INTEGRA
LAW GROUP

Estate Planning Guide And Related Issues*

*This guide is for information purposes only. It does NOT constitute legal advice or other professional advice and you may not rely on the contents of this as such.

integralaw.ca | info@integralaw.ca
101-2776 Bourquin Crescent, Abbotsford, BC V2S 6A4
Tel: 604-859-7187 | Fax: 604-859-7185
* *Denotes Personal Law Corporation*

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INTRODUCTION

Estate planning is one of the most important steps you can take to provide for your family and loved ones in the event of your death or other unexpected event. When estate planning is done properly, there will be a smooth transfer of your assets to those you wish to benefit. This will save your family money and heartache. Estate planning can also insure that proper safeguards are put in place to insure that beneficiaries have the necessary maturity to deal with the wealth they are receiving.

Proper estate planning is more than just the creation of a well drafted Will. It involves looking at the way ownership of your assets is organized, reviewing your life insurance policies, the beneficiaries of your RRSPs, and your employment pension plans. At Integra Law Group, we do more than prepare Wills, we PLAN your estate.

We will make recommendations to you that will insure that your assets pass to those you want as efficiently and as inexpensively as possible. We point out the strengths and weaknesses of how you have organized the beneficiaries of your life insurance policies and RRSPs. At times, we may recommend that you change the way you have structured the ownership of certain assets so that probate fees and income taxes can be reduced.

The estate planning questionnaire attached at the end of this booklet provides us with the information we need to give you proper estate planning advice and to create a legally binding Will. However, completion of the questionnaire is not necessary before making an appointment for estate planning of the drafting of a Will.

SHOULD I USE A LAWYER FOR ESTATE PLANNING?

At Integra Law we regularly practice in the area of Wills and Estates and have the knowledge and experience to provide you with the best estate planning advice possible. We are often able to anticipate future problems which may arise with your Will and develop effective strategies for dealing with those problems.

Even if your estate is small, a poorly drafted Will or no Will may end up costing your estate thousands of dollars in extra legal fees. If someone challenges your will or there is a mistake, it could cost your estate $3,000 to $20,000 in legal costs, if not more.

Unlike notaries, lawyers are not limited to simple wills. We can draft trust agreements that distribute to your children in a gradual manner and we can consider a wide range of other testamentary plans that fit your unique situation. Given that your estate may be worth hundreds of thousands of dollars, it makes sense to obtain professional advice from a lawyer experienced with estate planning.

The old expression that you get what you pay for is true in estate planning. The cost of good professional estate planning advice is often recovered through savings to your estate in probate fees, income taxes, unnecessary court applications and the wise use of your estate assets.

WHAT HAPPENS IF I DIE WITHOUT A WILL?

If you die without a valid Will, the distribution and handling of your estate is governed by pre-set rules which are inflexible. Since you have not named an executor, someone must apply to the Court to be appointed as the administrator of your estate. The administrator may be required by the court to post a bond to insure that your estate is administered and distributed according to the law. If no one applies to act as administrator of your estate, an Administrator may be appointed. While the powers and duties of an administrator may be the same as those of an executor under a Will, the process of administration where there is no Will is more time consuming and costly.

The Will, Estates and Succession Act states how your estate will be distributed if you die without a valid Will. Generally, your spouse and children will be provided for first out of your estate and if you do not have a spouse or children, your estate passes in order of priority to your parents, brothers and sisters, nieces and nephews, and then to your closest blood relatives. If you die leaving no next of kin, your estate passes to the provincial government.

Recent changes to the legislation in British Columbia have changed how an estate is divided. A spouse no longer has the automatic right to stay in the family home, but is given the first $300,000 of the value of the estate and half of the remainder. If you have children from a previous relationship, your spouse will receive $150,000 of the estate and half of the remainder. This may cause complications if your major asset is the house as your spouse may be required to sell the house or go to court to seek permission to delay the sale. If you have children under the age of majority, their share may be held by the public guardian who will charge an administration fee and it could be a tedious process for your spouse or children to access these funds.

If you have been in a “marriage-like” relationship with a person for two years or even if you are married and have a prenuptial agreement, your married or common-law spouse will be entitled to the majority of your estate when you die, whether this was your intention.

If you do not wish your estate to be distributed in the above fashion, you must make a Will.

COMPONENTS OF A PROPER WILL

EXECUTORS

One of the most crucial decisions you can make in your Will is the appointing of your executor. The executor is the person who will oversee your estate after your death and will make sure that your wishes set out in your Will are followed. They are responsible for your funeral arrangements, safeguarding your assets, and administering any trusts which you set up under your Will. An executor has a great deal of responsibility and needs some organizational skills.

Your executor will become the legal owner of all your assets when you die. They are then responsible for passing on these assets to your beneficiaries. They will make crucial decisions and it is important that your executor have a good judgment, business sense and be able to relate well with the members of your family. Accordingly, your choice of an executor is very important. You should also choose an alternative executor in case your first executor is not able to do the task because of illness, incompetence or death. Failure to appoint an alternative executor can result in unnecessary cost and delay in the handling of your estate.

You can appoint more than one person to act as your executors. However, you then need to ensure that the persons appointed can work together as all decisions must be by consensus. As well, both executors' signatures will be required on numerous documents. As a result, appointing executors in different locations of the country will result in some delay in obtaining necessary signatures.

GUARDIANS

If you have minor children (In British Columbia children under the age of nineteen are considered minors) you will need to appoint a guardian for that child. Even an eighteen year old needs a guardian who will have the legal right to make decisions and sign documents for that child. A guardian has the responsibility to make decisions regarding your children's health care and decisions regarding their care and upbringing, including education. In the event that you are gone, they are the ones who will bear the responsibility of raising your children.

Failure to appoint guardians will result in the Public Trustee and Ministry for Children and Families becoming the guardians of your under-aged children. If you have minor children, the appointing of guardians in your Will is extremely important. You should check with people before naming them as guardians to ensure that they are prepared to accept the responsibility of caring for your children in the event of your death. As well, you should provide for alternate guardians in case the persons you have appointed are unable to do the job.

GIFT PROVISIONS

Your Will outlines who is to receive your assets when you pass away and at what time they will receive those assets. If you have children, you may wish to set up trust provisions where your executor will hold assets in trust for your children until they reach majority or an age when you think they will be more responsible, such as 25 years. Prior to your children turning 25 years old, your executor (or another person named as trustee) can use the money to pay for that child's education, upbringing, health care, etc. When your child turns 25 years old, he or she would receive the money being held in trust.

A trust is created when someone holds property for the use, benefit and enjoyment of another person. The person holding the property is known as the "trustee" and the person receiving the benefit of that property is known as the "beneficiary".

You may also wish to give certain money to charities or other organizations such as the B.C. Heart and Stroke Foundation, your church, or other similar organizations.

In deciding who is to receive your assets you should consider the possibility that the beneficiary you have chosen may die before you. If that would happen you should specify in your Will who is then to receive those assets. The Wills, Estates and Succession Act of B.C. has a number of rules that may apply when a beneficiary predeceases you if you don't specify this in your Will.

If you have beneficiaries who are receiving certain disability benefits or other Government Pension, you may wish to organize your gift to that beneficiary to ensure they do not lose any of those benefits. The giving of a lump sum amount to a mentally disabled adult may result in that person losing all of their government benefits. It is often better for you to set up a discretionary trust for that mentally disabled adult so that they can receive their regular monthly pensions from the government and have your estate top up their benefit as required.

If some of your beneficiaries are under the age of 19 years (eg. Grandchildren or nieces and nephews), you will need to make sure trust provisions are in place for those minor beneficiaries, otherwise that child's gift will need to be paid to the Public Trustee. The Public Trustee will then hold that gift for that minor beneficiary until he or she turns 19 years of age.

PERSONAL PROPERTY AND HOUSEHOLD ITEMS

If you wish to make specific gifts of personal property such as household furnishings or family heirlooms, you can reference these by creating a signed memorandum that is filed with the Will and can only be changed by updating your Will. A more flexible option is to create a wish list that you provide to your executor and they can then use this to divide your household items. The more valuable the item and more likely your gift may be contentious within your family may assist you in determining which path is best.

ADMINISTRATIVE PROVISIONS

The administrative provisions of your Will outline what your executor can and cannot do with your assets. They deal with items such as:

(a) the power to sell or delay the selling of your assets;
(b) investment powers of trustees;
(c) the claiming of compensation for doing the job of executor;
(d) the ability to make certain decisions concerning your final income tax returns;
(e) distribution of your physical assets (eg. Household items, personal effects etc.); and
(f) accepting of receipts from non-profit organizations, etc.

If you own an company, your will can also provide specific directions to your executor on how to handle corporate decisions and what actions to take until such time as your company is sold or passed onto your beneficiaries.

FUNERAL WISHES

You can indicate your funeral wishes such as cremation or burial in your Will as well as what sort of ceremony, if any, you would like. The wishes spelled out in your Will are binding on your executor. However, you should tell your family and your executor in advance what your funeral wishes are as sometimes people do not look at your Will until after your funeral.

It is often helpful to make arrangements for your funeral in advance. By doing this, you may be able to obtain better pricing for your funeral and make it easier for your loved ones in a solemn time. Even if you do not wish to purchase a pre-paid funeral plan, you may want to do some investigations and leave instructions to your executor concerning which funeral home you believe would be appropriate for you.

REVISING YOUR WILL

You should review your Will whenever there has been a material change in your affairs such as, for example, a birth, death, marriage or marital breakdown in your family, a death of a guardian or executor/trustee, a significant increase or decrease in your net worth, or a change in tax laws.

For instance, the *Wills, Estates and Succession Act* eliminated some common-law presumptions and changed how gifting provisions worked. If you have child who dies before you (or at the same time) leaving a spouse, the law no longer allows a gift to automatically go to their widow/widower. Additionally, marriage no longer revokes a Will, but if you were married after your Will was prepared and prior to March 31, 2014, your Will may have been revoked under the old legislation.

Your Will should also be reviewed periodically even when you are unaware of any changes in circumstances which may affect the Will. This will allow you to re-examine the provisions in your Will for your children as they mature, to consider whether a change of executor may be appropriate and whether your Will reflects your current wishes as to the disposition of any newly acquired assets.

Changes to your Will need to be done in accordance with the requirements of the Wills, Estates and Succession Act. If the formal requirements are not followed, any changes to your Will are invalid and of no effect. People often make the mistake of making handwritten revisions to their Wills believing that such changes are valid. If changes are required to your Will, you should consult with an estate lawyer to ensure the changes are made properly.

Minor changes can be made by making a codicil which adds to your Will and requires the same formalities as a Will. Often, it makes more sense to create a new Will that revokes all previous Wills so as to avoid problems with conflicting gifts and reduces the possibility that your estate may incur additional costs proving that all the changes are compliant with the legislation.

DISINHERITING A FAMILY MEMBER

If you do not include adequate provision for the maintenance and support of a spouse or child, your spouse or child has a right to initiate a Wills Variation proceeding in a court that could require your estate to make “adequate, just and equitable” provisions for them.

Before you attempt to limit or exclude a family member’s entitlement under a Will, Integra Law Group can review your circumstances and work with you to document why you made your decision and inform you of how courts have applied the law in Wills Variation Proceedings. In such cases, we advise you to routinely come in to update your Will and leave documentation that your desire to limit a family members’ entitlement is still current as the courts will look at the circumstances at the time of your death.

COST OF WILL

The cost of a Will depends upon the complexity of it. Fairly straightforward Wills for a married couple typically cost about $595.00 plus taxes and disbursements. This includes an initial meeting to review your assets and do some estate planning with you. We then prepare a draft Will for you to review at home. If the Will meets with your approval, we schedule a second meeting with you to explain the Will in detail and attend to the proper signing of the Will.

The first meeting with you is typically between 45 minutes to one hour. Your draft Will is usually ready for your review within three to five business days. After you have reviewed the draft Wills, the second meeting last about 30 minutes. In emergency situations, Wills can be prepared faster.

The cost of a Will increases, for example, if you wish to cut out one of your children from the Will or give a significantly larger benefit to one of your children. Trust provisions for disabled beneficiaries will also increase the cost. At the conclusion of the first meeting, we will confirm the price of your Will. If you are unhappy with the price quoted, there is no obligation on you to proceed with the Wills.

We do make house calls and hospital visits, but there is an additional cost for travel time and mileage. Usually the extra cost is between $100.00 and $150.00, depending on the distance travelled.

STORAGE OF WILL

Your Will needs to be stored in a safe and accessible location. Your original Will is extremely important as it is only possible to use a copy of a Will in very limited circumstances. When probating a Will, the court wants to see the originally signed document. You may wish to store your Will in a safety deposit box at a financial institution or at a lawyer's office or in a safe, secure location in your home. It is also a good idea to make a list of your assets, investments, bank accounts, RRSPs, life insurance policies, etc. This list will be of great assistance to your executor and your family. The list can be stored with your Will or in a location where it can be easily found. You should update the list yearly.

At Integra Law Group, we can store your Will and file a Wills Notice in Victoria stating where your original Will is stored. In the event that your original Will cannot be found by your executor they can check with the Wills Registry to determine its location. One of the benefits of using a lawyer's office to store your Will is that even if you move to a new home or switch the location of your safety deposit box, your original Will is still being stored at the same location. If a lawyer changes the location of their office, they can file one notice with the Wills Registry in Victoria which changes the location of all the Wills being stored at that lawyer's office. If your Will is to be stored at Integra Law Group we provide you with a copy for your personal records.

POWERS OF ATTORNEY

In order to sell property or handle bank accounts, you have to be mentally capable of signing various forms. Your Will determines what happens to your assets after you pass away but your executor has no power to deal with your assets while you are alive.

A Power of Attorney is a separate document from your Will which grants someone the ability to deal with your assets while you are still living. The person appointed in your Power of Attorney can cash your cheques, deal with your investments, or sell your house if need be. For example, if you begin suffering from Alzheimer's and need to live in a care facility, the person you earlier appointed could sell your home so that there will be monies available to pay for your care. If you own a home with another person and become incompetent, a Power of Attorney will make it possible for someone, such as your spouse, to sign transfer or mortgage documents on your behalf.

Even if you are healthy, a Power of Attorney is useful. If you spend significant time in warmer climates during the winter months, you may need someone in Canada who has the power to deal with your assets while you are away on holiday.

If you do not have a Power of Attorney and become incompetent, then an expensive court application will be necessary to have someone appointed as your committee before anyone can deal with your assets and sell property if your name is on the title.

There is considerable expense involved in having the court appoint someone to handle your assets. The opinions of two doctors are required to prove that you are no longer competent to handle your estate. Notices need to be sent to various people and the person appointed by the court may need to be bonded. There will also be a significant delay in obtaining the court appointment which may cause considerable inconvenience and expense to your family.

Often married couples appoint each other to be their Power of Attorney. They may also appoint a child of a friend as a backup, so that if both parents become incompetent, there is still someone available to handle the finances. You need to appoint someone you trust because that person has the ability to deal with all of your assets.

A Power of Attorney is generally in force the day your and your attorney sign it and can be used at any time even after you become mentally incompetent. While it is possible to make a Power of Attorney that only comes into force when you become mentally incompetent, these Powers of Attorney are more expensive and more difficult to use as the financial institutions and the Land Title Office will require clear proof that you are mentally incompetent.

A Power of Attorney is like insurance in that you may never need it, but if you do, your family will be very happy that you had it done.

REPRESENTATION AGREEMENTS

A Power of Attorney only gives someone the ability to deal with your finances and assets. It does not give a person the right to make medical decisions for you.

British Columbia has passed legislation which allows you to appoint someone to make medical and personal care decisions for you and to outline your wishes if you are suffering from a terminal illness. This new document is known as a Representation Agreement.

The law states that if you are unable to make medical decisions for yourself, then your spouse is allowed to make those decisions for you in an emergency and if your spouse is not available, then your children. If your children are under age and your parents are still alive, then your parents would have the ability to make medical decisions for you.

However if you anticipate that your children would have difficulty coming to an agreement concerning your medical care or personal care, you may wish to appoint one or two of your children to be the decision makers for you concerning your health care and personal care. You may also appoint your spouse as your personal representative, but allow a third party, such as a child, to act as a monitor to ensure they are acting in your best interest. You may also want one person to take care of personal care decisions such as diet and hygiene, with another person assuming ultimate responsibility for major health decisions.

ADVANCED DIRECTIVES

An Advanced Directive, sometimes referred to as a living will or a do-not-resuscitate order, is a document that advises medical professional of what medical procedures you will consent to or refuse to consent to in advance. Typically, these specify that they apply only valid if an individual is terminally ill or in an non-recoverable coma, but can be designed for any medical treatment.

If you have clear views on certain medical procedures, such as wanting to refuse blood transplants or dialysis, or not be kept alive by artificial feeding or hydrating, you can sign an advance directive that would advise doctors of your viewpoints and deny your consent to these treatments in advance. This can work along with a Representation Agreement or as an alternative to one. With a Representation Agreement, typically you would advise your personal representative of your healthcare decisions and they would then advise the doctor of your views. An Advance Directive would allow the doctors to bypass your family and friends and rely on your document. This is useful if your personal representative is unavailable or does not share the same views or beliefs on end of life decisions as yourself. An Advanced Directive may come in handy in you ever need major surgery, as you could provide it to the hospital in advance.

WHO ARE WE?

At Integra Law Group, we have the skill and experience to provide you with excellent advice concerning your Will and estate planning. F. Clayton Loewen has been practicing in the Abbotsford area for twenty years. Prior to coming to Abbotsford, he worked for the larger Vancouver law firm of Davis & Company. He graduated from the University of Manitoba, winning the gold medal for the highest standing in law.

Mr. Loewen has drafted many Wills and has experience in the Courts dealing with estate disputes and Will problems. He has also probated numerous Wills and dealt with the complications arising when people die without Wills. Our office has extensive resource materials available to ensure that our clients receive the most up-to-date and best advice possible. Our motto is “Dedicated to Excellence”.

If you have any questions or concerns regarding your estate and Will, please feel free to give us a call.

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WILL PLANNING INFORMATION SHEET

The information requested in this questionnaire is required in order to provide you with a will which reflects your wishes. Please complete all sections as best you can.

PART I - PERSONAL

*****PLEASE PRINT*****

Date:	
How did you hear about us?	
Have you previously made a Will? ☐ Yes ☐ No When: _____ Where is this previous Will located?	
Your Full Legal Name:	
Any alias or nickname that you are commonly known by?	
Address ***(please include postal code)***:	
Occupation:	
Telephone: Home:	Business:
Email:	
Birthplace (if born outside Canada, please include city, province or state **and** country):	Birthdate: _____/_____/_____ DAY MONTH YEAR
Are you: Married / Common Law / Divorced / Separated / Widowed? (circle one) Were either of you married before? Yes ☐ No ☐	Separation Agreements? Yes ☐ No ☐ Any support obligations? Yes ☐ No ☐
Spouse's Full Legal Name:	
Any alias or nickname commonly used?	
Address (if different that yours):	
Occupation:	
Telephone: Home:	Business:
Email:	
Birthplace:	Birthdate: _____/_____/_____ DAY MONTH YEAR

Children's Full Names and Birthdates:

FOR MINOR CHILDREN: Please give full names and birthdates. Also, please note any special circumstances relating to infirmity, adoption, legitimacy, custody, etc. If your minor children do not reside with you, please note their current addresses.

FOR ADULT CHILDREN: A birthdate and full address is **not** necessary, just their age and the town and province/state they currently reside in:

Name of Child	Age/ Birthdate	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Part II – ASSETS AND LIABILITIES

Real Estate

Other Personal Property (jewelry, vehicles, boats, etc.)

Savings/RRSPs/Pensions/Insurance

Safety Deposit Box? Yes ☐ No ☐ **If yes, where?**

Debts Owing to You

Business Interests
Money Advanced or Loaned to Children
Do you have any Assets outside of British Columbia? Yes ☐ No ☐

PART III – ORGANIZATION OF WILL

The following is a guide for the organization of the typical Will. Complete as much as you can.

Guardians: You should appoint a guardian for your children in case you and your spouse do not survive their minority (under age 19). Please give full name, address, and relationship to you. Please name two guardians in case your first choice is unable to act as guardian. Please note that you may appoint joint guardians (for example, a married couple) who must act together.
First Choice for Guardian(s) name(s), address(es) and relationship to you:
Alternate Guardian(s) name(s), address(es) and relationship to you:

Executor(s): The executors step into the shoes of the deceased, gather in his/her assets, pay his/her debts and distribute the estate in accordance with the terms of the Will. Please give full names, addresses and relationship to you. Please name two executors in case your first choice is unable to act as executor. If your spouse is the sole beneficiary in the first instance, he/she should probably be sole executor. Please note that you can also appoint joint executors who must act together.

First Choice for Executor name, address and relationship to you:

Alternate Executor name, address and relationship to you:

PART IV – DISTRIBUTION

Spouse Will

Do you wish to leave all your estate to your spouse? If so, your spouse may be named as sole executor

Yes ☐ No ☐

If your spouse does not survive you, to whom do you wish your estate to pass? Please complete the next portion of the questionnaire entitled "Non-Spouse Will". These clauses will only take effect if your spouse does not survive you.

Non-Spouse Will (For use either following spouse Will or instead of spouse Will.)

The residue of your estate may pass to one or more beneficiaries. You may also wish your estate to pass to a first level of beneficiaries and in the event these beneficiaries do not survive you, to a second level of beneficiaries (e.g. first level: to my children equally; second level: if my children are not living at the date of my death, divide the estate between the following persons…). Please give full names of each beneficiary, address and relationship to you.

First Level:

Second Level:

If one of the above beneficiaries is not alive at the date of your death, do you wish his/her share to pass to his/her children? Yes ☐ No ☐

OR do you wish his/her share to be divided equally between the other **living** beneficiaries? Yes ☐ No ☐
If a beneficiary is an infant (under the age of 19 years) at what age do you wish the estate to pass to him/her? 19 years ☐ 21 years ☐ or _____ years
Do you have any special provisions you wish to insert in your Will regarding your funeral?
Do you wish to leave any special cash bequest to the person who acts as guardian of your children? If so, will such bequest be conditional upon such person acting as guardian or is it outright?
Where would you like to store your new Will?
Please note any additional questions, comments or provisions you wish to make:

integralaw.ca | info@integralaw.ca
101-2776 Bourquin Crescent, Abbotsford, BC V2S 6A4
Tel: 604-859-7187 | Fax: 604-859-7185
** Denotes Personal Law Corporation*

GLOSSARY OF TERMS

1. ***Administrator*** – A person or corporation appointed by the Court to handle your estate if you die without a valid Will or if the executor named in your Will is unable to do the work. Often an administrator must be bonded.

2. ***Beneficiary*** – A person entitled to receive a gift or benefit pursuant to the terms of a Will, insurance policy, RRSP, trust deed or other such document

.

3. ***Bond*** – A form of insurance which reimburses an estate if the administrator steals money or mishandles estate assets. The cost of the bond increases with the size of the estate. Not all persons are "bondable" because bonding companies prefer to only issue a bond for persons who have significant assets. An executor appointed n your Will does not require a bond.

4. ***Codicil*** – A legal document used to amend portions of a Will

5. ***Committee***- Legally, on reaching the age of majority, a person is considered competent unless demonstrated otherwise through the courts. If a person's handicap precludes him or her from managing his or her own financial and other affairs, a Committee may have to be appointed by the court pursuant to the Patient's Property Act. A court application is required under the Patient's Property Act and a bond may be required from the person applying to be committee. The Committee may be given all the powers on behalf of the patient that the patient would have if of sound mind including full responsibility for the person' legal and financial affairs and for decisions affecting the person.

6. ***Estate*** – A person's estate consists of all the property which they own at their death and which can be disposed of by their Will. The "net estate" is the total of such property less any debts owed at the time of death.

7. ***Executor/Trustee*** – A person or corporation appointed by a Will to carry out the administration of the estate. The Executor's function is to probate the Will, settle any debts and distribute the estate. The Trustee's function is to carry out the terms of any ongoing trusts. Typically, the Executor and the Trustee are the same persons or corporation and often the terms are used interchangeably.

8. ***Guardian*** – A legal guardian is a parent living with and supporting his or her child or is a person appointed by the court to be the guardian or is a person appointed in the Will of the child's parent or legal guardian to be the guardian of that child. Guardianship ceases when the child reaches the age of majority.

9. ***Probate*** – The procedure by which the court declares the deceased person's last Will to be valid. A "Grant of Probate" is the executor's proof of his right to act as executor.

10. ***Public Trustee*** – Legally, the Public Trustee is the Official Guardian and Official Administrator for many jurisdictions in the Province of British Columbia. He is also empowered to protect the estates and financial interest of minors and mentally disordered or handicapped persons and to administer the estates of deceased persons where no other person is competent or prepared to act. The Public Trustee also may be appointed committee of persons lacking capacity.

11. ***Residue*** – "Residue of an Estate" commonly refers to the remainder of an estate after all debts and administration expenses have been paid and all specific gifts of property and cash have been given out.

12. ***Trust*** – In a Will, a portion of an estate that is to be held for a period of time on behalf of a beneficiary. The trust may contain a variety of provisions with respect to how and when the beneficiary is to receive the income and capital comprising the trust estate.

13. ***Wills Variation*** – The Wills, Estates and Succession Act has provisions entitling a spouse or child (or the Public Trustee on behalf of an infant child or mentally disabled person) to apply to court to vary a Will with respect to the provision made for that person by the terms in the Will. The court will consider such factors as need and fairness and generally recognize both the moral and legal obligations of a parent to provide for a child, and a spouse to provide for a spouse.