerical mistake (for example, the name of the executor is misspelled), or there is an error resulting from an accidental slip or omission in the estate grant or resealed foreign grant, the person may apply to the registrar to correct the estate grant or resealed foreign grant.

If, on an application under subrule (1), the registrar is satisfied that a clerical mistake or an error has occurred in the estate grant or resealed foreign grant, the registrar may correct the clerical mistake or error by issuing to the applicant a correction record in *Form P20*.

If the Registrar disagrees, an application under Rule 25-5 may be made.

When an application has been filed (either a Form P2 or Form P21) and there is an error discovered in the name of the Deceased in the style of proceeding before the issuance of either an estate grant, an authorization to obtain estate or resealing information. the applicant may apply to the Registrar to correct the name of the deceased (Rule 25-5 (1.1) and (2.1) – *Form P20.1 – Correction Record for Style of Proceeding*).

Preparation

Telephone the Registry from which the grant was issued to ascertain whether the probate registry will prepare the form or the law firm should do it.

- ① Insert the number stamped by the probate registry on the *Submission for Estate Grant*.
- ② Insert the description of the correct type of estate grant:
 - a grant of probate;
 - a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate;
 - an ancillary grant of administration with will annexed;
 - an ancillary grant of administration without will annexed; or
 - resealing of a foreign grant.
 or the correct type of authorization:
 - authorization to obtain resealing information; or
 - authorization to obtain estate information.
- ③ Describe the correction. For example: “correcting the name of the executor to read: *{correct name}*”.
- ④ Leave this date blank as it will be completed by the probate registry when the *Correction Record* is issued.

Processing

Prepare a covering letter to the probate registry to bring the error to their attention.

Note: As this is a new and untested procedure, a further clarification may be required in a future update as to the manner in which this document will be processed.

FORM P20 (RULE 25-5(2))

No. ❶ _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

CORRECTION RECORD

The ❷ dated *{dd/mmm/yyyy}* is corrected by ❸.

Date: ❹ *{dd/mmm/yyyy}*.

Registrar

FORM P21 (Rule 25-6(2))
SUBMISSION FOR RESEALING

General Notes

When there is a foreign grant issued in a “prescribed” jurisdiction (see below), in order to deal with an asset of the Deceased located in British Columbia (especially an interest in land), the foreign grant must be “resealed” in British Columbia. When a foreign grant from a prescribed jurisdiction is resealed in British Columbia, the court acknowledges the foreign grant and gives it effect in British Columbia. Instead of a grant, the probate registry will issue a certificate to which is attached the foreign grant.

A submission for resealing is similar to the *Form P2 – Submission* with respect to estate grants except that it only applies to foreign grants – whether probate or administration with or without will annexed – that have been obtained in a prescribed jurisdiction described in:

- section 138(1) of WESA: other provinces or territories of Canada; or
- Regulation 3 of the Wills, Estate and Succession Regulations, that is:
 - any member of the British Commonwealth of Nations;⁽¹⁾
 - any of the states of the United States of America; and
 - Hong Kong (Special Administration Region of China).

Note: If the foreign grant has been obtained in a non-prescribed foreign jurisdiction, an **ancillary grant** is applied for (see *Form P2 – Submission for Estate Grant*).

Each person to whom the foreign grant was issued must be the applicant for resealing and cannot be represented by an attorney.

After the resealing of a foreign grant, the Registrar must provide notice of the resealing to the court that issued the foreign grant. Conversely, if the Registrar knows that a British Columbia grant has been resealed in another jurisdiction, the Registrar must notify the resealing court of any revocation or amendment of the British Columbia grant.

Pursuant to section 268 of the *Land Title Act*, resealing may be dispensed with if the net value of an estate in British Columbia is less than \$50,000. The registrar may, in the case of hardship, economic or otherwise, dispense with the resealing in British Columbia of a grant of probate, grant of administration with will annexed, or grant of administration without will annexed issued in another province of Canada.

⁽¹⁾ As the British Commonwealth countries may vary from time to time, check if the originating country is still located in the Commonwealth.

FORM P21 (Rule 25-6(2))
SUBMISSION FOR RESEALING

General Notes (Continued)

Form P21 contains:

- Part 1: Information about the Deceased
- Part 2: Information about the Applicant(s)
- Part 3: Documents Filed with the Submission for Resealing
- Part 4: Two Schedules:
 - o one for resealing a foreign grant of probate or grant of administration with will annexed; and
 - o one for resealing a foreign grant of administration without will annexed; but only one is attached to the completed Submission, dependent on what kind of estate grant is applied for.

Each Schedule must contain the names of the persons entitled to Notice pursuant to section 121 of WESA or Probate Rule 25-2(2).

Preparation

***Form P21* may be completed and signed by one of the Applicants or their lawyer.**

- ❶ Insert the names of all the applicants. If there are two or more foreign personal representatives to whom the foreign grant was issued, all of those foreign personal representatives must be applicants in the application for resealing. They cannot be represented by an attorney.
 If the lawyer is signing on behalf of the applicant, change the wording to "...submitted on behalf of .." and insert the names of all the applicants.
- ❷ Change depending on whether there is one applicant or several.
- ❸ Copy the name of the foreign court from the foreign grant; for example:
 - "Court of Queen's Bench of Alberta (Surrogate Matter), Judicial Centre of Fort McMurray, Alberta, Canada"; or
 - "Superior Court of the State of Washington for Whatcom County USA";
 and insert the date of the foreign grant.
- ❹ Select this paragraph if you have all required information with respect to the assets and liabilities of the estate and have been able to complete the *Affidavit of Assets or Liabilities for Resealing (Form P25)*.
- ❺ As the probate registry does not issue an original grant, estimate the number of court-certified copies of the estate grant and of the *Affidavit of Assets and Liabilities* and/or *Authorization to Obtain Estate Information* you will require to transmit, or deal with, the assets (e.g. land, accounts at banks, Canada Revenue Agency, etc.) and indicate that number. Note: For Land Title Office purposes, only one certified copy of the documents is required as everything is filed centrally online through LTSA.
- ❻ Select this paragraph if you have not been able to obtain all the information with respect to assets and liabilities, and you require the court to issue a *Form P27 – Authorization to Obtain Resealing Information*. The Affidavit of Assets and Liabilities will be filed at a later time.
 - Determine who will sign the *Submission* (the personal representative/applicant(s) or the lawyer) and select the appropriate paragraph.

Continued...

FORM P21 (RULE 25-6(2))

No. _____
{Location} Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

SUBMISSION FOR RESEALING

This submission for resealing is submitted by: ❶ {NAME OF APPLICANT(S)}

❷ I am/We are applying for the resealing under Part 6 of the *Wills, Estates and Succession Act* of the grant issued by the ❸ on ❹ {dd/mmm/yyyy} (the “foreign grant”) in relation to the deceased described in Part 1 of this submission for resealing.

❺ I am/We are submitting with this submission for resealing an affidavit of assets and liabilities for resealing in Form P25, and therefore do not require an authorization to obtain resealing information.

❻ I/we request {number of copies} court-certified copy(ies) of the resealed estate grant.

❼ I/we request {number of copies} court-certified copy(ies) of the Affidavit of Assets and Liabilities for Resealing.

❽ I am/We are seeking an authorization to obtain resealing information so that I/we can secure the information necessary to prepare and submit an affidavit of assets and liabilities for resealing.

❾ I/we request {number of copies} certified copy(ies) of the Authorization to Obtain Resealing Information.

This submission for resealing has 4 Parts:

- Part 1: Information about the Deceased
- Part 2: Information about the Applicant(s)
- Part 3: Documents Filed with this Submission for Resealing
- Part 4: Schedule

Date: {dd/mmm/yyyy}.

❼ _____
Signature of ❼ applicant
❼ lawyer for applicant(s)
{type or print name}.

FORM P21
(Rule 25-6(2))
SUBMISSION FOR RESEALING
PART 1 - INFORMATION ABOUT THE DECEASED

Preparation (Continued)

- ❶ Insert the Deceased's name exactly as it appears in the foreign grant that is being resealed. It may be different from the legal name in British Columbia.

Note: If the Deceased owned real property in British Columbia under a name that does not appear in the foreign grant, the applicant must apply to have the grant in the foreign jurisdiction reissued to include that name.

- ❷ Insert the street number and street name *or* the post office paragraph (whichever is available) and then the remainder of the address.
- ❸ Insert the location (for example: City of Edmonton, Alberta).
- ❹ Select the appropriate paragraph.
- ❺ If you have selected the second ❺, complete the name of treaty first nation.

Note: This Guide does not cover any issues relating to Nisga'a citizens or treaty first nations.

- ❻ Insert the address for service (street number and name, city and postal code). A fax number and/or an e-mail address may also be given as additional addresses for service.⁽¹⁾ If there is more than one applicant, all applicants must share the same address(es) for service.



Insert the law firm's contact information (especially the telephone number and email address), as this will be the contact information that the probate registry will use to communicate at a later date.

Continued...

⁽¹⁾ See the **Appendix** at the end of this chapter with respect to **Accessible Address for Service for Applicants** pursuant to Rules 4-1(1) and 4-1(2)

Form P21**PART 1 - INFORMATION ABOUT THE DECEASED**

Name of deceased as it appears on the foreign grant to be resealed:

❶ *{FIRST NAME} {MIDDLE NAME} {LAST NAME}*

Last residential address of the deceased:

❷ Street number and street name: ❷ *{Street number and address}*

[or]

Post office paragraph: ❷ *{Post office paragraph number}*

City/Town: ❷ *{City/Town}*

Province/State: ❷ *{Province/State}*

Country: ❷ *{Country}*

Postal Code/Zip Code: ❷ *{Postal Code/Zip Code}*

Deceased's date of death: ❷ *{dd/mmm/yyyy}*.

Deceased's place of ordinary residence at the date of death: ❸ *{Location}*.

❹ The deceased was neither a Nisga'a citizen nor a member of a treaty first nation.

❹ The deceased was a Nisga'a citizen.

❺ The deceased was a member of the *{Name of treaty first nation}* treaty first nation.

PART 2 - INFORMATION ABOUT THE APPLICANT(S)

Applicant's(s') address for service: ❻

Street address for service: *{Street and city address for service}*

Fax number address for service (if any): *{Fax number address for service}*

E-mail address for service (if any): *{E-mail address for service}*

Telephone number: *{Telephone number}*

FORM P21
(Rule 25-6(2))
SUBMISSION FOR RESEALING
PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR RESEALING

Preparation (Continued)

- ① If there is **only one applicant**, select this paragraph and complete the form number of the Affidavit that is filed with this Submission:
 - **P22** Affidavit of Applicant for Resealing of Grant of Probate or Grant of Administration with Will Annexed; or
 - **P23** Affidavit of Resealing of Grant of Administration without Will Annexed.
- ② If there are **several applicants** and they all jointly and severally swear this Affidavit – that is together at the same time and place, select this paragraph and insert the number of the affidavit that is filed with this **Submission** – same choices as in ①:
- ③ If there are several **applicants** and they are not planning on swearing a joint affidavit (see ② above), select this paragraph and insert the number of P24 affidavits that are filed with this **Submission**.
- ④ If there are several **Affidavits of Delivery (Form P9)**, list them all showing the names of the persons swearing the affidavits and the dates they are sworn. If no one is entitled to Notice, change this paragraph to read:

“No affidavit of delivery is attached. In accordance with Rule 25-2, no one, other than the applicant(s), is entitled to notice.”
- ⑤ Select this paragraph if there is a Will and the application is for resealing of a grant of probate or a grant of administration with will annexed. If the copy of the Will is not attached to the foreign grant (which is quite common), attach a copy of the Will to this **Submission for Resealing**.
- ⑥ Select this paragraph if there is no Will and a copy of the foreign grant certified by the court that issued the grant is filed with this **Submission**.

Continued...

Form P21**PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR RESEALING**

1. **①** *{Optional paragraph 1}* There is one applicant to this submission for resealing and a P **①** affidavit is filed with this submission for estate grant.
1. **②** *{Optional paragraph 1}* There are 2 or more applicants to this submission for resealing and a joint **①** affidavit on behalf of all applicants is filed with this submission for estate grant.
1. **③** *{Optional paragraph 1}* There are 2 or more applicants to this submission for resealing and a **①** affidavit is filed with this submission for estate grant and **③** affidavits in Form P24 is / are filed with this submission for estate grant.
2. **④** Filed with this submission for resealing is/are the following Affidavit(s) of Delivery in Form P9 that confirm(s) (collectively) confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered:
 Affidavit of **③** and **④** *{NAME}* sworn *{dd/mmm/yyyy}*
 Affidavit of **③** and **④** *{NAME}* sworn *{dd/mmm/yyyy}*
 Affidavit of **③** and **④** *{NAME}* sworn *{dd/mmm/yyyy}*
2. *{Optional paragraph 2}* No affidavit of delivery is attached. In accordance with Rule 25-2, no one, other than the applicant(s), is entitled to notice.
3. Filed with this submission for resealing are 2 copies of the certificate of the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a will's notice filed by or on behalf of the deceased.
4. **⑤** *{Optional paragraph 4}* The foreign grant was issued in relation to the will of the deceased dated *{dd/mmm/yyyy}* and filed with this submission for resealing is a copy of the following, each of which is certified by the court out of which probate or administration with will annexed has been granted:
 - (a) the foreign grant;
 - (b) if a copy of the will to which the foreign grant relates is not attached to the foreign grant, a copy of the will.
4. **⑥** *{Optional paragraph 4}* The foreign grant is a grant of administration without will annexed and filed with this submission for resealing is a copy of the foreign grant certified by the court out of which administration without will annexed has been granted.

Continued...

FORM P21
(Rule 25-6(2))
SUBMISSION FOR RESEALING
PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR RESEALING

Preparation (Continued)

The three options in paragraph 5 refer to existing orders that affect the validity of the Will.

- ❶ If the foreign grant was for a grant of probate or a grant of administration with will annexed, select the appropriate paragraph depending on whether or not there are orders affecting the validity or content of the Will – then select the appropriate paragraph in ❷.
- ❷ For each order, insert the date of the order and select the appropriate paragraph. If you selected the second paragraph for any order, ensure that it is attached to the *Submission for Resealing*. Repeat the information for each order.
- ❸ Select this paragraph for an application for a grant of administration without will annexed.

The four options in paragraph 6 relate to documents referred to in the Will, whether they are attached to it or not.

- ❹ Select this paragraph if:
 - the application is for the resealing of one of the following foreign grants, then insert the kind of application:
 - a grant of probate; or
 - a grant of administration with will annexed; and
 - the Will does not refer to any attachments or the attachments referred to in the Will are attached to the Will and are filed with the Will.
- ❺ Select this paragraph for the same kinds of applications as in ❹ if there are documents referred to in the Will, but they are not attached to the Will. List each such attachment separately with the description and the date and ensure that each is filed with this Submission. This does not apply to a document that sets out the allowance to be paid to an executor or administrator of the Will (see ❻ below).
- ❻ Select this paragraph if there are documents that are referred to, but not attached to the will because they are not testamentary. Describe the document and set out the reason why the document is not testamentary, for example: not witnessed, or not related to the disposition of the deceased's estate, or the document sets out the allowance to be paid to an executor, or administrator of the will.
- ❼ Select this paragraph for an application for a grant of administration without will annexed.

Continued...

Form P21

5. **❶** *{Optional paragraph 5}* The foreign grant is a grant of probate or a grant of administration with will annexed and there are no orders affecting the validity or content of the will referred to in section 4.
5. **❶** *{Optional paragraph 5}* The foreign grant is a grant of probate or a grant of administration with will annexed and the following orders affect the validity or content of the will referred to in section 4:
- (a) **❷** Order dated *{dd/mmm/yyyy}*
- ❷** This order has been filed in this proceeding.
- ❷** This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for resealing.
- (b) **❷** Order dated *{dd/mmm/yyyy}*
- ❷** This order has been filed in this proceeding.
- ❷** This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for resealing.
5. **❸** *{Optional paragraph 5}* The foreign grant is a grant of administration without will annexed.
6. **❹** *{Optional paragraph 6}* The will referred to in section 4 does not refer to any documents or refers only to documents attached to the will.
7. **❺** *{Optional paragraph 6}* Filed with this submission for resealing is/are the following document(s):
- (a) *{describe document filed with this application};*
- (b) *{describe document filed with this application}.*
- which document(s) is/are referred to in, but not attached to, the will referred to in section 4.
6. **❻** *{Optional paragraph 6}* Not filed with this submission for resealing is/are the following document(s),
- (a) *{describe document not filed with this application};*
- (b) *{describe document not filed with this application};*
- which document(s) is/are referred to in, but not attached to, the will referred to in section 4, but which are not testamentary and are not relevant to this application for the following reasons: *{briefly state the reasons}*.
6. **❼** *{Optional paragraph 6}* The foreign grant is a grant of administration without will annexed.

**FORM P21
(Rule 25-6(2))
SUBMISSION FOR RESEALING
PART 3 - DOCUMENTS FILED WITH THIS SUBMISSION FOR RESEALING**

Preparation (Continued)

The two options in paragraph 7 refer to any other documents in existence not described elsewhere in this Submission for the resealing of any estate grant.

- ❶ Select this paragraph if no documents other than those described in this *Submission* are in existence.
- ❷ Select this paragraph and list additional documents that are not described elsewhere in this *Submission*, but are filed with this *Submission*.

The options in paragraph 8 refer to the language of the documents.

- ❸ Select this paragraph if all documents are in English.
- ❹ Select this paragraph if there are any documents that are not in English and require translation. Prepare a *Form P12 – Affidavit of Translator*, insert the name of the translator, and describe the document(s) that was/were translated.
- ❺ Select the paragraph for the schedule that is applicable.

Processing

While completing the *Submission*, make a note of:

- affidavits;
- orders;
- Consents; and
- any other documents (paragraph 7 of Part 3 of the *Submission for Resealing*);

referred to in the *Submission* and ensure that they are filed with (but not attached to) the application documents when they are submitted to the probate registry. Refer to the **Applications for Representation Grants Procedure** chapter for a list of other documents to be filed with the application for the appropriate grant and to the **Checklist for Filing of Application Documents with the Probate Registry**.

Continued ...

Form P21

7. **①** *{Optional paragraph 7}* No documents other than those described elsewhere in this submission for resealing are filed with this submission for resealing.
7. **②** *{Optional paragraph 7}* In addition to the documents described elsewhere in this submission for resealing, the following documents are filed with this submission for resealing:
 - (a) *{describe document filed with this application};*
 - (b) *{describe document filed with this application};*
4. **③** *{Optional paragraph 8}* All documents filed with this submission for resealing are written in the English language.
5. **④** *{Optional paragraph 8}* Filed with this submission for resealing is an affidavit of translator in Form P12 of *{NAME}*, who translated the *{identify document}*. filed with this submission for resealing.

PART 4 - SCHEDULE

- ⑤** Attached to this submission for resealing is a Schedule for Resealing of Grant of Probate or Grant of Administration with Will Annexed.
- ⑤** Attached to this submission for resealing is a Schedule for Resealing of Grant of Administration without Will Annexed.

FORM P21 (Rule 25-6(2))
SUBMISSION FOR RESEALING
SCHEDULE FOR RESEALING OF GRANT OF PROBATE
OR GRANT OF ADMINISTRATION WITH WILL ANNEXED

Preparation (Continued)

Complete and attach this Schedule to the *Submission for Resealing* if the application is for the resealing of:

- a grant of probate; or
- a grant of administration with will annexed.

This Schedule establishes the classes of persons entitled to Notice pursuant to Rule 25-2 to whom documents described in Rule 25-2 must be delivered and who:

are the spouse and children (if any) of the Deceased;

- are beneficiaries under the Will;
- would be entitled on an intestacy or partial intestacy; and
- are citors.

List the name of each person on a separate line and only once. So, if the spouse's name is listed in (a) and the spouse is also a beneficiary under the Will and would have been an intestate successor if the Deceased left no Will in (d), insert the spouse's name in (a) only. Do not leave any paragraph blank or indicate as "Not applicable". Explain why a paragraph does not apply or insert "None".

A person who does not survive a deceased person by 5 days, or a longer period provided in an instrument, is conclusively deemed not to have survived the deceased (to have died before the deceased). If a person survives a deceased person by 5 days, or longer if required, for the purposes of this Form, the person is referred to as "surviving".

- ❶ Insert the name of the spouse (see section 2 of WESA and the **Glossary – Helpful Information** chapter for a definition of "spouse"). If there is no spouse, insert "none" and describe the reason why – see opposite.
- ❷ Insert the names of all the children of the Deceased. If there are none, insert "None". If a child did not survive the Deceased and left (no) descendants surviving him/her, explain: "The Deceased's son, Adam Smith had no descendants and did not survive the Deceased" or "The Deceased's daughter, Beryl Smith, did not survive the Deceased but left surviving her one daughter, Alana Smith". List Alana's name in (c) or (d) as appropriate.
- ❸ Insert the names of all beneficiaries under the Will who are not the Deceased's spouse (listed in (a)) or the Deceased's children (listed in (b)). The list of beneficiaries must include contingent beneficiaries or beneficiaries who have did not survive the Deceased and an explanation (see **Parties entitled to Notice – Notice** chapter). If there are none, insert "None". Insert additional explanation if the relationship is unclear (e.g. "son of Deceased's daughter, Jane Smith, who did not survive the Deceased").
- ❹ Insert the names of all persons who would have been intestate successors if the Deceased died without a Will (see **Parties entitled to Notice – Notice** chapter) who are neither: the Deceased's spouse in (a), the Deceased's children in (b), nor beneficiaries under the Will in (c). If there are none, insert "None".
- ❺ List anyone who has filed a citation or indicate that no citation has been received. For an explanation of "citor", see *Form P32 – Citation* and the **Glossary**.

Form P21**SCHEDULE FOR RESEALING OF GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED**

1. Each person to whom the foreign grant was issued is an applicant under the submission for resealing.
2. **1** Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:
 - (a) spouse, if any, of the deceased: **1** **None** **1** *{Name of Spouse}* / no currently surviving spouse as defined by section 2 of the *Wills, Estates and Succession Act* / *{Name of Spouse}* did not survive the Deceased / never married;
 - (b) child(ren), if any, of the deceased:
 - (i) **2** *{name of child}*; or **None** or did not survive the Deceased
 - (ii) **2** *{name of child}*;
 - (iii) **2** *{name of child}*;
 - (c) each person, if any, who is a beneficiary under the will and who is not named in paragraph (a) or (b):
 - (i) **3** *{name of beneficiary}*; or **None** or did not survive the Deceased
 - (ii) **3** *{name of beneficiary}*;
 - (iii) **3** *{name of beneficiary}*;
 - (d) each person, if any, who would have been an intestate successor if the deceased had not left a will and who is not named in paragraph (a), (b) or (c):
 - (i) **4** *{name of intestate successor}*; or **None** or did not survive the Deceased
 - (ii) **5** *{name of intestate successor}*;
 - (iii) **5** *{name of intestate successor}*;
 - (e) **5** each citor, if any, not named in paragraph (a), (b), (c) or (d):
 - (i) **5** *{name of citor}*; or **None**
 - (ii) **5** *{name of citor}*;

Continued...

**FORM P21 (Rule 25-6(2))
SUBMISSION FOR RESEALING
SCHEDULE FOR RESEALING OF GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED**

Preparation (Continued)

Complete and attach this Schedule to the *Submission* if the application is for resealing a grant of administration without will annexed.

This Schedule establishes the persons entitled to Notice pursuant to Rule 25-2 to whom documents described in Rule 25-2(1) must be delivered. The Schedule lists the classes of those persons who:

- are the spouse and children (if any) of the Deceased;
- are entitled on an intestacy or partial intestacy;
- are creditors whose claim exceeds \$10,000; and
- are citors.



List the name of each person on a separate line and only once. So, if the spouse's name is listed in (a) and would have been an intestate successor if the Deceased left no Will in (c), insert the spouse's name in (a) only. Do not leave any paragraph blank or indicate as "Not applicable". Explain why a paragraph does not apply or insert "None".

A person who does not survive a deceased person by five days, is conclusively deemed not to have survived deceased. If a person survives a deceased person by five days, for the purposes of this Form, the person is referred to as "surviving".

- ① Insert the name of the spouse (see section 2 of WESA and the **Glossary – Helpful Information** chapter for a definition of "spouse"). If there is no spouse, insert "None" and describe the reason why – see opposite.
- ② Insert the names of all the children of the Deceased. If there are none, insert "None". If a child did not survive the Deceased and left (no) descendants surviving him/her, explain: "The Deceased's son, Adam Smith, did not survive the Deceased without descendants" or "The Deceased's daughter, Beryl Smith, did not survive the Deceased leaving surviving her one daughter, Alana Smith". List Alana's name under "Intestate Successors".
- ③ Insert the names of all intestate successors (see **Parties entitled to Notice – Notice** chapter and section 23 of WESA) who are neither: the spouse (a), nor the children of the Deceased (b). If there are none, insert "None". Insert additional explanation if the relationship is unclear (e.g. "son of Deceased's daughter, Jane Smith, who did not survive the Deceased").
- ④ Insert the names of all creditors whose claim exceeds \$10,000. If there are none, insert "None".
- ⑤ List anyone who has filed a citation or indicate that no citation has been received. For an explanation of "citor", see the **Glossary** or *Form P32 – Citation*.

Processing

See page 120.

Form P21**SCHEDULE FOR RESEALING OF GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED**

1. Each person to whom the foreign grant was issued is an applicant under the submission for resealing.
2. Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:
 - (a) **1** spouse, if any, of the deceased: **1** None **1** *{Name of Spouse}* / no currently surviving spouse as defined by section 2 of the *Wills, Estates and Succession Act* / *{Name of Spouse}* did not survive the Deceased / never married;
 - (b) child(ren), if any, of the deceased:
 - (i) **2** *{name of child}*; or None or did not survive the Deceased
 - (ii) **2** *{name of child}*;
 - (iii) **2** *{name of child}*;
 - (c) each person, if any, not named in paragraph (a) or (b), who is entitled to receive all or part of the estate of a person who dies without a will:
 - (i) **3** *{name of intestate successor}*; or None or did not survive the Deceased
 - (ii) **3** *{name of intestate successor}*;
 - (iii) **3** *{name of intestate successor}*;
 - (d) each creditor of the deceased, if any, not named in paragraph (a), (b) or (c) whose claim exceeds \$10,000:
 - (i) **4** *{name of creditor}*; or None or did not survive the Deceased
 - (ii) **4** *{name of creditor}*;
 - (iii) **4** *{name of creditor}*;
 - (e) each citor, if any, not named in paragraph (a), (b), (c) or (d):
 - (i) **5** *{name of citor}*; or None
 - (ii) **5** *{name of citor}*; or None

FORM P22
(Rule 25-6(2))
AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF PROBATE
OR GRANT OF ADMINISTRATION WITH WILL ANNEXED

General Notes

Form P22 is sworn when there is a Will, and a grant of probate or administration with will annexed was obtained in a prescribed foreign jurisdiction (see *Form P21*):

- after delivery of the Notice and of the documents required to be delivered with it, pursuant to Rule 25-2(1) (see the **Notice** chapter); and
- after the various affidavits to be filed with *Form P21 – Submission for Resealing* have been prepared and sworn (e.g. *Form P9 – Affidavit of Delivery* or any affidavits required with the *Submission*).

If there are two or more foreign personal representatives to whom the foreign grant was issued, all of those foreign personal representatives must be applicants in the application for resealing.

Preparation

- ❶ This affidavit may be sworn by one of the applicants or all applicants jointly. If there are several applicants and only one of them swears this affidavit, the applicants who do not swear this affidavit must each swear *Form P24 – Affidavit in Support of Application for Resealing*.
- ❷ Copy the name of the foreign court from the foreign grant; for example:
 - “*Court of Queen’s Bench of Alberta (Surrogate Matter), Judicial Centre of Fort McMurray, Alberta, Canada*”; or
 - “*Superior Court of the State of Washington for Whatcom County USA*”;and insert the date of the foreign grant.
- ❸ Select the appropriate paragraph and if you have selected the second paragraph, provide the required information for the individual.
- ❹ Select the appropriate paragraph (see the **Notice** chapter with respect to **minors or mentally incompetent persons**).

Continued ...

FORM P22 (RULE 25-6(2))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF PROBATE OR GRANT OF ADMINISTRATION WITH WILL ANNEXED

① I, *{NAME}*, of *{address}*, *{Occupation}*, SWEAR/AFFIRM THAT:

1. I am the applicant/one of the applicants referred to in the submission for resealing in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for resealing as the will (the “will”), and am applying for the resealing of a grant of probate/grant of administration with will annexed issued by the **②** on **②** *{dd/mmm/yyyy}* in relation to the estate of the deceased.
2. **③** *{Optional paragraph 2}* The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.
2. **③** *{Optional paragraph 2}* I am an individual and ordinarily live at the following location:

City/Town:	<i>{City/Town}</i>
Province/State:	<i>{Province/State}</i>
Country:	<i>{Country}</i>
3. All of the persons to whom the foreign grant was issued are applicants in the submission for resealing.
4. **④** *{Optional paragraph 4}* I am not obliged under Rule 25-6(9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.
4. **④** *{Optional paragraph 4}* I am obliged under Rule 25-6(9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.

FORM P22
(Rule 25-6(2))

**AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF PROBATE
OR GRANT OF ADMINISTRATION WITH WILL ANNEXED**

Preparation (Continued)

- ❶ Select the appropriate option of this paragraph. If one (or more) testamentary document(s) other than the Will has been found, describe the reason why the other testamentary document(s) is/are invalid or irrelevant to this application.
- ❷ Select the appropriate paragraph depending on whether or not the Results of Wills Search shows that there is no will filed later than the will that is part of the foreign grant, or that the search shows that there has been no wills noticed filed at all.
- ❸ Insert paragraphs 7 to 10 in their entirety. The only change you may make is to change the wording from singular to plural.
- ❹ This jurat is for one applicant swearing the Affidavit. If several applicants are swearing the affidavit jointly, see the **Appendix to Forms - Affidavits**

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and to the **Checklist for Filing of Application Documents with the Probate Registry**.

Reminder: If there are several applicants and only one of them swears this affidavit, the remaining applicants must swear the **Form P24 Affidavit**.

Because of the statement in paragraph 6 of this Affidavit, it must be dated on or after the date of the **Submission for Resealing**.

Form P22

5. I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places both physical and electronic where the deceased usually kept important documents and

① no testamentary document of the deceased that is dated later than the date of the will has been found.

① one or more testamentary documents other than the will have been found. I believe that the other testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons: *{briefly state the reasons}*.

6. A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is filed with this application, and the certificate indicates that

② no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will that forms part of the grant included with this application.

② no wills notice has been filed at all.

7. I am not aware of there being any application for a grant of probate or administration in British Columbia.

8. Other than the grant I am submitting as part of this application, I am not aware of a grant of probate or administration, or equivalent, having been issued in relation to the deceased in any jurisdiction.

9. I have read the submission for resealing and the other documents referred to in that document and I believe that the information contained in that submission for resealing and those documents is correct and complete.

10. I will administer according to law the deceased's estate to which the submission for resealing relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

④ **SWORN/AFFIRMED BEFORE ME** at)
{Name of City/Town}, {British Columbia},)
 this ___ day of _____, 20__)

)
)
 _____)
 A commissioner for taking affidavits)
 for British Columbia)
{print name or affix stamp of commissioner})

{NAME}

FORM P23
(Rule 25-6(2))
AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED

General Notes

Form P23 is sworn when there is no Will and a grant of administration without will annexed was obtained in a prescribed foreign jurisdiction (see *Form P21*):

- after delivery of the *Notice* and of the documents required to be delivered with it, pursuant to Rule 25-2(1) (see the **Notice** chapter); and
- after the various affidavits to be filed with *Form P21 – Submission for Resealing* have been prepared and sworn (e.g. *Form P9 – Affidavit of Delivery* or any Affidavits required with the *Submission*).

If there are two or more foreign personal representatives to whom the foreign grant was issued, all of those foreign personal representatives must be applicants in the application for resealing.

Preparation

- ❶ This affidavit may be sworn by one of the applicants. If there are several applicants and only one of them swears this affidavit, the applicants who do not swear this affidavit must swear the *Form P24* Affidavit.
- ❷ Select the appropriate paragraph and if you have selected the second paragraph, provide the required information for the individual.
- ❸ Select the appropriate paragraph (see the **Notice** chapter with respect to **minors or mentally incompetent persons**).

Continued....

FORM P23 (RULE 25-6(2))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED**

❶ I, *{NAME}*, of *{address}*, *{Occupation}*, SWEAR/AFFIRM THAT:

1. I am the applicant/one of the applicants referred to in the submission for resealing in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”) and am applying for the resealing of a grant of administration without will annexed (the “foreign grant”) issued by the *{name and province or country of issuing court}* on *{dd/mmm/yyyy}* in relation to the estate of the deceased.

2. ❷ *{Optional paragraph 2}* The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

2. ❷ *{Optional paragraph 2}* I am an individual and ordinarily live at the following location:

City/Town: *{City/Town}*

Province/State: *{Province/State}*

Country: *{Country}*

3. All of the persons to whom the foreign grant was issued are applicants in the submission for resealing.

4. ❸ *{Optional paragraph 4}* I am not obliged under Rule 25-6(9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.

4. ❸ *{Optional paragraph 4}* I am obliged under Rule 25-6(9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.

FORM P23
(Rule 25-6(2))
AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED

Preparation (Continued)

- ❶ If one (or more) testamentary document(s) other than the Will has been found, describe the reason why the other testamentary document(s) is/are invalid or irrelevant to this application.
- ❷ Select the appropriate paragraph depending on whether or not the Results of Wills Search shows that there is a will which is the will filed with the application or that the search shows that there has been no will noticed filed.
- ❸ Insert paragraphs 7 to 10 in their entirety. The only change you may make is to change the wording from singular to plural.
- ❹ This jurat is for one applicant swearing the Affidavit. If several applicants are swearing the affidavit jointly, see the **Appendix to Forms - Affidavits**

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and to the **Checklist for Filing of Application Documents with the Probate Registry**.

Reminder: If there are several applicants and only one of them swears this affidavit, the remaining applicants must swear the **Form P24 Affidavit**.

Because of the statement in paragraph 6 of this Affidavit, it must be dated on or after the date of the **Submission for Resealing**.

FORM P24
(Rule 25-6(2))
AFFIDAVIT IN SUPPORT OF APPLICATION FOR RESEALING

General Notes

If there are several applicants and only one of them has sworn either:

- *Form P22 – Affidavit of Applicant for Resealing of Grant of Probate or Grant of Administration with Will Annexed;* or
- *Form P23 – Affidavit of Applicant for Resealing of Grant without Will Annexed;*

the remaining applicants (who do not swear one of the above affidavits) must swear the *Form P24* Affidavit.

Note: This is the equivalent of Form P8 Affidavit.

Preparation

- ❶ Insert the name of the foreign court. Remember: it must be one of the prescribed jurisdictions listed in **General Notes** with respect to *Form 21 – Submission for Resealing*.
- ❷ Select the correct form number and complete the name of the person swearing that affidavit and the date it was sworn.

Form P22: Affidavit of Applicant for Resealing of Grant of Probate or Grant of Administration with Will Annexed (page 126)

Form P23 *Affidavit of Applicant for Resealing of Grant of Administration* without Will Annexed (page 130).

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and to the *Checklist for Filing of Application Documents with the Probate Registry*.

Because of the statement in paragraph 6 of this Affidavit, it must be dated on or after the date of the *Submission for Resealing*.

FORM P24 (RULE 25-6(2))

This is the {1st/2nd/3rd/etc.} affidavit of {Name} in this case and was made on {dd/mmm/yyyy}.

No. _____ {Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of {LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT IN SUPPORT OF APPLICATION FOR RESEALING

I, {NAME}, of {address}, {Occupation}, SWEAR/AFFIRM THAT:

- 1. I am one of the applicants applying for the resealing of a grant of probate/grant of administration issued by the 1 {name and province or country of issuing court} on {dd/mmm/yyyy}. in relation to the estate of {LEGAL NAME OF THE DECEASED} (the "deceased").
2. I have read the affidavit in Form P 2 sworn on {dd/mmm/yyyy} by {name of person who swore that affidavit} and there is nothing in that affidavit that I know to be inaccurate.
3. I have read the submission for resealing and the other documents referred to in that document and I believe that the information contained in that submission for resealing and those documents is correct and complete.
4. I will administer according to law the deceased's estate to which the submission for resealing relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN/AFFIRMED BEFORE ME at {Name of City/Town}, {British Columbia}, this ___ day of _____, 20__
A commissioner for taking affidavits for British Columbia {print name or affix stamp of commissioner}

_____ {NAME}

FORM P25
(Rule 25-6(2))
AFFIDAVIT OF ASSETS AND LIABILITIES FOR RESEALING

General Notes

Form P25 is used with an application for resealing a foreign grant and is sworn by the applicant, or if there are several applicants, by one of them (subrule 25-6(2)(g)).

If you have been unable to obtain any of the information required to complete the *Statement of Assets, Liabilities and Distribution* attached to this affidavit, prepare and file with the *Submission a Form P27 – Authorization to Obtain Resealing Information*. In due course, when you have received the missing information, you can finalize and file this affidavit.

If after filing this affidavit (whether or not an estate grant is issued), the applicant discovers additional assets or liabilities that are not included in this affidavit, or discovers that the information contained in the affidavit is incorrect, prepare and file a *Form P26 – Supplemental Affidavit of Assets and Liabilities for Resealing* (page 140) listing the additional assets or liabilities (if they encumber and are registered against an asset), or listing the correct information. Additional probate fees, if any, must be paid for such assets.

Preparation

- ❶ If there are several applicants, at least one of them must swear *Form P25* (Rule 25-6(2)(g)).
- ❷ Insert the full name of the foreign court (for example: “Court of Queen’s Bench of Alberta (Surrogate Matter), Judicial Centre of Fort McMurray, Alberta, Canada”).

Processing

Ensure that the *Statement of Assets, Liabilities and Distribution* on the next page is properly completed and attached to this affidavit and that the exhibit is sworn on the same date as this affidavit.

FORM P25 (RULE 25-6(2))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT OF ASSETS AND LIABILITIES FOR RESEALING

I, **1** *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. I am an applicant for the resealing of a grant issued by the **2** *{name and province or country of issuing court}* on *{dd/mmm/yyyy}* in relation to the estate of *{LEGAL NAME OF THE DECEASED}* (the “deceased”).
2. The deceased was not ordinarily resident in British Columbia at the time of death.
3. All property of the deceased situated outside British Columbia, if any, has been, is being or will be administered by a foreign personal representative or otherwise under the law of a foreign jurisdiction.
4. I have made a diligent search and inquiry to find the property and liabilities of the deceased within British Columbia.
5. Attached to this affidavit as Exhibit A is a Statement of Assets, Liabilities and Distribution that discloses
 - (a) all of the property of the deceased within British Columbia, irrespective of its nature or value, that passes to the applicant in the applicant’s capacity as the deceased’s personal representative,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
6. If I determine that there is any property or liability within British Columbia that has not been disclosed in Exhibit A or that information contained in this affidavit or in any supplemental affidavit of assets and liabilities for resealing is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for resealing in Form P26 to disclose the correct and complete information.
7. In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN/AFFIRMED BEFORE ME (etc.)

FORM P25
(Rule 25-6(2))
AFFIDAVIT OF ASSETS AND LIABILITIES FOR RESEALING

General Notes

This *Statement of Assets, Liabilities and Distribution* must list all of the Deceased's property and liabilities situated in British Columbia that will be administered by the applicant.

Notes: Only list the assets and liabilities within British Columbia.

Do not list any property situated outside British Columbia that is or will be:

- administered by a foreign personal representative; or
- otherwise administered under the law of a foreign jurisdiction.

If you have been unable to obtain any of the information required to complete the *Statement of Assets, Liabilities and Distribution* attached to this affidavit, prepare and file with the *Submission a Form P27 – Authorization to Obtain Resealing Information*. In due course, when you have received the missing information, you can finalize and file this affidavit.

If after the resealing of the foreign grant, discovers additional assets or liabilities which are not included in this affidavit, or discovers that the information contained in the affidavit is incorrect, prepare and file a *Form P26 – Supplemental Affidavit of Assets or Liabilities* listing the additional assets or liabilities if they encumber (and are registered against) an asset, or the correct information. Additional probate fees, if any, must be paid for such assets.

Preparation

① ② ③

See *Form P10*

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

④

Probate fees are payable on the total shown on this line: the Gross Value of Assets Less Secured debts

Processing

The exhibit stamp at the top of the form must be dated and sworn the same date as the affidavit.

Form P25

EXHIBIT A

This is Exhibit A referred to in the affidavit of {NAME} sworn / affirmed before me on {dd/mmm/yyyy}.

A commissioner for taking affidavits for British Columbia

STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

Full legal name of the deceased: . {LEGAL NAME OF DECEASED}

Other names in which the deceased held or may have held an interest in property:

1. {Include all names that have been listed in Form P21}
2. {Include all names that have been listed in Form P21}

Part I	Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
	① or NIL	
	TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA	\$ _____
Part II	Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)	Value at death
	② or NIL	
	TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA	\$ _____
Part III	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death
	③ or NIL	
	TOTAL INTANGIBLE PERSONAL PROPERTY	\$ _____
	GROSS VALUE OF ASSETS LESS SECURED DEBTS	④ \$ _____

FORM P26
(Rule 25-6(7))
SUPPLEMENTAL AFFIDAVIT OF ASSETS
AND LIABILITIES FOR RESEALING

General Notes

The applicant has sworn in *Form P25* that:

“6. If I determine that there is any property or liability within British Columbia that has not been disclosed in Exhibit A or that information contained in this affidavit or in any supplemental affidavit of assets and liabilities for resealing is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities in Form P26 to disclose the correct and complete information.”

Accordingly, *Forms P26 -- Supplemental Affidavit of Assets* disclosing the new information must be filed if after resealing of a foreign grant, the personal representative learns of or discovers:

- another asset; or
- another liability (i.e. debt secured against an asset);
- the change in value of an asset as at the date of death because it was over or under-estimated or an asset was reported twice;
- that the value of an asset was reported in error (for example, it was in the joint names of the Deceased and another person or an account had a designated beneficiary);
- an error in the description of an asset; or
- any other information that renders the contents of the original *Affidavit of Assets* incorrect or incomplete;

If there is an increase in the estate’s value, the additional fee resulting from such increase must be paid. The probate registry will calculate the additional fee at the rate in effect at the time of the original filing. On the other hand, if there is a reimbursement, a refund of the overpayment may be requested when the affidavit is filed (see “**Obtain Amount of Probate Fees and Remit to Probate Registry**” in chapter III B-1 – **Application for Representation Grant**).

Preparation

- ❶ Insert the number stamped by the probate registry when the *Submission* was filed with the original application.
- ❷ If there are several applicants for resealing, at least one of them must swear *Form P26* (Rule 25-6(2)(d)).
- ❸ You may add here a paragraph explaining the situation, for example:

“The gross value of the estate as shown in the Exhibit A to the Form P25 – Affidavit of Assets and Liabilities as filed was: $\{original\}$ and the amended gross value of the estate is now $\{new\}$, resulting in a difference of $\{calculate\}$ on which the refund is (or additional fees are) to be calculated.”

Processing

Ensure that the *Statement of Assets, Liabilities and Distribution* on the next page is properly completed and attached to this affidavit and that the exhibit is sworn on the same date as this affidavit.

FORM P26 (RULE 25-6(7))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. ① _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of

{LEGAL NAME OF DECEASED}, Deceased

**SUPPLEMENTAL AFFIDAVIT OF ASSETS
AND LIABILITIES FOR RESEALING**

I, ② *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. I am an applicant for the resealing of a grant issued by the *{name and province or country of issuing court}* on *{dd/mmm/yyyy}* in relation to the estate of ***{LEGAL NAME OF THE DECEASED}*** also known as *{indicate any other names by which the deceased was known}* (the “deceased”).

2. An affidavit of assets and liabilities for resealing has been filed in this proceeding.

3. Attached to this affidavit as Exhibit A is a Supplemental Statement of Assets, Liabilities and Distribution that discloses:

- (a) all of the property of the deceased within British Columbia that was not disclosed or was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this proceeding,
- (b) the value of that property, and
- (c) the liabilities that charge or encumber that property.

③

4. If I determine that there is any property or liability within British Columbia that has not been disclosed in Exhibit A or in any earlier affidavit of assets and liabilities filed in this proceeding or that information contained in this affidavit or in any of those previous affidavits is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for resealing in Form P26 to disclose the correct and complete information.

5. In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN/AFFIRMED BEFORE ME (etc.)

FORM P26
(Rule 25-6(7))
SUPPLEMENTAL AFFIDAVIT OF ASSETS
AND LIABILITIES FOR RESEALING

This *Supplemental Statement of Assets, Liabilities and Distribution* attached to the *Form P26 Affidavit* must list only:

- all of the Deceased's property in British Columbia that was not disclosed in any earlier *Statement of Assets, Liabilities and Distribution* filed in this proceeding;
- the value of that property; and
- the liabilities that charge or encumber that property.

that will be administered by the applicant.

Note: Additional probate fees (if any) are calculated on the difference between the original amount shown on *Form P25* and the new amount on this form. The refund will be calculated by the probate registry in a similar manner.

Preparation

1 2 3 See *Form P10*

For a detailed explanation as to how to complete the Disclosure Statement and describe each asset, see the Appendix at the end of this chapter

- 4** Probate fees are payable on the total shown on this line: the Gross Value of Assets Less Secured debts

Processing

Ensure that the *Supplemental Statement of Assets, Liabilities and Distribution* is properly completed and attached to this affidavit and that the exhibit is sworn on the same date as this affidavit.

In order to file this Affidavit, prepare a *Form P41 – Requisition* and insert the following under “Required”:

- the rule or other enactment relied on: Rule 25-3(9);
- calculation of additional probate fees payable with respect to this filing.

or, if a refund is requested insert the following:

- calculation of refund of probate fees to be sent by cheque made payable to *{name and address of law firm or name of personal representative}*.

Do not include the amount. The probate registry will calculate the additional fee or refund and advise you in due course.

Form P26

EXHIBIT A

This is Exhibit A referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

A commissioner for taking affidavits for British Columbia

SUPPLEMENTAL STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P21}*
2. *{Include all names that have been listed in Form P21}*

Part I	Real Property within British Columbia not disclosed or inaccurately disclosed (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
	❶ or NIL	
	TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA	\$ _____
Part II	Tangible Personal Property within British Columbia not disclosed or inaccurately disclosed (including vehicles, furniture and other physical items)	Value at death
	❷ or NIL	
	TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA	\$ _____
Part III	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia not disclosed or inaccurately disclosed that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death
	❸ or NIL	
	TOTAL INTANGIBLE PERSONAL PROPERTY	\$ _____
	GROSS VALUE OF ASSETS LESS SECURED DEBTS	❹ \$ _____

FORM P27
(Rule 25-7(1))
AUTHORIZATION TO OBTAIN RESEALING INFORMATION

General Notes

In some instances, the holder of an asset is unwilling to provide the applicant (or the law firm) with the requisite information (for example, a bank is concerned about privacy or security). In such cases, the application may be filed without the relevant *Affidavit of Assets and Liabilities* and the court will issue this Authorization.

The probate registry will not issue this authorization if a *Notice of Dispute* is filed with respect to this estate.

Complete this form when the other application documents are being prepared and file it with the application for resealing.

Preparation

- ❶ Insert the name of all the applicants.
- ❷ Copy the full name of the foreign court from the foreign grant.
- ❸ If the asset is held in a name that is different from the name in the style of proceeding, insert that other name as “also known as” (see the **Appendix** at the end of this chapter – **Style of Proceeding**). For example: if the full legal name of the Deceased was “Guiseppe Antonio Goya” but the bank account was in the name of “Joseph A. Goya” and he was known at the bank as “Joe Goya”, insert “Joseph A. Goya also known as Joe Goya”. These names are in addition to the legal name in ❷.

Processing

File the form with the estate application.

Once this form is received from the probate registry, mail it to the institution that did not provide you with information with the *Letter with Authorization to Obtain Estate/Resealing Information* (**Pre-Application Letters** chapter).

Notes: Upon receiving the information, finalize the appropriate *Affidavit of Assets and Liabilities* and file it with the probate registry.

Diarize the file upon filing the *Authorization* with the probate registry and then again, when sending the above *Letter with Authorization to Obtain Estate/Resealing Information*.

FORM P27 (RULE 25-7(1))No. _____
{Location} Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased**AUTHORIZATION TO OBTAIN RESEALING INFORMATION****TAKE NOTICE THAT ❶ {NAME(S)}**

1. has/have applied for the resealing of a grant issued by the ❷ **{name and province or country of issuing court}** on **{dd/mm/yyyy}** in relation to the estate of **{LEGAL NAME OF DECEASED}**, also known as ❸ **{indicate any other names by which the deceased was known}** (the “deceased”), whose last residential address was **{residential address of deceased}**;
2. is/are recognized as the person(s) for whom the grant will be resealed once the court is satisfied that all remaining filings and fee payments have been made; and
3. is/are authorized to obtain information about the assets and liabilities of the deceased.

AND TAKE NOTICE THAT, unless you provide to the applicant(s), within 30 days after the date on which this authorization to obtain resealing information is delivered to you, information respecting the nature and value of any assets of the estate of the deceased that are in your possession or control, the applicant(s) may make application under Rule 25-8(2), set out below, for an order requiring delivery of that information and seeking costs from you for that application.

THIS AUTHORIZATION TO OBTAIN RESEALING INFORMATION DOES NOT AUTHORIZE THE APPLICANT(S) TO TAKE DELIVERY OF ANY OF THE ASSETS OF THE DECEASED.

Registrar

Rule 25-8(2) of the Supreme Court Civil Rules states:

Order to provide information

- (2) A person to whom a copy of an authorization to obtain estate information or an authorization to obtain resealing information is delivered under subrule (1) must, within 30 days after the date of delivery:
 - (a) deliver to the applicant information as to the nature and value of those assets of the deceased’s estate that are in the person’s possession or control; or
 - (b) if the person:
 - (i) has possession or control of a safety deposit paragraph, a safe, a storage locker or any other thing or place where the deceased kept or may have kept records or assets; and
 - (ii) does not have a document that itemizes the contents of that thing or place,
 allow the holder of the authorization to obtain estate information or authorization to obtain resealing information to have access to that thing or place for the purposes of listing its contents.

FORM P28
(Rule 25-7(2))
IN PROBATE

General Notes

This form certifies that the foreign grant has been resealed in British Columbia.

Certain probate registries prefer that the law firm prepare this document and file it with the application. However, if the firm does not, the registry will complete the Form when the application has been approved and the probate fees have been paid.

Preparation

- ❶ Copy the number assigned by the court when the *Submission for Resealing* was filed.
- ❷ Insert the legal name as shown in the style of cause copied from the *Submission for Resealing*. The name must be the same as in the foreign grant being resealed.
- ❸ Describe the foreign grant.
- ❹ Leave this date blank. It will be completed by the probate registry when the grant is issued.

Processing

File the form with the application documents.

FORM P28 (RULE 25-7(2))No. **1** _____
{Location} Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of
{LEGAL NAME OF DECEASED} **2**, Deceased**IN PROBATE**The *{describe grant}* **3** attached to this certificate has been resealed by the Supreme Court of British Columbia on *{dd/mmm/yyyy}* **4**

(Place seal below)

By the Court.

Registrar

**FORM P44
(Rule 25-3.2)**

NOTICE OF WITHDRAWAL OF APPLICATION

General Notes

An applicant may withdraw the applicant's application for estate grant at any time before a grant is issued, by:

- filing a *Form P44 - Notice of Withdrawal*; and
- delivering a copy of the *Notice of Withdrawal* to every person who was entitled to notice under the original application.

Preparation

- ❶ Insert the number stamped by the probate registry on the *Submission for Estate Grant*.
- ❷ Insert the name(s) of all the applicants from the Submission.
- ❸ This form may be signed by the applicant or by the lawyer.

Processing

At this time, the requirement for filing of the Notice have not been established.

**FORM P44
(Rule 25-3.2)**No. ❶ _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased**NOTICE OF WITHDRAWAL OF APPLICATION**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by: ❷ ***{NAME(S) OF APPLICANT(S)}*****TAKE NOTICE** that the applicants, ❷ ***{NAME(S) OF APPLICANT(S)}***, withdraw(s)
{NAME(S) OF APPLICANT(S)}'S application for estate grant.Date: *{dd/mmm/yyyy}*_____
Signature of ❸ applicant
❸ lawyer for applicants*{type or print name}*

FORM P45
(Rule 25-3 (3))

AFFIDAVIT OF ELECTRONIC WILL

If the application Will be for a grant of probate or grant of administration with will annexed and the will related to the application is an electronic Will, the following must be filed with the other application documents:

- if the original electronic form of a will was saved in PDF, the will in that format;
- if the original electronic form of a will was saved in PDF, the will in that format;
- if the original electronic will was not first saved in PDF, and:
 - a physical copy, or a copy saved in PDF,
 - an affidavit in Form P4, and
 - an affidavit in Form P45;
- in the case of an electronic will that is maintained in a third-party electronic repository:
 - a physical copy, or a copy saved in PDF,
 - an affidavit in Form P4,
 - an affidavit in Form P45, and
 - information about how the third-party electronic repository can be accessed for the purpose of viewing the Will;
- if an order has been made that affects the validity or content of the electronic will and that order has not yet been filed in the proceeding within which the estate grant is being sought, a copy of that order;

Preparation

- ① Select the paragraph that applies depending on how the electronic Will was signed and witnessed or locked to prevent editing.
- ② Indicate format, for example: MS Word, Apple Pages, Google Doc, etc.
- ④ Describe how the deponent ensured that the last date the original electronic form of the Will was edited is the same date that the electronic Will was signed and witnessed.
- ④ Describe how the deponent ensured that the original electronic form of Will was locked to prevent editing.

Processing

Refer to the **Applications for Representation Grants Procedure** chapter for a list of the other documents to be filed with the application for the appropriate grant and the ***Checklist for Filing of Application Documents with the Probate Registry***.

FORM P45 (Rule 25-3 (3))

This is the {1st/2nd/3rd/etc.} affidavit of {Name} in this case and was made on {dd/mmm/yyyy}.

No. {Location} Registry

In the Supreme Court of British Columbia
In the Matter of the Estate of {LEGAL NAME OF DECEASED}, Deceased

AFFIDAVIT OF ELECTRONIC WILL

I, {NAME}, of {address}, {Occupation}, SWEAR / AFFIRM THAT:

- 1. I confirm that the original electronic form of the will is 2. Before creating a physical copy or creating a digital reproduction of the will in a Portable Document Format (PDF) to submit to the court registry as part of this application, I ensured that the last date the original electronic form of the will was edited is the same date that the electronic will was signed and witnessed, by checking in the following manner 3.
2. I confirm that the original electronic form of the will is 2. Before creating a physical copy or creating a digital reproduction of the will in a Portable Document Format (PDF) to submit to the court registry as part of this application, I ensured that the original electronic form of the will was locked to prevent editing in the following manner 4.

SWORN / AFFIRMED BEFORE ME)
at {City/Town}, Province of British)
Columbia, this ___ day of _____,)
2021)
)
))
))
A commissioner for taking affidavits)
in British Columbia)

{NAME}

[print name or affix stamp of commissioner]

FORM P46
(Rule 25-2 (1.1))
DEMAND FOR ELECTRONIC WILL

General Notes

When there is a will, and an application is made for an estate grant or the resealing of a foreign grant in relation to the estate of a deceased, a ***Form P1 Notice of Proposed Application in Relation to Estate*** must be delivered (ss. 121 and 138(2) of WESA). A copy of the Will must accompany the Notice. **Chapter III B-2 – Notice of Proposed Application in Relation to Estate** sets out what documents must accompany the Notice, the timing, and the list of persons to whom Notice must be delivered.

If the Will is an electronic one, the recipient of the Notice has the right to demand to be provided with either:

- the Will in its original electronic form; or
- access to the Will in its original electronic form if the original electronic Will is stored only at a secure online location.

The above right may be exercised by delivering to the applicant a demand for the Will in its original electronic form in ***Form P46***. Upon receipt of the Demand, the applicant must provide the Will in its original electronic form or provide access to the Will in its original electronic form within 7 days of receiving a demand in ***Form P46***.

Preparation

This Demand is usually prepared by the lawyer for the party who received Notice, not by the lawyer for the estate.

- ❶ Insert the name and address of the person entitled to Notice – the recipient of the Notice who is making the demand.
- ❷ . Insert name of applicant who delivered the ***Form P1 Notice***.

Processing

Once prepared and signed, arrange to send the Demand to the address for service on the ***Form P1 Notice*** and diarize the date 7 days from the date of the Demand to check that the requested document and/or information have been received.

If not received, seek further instructions from the client.

FORM P46 (RULE 25-2 (1.1))

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

DEMAND FOR ELECTRONIC WILL

I, **①** *{NAME}* of *{Address}*, in accordance with Rule 25-2 (1.1), require you, **②**, to provide me with either the will of *{NAME OF THE DECEASED}* in its original electronic form or access to the third-party electronic repository where the will of *{NAME OF THE DECEASED}* is stored, if this is where the sole copy of the will in its original electronic form can be accessed.

If there are expenses in order to access the third-party electronic repository where the will of *{NAME OF THE DECEASED}* is stored for the purpose of viewing the will, then, in accordance with Rule 25-15, you must reimburse me for those expenses.

You have 7 days to comply with this demand.

If I am concerned about the validity of the will, I am entitled to file a Notice of Dispute at any time and may choose to do so before the expiry of the 21-day notice period referred to in Form P1 Notice of Proposed Application in Relation to Estate, in order to prevent a grant from issuing to you, so that I have time to assess the electronic will. A Notice of Dispute filed must not be removed until it expires or is withdrawn by me or by order of the court.

Date: *{dd/mmm/yyyy}*

 Signature of notice recipient

① *{type or print name}*

