



**STRATHCONA
LAW GROUP**

**ESTATE PLANNING GUIDE
AND WILL WORKSHEET**

Your Will

A Will is a legally binding document that expresses your last wishes. It comes into effect only on your death and allows you to deal with such things as the disposition of your assets and the care of your children after your death.

Everyone should have a Will in place and, while a handwritten Will may be accepted in some provinces, we believe it is best to have a formal Will prepared to ensure any special circumstances are addressed. There are a number of obscure legal issues which, if not taken into consideration, could have costly and potentially disastrous results for your estate and those you want to benefit. Having access to legal counsel when preparing your Will ensures that all issues relevant to your personal situation are considered and dealt with appropriately.

The following basic terms are generally included when preparing a Will:

- **Personal Representative:** A Personal Representative, and an alternate, should be chosen who will carry out your wishes. Where necessary, a Personal Representative's powers can be expanded from the guidelines imposed under law.
- **Specific Gifts:** You can give certain items or specific amounts of money to certain individuals. You can also re-designate or designate insurance policies, registered retirement savings plans and registered income funds, depending on the legislation governing those plans.
- **Dividing the Remainder:** The funds and assets remaining after payment of debts and specific gifts can be divided in accordance with your direction.
- **Guardians:** If you have minor children, you will want to appoint a guardian of these children. You can also set up trusts to provide for their needs until adulthood, including support and education.
- **Trusts:** A trust will give a beneficiary the benefit of certain assets, without the ownership. Trusts are set up for tax purposes, preservation of assets and for beneficiaries who are children or need financial guidance due to disability.

- **Special Instructions:** You may include burial instructions in your Will or instructions relating to the disposition of certain items such as your business or other personal property, including keepsakes, jewelry or artwork.
- **Tax Directions:** Your Personal Representatives may be provided with certain directions to allow them to take advantage of certain tax savings and benefits.

It is important to address certain circumstances in your Will such as a common law relationship, second marriage or dependent child. As well, your Will should be reviewed regularly. We suggest you do so at least every two years. In the following circumstances, you may wish to revise an old Will or write a new one:

Change in marital status (remarriage revokes a Will - divorce does not)

Birth or death in your family;

Either you or your Personal Representative moving out of the Province of Alberta (it is best to have a Personal Representative residing in the same province as you);

Change in your wishes as to who is named in your Will to receive a gift or what they are to receive;

Changes to any tax or estate laws.

It is important to note that making any physical changes to your Will, such as crossing out or adding words, may invalidate provisions of your Will. Having a new Will prepared, or a separate Codicil for minor changes, is essential.

Enduring Power of Attorney

While a Will is the cornerstone of a good estate plan, it is also wise to have an Enduring Power of Attorney (EPA) in place. An EPA enables you to appoint someone you trust to look after your **finances** should you be unable to. This document should be drafted before you become disabled and it will come into effect when you no longer have the ability to make decisions on your own as a result of injury or illness. Your incapacity will generally have to be confirmed in writing by two medical practitioners.

If you do not have an EPA, it will be necessary for someone to apply to the Courts for an order appointing a trustee to handle your financial affairs should you become incapacitated. This is a procedure that can be very costly, time consuming and potentially traumatic to your family.

Personal Directive

In addition to having a Will and Enduring Power of Attorney, many people choose to have a Personal Directive in place. These are sometimes referred to as "Living Wills". A Personal Directive allows you to appoint someone to make decisions about such things as your **personal care, medical care, your residence and your social needs** if you become unable to make these decisions yourself. As with the EPA, without a Personal Directive an application to the Courts would have to be made to appoint someone to act as your guardian. Again, this is costly and can be troublesome for your family.

YOUR NEXT STEP

We have provided a basic Worksheet at the end of this Estate Planning Guide. Once you have given some thought to the items contained in the Worksheet and reviewed them with your family, call us for an appointment to review your circumstances and finalize an estate plan that is responsive to your situation and your family's needs.

Strathcona Law Group is a general practice law firm with a focus in the areas of commercial litigation, bankruptcy and insolvency law, corporate and commercial law, real estate transactions, personal injury claims, and wills and estates matters.

Please contact us at (780) 417-9222 if you have any questions relating to the information contained in this Estate Planning Guide.

Will Worksheet

Name: _____

Address:

Phone Numbers: home _____

office _____

other _____

Marital Status: _____

Name of Spouse (if any): _____

Names, birthdates of children (if any and addresses if applicable):

Are any of your children mentally or physically incapable of
handling their own affairs?..... Yes No

Do you presently have a Will? Yes No

Who will receive your property after your death?

Spouse

Children (list those you wish to include)

Other Family (list those you wish to include)

Friends (list those you wish to include)

A favorite charity (list those you wish to include with legal name and address)

In the event you are leaving part of your estate to children who are less than 18 years of age, you should specify when you wish them to receive all or part of their shares.

at age 18

at age 21

at age 25

1/3 split at age 18, 21,25

other (please specify)

Are there any heirlooms or items of significance that you would like to have a specific person receive? (List items / name of recipients)

***Who will you appoint to act as your primary personal representative
(the person or persons who carries out the terms of your will after your death)?***

Is there an alternate person in case the first person(s) selected cannot act?

***If you have children under the age of 18 years who would you like to appoint to care for them in
your place if you (and your spouse) die before they are adults?***

Is there an alternate person in case the first person(s) you select cannot act?

Enduring Power of Attorney

Who would you appoint to act as your attorney if you become unable for medical reasons to make reasonable **financial** decisions for yourself?

Is there an alternate person in case the first person(s) you select cannot act?

Personal Directive

Who would you appoint as your agent to make decisions concerning your **medical, personal and social issues** if you become unable for medical reasons to make reasonable decisions for yourself?

Is there an alternate person in case the first person(s) you select cannot act?
