

FORM P43
(Rule 25-14(2))
PETITION TO THE COURT – ESTATE PROCEEDINGS

General Notes

If there is **no** existing proceeding within which it is appropriate to apply for an Order:

- under section 30 of WESA determining the value of a Deceased's interest in a spousal home within the meaning of WESA;
- under section 33 of WESA relating to a spousal home within the meaning of WESA;
- under section 58 of WESA respecting deficiencies in a document that does or may disclose a testamentary intention or testamentary disposition of a Deceased;
- under section 59 of WESA rectifying a Will;

the proceedings are commenced by *Form P43 – Petition to the Court – Estate Proceedings*.

However, if there is already an existing proceeding within which it is appropriate to seek such an order, the application must be brought by *Form P42 – Notice of Application*.

Preparation

- ❶ Leave this number blank, as the court will assign a number for the proceeding.
- ❷ Insert the name of the party bringing the application. The applicant is usually your client and may not necessarily be the applicant for the estate grant.
- ❸ Check whichever one or more of the immediately following 4 boxes is correct and using numbered paragraphs, set out the order(s) that will be sought at the application indicating against which person(s) the order(s) is/are sought.
- ❹ Check this box if you are applying under section 30 of WESA [Dispute over value of deceased person's interest] to determine the value of a Deceased's interest in a spousal home within the meaning of WESA and describe the order(s) sought.
- ❺ Check this box if you are applying under section 33 of WESA [Retention of Spousal Home] relating to a spousal home within the meaning of WESA and describe the order(s) sought.
- ❻ Check this box if you are applying under section 58 of WESA [Court order curing deficiencies] respecting deficiencies in a document that does or may disclose a testamentary intention or testamentary disposition of a Deceased, describing the order(s) sought.
- ❼ Check this box if you are applying under section 59 of WESA to rectify a Will, describing the order(s) sought.

Continued...

FORM P43 (RULE 25-14(2))

No. _____
{Location} Registry

In the Supreme Court of British Columbia

Between:

{NAME(S) OF PETITIONER(S) }

Petitioner(s)

And

{NAME OF RESPONDENT(S)}

Respondent(s)

*{or, if there is no person against whom relief is sought:}*Re: *{State the person by whom, or the entity in respect of which, relief is sought.}***PETITION TO THE COURT – ESTATE PROCEEDINGS***{Rule 22-3 of the Supreme Court Civil Rules applies to all forms.}***ON NOTICE TO:***{insert name and address of each person to be served}*

This proceeding is brought for the relief set out below, by

[Check whichever one of the following boxes is correct and complete any required information.]

- the person(s) named as petitioner in the style of proceeding above
- {name(s)}* (the petitioner(s))

If you intend to respond to this petition, you or your lawyer must:

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
- (i) 2 copies of the filed response to petition, and
- (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (c) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (d) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (e) if you were served with the petition anywhere else, within 49 days after that service, or
- (f) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is: <i>{insert full address of the court registry}</i>
(2)	The ADDRESS FOR SERVICE of the petitioner(s) is <i>{Set out the street address of the address for service of each petitioner. One or both of a fax number and an e-mail address may be given as additional addresses for service.}</i> Fax number address for service (if any) of the petitioner(s): E-mail address for service (if any) of the petitioner(s):
(3)	The name and office address of the petitioner's(s') lawyer is: <i>{insert name and address}</i>

CLAIM OF THE PETITIONER(S)

PART 1: ORDER(S) SOUGHT

The petitioner(s) seek(s) the following order(s):

{Check whichever one or more of the immediately following 4 boxes are correct and, using numbered paragraphs, set out the order(s) being sought and indicate against which person(s) the order(s) is(are) sought.}

The petitioner(s) seek(s) the following order(s) under section 30 of the *Wills, Estates and Succession Act*:

- 1. ◆
- 2. ◆

- The petitioner(s) seek(s) the following order(s) under section 33 of the *Wills, Estates and Succession Act*:
1. ◆
 2. ◆
- The petitioner(s) seek(s) the following order(s) under section 58 of the *Wills, Estates and Succession Act*:
1. ◆
 2. ◆
- The petitioner(s) seek(s) the following order(s) under section 59 of the *Wills, Estates and Succession Act*:
1. ◆
 2. ◆

PART 2: FACTUAL BASIS

{Using numbered paragraphs, set out the material facts on which this petition is based.}

1. ◆
2. ◆

PART 3: LEGAL BASIS

{Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal basis on which the petitioner(s) intend(s) to rely in support of the orders sought.}

1. ◆
2. ◆

PART 4: MATERIAL TO BE RELIED ON

{Using numbered paragraphs, list the affidavits served with the petition. Each affidavit included on the list must be identified as follows: “Affidavit # {sequential number, if any, recorded in the top right hand corner of the affidavit} of ...(name)..., made ...(dd/mm/yyyy)...”}

1. ◆
2. ◆

The petitioner(s) estimate(s) that the hearing of the petition will take *{insert time estimate}*

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

Signature of petitioner / lawyer for petitioner(s)

{type or print name}

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this petition

with the following variations and additional terms:

Date: _____
[dd/mmm/yyyy]

Signature of Judge Master