

ALBERTA LAW REFORM INSTITUTE

EDMONTON, ALBERTA

REVISION OF THE SURROGATE RULES

FINAL REPORT

A JOINT PROJECT

OF

THE ALBERTA LAW REFORM INSTITUTE

AND

THE SURROGATE RULES COMMITTEE

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ALBERTA LAW REFORM INSTITUTE

The Alberta Law Reform Institute was established on January 1, 1968, by the Government of Alberta, the University of Alberta and the Law Society of Alberta for the purposes, among others, of conducting legal research and recommending reforms in the law. Funding of the Institute's operations is provided by the Government of Alberta, the University of Alberta, and the Alberta Law Foundation.

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This report is brief, but its size belies the scope of the project and the effort which was necessary to bring the project to a final conclusion.

We are particularly grateful to the Alberta Law Foundation for funding this task as a special project initially, and for supplementing the funding as the project was expanded to include the complimentary forms.

It is also important to note the individuals who have played a very large part in the production of the new rules and forms. They are described on pages 1 and 2 of the report. In particular we would like to recognize the work of the members of the Project Committee, John C. Armstrong, Q.C. and Johanne L. Amonson, Q.C. representing the Surrogate Rules Committee and Madam Justice B.L. Rawlins and the Director representing the Institute.

We were most fortunate to obtain the services of Anne de Villars, Q.C., special counsel for this project. She combined the necessary practical experience, a comprehension of the breadth of the project and an astonishing attention to detail. Without those qualities the finished product would not bear the recognition and approval which the profession has so readily given to it.

In the theme of cooperation, it is also important to note the role that the Legal Education Society of Alberta has played both in presenting the seminars to the profession when the rules were introduced and in co-publishing with the Institute the Alberta Surrogate Forms Manual which is now an integral part of the practice of estate law in Alberta.

To all of these people, the Institute extends its gratitude for an immense job extremely well done.

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REVISION OF THE SURROGATE RULES

1. INTRODUCTION

1.1 Summary of Project

The aim of the project is to reform the rules that govern the procedure for the administration of an estate of a deceased person. These rules are the Surrogate Rules.

The existing rules are outdated, outmoded, and deficient in many areas. They have become a mixture of procedure and substance and there is confusion between them and their statutory context. About 25 statutes in Alberta relate directly to succession practice but there are 66 statutes in all that have something to do, to a greater or lesser extent, with succession to property on the death of its owner. Although the need for statutory reform was very obvious, this project confined itself to the reform of procedural statutory provisions only. Reform of substantive statutory provisions is left to another project on succession law now underway.

The existing rules also contain forms that are to be used when making applications. It was readily apparent that there were great deficiencies in the forms. The project therefore included drastic revision of the existing forms, and the creation of a comprehensive set of forms.

1.2 Role of the Surrogate Rules Committee (SRC) and the Alberta Law Reform Institute (ALRI)

Many years ago the Attorney General of the time formed the SRC to provide the Attorney General with recommendations for reform of the Surrogate Rules. The committee has recommended changes to the rules from time to time. This work, however, is the first comprehensive review of the rules for some years.

ALRI is the primary law reform and research body in Alberta. It was given joint responsibility for this project with the SRC since ALRI has the expertise and resources to undertake a project of this size.

Members of the SRC who worked on this project are

Mr. Justice Roy V. Deyell	chair
Mr. Justice Ernest A. Hutchinson	past chair
John C. Armstrong, Q.C.	Calgary
John A. Beckingham, Q.C.	Edmonton
John H. Corbett, Q.C.	Edmonton
Alan D. Fielding, Q.C.	Camrose
Donald T. Hatch, Q.C.	Calgary
Brian M. Smith, Assistant Public Trustee	Calgary
Johanne L. Amonson, Q.C., *	Edmonton
Jane C. Carstairs *	Calgary
Dennis Pelkie *	Calgary
Cheryl Daniel * (as she then was)	Calgary
[* C.B.A. section representatives]	

Members of the ALRI who formed the sub-committee of the Board for this project are

Madam Justice Bonnie L. Rawlins	Calgary
Peter J.M. Lown, Q.C., Director of ALRI	Edmonton

Counsel for the project is

Anne de Villars, Q.C.	Edmonton.
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1.3 Report for Discussion No. 10 (October 1991)

In October 1991, the SRC and ALRI published a Report for Discussion No. 10. This summarised the issues to be addressed, the philosophy and procedural considerations driving the proposals for reform of the rules and forms. The Report discussed nine issues that were researched in depth. The Report recommended reform in each of these areas. The new rules reflect these reforms. In addition, gaps in the rules have been filled, inconsistencies removed, and inadequacies improved.

The new rules contain forms that replace existing forms and add considerably more. Generally, there is a form for every Surrogate procedure. The Dependent Adults Act requires that trustees account for their administration of a dependent adult's estate by following the accounting procedures in the Surrogate Rules. Therefore, the new rules also contain forms for use when accounting in a dependent adult's estate.

1.4 Activities since publication of the Report for Discussion No. 10

The Report asked for comment on the recommendations from all interested people. What comments we received have been considered in the final version of the rules.

We met to discuss the proposals with certain interest groups:

- the judges of the Surrogate Court
- the C.B.A. sections for wills and estates
- corporate personal representatives
- the Surrogate Court clerks
- representatives of the Attorney General and especially Court Services.

All their comments have been considered in the final version.

As we were dealing with discussions on the proposals, we also prepared draft rules and forms.

The SRC and ALRI then met to discuss these drafts. The SRC especially had many intense meetings to deal with the volume of material that had to be digested and approved.

1.5 Legislative Counsel

Once the SRC and ALRI had produced its version of the rules and forms, the drafts went to legislative counsel, Elizabeth McAra. It is legislative counsel's job to prepare regulations such as these in the proper legislative language and form for passage by the Executive Council.

The version of the rules and forms that appears at the end of this report is the draft from legislative counsel which became O.C. 452/95.

1.6 Activities since Implementation

Any mega project requires fine-tuning once it comes on line. Since the implementation of the new rules and forms on June 19th, 1995, we have reviewed the operation of the scheme. Practitioners and surrogate clerks have made many suggestions which have all been carefully considered.

As a result, we have prepared a list of minor editorial amendments which will clarify the rules and forms. In addition we have prepared a series of practice notes which give practical guidance on how to complete and integrate some of the forms. These notes will be inserted in the Surrogate Rules Manual, jointly produced by ALRI and the Legal Education Society of Alberta.

1.7 Alberta Law Foundation

Funding for this project came from the Alberta Law Foundation Special Projects Fund. This fund no longer exists. The Law Foundation now finds itself in very straightened circumstances and it is most unlikely that such funding will again be available in the foreseeable future. We are therefore very grateful that the Foundation funded this project when it did which has allowed its successful completion.

2. STATUTORY AMENDMENTS

2.1 Philosophy

The governing philosophy is that the statutes should contain the substantive law governing succession to property and that the rules should contain all the procedures necessary to complete an estate administration.

Secondly, one court should have carriage of all applications dealing with the administration of a given estate. There should be one estate file in court that builds all the estate information in one place. This is not only efficient, it also removes the need to repeat information from one court to another and from one application to another.

Not only do the statutes now intermingle substance and procedure, there is no consistency in the statutes as to which court has jurisdiction over any given procedure in the administration of an estate. Sometimes an applicant is sent to the Surrogate Court and sometimes to the Court of Queen's Bench.

Therefore, first, we had to sort out substance from procedure and amend the statutes to reflect the distinction. Secondly, we decided to centralise all procedures in the Surrogate Court.

Our process was to

- a. → identify the procedural parts of all the relevant statutes
→ remove the procedural provisions and substitute them with a reference to the procedure in the rules
→ place all procedures in the rules
- b. → identify all references in the statutes to courts
→ substitute the Surrogate Court for the Court of Queen's Bench wherever the statute designated the Court of Queen's Bench as the court to deal with any surrogate procedures.

As a result of comments received from Chief Justice Moore, we modified this process in one instance and added a court transfer provision to deal with another situation.

2.2 Foreclosure proceedings

Foreclosure proceedings are now dealt with by the Masters under their jurisdiction proceeding from the Court of Queen's Bench Act. Even if a foreclosure involved an estate, the Masters dealt with it.

Originally we had transferred this jurisdiction to the Surrogate Court. However, after discussion with Master Funduk, we decided that we did not want to remove the masters' jurisdiction over foreclosure proceedings when an estate is or becomes involved. The masters have no jurisdiction to act under the Surrogate Court Act and if the proceedings were transferred to the Surrogate Court, the masters would be unable to deal with foreclosures involving estates.

If an estate must sue or be sued in a foreclosure, the personal representative is in place to deal with the action. There is no danger that the "estate" will not know about the foreclosure proceedings. Similarly, there are a limited number of instances when an estate becomes involved in a foreclosure. When it does, the foreclosure proceedings are adjourned until a personal representative is appointed who can then continue the action. We saw no reason to change this system that now is working well.

That part of the amendment to the statutes that changed the jurisdiction over foreclosures when an estate is involved to the Surrogate Court has not been promulgated.

2.3 Matrimonial property actions

Mr. Justice Moore also had concerns about matrimonial property actions that are begun in Queen's Bench. The statutory amendments might invalidate an action already begun if one spouse dies during it and a new action in Surrogate Court is needed. The second action might run afoul of limitation periods.

We decided that the best way to overcome this difficulty is to provide a transfer section that allows easy transfer of actions either way between the Court of Queen's Bench and the Surrogate Court and maintains the validity of the action that is transferred.¹

2.4 Transfers between courts—statutory amendment

The statutes will be further amended to provide that actions begun in either the Court of Queen's Bench or the Surrogate Court may be transferred to the other court and maintain their validity if they are transferred.

Even though this amendment was not in place by the date of implementation, the new rules can operate despite its absence.

3. RULES

3.1 Philosophy

We wanted a comprehensive set of procedures that govern the administration of the estates of deceased persons. The present rules also contain procedures that deal with the estates of living minors. The new rules include a procedure to appoint trustees of minors' estates.

We emphasise that the rules deal only with the trusteeship of the estate of a minor, not with the guardianship of the person of the minor. The old rules use the word "guardian" in connection with minors' estates. This is

¹ This proposal has not yet been implemented.

confusing. Therefore, the new rules speak of a "trustee" of the minor's estate. The Surrogate Rules do not apply at all to the appointment of guardians of the persons of minors.

Secondly, we wanted a system that was driven by the personal representative of an estate with court intervention only when necessary.

"Personal representative" is the term used to cover executors, administrators and trustees where no distinction is necessary. Apart from the initial review of the estate by the court when the personal representative applies for a grant, no other court intervention is necessary in an estate that encounters no problems with its administration. A clear administrative pathway is provided in the rules that allows the personal representative to take the estate administration from its beginning to its end.

Thirdly, we needed some supervision of the personal representative that was not the court. We wanted to have a check on the personal representative to ensure that the estate administration began in a timely way and did not falter. Therefore, we gave responsibility to the beneficiaries to protect their own interests. To do this, beneficiaries must have notice that they have an interest to protect.

The rules require that notice be given to all beneficiaries together with certain information about the estate. Then the rules provide procedures for beneficiaries to follow that allow them to resolve any differences they have with the administration of the estate.

Fourthly, should court intervention be necessary, the rules set out a standard procedure to get issues heard by the court whatever the nature of the application.

There are two exceptions to this standard method of application:

- the formal proof of will procedure (formerly known as "proof in solemn form"); and
- accounting procedures.

The natures of these two procedures are sufficiently different from the general business of estate litigation that they warranted procedures of their own.

So, the administration of an estate can proceed on a continuum clearly delineated in the new rules starting from the date of death and finishing when the personal representative accounts to the beneficiaries, makes the final distribution of the estate and is released from all further responsibility. For uncontentious estates, the continuum proceeds uninterrupted along level one, the administrative level.

Appendix 1 is a diagrammatic representation of the administration process showing the path of a normal estate administration along the administrative level. When court intervention is required, the path dips down into the second or third level of administration. The nature of the court intervention governs which level is appropriate.

When contentious issues arise, the court can become involved at different levels. When the court is called on to intervene in fairly simple issues, the administration drops down to the second level of a Chambers application. When the court is called upon to intervene in matters that require more complicated court procedures, the administration drops down to the third level where the estate becomes involved in a full trial procedure. Appeal procedures have not been changed.

As each issue is resolved by the court, the personal representative resumes the administration of the estate at level one from the point where matters were suspended while the issue was decided.

3.2 Format

The rules are divided into four parts:

- Non-contentious rules
- Contentious rules
- Accounting rules.
- Accounting rules for dependent adults.

They are written in gender neutral, plain language. Latin usage is discontinued. They cover all procedures needed to administer an estate.

3.3 Policies

We have incorporated the recommendations in the Report for Discussion No. 10 of October 1991 in the new rules. These are discussed more fully later in this report. As well, the rules contain a host of smaller changes designed to make the rules comprehensive, comprehensible, and efficient.

4. FORMS

4.1 Philosophy

All aspects of an estate administration are now concentrated in the Surrogate Court. Each estate has only one file. The information in the court file should be given in a logical flow and given only once.

The forms build the estate information in this way. The application for the grant provides the base of most estate information. Any further applications do not repeat information already given. They give only new information that is relevant to the issue to be decided.

There is a form for each stage of estate administration and for most applications. Any application to the court (apart from the initial grant application, formal proof of will, and accounting) uses one common form for a Notice of Motion and accompanying affidavit.

4.2 Format

The forms are also divided into four parts:

- Non-contentious forms.
- Contentious forms.
- Accounting forms.
- Dependent Adult Accounting forms.

The forms' appearance and content are comprehensible and visually pleasing.

The forms are available in several formats.

- a. The format in the regulations has no notations to aid the applicant to fill in the blanks. However, the text plainly leads the applicant to give the correct information.
- b. Annotated forms are also available. These show choices of answers to the information requested, and give instructions for form completion.
- c. The forms will be available in documentary and computer disk versions. The documentary version can be completed by hand or by machine. The computer format allows the forms to be loaded into a computer and completed on line. The computer version uses Word Perfect 5.1 software and a courier 10 point font, and needs an IBM or compatible hardware system. We do not have the resources to provide software support; therefore, the forms are as simple as possible and do not require an advanced knowledge of Word Perfect in order to complete them. We have not used "fields" or "macros" in order to keep the forms simple. There is nothing to prevent a user, however, from adapting the forms to allow the use of "fields", "merge", and "macros" and other word processing functions. The forms use columns and tabs that should adapt to different fonts.
- d. We expect that private industry will produce "stationers' forms" for general availability. Alberta Court Services will not produce a set of forms for general use.

5. CONSULTATION PROCESS

The Report for Discussion No. 10 of October 1991 was widely circulated to the bench, bar, and other parties interested in this area. We received letters from individuals with comments on the proposals. All of these were considered in the rewrite of the rules. We also met with target groups that have a special interest in the subject matter.

5.1 Judiciary

We held a meeting in Calgary and a meeting in Edmonton for all judges who were interested in attending. We explained the philosophy behind the new rules and the policy proposals. Some judges asked for a copy of the draft new rules for a more in-depth review.

5.2 Bar

Both the northern and the southern C.B.A. sections on wills and estates formed committees to review the draft new rules and forms proposals. In nearly all cases, we have incorporated their comments and suggestions in the new rules and forms. We received letters from individual lawyers and all their comments have been taken into account in the new rules and forms.

5.3 Corporate personal representatives

Corporate personal representatives have a great interest in the new rules and forms. Through their Trust Companies Association, they gave us comments and requests for reform that have largely been incorporated in the new rules and forms.

5.4 Department of Justice: Legislative Counsel, Court Services, and the Surrogate Court Clerks

Elizabeth McAra is the legislative counsel assigned to prepare the rules and forms regulation. Court Services and the Surrogate Court clerks have been closely involved in the preparation of the new rules and forms. We have had several meetings to review drafts and provide suggestions.

6. IMPLEMENTATION

The implementation process has four stages:

- pass amendments to statutes to move all procedural provisions to the rules and to concentrate all procedures in the Surrogate Court (Miscellaneous Statutes Amendment Act 1992, proclaimed in force June 19/95 by O.C. 452/95).
- pass regulations containing the new rules and forms (O.C. 453/95).
- educate the users about the new rules and forms (LESA Seminars throughout Alberta, March to June 1995).
- establish the effective date for the statutory amendments and regulations (June 19/95).

6.1 Statutes

The legislature passed the necessary amendments to the statutes in the Miscellaneous Statutes Amendment Act, 1992. This received Royal Assent on

8 July 1992, subject to proclamation. The amendments were proclaimed on the same date as the regulations.

We expect some further amendments to be made in another Miscellaneous Statutes Amendment Act as soon as possible. These deal with an amendment to the Insurance Act to move procedures to the Surrogate Court and the enactment of the transfer provision between Surrogate Court and the Court of Queen's Bench.

6.2 Regulations

The Executive Council passed the regulations containing the rules and forms on June 19/95 by O.C. 453/95.

6.3 Education

The Legal Education Society of Alberta has run seminars on the new rules and forms for all people interested in learning about them. The first seminars began in March 1995 and continued in various centres until early June.

6.4 Effective date

The effective date of the statutory amendments and the regulations is 19 June 1995.

7. RECOMMENDATIONS FOR REFORM

We have incorporated the recommendations for reform proposed in the Report for Discussion No. 10 of October 1991 in the new rules and forms. Other reforms have also been included. Highlights of the reforms are as follows. Please read the appendices for the full text.

7.1 Structure

- the rules and forms are divided into three parts and within each part there are various divisions.
- the rules are numbered consecutively through the three parts
- the forms are lettered and numbered by part:
 - a. non-contentious forms are lettered and numbered NC 1, NC 2, etc.
 - b. contentious forms are lettered and numbered C 1, C 2, etc.

- c. accounting forms are lettered and numbered ACC 1, ACC 2, etc.
- d. dependent adult accounting forms are numbered DA 1, DA 2, etc.

NON-CONTENTIOUS MATTERS

7.2 Application for grant

- the rules list the various types of grants available, all with English names
- one rule lists the order of preference for grant applicants whether executors or administrators
- a general category is added to the priority list, that is, persons who have an interest in the estate because of a relationship with the deceased
- cohabitants have not been added as a category by themselves
- the rules lists the forms required in each application
- there are individual forms for applications by an attorney for personal representatives, applications for double probate, and for resealed and ancillary grants.

7.3 Will

- an affidavit sworn by a witness to a will at the time the will was signed is acceptable as long as any apparent change in the will is satisfactorily explained
- existing affidavits of execution of will are "grandfathered".

7.4 Notice required on application

- all applicants for grants must give notice to beneficiaries of their interest in the estate—this allows the beneficiaries to take responsibility for their own interest and to police the administration
- residuary beneficiaries receive a copy of the application for the grant as well as a notice
- applicants can ask for dispensation from the notice requirements when beneficiaries are not yet ascertained or located.

CONTENTIOUS MATTERS

7.10 General

- there is only one procedure for bringing a contentious application before the court
- respondents are listed according to their category; e.g. residuary beneficiaries, life tenants.
- the rules provide service methods and notice periods
- the court can require production of testamentary documents.

7.11 Caveats

- a caveat can only delay a grant for 3 months—after that it is removed automatically—only the court can extend its life
- caveats are to be used only as a temporary halt in proceedings to allow the caveator time to investigate the circumstances surrounding the making of the will—after 3 months the caveator must either apply for formal proof of will or discharge the caveat.

7.12 Formal proof of will

- the detailed procedure is newly added to the rules
- cases involving only due execution of the will are heard in Chambers, but where there are several witnesses the case moves to a trial setting
- *viva voce* evidence can be heard in Chambers.

7.13 Proof of death

- this is a new procedure in the rules.

7.14 Claims on estate

- the rules now set out the procedure to establish claims, not the statute.

ACCOUNTING

7.15 Generally

- the rules speak of "an accounting" and "financial statements"

7.5 Bonds

- no bond is needed when the personal representative is resident in Alberta whether the personal representative is an executor or administrator
- bonds are required from non-resident personal representatives although the applicant can ask for dispensation from this
- an interested person can request that a bond be required even when the personal representative is resident in Alberta
- bonds from sureties are deleted; bonds can only be from insurers licensed to provide bonds
- the court cannot require an applicant's lawyer to undertake to retain control of the estate property as a condition for dispensing with a bond.

7.6 Personal representatives

- the rules deal with the chain of administration when a personal representative dies before completing administration.

7.7 Claimants

- the estate value requiring two publications of the Notice to Creditors and Claimants is raised to more than \$100,000
- claims verification procedures are now in the rules not the statute.

7.8 Duties of the Clerk

- the clerk's office will no longer accept wills from living people for deposit.

7.9 Administration of estates of minors

- the application is now for a grant of trusteeship
- each minor requires a separate application.

- "an accounting" is a report from the personal representative advising the beneficiaries of the status of the administration of the estate—it may or may not include financial statements
- "financial statements" are formal reports showing money and other property received and money paid out and property distributed by the personal representative in a given period
- the court may order, and the personal representative or a person interested in the estate as defined in the rules may apply for an accounting
- financial statements do not have to follow a set format as long as they contain the information required by the rules in an understandable way
- the rules allow proof of an item of property's existence through documentation only
- there are three levels of accounting
 - a. a formal passing of accounts—the personal representative or a person interested in the estate can apply for this kind of accounting, or the court can order it
 - b. dispensing with a formal passing of accounts—the personal representative needs an order for some reason, e.g. although the beneficiaries have all signed releases, a bond must be discharged; e.g. not all beneficiaries have signed releases but will not make a formal objection
 - c. informal accounting—all beneficiaries have signed releases.

7.16 Formal passing of accounts

- the rules describe the procedure to follow
- beneficiaries who object to any part of the accounting (including manner of administration or personal representatives' compensation) must indicate the exact item(s) in dispute and give reasons for their objection
- no vouching is necessary unless the court orders it
- there is a procedure to allow the court to appoint an auditor to investigate any item(s) in dispute—an accountant or other appropriate person will review the financial statements or transactions, not the clerk.

7.17 Dispensing with a formal passing of accounts

- this procedure allows the personal representative to have accounts passed without going through the formal passing of accounts procedure
- the personal representative may wish to use this when a beneficiary is passive, neither releasing the personal representative nor making a formal objection, or to discharge a bond.

7.18 Releases

- it is sufficient for the personal representative to obtain releases from all residuary beneficiaries to complete the estate administration
- releases may be (not must be) filed with the clerk.

7.19 Accounting in estates of dependent adults

The Dependent Adults Act requires trustees to account by following the procedures in the Surrogate Rules. Originally, we intended to leave the old rules in place for dependent adult accounting and have the new rules apply only to estate accounting. However, there were two difficulties with this approach:

- it required a statutory amendment to the Dependent Adults Act to clarify which surrogate rules were being referred to; and
- it is confusing to have two sets of surrogate rules in place at the same time.

Therefore, on legislative counsel's recommendation we have blended the rules for both estates and dependent adults accounting with some restrictions on the latter.

Dependent adult accounting is restricted to the formal accounting procedure in the new rules. **No informal system of accounting whereby beneficiaries sign releases is either possible or appropriate.** The court performs the supervisory role in place of beneficiaries and the court monitors the trustee's activities.

In the new formal accounting procedure that applies to estates and dependent adults, the court has the ability to order an audit of some or all

items of the financial statements by an accountant. The court may order different levels of review ranging from a comprehensive audit, through review to more compilation of the statements. This replaces vouching. However, it will not replace the existing practice that dependent adult accounting must receive a review by the clerk and have a clerk's certificate before the matter can be put on the list for hearing. The present system whereby the clerk provides notes on the financial statements to the court will continue. The court can question any item thus brought to its attention and can order a further audit of any item if the circumstances warrant it.

The new rules contain forms for each situation contemplated in the rules. We therefore had to create forms for dependent adult accounting. They track the wording in the Dependent Adults Act where it deals with various accounting procedures.

We know of other initiatives in the dependent adult area and we have ensured that the new rules blend with these other activities:

- a. Madam Justice Bonnie Rawlins and Mr. Justice William Wilson are working on a standard order for the court to follow in dependent adult accounting. The DA forms contain an Order but it is restricted to a header only and awaits a body.
- b. The Honourable Chief Justice Moore sent letters to the clerks dated 13 November 1986, 20 July 1987, and 9 November 1987 setting out the practice for the clerks to follow in dependent adult accounting. The new rules and forms do not impinge on this practice.
- c. The Honourable Chief Justice Moore and the Deputy Minister of Justice have recently formed a committee to review the Dependent Adults Act. The committee will review the court processes for both guardianship and trusteeship of dependent adults and will recommend amendments if necessary. The aim is to make the court processes more effective and less costly while maintaining the protective aspects of the Act for dependent adults. This committee is chaired by Mr. Jack Klinck, the Public Trustee. There are members on the committee representing the court, the Canadian Bar Association, the Law Society of Alberta, the Public Trustee's Office, and the Department of Family and Social Services.

The highlights of the new rules for dependent adult accounting are

- the new rules apply to trustees who must account for their administration of dependent adult estates
- the procedures and forms track the provisions of the Dependent Adults Act
- "dispensing" is allowed only in the restricted sense provided for in the Act and as it has been interpreted by the courts
- accounting by way of releases is not allowed

FEE SCHEDULES

7.20 Generally

- the rules set out the charging principles to be used when setting fees for lawyers and personal representatives
- the rules do not give any percentages or dollar amounts for fees
- there is no tariff in the rules
- lawyers and personal representatives must agree on the nature of the services that the lawyer will perform and the fee for the different categories of services at the beginning of the retainer.

7.21 Lawyers' fees

- the rules describe the services that lawyers perform in an estate administration
- legal services are divided into three categories:
 - a. core legal services
 - b. non-core legal services
 - c. personal representatives' work
- the rules list the tasks in each category
- the rules list the factors to be considered when setting a fee—time is only one of the nine factors
- a copy of the compensation guidelines must accompany any lawyer's fee account

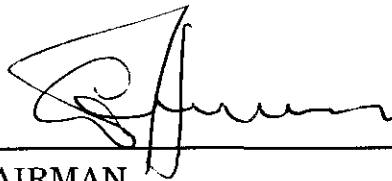
- the lawyer or the personal representative may have the lawyer's account taxed.

7.22 Personal representatives' fees

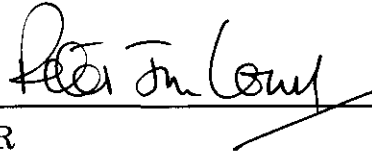
- the rules list a personal representative's tasks
- the rules provide a basis for calculating fees without prescribing a percentage or dollar figure
- pre-taking compensation is allowed under certain circumstances
- personal representatives must give a copy of the fee guidelines to the beneficiaries when requesting approval of administration fees.

B.R. BURROWS
N.A. FLATTERS
W.H. HURLBURT
F.A. LAUX
P.J.M. LOWN
B.L. RAWLINS
N.C. WITTMANN

C.W. DALTON
A.D. HUNTER
H.J.L. IRWIN
J.C. LEVY
D.R. OWRAM
A.C.L. SIMS



CHAIRMAN



DIRECTOR

May 1996

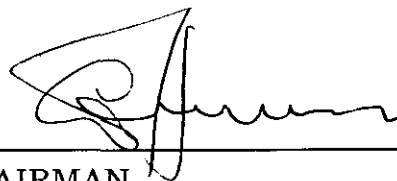
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7.22 Personal representatives' fees

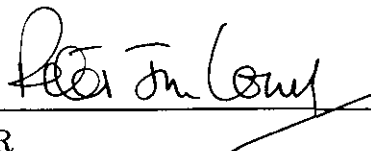
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CHAIRMAN

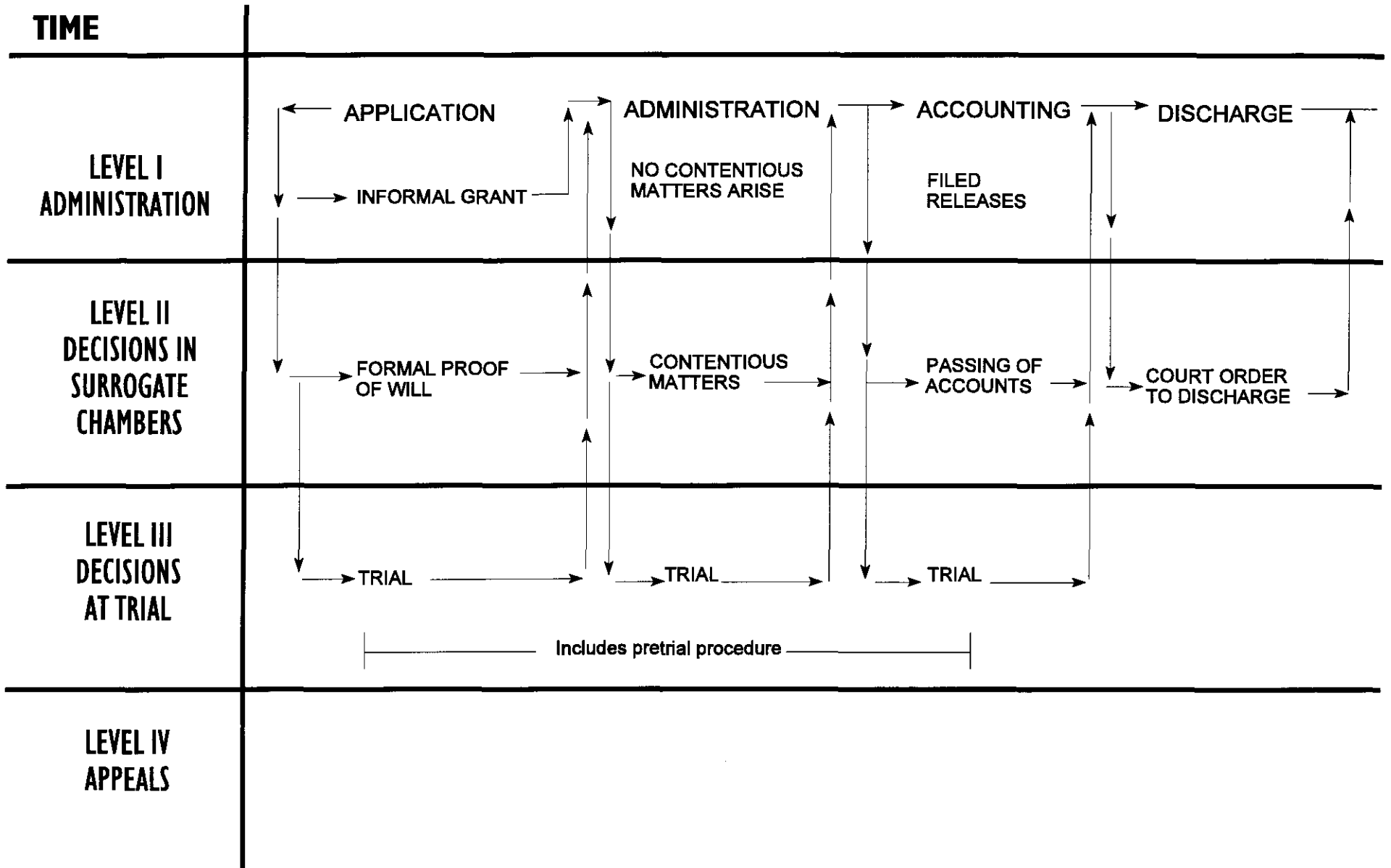


DIRECTOR

May 1996

APPENDIX I

ADMINISTRATION FLOW CHART



Appendix 2
Surrogate Court Forms (Gazette version)

NC 1

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by the personal representative(s) for a grant of**

BOND _____

NOTICES REQUIRED _____

COPY OF THE APPLICATION FILED WITH THE
PUBLIC TRUSTEE'S OFFICE _____

PERSONAL REPRESENTATIVE(S) NAME(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE
PERSONAL REPRESENTATIVE(S) _____

Personal Representative

Date

Name: _____
Complete address:

Lawyers for Personal Representative(s)

Responsible lawyer: _____
Firm name: _____
Complete address:

Phone: _____
Fax: _____
File no.: _____

ORDER: ISSUE THE GRANT AS APPLIED FOR

DATE

JUDGE OF THE SURROGATE COURT
OF ALBERTA

NC 2

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

DOCUMENT **Affidavit by the personal representative(s) on application for a grant of _____**

SCHEDULES ATTACHED _____

DOCUMENTS ATTACHED _____

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT AND IN THE ATTACHED SCHEDULES IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are entitled to apply for a grant because the applicant(s) are _____

Schedules

2. The following schedules are part of this affidavit. They are correct to the deponents' information and belief.

- 2.1 NC 3 Schedule 1 Deceased
- 2.2 NC 4 Schedule 2 Will
- 2.3 NC 5 Schedule 3 Personal representative(s)
- 2.4 NC 6 Schedule 4 Beneficiaries
- 2.5 NC 7 Schedule 5 Inventory

Documents

3. The following documents are part of this affidavit.

- 3.1 Original will of the deceased
- 3.2 NC 8 Affidavit of witness to a will

The schedules and documents that are part of this affidavit provide all the information required in this application by the Surrogate Rules and have been prepared by me or by my lawyer on my behalf.

Notices

4. The applicant(s) will serve the following notices as required and in the manner prescribed by the Surrogate Rules.

- 4.1 NC 19 Notice(s) to beneficiaries (residuary)
- 4.2 NC 20 Notice(s) to beneficiaries (non residuary)
- 4.3 NC 21 Notice(s) to beneficiaries (intestacy)
- 4.4 NC 22 Notice to spouse of deceased *Matrimonial Property Act*

4.5 NC 23 Notice to spouse of deceased *Family Relief Act*

4.6 NC 24 Notice to a dependent child of the deceased *Family Relief Act*

5. The personal representative(s) will faithfully administer the estate of the deceased according to law and will give a true accounting of their administration to the persons entitled to it when lawfully required.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 3

ESTATE NAME _____

DOCUMENT **Schedule 1: Deceased**

Name _____

And any other name(s) by which known _____

Last residence address in full _____

Date of birth _____

Place of birth _____

Date of death _____

Place of death _____

Habitual province/state of residence _____

The deceased died _____

IMMEDIATE FAMILY

All immediate family are over 18 and physically and mentally competent unless otherwise shown.

SPOUSE

Name: _____

Complete address: _____

CHILDREN

Name: _____

Complete address: _____

Age: _____

Date of birth: _____

Date of death: _____

Died leaving children: _____

FORMER SPOUSES WHO REQUIRE NOTICE UNDER THE *MATRIMONIAL PROPERTY ACT*

Name: _____

Complete address: _____

Date of death: _____

Date of divorce: _____

NC 4

ESTATE NAME _____

DOCUMENT **Schedule 2: Will**

Date of will _____

Deceased's age at date of will _____

Marriages of deceased subsequent to date of will _____

Name of first witness _____

Name of second witness _____

Neither witness is a beneficiary or the husband or wife of a beneficiary named in the will.

To the best of the personal representative(s) information and belief, this is the deceased's original last will.

The personal representative(s) have examined the will and observe that _____.

NC 5

ESTATE NAME _____

DOCUMENT **Schedule 3: Personal representative(s)**

Name(s) _____

Complete address(es) _____

Status _____

Relationship to deceased _____

Age over 18

Any persons with a prior or equal right to apply _____

Renunciations attached _____

NC 6

ESTATE NAME _____

DOCUMENT **Schedule 4: Beneficiaries**

Name: _____

Relationship: _____

Complete address: _____

Age: _____

Nature of gift: _____

Para. no. will: _____

Section no. (intestacy): _____

The following gifts are void because the beneficiary is a witness or the spouse of a witness to the will:

NC 7

ESTATE NAME _____

DOCUMENT **Schedule 5: Inventory of property and debts**

VALUE OF ESTATE IN ALBERTA

Land and buildings (net of encumbrances) \$ _____

Other property (gross) \$ _____

Gross value of estate \$ _____

Debts (excluding encumbrances on land) \$ _____

Net value of estate \$ _____

SUMMARY

o Land, mines & minerals, and leasehold interests \$ _____

o Money or debts due the deceased and secured by a mortgage or agreement for sale \$ _____

o Cash \$ _____

o Shares in public and private companies \$ _____

- Bonds, debentures, and treasury bills \$ _____
- Life insurance payable to the estate \$ _____
- Annuities, pensions, and benefit plans \$ _____
- Household goods, personal effects, collections, vehicles, and boats \$ _____
- Business interests \$ _____
- Farming interests \$ _____
- Any other property \$ _____

PROPERTY

LAND AND BUILDINGS

Description: _____
 Gross value: \$ _____
 Encumbrances: _____
 Net value: \$ _____

OTHER PROPERTY

Description: _____
 Gross value: \$ _____

TOTAL VALUE OF PROPERTY \$ _____

DEBTS

Description: _____
 Value: \$ _____

TOTAL VALUE OF DEBTS \$ _____

NET VALUE OF ESTATE \$ _____

NC 8

TESTATOR NAME _____

DOCUMENT **Affidavit of witness to a will**

DEPONENT'S NAME _____

DATE OF AFFIDAVIT _____

EXHIBIT ATTACHED
A: Original will dated _____

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

1. I am one of the subscribing witnesses to the last will of the deceased, _____.
2. The will is dated _____ and is marked as Exhibit A to this affidavit.

- 3. When the deceased signed the will, I believe the deceased
 - 3.1 was 18 years of age or more,
 - 3.2 understood that the document being signed was the deceased's will,
 - 3.3 was competent to sign the will.
- 4. The deceased, myself, and the other witness to the will, _____, were all present together when the witnesses and the deceased signed the will.
- 5. Before the deceased signed the will, the deceased made the following changes to it:
 - 5.1 _____.

SWORN OR AFFIRMED BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 9

ESTATE NAME _____

DOCUMENT **Affidavit of handwriting of deceased**

DEPONENT'S NAME _____

DATE OF AFFIDAVIT _____

EXHIBIT ATTACHED **A: Will dated _____**

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

- 1. I knew the deceased, _____, well and for _____ years before the deceased died. I frequently saw the deceased write and sign documents and I am very familiar with the deceased's handwriting and signature.
 - 2. I have carefully examined the document dated _____ which purports to be the deceased's last will and which is marked as Exhibit A to this affidavit.
 - 3. I believe the whole of the will including the signature is in the deceased's handwriting.
- or
- 3. I believe that the signature appearing on page _____ of the Will is that of the deceased.

SWORN OR AFFIRMED BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent _____

Commissioner's Name: _____

Appointment Expiry Date: _____

NC 10

ESTATE NAME _____

DOCUMENT **Affidavit verifying translation of non-English will**

DEPONENT'S NAME _____

DATE OF AFFIDAVIT _____

EXHIBITS ATTACHED **A: Non-English will dated _____
B: Translation**

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

1. I can read, write, and speak English and _____ fluently and I am competent to translate documents from either language to the other.
2. I have carefully examined the document dated _____ which purports to be the deceased's last will and which is marked Exhibit A to this affidavit. It is written in the _____ language.
3. Exhibit B to this affidavit is my translation of the will into English and it is accurate.

SWORN OR AFFIRMED BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON _____

Deponent _____

Commissioner's Name: _____

Appointment Expiry Date: _____

NC 11

ESTATE NAME _____

DOCUMENT **Affidavit of witness to signature on _____**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

1. I am the witness to the signature(s) of _____ in this _____.
2. I was present and saw _____ sign (and seal) this document at _____, Alberta.
3. I know _____ to be the person named in this _____.

or

3. On the basis of identification, I believe _____ to be the person named in this _____.

4. I believe that _____ is at least 18 years of age.

SWORN OR AFFIRMED BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 12

ESTATE NAME _____

DOCUMENT **Renunciation of probate**

NAME _____

COMPLETE ADDRESS _____

1. The deceased, _____, signed a will in which I am appointed personal representative.

2. I renounce all my right and title to a grant of probate of the deceased's will.

3. I have not intermeddled in the deceased's estate.

SIGNED ON _____

Signature

Witness

This document requires an affidavit of execution. Use Form NC 11.

NC 13

ESTATE NAME _____

DOCUMENT **Reservation of right to apply for grant of probate**

NAME _____

COMPLETE ADDRESS _____

1. The deceased, _____, signed a will in which I am appointed one of the personal representatives.

2. I wish the administration of the deceased's estate to proceed expeditiously but I am unable at this time to administer the deceased's estate because _____.

3. I expect to be able to undertake the duties of personal representative in the future and therefore I reserve my right to apply for a grant of double probate.

4. I consent to the issuance of a grant of probate to _____ subject to my reservation.

SIGNED ON _____

Signature

Witness

This document requires an affidavit of execution. Use Form NC 11.

NC 14

ESTATE NAME _____

DOCUMENT **Renunciation of administration with will annexed**

NAME _____

COMPLETE ADDRESS _____

1. The deceased, _____, signed a will in which _____ is appointed personal representative.
2. _____ has renounced all right and title to the grant of probate of the deceased's will.
3. I am entitled to apply for a grant of administration with will annexed under the Surrogate Rules because I am the deceased's _____.
4. I renounce all my right and title to administration with will annexed of the deceased's property.

SIGNED ON _____

Signature

Witness

This document requires an affidavit of execution. Use Form NC 11.

NC 15

ESTATE NAME _____

DOCUMENT **Renunciation of administration**

NAME _____

COMPLETE ADDRESS _____

1. The deceased, _____, died intestate.
2. I am entitled to apply for a grant of administration under the Surrogate Rules because I am the deceased's _____.
3. I renounce all my right and title to a grant of administration of the deceased's property.

SIGNED ON _____

Signature

Witness

This document requires an affidavit of execution. Use Form NC 11.

ESTATE NAME _____

DOCUMENT **Nomination and consent to appointment of personal representative**

NAME _____

COMPLETE ADDRESS _____

1. The deceased, _____, signed a will in which _____ is appointed personal representative.

2. _____ has renounced all right and title to a grant of probate of the deceased's will.

or

1. The deceased, _____, died intestate.

2. I am entitled to apply for a grant of administration under the Surrogate Rules because I am the deceased's _____.

3. I have an interest in the administration of the deceased's estate because I am _____.

4. I nominate _____ to apply for a grant of administration with will annexed of the deceased's property and consent to such an appointment.

or

4. I nominate _____ to apply for a grant of administration of the deceased's property and consent to such an appointment.

SIGNED ON _____

Signature

Witness

This document requires an affidavit of execution. Use Form NC 11.

ESTATE NAME _____

DOCUMENT **Affidavit to dispense with a bond**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are entitled to apply for a grant because the applicant(s) are _____.

2. The applicant(s) are fully familiar with the deceased's affairs because they are related to the deceased as _____.

Debts

- 3. The applicant(s) have made a complete investigation of the deceased's affairs. To the best of our knowledge, Schedule 5 shows all the debts for which the deceased may be liable in the Province of Alberta and in any other jurisdiction.
- 4. The property of the estate is sufficient to pay all the debts shown in Schedule 5 and all the debts have been or will be paid before the distribution of the estate.

Special matters

5. _____

6. And therefore the applicant(s) request that this Court grant the application for a grant of _____ without bond.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 18

ESTATE NAME _____

DOCUMENT **Consent to waive bond**

NAME _____

COMPLETE ADDRESS _____

- 1. The deceased, _____, died testate.
- 2. _____, who resides outside Alberta, is appointed personal representative in the deceased's will and is applying for a grant of probate.

or

- 1. The deceased, _____, died intestate.
- 2. _____, who resides outside Alberta, is applying for a grant of administration.
- 3. I have an interest in the administration of the deceased's estate because I am _____.
- 4. I understand that a bond is required because the applicant(s) reside outside Alberta. Nevertheless, I consent to an order of the court dispensing with any bond so required.

SIGNED ON _____

Signature

Witness

This document requires an affidavit of execution. Use Form NC 11.

NC 19

ESTATE NAME _____

DOCUMENT **Notice to beneficiaries (residuary)**

To: Name: _____

Complete address: _____

You are named as a residuary beneficiary in the last will of _____.

The will gives you _____.

The personal representative(s) named in the will have applied for a grant of probate.

Enclosed with this notice is a copy of the application for a grant of probate. This includes a copy of the will and a list of the estate property and debts.

Once the court issues the grant, the personal representative(s) will collect in the property, pay the debts, and complete the administration of the estate and anything else required of the personal representative(s). Then they will be in a position to account to you before distributing any estate left after payment of all debts and expenses.

You can contact _____ at _____, phone _____, for any further information you may need.

Personal Representative

Date

Name: _____

Complete address: _____

NC 20

ESTATE NAME _____

DOCUMENT **Notice to beneficiaries (non residuary)**

To: Name: _____

Complete address: _____

You are named as a beneficiary in the last will of _____.

The will gives you _____.

The personal representative(s) named in the will have applied for a grant of probate.

Once the court issues the grant, the personal representative(s) will collect in the estate property, pay the debts, and complete the administration of the estate and anything else required of the personal representative(s). Then they will be in a position to distribute your gift to you as long as it is not needed to pay for debts and expenses of the estate.

You can contact _____ at _____, phone _____, for any further information you may need.

Personal Representative

Date

Name: _____

Complete address: _____

NC 21

ESTATE NAME _____

DOCUMENT **Notice to beneficiaries (intestacy)**

To: Name: _____

Complete address: _____

_____ died without leaving a will. In this circumstance, the provisions of the *Intestate Succession Act* of Alberta determine which relatives of the deceased inherit the estate.

You are one of these relatives, or beneficiary (intestacy), and you will receive _____.

_____ has applied for a grant of administration.

Enclosed with this notice is a copy of the application for a grant of administration. This includes a list of the estate property and debts.

Once the court issues the grant, the personal representative(s) will collect in the property, pay the debts, and complete the administration of the estate and anything else required of the personal representative(s). Then they will be in a position to account to you before distributing any estate left after payment of all debts and expenses.

You can contact _____ at _____, phone _____, for any further information you may need.

<i>Personal Representative</i> Name: _____ Complete address: _____	<i>Date</i>
---	-------------

NC 22

ESTATE NAME _____

DOCUMENT **Notice to spouse of deceased**
Matrimonial Property Act

To: Name: _____

Complete address: _____

The law requires that this notice must be given to you because

1. you are the spouse or a former spouse (as defined in the Act) of _____;
2. you have not been given all the property in the estate;
3. your marriage to the deceased ended less than two years prior to the date of death.

You may have a claim under the *Matrimonial Property Act* on the property in the estate. This must be dealt with before the estate can be finally distributed.

There are some time requirements that must be met. You must begin any application before six months have gone by from the date the court issued the grant of probate or administration. There are other time limits in the Act which may mean that in your case you have less than six months in which to act.

If you want to take this further, you must consult your own lawyer immediately.

<i>Personal Representative</i> Name: _____ Complete address: _____	<i>Date</i>
---	-------------

I ACKNOWLEDGE RECEIPT OF THIS NOTICE AND OF A COPY OF THE APPLICATION FOR A GRANT OF _____ IN THE ESTATE OF _____.

Spouse Date

NC 23

ESTATE NAME _____

DOCUMENT **Notice to spouse of deceased**
Family Relief Act

To: Name: _____
Complete address: _____

The law requires that this notice must be given to you because you are the spouse of _____ but you have not been given all the property in the estate.

The *Family Relief Act* gives rights to a spouse that allow the spouse to apply to the court to receive more or all of the estate. The court can change the distribution of the estate and give you more if the court decides the circumstances warrant it.

There are some time requirements which must be met before the court can hear any application. You should begin your application before six months have gone by from the date the court issued the grant of probate or administration. After that, the personal representative may distribute the estate property and you can only apply if the court lets you. You can then only ask for some or all of the property in the estate that is still undistributed at that time.

If you want to take this further, you must consult your own lawyer immediately.

Personal Representative Date
Name: _____
Complete address: _____

I ACKNOWLEDGE RECEIPT OF THIS NOTICE AND OF A COPY OF THE APPLICATION FOR A GRANT OF _____ IN THE ESTATE OF _____.

Spouse Date

NC 24

ESTATE NAME _____

DOCUMENT **Notice to a dependent child of the deceased**
Family Relief Act

To: Name of Trustee: _____
Complete address: _____

On behalf of the dependent child: _____

The law requires that this notice must be given to you because you may be a dependent child of _____ but you have not been given all the property in the estate.

The *Family Relief Act* gives rights to a dependent child that allow the dependent child to apply to the court to receive more or all of the estate. The court can change the distribution of the estate and give you more if the court decides you are a dependent and the circumstances warrant it.

There are some time requirements which must be met before the court can hear any application. You should begin your application before six months have gone by from the date the court issued the grant of probate or administration. After that, the personal representative may distribute the estate property and you can only apply if the court lets you. You can then only ask for some or all of the property in the estate that is still undistributed at that time.

If you want to take this further, you must consult your own lawyer immediately.

Personal Representative _____ *Date* _____
Name: _____
Complete address: _____

I ACKNOWLEDGE RECEIPT OF THIS NOTICE AND OF A COPY OF THE APPLICATION FOR A GRANT OF _____ IN THE ESTATE OF _____.

Trustee _____ *Date* _____

NC 24.1

ESTATE NAME _____

DOCUMENT **Notice to the Public Trustee on behalf of** _____

This gives you notice that the personal representative shown in the attached copy of an Application for a grant of _____ has applied for this grant.

Notice is given to you

under section 6 of the *Administration of Estates Act* (beneficiaries interested in the estate)

a minor at the date of death of the deceased

Name: _____

Date of birth: _____

Address: _____

a missing person

Name: _____

Address: _____

a convict

Name: _____

Address: _____

a dependent adult for whose estate you are trustee

Name: _____

Address: _____

under section 7 of the *Administration of Estates Act* (family relief dependents)

the deceased was survived by a minor child of the deceased

Name: _____

Date of birth: _____

Address: _____

the deceased was survived by a dependent adult child for whose estate you are trustee

Name: _____

Address: _____

Enclosed is your inspection fee of \$ _____

Personal Representative
Name: _____
Complete address:

Date

To the Surrogate Court of Alberta and the personal representative:

The Public Trustee

does not intend to be represented on this application

intends to be represented on this application

makes these submissions:

Public Trustee of Alberta

Date

NC 25

COURT FILE NUMBER _____

ESTATE NAME _____

DOCUMENT **Affidavit regarding missing or unknown beneficiaries**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

- 1. The applicant(s) are entitled to apply for a grant because the applicant(s) are _____.
- 2. The applicant(s) have applied for a grant of _____.
- 3. The applicant(s) cannot fully complete Schedule 4 nor provide a complete set of notices to beneficiaries.

Unknown beneficiaries

- 4. These beneficiaries are unknown to the applicant(s):
 - 4.1 _____.

Missing beneficiaries

- 5. These beneficiaries cannot yet be located:
 - 5.1 _____.

Enquiries

- 6. The applicant(s) have made these enquiries to ascertain and find the beneficiaries:
 - 6.1 _____.

Undertakings

- 7. The applicant(s) undertake:
 - 7.1 to advise the court as soon as they have ascertained or found the beneficiaries, and
 - 7.2 to provide the clerk with the notices to beneficiaries at that time.
- 8. The applicant(s) believe that it is in the best interest of the estate to begin its administration immediately.
- 9. The Public Trustee will be served with notice of this application.

Prayer

- 10. That this Court grant the application for a grant of _____ without Schedule 4 being fully completed and without sending all the notices to beneficiaries.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

COURT FILE NUMBER

COURT

Surrogate Court of Alberta

JUDICIAL DISTRICT _____
 ESTATE NAME _____
 PROCEDURE **Application for a grant of** _____

REJECTION NOTICE

1. The application for a grant is rejected because

2. The applicant(s) can re-apply on an informal basis once they have satisfied the court about these matters.

Judge of the Surrogate Court of Alberta

Date

This Form is for use by the court and clerk's office only.

NC 27

COURT FILE NUMBER _____
 ESTATE NAME _____
 DOCUMENT **Affidavit of service**
 DEPONENT'S NAME _____
 DATE OF AFFIDAVIT _____

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

1. On _____, I served true copies of the originals of the following documents:

*Attached as
Exhibit*

Document

A

on the following:

Person(s) name(s) and address(es) where served and manner of service

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Name: _____

Complete address: _____

Occupation: _____

Commissioner's Name: _____

Appointment Expiry Date: _____

NC 28

COURT FILE NUMBER _____

COURT

Surrogate Court
of Alberta

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE

Application by the attorney for the personal representative(s) for
a grant of _____

BOND _____

NOTICES REQUIRED _____

COPY OF THE APPLICATION FILED WITH THE
PUBLIC TRUSTEE'S OFFICE _____

NAME OF ATTORNEY FOR THE PERSONAL
REPRESENTATIVE(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE
ATTORNEY FOR THE PERSONAL
REPRESENTATIVE(S) _____

Attorney

Name: _____

Complete address: _____

Date

Lawyer for Attorney

Responsible lawyer: _____

Firm name: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

ORDER: ISSUE THE GRANT AS APPLIED FOR

JUDGE OF THE SURROGATE COURT
OF ALBERTA

DATE

NC 29

COURT FILE NUMBER _____

COURT _____

JUDICIAL DISTRICT

Surrogate Court
of Alberta

ESTATE NAME _____

DOCUMENT

**Affidavit by the attorney for the personal representative(s) on
application for a grant of _____**

DEPONENT'S NAME _____

DATE OF AFFIDAVIT _____

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS AFFIDAVIT AND IN THE ATTACHED SCHEDULES IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant

1. The applicant is the attorney for _____, who are entitled to apply for a grant because they are _____.
2. The personal representative(s) appointed the applicant as their attorney for the purpose of this application on _____.

Schedules

3. The following schedules are part of this affidavit. They are correct to the deponents' information and belief.

3.1	NC 3	Schedule 1	Deceased
3.2	NC 4	Schedule 2	Will
3.3	NC 5	Schedule 3	Personal representative(s)
3.4	NC 6	Schedule 4	Beneficiaries
3.5	NC 7	Schedule 5	Inventory

Documents

4. The following documents are part of this affidavit.
 - 4.1 _____ Power of attorney from _____
 - 4.2 _____ Original will of the deceased
 - 4.3 NC 8 _____ Affidavit of witness to a will

The schedules and documents that are part of this affidavit provide all the information required in this application by the Surrogate Rules and have been prepared by myself or by my lawyer on my behalf.

Notices

5. The applicant(s) have served the following notices as required and in the manner prescribed by the Surrogate Rules.

- 5.1 NC 19 Notice(s) to beneficiaries (residuary)
- 5.2 NC 20 Notice(s) to beneficiaries (non residuary)
- 5.3 NC 21 Notice(s) to beneficiaries (intestacy)
- 5.4 NC 22 Notice to spouse of deceased *Matrimonial Property Act*
- 5.5 NC 23 Notice to spouse of deceased *Family Relief Act*
- 5.6 NC 24 Notice to a dependent child of the deceased *Family Relief Act*.

6. The attorney for the personal representative(s) will faithfully administer the estate of the deceased according to law and will give a true accounting of the attorney's administration to the persons entitled to it when lawfully required.

SWORN OR AFFIRMED BY THE DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 30

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by a personal representative for a grant of double probate**

DATE OF FIRST GRANT _____

BOND _____

NOTICES REQUIRED _____

COPY OF THE APPLICATION FILED WITH THE PUBLIC TRUSTEE'S OFFICE _____

NAME(S) OF PERSONAL REPRESENTATIVE(S) IN THIS APPLICATION _____

NAME(S) OF PERSONAL REPRESENTATIVE(S) IN THE PREVIOUS APPLICATION _____

COMPLETE ADDRESS FOR SERVICE ON THE PERSONAL REPRESENTATIVE(S) _____

Personal Representative

Date

Name: _____

Complete address: _____

Lawyers for Personal Representative

Responsible lawyer: _____

Firm name: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

ORDER: ISSUE THE GRANT AS APPLIED FOR

JUDGE OF THE SURROGATE COURT
 OF ALBERTA

DATE

NC 31

COURT FILE NUMBER _____

COURT

**Surrogate Court
 of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

DOCUMENT

**Affidavit by a personal representative on application for a grant
 of double probate**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT AND IN THE ATTACHED SCHEDULES IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant is one of the personal representative(s) named in the deceased's last will.
2. The other personal representative(s) named in the will previously applied for and were granted a grant of probate issued by this court on _____. Power was reserved at that time to allow the other personal representative(s) named in the will to make a subsequent application.

Schedules

3. The following schedules were part of the affidavit of _____, which was previously filed in that application for probate. They are correct to the deponents' information and belief.

3.1	NC 3	Schedule 1	Deceased
3.2	NC 4	Schedule 2	Will

- 3.3 NC 5 Schedule 3 Personal representative(s)
- 3.4 NC 6 Schedule 4 Beneficiaries
- 3.5 NC 7 Schedule 5 Inventory

Documents

4. The following documents were part of the affidavit of _____, which was previously filed in that application for probate.

- 4.1 Original will of the deceased
- 4.2 NC 11 Affidavit of witness to a will

The schedules and documents that are part of the affidavit of _____ provided all the information required in this application by the Surrogate Rules and have been prepared by me or by my lawyer on my behalf.

Notices

5. The following notices were served as required and in the manner prescribed by the Surrogate Rules by _____ when the previous application was filed.

- 5.1 NC 19 Notice(s) to beneficiaries (residuary)
- 5.2 NC 20 Notice(s) to beneficiaries (non residuary)
- 5.3 NC 21 Notice(s) to beneficiaries (intestacy)
- 5.4 NC 22 Notice to spouse of deceased *Matrimonial Property Act*
- 5.5 NC 23 Notice to spouse of deceased *Family Relief Act*
- 5.6 NC 24 Notice to a dependent child of the deceased *Family Relief Act*.

6. The personal representative(s) will faithfully administer the estate of the deceased according to law and will give a true accounting of their administration to the persons entitled to it when lawfully required.

7. This application for double probate is now made because _____.

8. The grant issued to _____ is now surrendered to this court.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

COURT FILE NUMBER _____

COURT _____
**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by the personal representative(s) for a grant of** _____

ORIGINAL JURISDICTION _____

BOND _____

NOTICES REQUIRED _____

COPY OF THE APPLICATION FILED WITH THE PUBLIC TRUSTEE'S OFFICE _____

PERSONAL REPRESENTATIVE(S) NAME(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE PERSONAL REPRESENTATIVE(S) _____

Personal Representative

Date

Name: _____
Complete address: _____

Lawyers for Personal Representative

Responsible lawyer: _____
Firm name: _____
Complete address: _____
Phone: _____
Fax: _____
File no.: _____

ORDER: ISSUE THE GRANT AS APPLIED FOR

JUDGE OF THE SURROGATE COURT OF ALBERTA

DATE

NC 33

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

DOCUMENT **Affidavit by the personal representative(s) on application for a grant of** _____

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT AND IN THE ATTACHED SCHEDULES IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are entitled to apply for a grant because the applicant(s) are _____.

Schedules

2. The following schedules are part of this affidavit. They are correct to the deponents' information and belief.

2.1	NC 3	Schedule 1	Deceased
2.2	NC 4	Schedule 2	Will
2.3	NC 5	Schedule 3	Personal representative(s)
2.4	NC 6	Schedule 4	Beneficiaries
2.5	NC 7	Schedule 5	Inventory

Documents

3. The following documents are part of this affidavit.

3.1		Certified copy of probate / administration issued by the Surrogate Court of _____
3.2		Certificate of the Surrogate Court of _____ that the grant is unrevoked and fully effective.
3.3	NC 17	Affidavit to dispense with bond

The schedules and documents that are part of this affidavit provide all the information required in this application by the Surrogate Rules and have been prepared by me or by my lawyer on my behalf.

Notices

4. The applicant(s) have served the following notices as required and in the manner prescribed by the Surrogate Rules.

4.1	NC 19	Notice(s) to beneficiaries (residuary)
4.2	NC 20	Notice(s) to beneficiaries (non residuary)
4.3	NC 21	Notice(s) to beneficiaries (intestacy)
4.4	NC 22	Notice to spouse of deceased <i>Matrimonial Property Act</i>
4.5	NC 23	Notice to spouse of deceased <i>Family Relief Act</i>
4.6	NC 24	Notice to a dependent child of the deceased <i>Family Relief Act</i> .

Original grant

5. The Surrogate Court of _____ issued a grant of _____ to the personal representative(s) on _____ which grant is unrevoked and of full force and effect.
6. The applicant(s) ask this court to _____ with respect to the deceased's property in Alberta.
7. The personal representative(s) will faithfully administer the estate of the deceased according to law and will give a true accounting of their administration to the persons entitled to it when lawfully required.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS / NOTARY PUBLIC AT

_____, _____ ON _____

Deponent _____

Commissioner's Name: _____

Notary Public's Name: _____

Appointment Expiry Date: _____

NC 34

NOTICE TO CREDITORS AND CLAIMANTS

Estate of _____ who died on _____

If you have a claim against this estate, you must file your claim by _____ and provide details of your claim

with _____

at _____

If you do not file by the date above, the estate property can lawfully be distributed without regard to any claim you may have.

NC 34.1

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

DOCUMENT **Statutory declaration of publication**

EXHIBIT ATTACHED **Advertisement**

THE DECLARANT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS STATUTORY DECLARATION IS WITHIN THE DECLARANT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

1. The declarant's name and complete address is _____.
2. The declarant states that, on examination of the _____, a newspaper published in _____, Alberta, true copies of the attached advertisement, marked as Exhibit A, appeared in the following issues of the newspaper:
 - 2.1 _____
 - 2.2 _____

DECLARED BEFORE A COMMISSIONER FOR OATHS AT _____,

ALBERTA ON _____

Declarant _____

Commissioner's Name: _____

Appointment Expiry Date: _____

NC 35

ESTATE NAME _____

DATE OF DEATH _____

DOCUMENT

Statutory declaration by creditors and claimants

THE DECLARANT SWEARS UNDER OATH OR AFFIRMS THAT THE INFORMATION IN THIS STATUTORY DECLARATION IS WITHIN THE DECLARANT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Declarant

- 1. The declarant's name and complete address is _____.
- 2. The declarant makes this claim as a _____.

Amount of Claim

- 3. The amount claimed against the estate is \$ _____.

Details of Claim

- 4. This claim is based on _____.

Security for Debt (Creditors only)

- 5. The declarant holds the following security for this debt _____.
- 6. The security is owned by _____.
- 7. The declarant values the security at \$ _____.
- 8. The deceased is _____ liable for this claim.

DECLARED BEFORE A COMMISSIONER FOR OATHS AT _____

ALBERTA ON _____

Declarant _____

Commissioner's Name: _____

Appointment Expiry Date: _____

NC 36

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Probate**

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____.

THIS COURT HAS GRANTED PROBATE OF THE ATTACHED WILL (AND CODICIL(S)) AND ADMINISTRATION OF ALL THE DECEASED'S PROPERTY TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 37

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Administration with will annexed** _____

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT HAS PROVED AND REGISTERED THE ATTACHED WILL (AND CODICIL(S)) OF THE DECEASED AND AUTHORISED ADMINISTRATION OF _____

THE DECEASED'S PROPERTY TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 38

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Administration** _____

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT HAS AUTHORISED ADMINISTRATION OF _____
THE DECEASED'S PROPERTY TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 39

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Double probate**

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT GRANTED PROBATE OF THE ATTACHED WILL (AND CODICIL(S)) AND ADMINISTRATION OF ALL THE DECEASED'S PROPERTY TO ONE OF THE PERSONAL REPRESENTATIVE(S) ON _____.

THIS GRANT IS NOW REVOKED.

THIS COURT NOW HAS GRANTED PROBATE OF THE ATTACHED WILL (AND CODICIL(S)) AND ADMINISTRATION OF ALL THE DECEASED'S PROPERTY TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 40

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Ancillary grant of probate**

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT HAS GRANTED PROBATE OF THE ATTACHED WILL (AND CODICIL(S)) AND ADMINISTRATION OF ALL THE DECEASED'S PROPERTY IN ALBERTA TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 41

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Ancillary grant of administration with will annexed** _____

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT HAS PROVED AND REGISTERED THE ATTACHED WILL (AND CODICIL(S)) OF THE DECEASED AND AUTHORISED ADMINISTRATION OF _____

THE DECEASED'S PROPERTY TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 42

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

GRANT **Ancillary grant of administration** _____

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT HAS AUTHORISED ADMINISTRATION OF _____

THE DECEASED'S PROPERTY TO THE PERSONAL REPRESENTATIVE(S).

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 43

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

PROCEDURE **Application for a grant of trusteeship of the estate of a minor
child**

NAME OF MINOR CHILD _____

NAMES OF PARENTS OF MINOR CHILD _____

BOND _____

COPY OF APPLICATION FILED WITH THE PUBLIC TRUSTEE'S OFFICE **Yes**

TRUSTEE(S) NAME(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE TRUSTEE(S) _____

Trustee
Name: _____
Complete address:

Date

Lawyers for Trustee(s)
Responsible lawyer: _____
Firm name: _____
Complete address:

Phone: _____
Fax: _____
File no.: _____

ORDER: ISSUE THE GRANT AS APPLIED FOR

JUDGE OF THE SURROGATE COURT
OF ALBERTA

DATE

NC 44

COURT FILE NUMBER _____

COURT

Surrogate Court
of Alberta

JUDICIAL DISTRICT _____

NAME OF MINOR CHILD _____

DOCUMENT

**Affidavit on application for a grant of trusteeship of the estate of
a minor child**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

COPY OF BOND ATTACHED _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT AND IN THE ATTACHED SCHEDULES IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are over 18 years of age and are the _____ of the minor.

Minor

2. Name: _____
Complete address: _____
Birth date: _____
Age: _____

Parents of minor

3. Mother of minor

Name: _____
Complete address: _____

Information if mother deceased:

Date of death: _____
Residence at date of death: _____
Judicial District where property located: _____
Testate/Intestate: _____
Name of any trustee(s) appointed by mother: _____

4. Father of minor

Name: _____
Complete address: _____

Information if father deceased:

Date of death: _____
Residence at date of death: _____
Judicial District where property located: _____
Testate/Intestate: _____
Name of any trustee(s) appointed by father: _____

Schedules

5. The following schedules concerning the estate of _____ are part of this affidavit. They are correct to the deponents' information and belief.

5.1 NC 6 Schedule 4 Beneficiaries

5.2 NC 7 Schedule 5 Inventory

Documents

6. The following documents are part of this affidavit.

6.1 NC 45 Election by minor of a trustee

6.2 NC 46 Notice of intention to apply for a grant of trusteeship

The schedules and documents that are part of this affidavit provide all the information required in this application by the Surrogate Rules and have been prepared by me or by my lawyer on my behalf.

Notices required

7. Notice that an application that a trustee be appointed has been given to _____. Notice will also be given in _____ newspaper if required by the court.

Bond

8. The trustee(s) have obtained the required bond, a copy of which is marked as Exhibit A to this affidavit.

or

8. The trustee(s) apply to dispense with the requirement for a bond because _____.

9. The trustee(s) will faithfully

9.1 administer the estate of the minor;

9.2 perform the duties of trusteeship;

9.3 account to the minor when required by law to do so.

10. The trustee(s) will surrender the grant which this court issues back to the court whenever the court requires.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 45

COURT FILE NUMBER _____

MINOR'S NAME _____

COMPLETE ADDRESS _____

DOCUMENT

Election of a trustee by a minor

1. I am a minor child of:

Mother: _____
Date of death: _____

and

Father: _____
Date of death: _____

2. I was born on _____ and am _____ years of age.

3. I elect as my trustee(s):

Name of trustee(s): _____
Relationship to minor: _____

4. My election is made to allow my trustee(s) to:

- 4.1 Obtain a grant of administration of the property of _____ .
- 4.2 Obtain a grant of administration of the property of _____ until I am 18 years of age.
- 4.3 Renounce my right to a grant of administration of the property of _____.
- 4.4 Administer my property until I am 18 years of age.
- 4.5 _____.

SIGNED BY THE MINOR AND WITNESSED BY _____

ON _____

Minor

Witness

This document requires an affidavit of execution. Use Form NC 11.

NC 46

NOTICE

concerning the minor child _____

An application will be heard by a judge of the Surrogate Court of Alberta, Judicial District of _____:

on _____

place _____

time _____

for a grant of trusteeship of the estate of the minor child by _____

Further information may be obtained from _____

NC 47

NAME OF MINOR CHILD _____

DOCUMENT

Affidavit to dispense with a bond

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are applying for a grant of trusteeship of the minor child because the applicant(s) are _____.

Reason for request

2. The applicant(s) request the court to dispense with the requirement of a bond because _____.

3. And therefore the applicant(s) request that this court grant the application for a grant of trusteeship without bond.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON _____

Deponent

Commissioner's Name:

Appointment Expiry Date:

NC 48

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

NAME OF MINOR CHILD _____

GRANT **Trusteeship of the estate of the minor child**

BY THE ORDER OF THE HONOURABLE JUDGE _____ DATED _____

THIS COURT HAS APPOINTED TRUSTEE(S) OF THE ESTATE OF THE MINOR CHILD.

THE TRUSTEE(S) HAVE THE POWER AND AUTHORITY TO DO ALL THINGS WHICH TRUSTEES OF THE ESTATES OF MINORS MAY AND OUGHT TO DO ACCORDING TO THE LAWS OF THE PROVINCE OF ALBERTA.

THE TRUSTEE(S) HAVE SWORN OR AFFIRMED TO PERFORM THE TRUST OF TRUSTEESHIP AND TO ADMINISTER THE ESTATE OF THE MINOR ACCORDING TO THE LAWS OF THE PROVINCE OF ALBERTA.

Name of minor child _____

Of _____

Name(s) of trustee(s) _____

Of _____

CLERK OF THE SURROGATE COURT

This Form is for use by the court and clerk's office only.

NC 49

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

CERTIFICATE OF VALID GRANT

I certify that the grant described in this certificate is valid and unrevoked.

Grant _____

Date of grant _____

Name of deceased _____

Of _____

Date of death _____

Name(s) of personal representative(s) _____

Of _____

Clerk of the Surrogate Court

Date

This Form is for use by the court and clerk's office only.

C 1

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application** _____

DOCUMENT **Notice of motion**

PARTIES

APPLICANT(S) _____

RESPONDENT(S)

PERSONAL REPRESENTATIVE(S) _____

BENEFICIARIES (RESIDUARY) _____

LIFE TENANTS _____

BENEFICIARIES (NON RESIDUARY) _____

BENEFICIARIES (INTESTACY) _____

TRUSTEES FOR DEPENDENT ADULTS _____

ATTORNEYS FOR INCOMPETENT ADULTS _____

MINORS _____

MISSING PERSONS _____

UNPAID CLAIMANTS _____

BONDING COMPANIES _____

COMPLETE ADDRESS FOR SERVICE ON THE
 APPLICANT(S) OF ANY DOCUMENTS IN THIS
 ACTION _____

THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____

ON _____

PLACE _____

TIME _____

NOTICE TO THE RESPONDENT(S) _____

This is to notify you that if you do not attend either in person or by your lawyer before the court at the time and place shown above, the court may give the applicant(s) what they want in your absence. You will be bound by any order the court makes.

Alternatively, another order might be given or other proceedings taken which the applicant(s) are entitled to without any further notice of them to you.

Therefore, if you want to take part in this application, you or your lawyer must attend in court on the date and time described.

Applicant(s)

1. The applicant(s) are _____

Issues to be determined or nature of claims

2. _____

Grounds upon which request is based

3. _____

Reasons for seeking relief

4. _____

Relief sought

5. _____

Documents filed with this application

6. 6.1 C 2 Affidavit of the applicant(s)

6.2

Applicable Surrogate Rules

7. Surrogate Rules _____

Applicable statutes

8. _____

Applicant _____ *Date* _____
Name: _____
Complete address: _____

Lawyers for Applicant(s)
Responsible lawyer: _____
Firm name: _____
Complete address: _____

Phone: _____
Fax: _____
File no.: _____

C 2

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application** _____

DOCUMENT **Affidavit**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

EXHIBITS ATTACHED _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) as shown on the Notice of Motion are persons interested in the estate because they are _____.

Respondents

2. The respondents as shown on the Notice of Motion are all the persons interested in the estate as defined in the Surrogate Rules.

Facts on which the application is based

3. The facts on which this application is based are

3.1 _____.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

C 3

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

C A V E A T

NOTHING CAN BE DONE IN THIS ESTATE WITHOUT NOTICE TO THE CAVEATOR(S) OR TO THE LAWYER FOR THE CAVEATOR(S)

Caveator(s)

- 1. The caveator(s) name(s) and address(es) and occupation(s) are _____.
- 2. The caveator(s) are interested in this estate and are entitled to file a caveat because they are _____.

Grounds for filing this caveat

3. The grounds on which the caveator(s) have filed this caveat are _____.

Complete address for service

4. The address for service on the caveator(s) is _____.

CAVEAT SIGNED BY

Caveator

Date

Lawyers for the Caveator(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

The caveator(s) swear under oath or affirm that:

1. The statements in this caveat are within their knowledge and are true;
2. This caveat is not filed for the purpose of delaying or embarrassing any person interested in the deceased's estate.

SWORN OR AFFIRMED BY EACH CAVEATOR BEFORE A COMMISSIONER FOR OATHS

AT _____, ALBERTA ON _____

Caveator

Commissioner's Name:

Appointment Expiry Date:

The information in the box is completed by the clerk at the time the document is filed and before it is served.

THIS CAVEAT EXPIRES ON _____
Clerk of the Surrogate Court

C 3.1

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

WITHDRAWAL AND DISCHARGE OF CAVEAT

Caveator(s)

1. The caveator(s) name(s) and address(es) and occupation(s) are _____.
2. The caveator(s) acknowledge that they have no further interest under the caveat dated _____.
3. The caveator(s) withdraw the caveat.

3. The caveat is discharged.

CAVEAT SIGNED BY

Caveator _____
Witness

Lawyers for the Caveator(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

JUDGE OF THE SURROGATE COURT
OF ALBERTA

ENTERED AT _____, ALBERTA ON _____

CLERK OF THE SURROGATE COURT

C 4

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

WARNING TO CAVEATOR(S)

TO: _____

YOU FILED A CAVEAT WHICH REQUIRES THAT NOTICE MUST BE GIVEN TO YOU OF ANY APPLICATION WHICH MIGHT BE MADE IN THIS ESTATE.

THE FOLLOWING APPLICATION HAS BEEN MADE:

Nature of application Grant of _____

Date of will _____

Applicant(s) name(s) and address(es) _____

Lawyers for applicant(s):

Name _____

Complete address _____

Responsible lawyer _____

File no. _____

Phone _____

Fax _____

Complete address for service on applicants _____

BE WARNED :

If you want to contest this application, you must file a notice of objection to an informal grant on the enclosed Form called "Notice of objection to informal grant".

You must state:

- 1. That you object to this application; and
- 2. The nature of your objection.

THERE IS A DEADLINE FOR FILING YOUR NOTICE OF OBJECTION.

If you do not file your notice of objection by the deadline, the court will:

- 3. Deal with the application for an informal grant without any further notice to you; and
- 4. Assume that you consent to the application.

THE DEADLINE IS _____.

Your notice of objection must be filed with:

Clerk of the Surrogate Court

Clerk of the Surrogate Court

Date

C 5

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Formal proof of will**

DOCUMENT **Application by personal representative(s)**

1. The personal representative(s) _____ named in a will of the deceased dated _____ request that:

1.1 This court formally admits this will to probate as the valid last will of the deceased.

1.2 This court issues a grant of probate of this will to the personal representatives named in the will.

2. The personal representative(s) make this request because the validity of the will is in issue.

3. The validity of the will has been attacked on the ground that _____.

4. Complete address for service on the personal representative(s) of any documents in this application is _____.

Notices required

5. The following notices are required:

- 5.1 To all the beneficiaries of the estate in this will.
- 5.2 To all the beneficiaries of the estate in previous wills.
- 5.3 To the spouse of the deceased.
- 5.4 To the adult children of the deceased.
- 5.5 To the Public Trustee for the Province of Alberta.
- 5.6 To the beneficiaries (intestacy).
- 5.7 To the personal representative(s) named in previous wills.
- 5.8 To the spouse of the deceased under section 11 *Matrimonial Property Act*
- 5.9 To the spouse of the deceased under section 3 *Family Relief Act*
- 5.10 To a former spouse of the deceased under section 6 *Matrimonial Property Act*
- 5.11 To a dependent child of the deceased under section 3 *Family Relief Act*

6. Notices are sent to: _____

 Personal Representative

Date

Name: _____

Complete address:

 Lawyers for Personal Representative(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

C 6

COURT FILE NUMBER _____

COURT

Surrogate Court
of Alberta

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE

Formal proof of will

DOCUMENT

Affidavit by personal representative(s)

SCHEDULES ATTACHED _____

DOCUMENTS ATTACHED _____

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE INFORMATION IN THIS AFFIDAVIT AND IN THE ATTACHED SCHEDULES IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) as shown in the Application are the personal representatives named in a will of the deceased dated _____.

Formal proof of will proceedings

2. It is alleged that the will dated _____ is invalid because _____.

Schedules

3. The following schedules are part of this affidavit or have been previously filed with the court. They are correct to the deponents' information and belief.

- | | | | |
|-----|------|--------------|----------------------------|
| 3.1 | NC 3 | Schedule 1 | Deceased |
| 3.2 | NC 4 | Schedule 2 | Will |
| 3.3 | C 7 | Schedule 2.1 | Previous wills |
| 3.4 | NC 5 | Schedule 3 | Personal representative(s) |
| 3.5 | NC 6 | Schedule 4 | Beneficiaries |
| 3.6 | NC 7 | Schedule 5 | Inventory |

Documents

4. The following documents are part of this affidavit or have been previously filed with the court.

- | | | |
|-----|------|--|
| 4.1 | | Original will(s) of the deceased dated _____ |
| 4.2 | NC 8 | Affidavit(s) of witness to will(s) |

The schedules and documents that are part of this affidavit provide all the information required in this application by the Surrogate Rules and have been prepared by me or by my lawyer on my behalf.

Notices

5. The applicant(s) have served the following notices as required and in the manner prescribed by the Surrogate Rules.

- | | | |
|-----|-------|--|
| 5.1 | NC 19 | Notice(s) to beneficiaries (residuary) |
| 5.2 | NC 20 | Notice(s) to beneficiaries (non residuary) |
| 5.3 | NC 21 | Notice(s) to beneficiaries (intestacy) |
| 5.4 | NC 22 | Notice to spouse of deceased <i>Matrimonial Property Act</i> |
| 5.5 | NC 23 | Notice to spouse of deceased <i>Family Relief Act</i> |
| 5.6 | NC 24 | Notice to a dependent child of the deceased <i>Family Relief Act</i> . |

6. The deponent(s) believe that while the deceased was alive, the deceased kept the will dated _____ in _____ where it was found at the date of death.

- 7. After the deceased's death, the applicant(s) obtained the will from _____ and kept it in their or their lawyer's possession until filed with the court.
- 8. If this will is formally admitted to probate, the applicant(s) will faithfully administer the estate of the deceased according to law and will give a true accounting of their administration to the persons entitled to it when lawfully required.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

C 7

ESTATE NAME _____

DOCUMENT **Schedule 2.1 Previous wills**

The personal representatives have knowledge about the following wills of the deceased:

- 1. Will dated _____
 Deceased's age at date of will _____
 Marriages of deceased subsequent to date of will _____
 Location of will at date of death _____
 Name of first witness _____
 Name of second witness _____

Neither witness is a beneficiary or the spouse of a beneficiary named in the will.

The original will is attached to this schedule.

- 2. Will dated _____
 Deceased's age at date of will _____
 Marriages of deceased subsequent to date of will _____
 Location of will at date of death _____
 Name of first witness _____
 Name of second witness _____

Neither witness is a beneficiary or the spouse of a beneficiary named in the will.

The original will is attached to this schedule.

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Formal proof of will**

DOCUMENT **Notice to persons interested in the estate**

To:

Name _____

Complete address _____

THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____

ON _____

PLACE _____

TIME _____

NOTICE TO THE RESPONDENT(S) _____

This is to notify you that if you do not attend either in person or by your lawyer before the court at the time and place shown above, the court may give the applicant(s) what they want in your absence. You will be bound by any order the court makes.

Alternatively, another order might be given or other proceedings taken which the applicant(s) are entitled to without any further notice of them to you.

Therefore, if you want to take part in this application, you or your lawyer must attend in court on the date and time described.

1. The personal representatives named in the deceased's will dated _____ have applied for formal proof of that will. This is necessary because the validity of the will has been attacked on the grounds that _____.
2. If the court finds this will to be valid, then the court will admit the will to probate and the will's provisions will govern the disposition of the estate property that is dealt with in the will.
3. If the court finds this will to be invalid, then the court will consider
 - 3.1 whether any previous wills of the deceased are valid and govern the disposition of the estate property; or
 - 3.2 whether the deceased died intestate, that is without a will. In that case, the provisions of the *Intestate Succession Act* will determine who will receive the estate property.
4. You are a person interested in the estate as defined in the Surrogate Rules because you are _____.
5. Enclosed with this notice is a copy of the application for formal proof of the will of the deceased. This includes copies of the will(s) and a schedule of the inventory of the estate property.

6. You can contact _____ at _____, phone _____ for any further information you may need.

Personal Representative

Date

Name: _____

Complete address:

Lawyers for Personal Representative(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

C 9

COURT FILE NUMBER _____

COURT

**Surrogate Court
 of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE

Formal proof of will

DOCUMENT

Notice of objection to informal grant

(Fill in your name and the other information)

Name _____

Complete address _____

Relationship to deceased _____

Interest in estate _____

1. I object to any application by _____
 that _____.
2. I request an interim order that _____.
3. In the proceedings, I will seek a final order that _____.
4. My reason for this request is _____.
5. My complete address for service of any documents in this matter is _____.
6. This notice of objection is sent to _____.

Objector

Date

Name: _____
 Complete address: _____

Lawyers for Objector(s)

Responsible lawyer: _____
 Firm name: _____
 Complete address: _____
 Phone: _____
 Fax: _____
 File no.: _____

This notice of objection requires an affidavit to establish the facts relied on by the objector. Use Form C 2.

C 10

COURT FILE NUMBER _____
 COURT **Surrogate Court of Alberta**
 JUDICIAL DISTRICT _____
 ESTATE NAME _____
 PROCEDURE **Formal proof of will**
 DOCUMENT **Direction**

1. The application by the personal representative(s) to admit a will of the deceased dated _____ to probate on an informal basis is denied because _____.
2. The personal representative(s) named in this will must take proceedings formally to prove the deceased's will in accordance with the Surrogate Rules.

JUDGE OF THE SURROGATE COURT
 OF ALBERTA

DATE

This Form is for the use of the court only.

C 11

COURT FILE NUMBER _____
 COURT **Surrogate Court
 of Alberta**
 JUDICIAL DISTRICT _____
 ESTATE NAME _____
 PROCEDURE **Deciding contested claims**
 DOCUMENT **Notice of contestation**

To:

Name and address of claimant: _____

1. You have made a claim against the estate of _____ for:
 - 1.1 _____
 - 1.2 \$ _____
2. The personal representative(s) of the estate contest your claim against the estate _____ and will not pay it unless ordered to by the court.
3. You may apply to the court for a decision on your claim by filing a notice of claim in Form C 12 of the Surrogate Rules.
4. You have 60 days from your receipt of this notice to do this. If you fail to act, your claim may be barred forever.
5. Sections 41 and 42 of the *Administration of Estates Act* apply to this proceeding.
6. A copy of the relevant Surrogate Rules is enclosed.

Personal Representative

Date

Name: _____
Complete address: _____

Lawyers for Personal Representative(s)

Responsible lawyer: _____
Firm name: _____
Complete address: _____
Phone: _____
Fax: _____
File no.: _____

C 12

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Deciding contested claims**

DOCUMENT **Notice of claim and affidavit**

PARTIES

APPLICANT(S) _____

RESPONDENT(S) _____, the personal representative(s) of the estate

THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF

ON _____
PLACE _____
TIME _____

NOTICE TO THE RESPONDENT(S) _____

This is to notify you that if you do not attend either in person or by your lawyer before the court at the time and place shown above, the court may give the applicant(s) what they want in your absence. You will be bound by any order the court makes.

Alternatively, another order might be given or other proceedings taken which the applicant(s) are entitled to without any further notice of them to you.

Therefore, if you want to take part in this application, you or your lawyer must attend in court on the date and time described.

Claimant(s)

1. The name(s) and address(es) of the claimant(s) are _____

Amount of claim(s)

2. \$ _____.

Nature of claim(s)

3. _____.

Grounds upon which claim(s) are based

4. _____.

Relief sought

5. _____.

Documents filed with this application

6. 6.1 Affidavit of the claimant(s).

6.2 _____.

Applicable Surrogate Rules

7. Rules _____.

Applicable Statutes

8. _____.

Claimant

Name: _____

Complete address:

Date

Lawyers for Claimant(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

AFFIDAVIT

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

EXHIBITS ATTACHED _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are claimant(s) of the estate.

Respondents

2. The respondents are the personal representative(s) of the estate.

Facts on which the application is based

3. The facts on which this application is based are

- 3.1 _____.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

C 13

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application** _____**PARTIES**

COURT	Surrogate Court of Alberta
JUDICIAL DISTRICT	_____
ESTATE NAME	_____
PROCEDURE	Application by the personal representative(s) to pass accounts formally
DOCUMENT	Application
<u>PARTIES</u>	
APPLICANT(S)	_____
RESPONDENT(S)	_____
BENEFICIARIES (RESIDUARY)	_____
LIFE TENANTS	_____
BENEFICIARIES (NON RESIDUARY)	_____
BENEFICIARIES (INTESTACY)	_____
TRUSTEES FOR DEPENDENT ADULTS	_____
ATTORNEY(S) FOR INCOMPETENT ADULTS	_____
MINORS	_____
MISSING PERSONS	_____
UNPAID CLAIMANTS	_____
BONDING COMPANIES	_____
COMPLETE ADDRESS FOR SERVICE ON THE APPLICANT(S) OF ANY DOCUMENTS IN THIS ACTION	_____

1. The applicant(s) request an order:
 - 1.1 Deeming service of all documents on all parties sufficient.
 - 1.2 Determining that the personal representative(s) have fully and satisfactorily accounted to a date to be stated in the order.
 - 1.3 Passing the accounts.
 - 1.4 Setting the compensation for the personal representative(s) for the accounting period.
 - 1.5 Directing distribution of the estate.
 - 1.6 Cancelling the bond.
 - 1.7 Discharging the personal representative(s).
 - 1.8 Allowing and directing payment of costs (including disbursements and G.S.T.) of this application to be paid from the estate.
 - 1.9 Providing for any other matters that might be required.

2. Filed with this application are:

- 2.1 ACC 2 Affidavit of the personal representative(s)
- 2.2 Financial statements

3. Costs proposal:

- 3.1 Costs of the personal representative(s) to be paid by _____.

4. The applicant(s) rely on the provisions of the *Administration of Estates Act* R.S.A. 1980, c. A-1, as amended and the Surrogate Rules.

<p><i>Applicant</i></p> <p>Name: _____</p> <p>Complete address: _____</p>	<p><i>Date</i></p>
---	--------------------

Lawyers for Applicant(s)

Responsible lawyer: _____

Firm name: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

NOTICE OF HEARING: THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____:

ON _____

PLACE _____

TIME _____

Please read the enclosed documents carefully so that you can understand what the application is about.

If you consent to or do not oppose the application, you may:

- 1. Tick the last box on the notice of objection. Sign and return the notice of objection to the trustee(s); or
- 2. Do nothing further; or
- 3. Attend at the hearing and indicate your position to the court.

If you oppose any part of the application, you must:

- 1. Complete and file the enclosed notice of objection with the court described above at least five days before the hearing, that is by _____; and
- 2. Serve a filed copy of the notice of objection on the applicant(s). Their address for service is on this application; and
- 3. Come to the hearing and tell the judge what part of the accounting you object to and why.

If you oppose any part of this application but you do not file and serve your notice of objection:

1. You will not be allowed to take part in the proceedings unless the judge specifically agrees to let you; and
2. The hearing will still take place even if you are not allowed to take part in the proceedings; and you will be bound by the judge's order.

In any event, the judge will make an order and a copy of the order will be sent to you later.

ACC 2

COURT FILE NUMBER	_____
COURT	Surrogate Court of Alberta
JUDICIAL DISTRICT	_____
ESTATE NAME	_____
PROCEDURE	Application by the personal representative(s) to pass accounts formally
DOCUMENT	Affidavit
DEPONENT(S) NAME(S)	_____
DATE OF AFFIDAVIT	_____
DOCUMENTS ATTACHED	Financial statements

THE DEPONENT(S) SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are the personal representative(s) of the estate.

Respondents

2. The respondents are all the persons interested in the estate as defined in the Surrogate Rules.

Service of documents

3. Copies of the financial statements have been given or mailed to all the respondents either at their last known addresses or in care of their lawyers of record.
4. The respondents will be served in the manner prescribed in the Surrogate Rules with:

- | | | |
|-----|-------|---|
| 4.1 | ACC 1 | Application including notice of hearing |
| 4.2 | ACC 2 | Affidavit of the personal representative(s) |
| 4.3 | ACC 3 | Notice of objection |

Financial statements

5. The financial statements:
 - 5.1 Are an accurate statement of the administration of the estate.
 - 5.2 Show all the property and debts of the deceased that the personal representative(s) have been able to ascertain.
 - 5.3 Show all the property received and debts and claims paid by the personal representative(s).

5.4 Are for the period _____ to _____.

5.5 Are _____ accounting.

Claimants

6. Claimants and amounts not yet paid are:

6.1 _____.

Advertising for creditors and claimants

7. _____

Distribution

8. No distribution of the deceased's property has been made except as is reflected in the financial statements.

9. Once the court approves the financial statements, the personal representative(s) undertake to distribute the estate property as set out in the schedule of distribution.

Special matters

10. _____.

Compensation

11. Compensation for the personal representative(s) is based on _____.

12. _____

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

ACC 3

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by** _____

DOCUMENT **Notice of objection or consent**

Accounting firm

Date

Accountant: _____

Firm name: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

ORDER: ISSUE THIS DIRECTION

JUDGE OF THE SURROGATE COURT
OF ALBERTA

DATE

ACC 5.1

COURT FILE NUMBER _____

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE

Application by the personal representative(s) to pass accounts formally

DOCUMENT

Accountant's engagement report

To the Surrogate Court of Alberta:

1. This report is prepared solely for submission to the Surrogate Court of Alberta, the personal representative(s), and the persons interested in the estate as identified by the court.
2. I have reviewed the financial statements for the estate of _____ for the period _____ to _____, as ordered by the Surrogate Court on _____.
3. These financial statements were prepared by the personal representative(s) and provided to the court and to me.
4. My responsibility was to express an opinion on the plausibility of the financial statements based on my review. This review was made in accordance with generally accepted standards for review engagements and accordingly consisted primarily of enquiry, analytical procedures and discussion related to information supplied to me by the personal representative(s).
5. A review does not constitute an audit and consequently I do not express an audit opinion on these financial statements.
6. Based on my review, nothing has come to my attention that causes me to believe that these financial statements are not, in all material respects, in accordance with generally accepted accounting principles.
7. _____

Accounting firm

Date

Accountant: _____

Firm name: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

ACC 4

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by the personal representative(s) to pass accounts formally**

DOCUMENT **Terms of accountant's engagement**

DIRECTION

1. The accounting firm _____ is engaged to provide the following services with regard to the financial statements for the estate of _____ for the period _____ to _____:

- a. to perform a compilation engagement of the financial statements.
- b. to perform a review engagement of the financial statements.
- c. to perform a review engagement of the financial statements with a disclosure of the review engagement procedures applied in arriving at the overall negative assurance opinion, with regard to specific items ... in the financial statements.
- d. to carry out specified auditing procedures with regard to items _____ in the financial statements or financial information.
- e. to perform an audit of the financial statements.

2. All accounting documentation must be made available to the accounting firm.

3. The accounting firm's fee and necessary disbursements are payable by _____.

4. The accounting firm will report its results to the Surrogate Court and the persons interested in the estate by _____.

4. When the accounting firm has completed its review as directed, it will report the results, including all exceptions, irregularities, and other pertinent comments, to the Surrogate Court and the persons interested in the estate by _____.

5. In particular, the accounting firm is directed to review items numbered _____ from the estate financial statements and to:

5.1 _____

The accounting firm of _____ accepts the terms of this engagement.

(Fill in your name and address)

Name of respondent beneficiary _____

Complete address _____

I OBJECT TO THE FOLLOWING PART(S) OF THIS APPLICATION:

(Tick the boxes against items where you object; otherwise leave the boxes blank. Describe the item you object to and give your reasons.)

Financial statements

Item number(s)	Description
_____	_____
Reason(s) for objection	_____

Distribution schedule

Description	_____

Reason(s) for objection	_____

Compensation schedule

Description	_____

Reason(s) for objection	_____

Manner of administration

Description	_____

Reason(s) for objection	_____

OTHERWISE I CONSENT TO THIS APPLICATION.

No objection

I have no objections to the financial statements for the period _____ to _____

Respondent Date

Lawyers for Respondent(s)

Responsible lawyer: _____

Firm name: _____

Applicant

Name: _____
Complete address: _____

Date

Lawyers for Applicant(s)

Responsible lawyer: _____
Firm name: _____
Complete address: _____
Phone: _____
Fax: _____
File no.: _____

NOTICE OF HEARING:	THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____:
ON	_____
PLACE	_____
TIME	_____

Please read the enclosed documents carefully so that you can understand what the application is about.

You will soon be receiving a reply from the personal representative(s) of the estate. The reply will tell you what position the personal representative(s) are taking about this application.

1. The personal representative(s) may consent to the application and apply for a formal passing of accounts.

In this case:

- 1.1 The court hearing shown above will be adjourned.
- 1.2 You will receive copies of the financial statements from the personal representative(s). If you need more information, you should ask the personal representative(s) for it.
- 1.3 You will also receive a notice of objection. This will tell you your choices of what you can do depending on whether you accept or reject the financial statements.
- 1.4 If the financial statements are satisfactory, tick the last box on the notice of objection. Sign and return the notice of objection to the trustee(s) with a copy to the applicant(s).
- 1.5 If the financial statements are not satisfactory, tick the appropriate boxes on the notice of objection. Sign and return the notice of objection to the trustee(s) with a copy to the applicant(s).
- 1.6 If all parties are satisfied with the financial statements, there will not be a court hearing.

2. The personal representative(s) may object to the application and refuse to apply for a formal passing of accounts.

In this case:

- 2.1 The court hearing shown above will take place.
- 2.2 You will receive an affidavit from the personal representative(s) before the hearing that will tell you why they object to the application and refuse to apply for a formal passing of accounts.

3. Your position at the court hearing shown above.

PROCEDURE	Application by a person interested in the estate that accounts be passed formally
DOCUMENT	Application
<u>PARTIES</u>	
APPLICANT(S)	_____
RESPONDENT(S)	
PERSONAL REPRESENTATIVE(S)	_____
BENEFICIARIES (RESIDUARY)	_____
LIFE TENANTS	_____
BENEFICIARIES (NON RESIDUARY)	_____
BENEFICIARIES (INTESTACY)	_____
TRUSTEES FOR DEPENDENT ADULTS	_____
ATTORNEYS APPOINTED UNDER THE POWERS OF ATTORNEY ACT FOR INCOMPETENT ADULTS	_____
MINORS	_____
MISSING PERSONS	_____
UNPAID CLAIMANTS	_____
BONDING COMPANIES	_____
COMPLETE ADDRESS FOR SERVICE ON THE APPLICANT(S) OF ANY DOCUMENTS IN THIS ACTION	_____

1. The applicant(s) request an order:
 - 1.1 Requiring the personal representative(s) to pass accounts formally for the period _____ to _____ in accordance with the Surrogate Rules.
 - 1.2 Deeming service of documents on all parties sufficient.
2. Filed with this application is:
 - 2.1 ACC 7 Affidavit of the applicant(s)
3. The applicant(s) rely on the provisions of the *Administration of Estates Act*, R.S.A. 1980, c. A-1, as amended, and the Surrogate Rules.
4. Costs proposal:
 - 4.1 Costs of the applicant(s) to be paid by _____.

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by the personal representative(s) to pass accounts formally**

DOCUMENT **Accountant's engagement report**

To the Surrogate Court of Alberta:

1. This report is prepared solely for submission to the Surrogate Court of Alberta, the personal representative(s), and the persons interested in the estate as identified by the court.
2. I have received the financial statements for the estate of _____ for the period _____ to _____, as ordered by the Surrogate Court on _____.
3. These financial statements were prepared by the personal representative(s) and provided to the court and to me.
4. The court directed me to conduct specified auditing procedures on items numbered _____ in the financial statements. My responsibility was to report on the results of applying these procedures, including any errors I found.
5. I adopted the following procedures for the review:

6. I report as follows:

7. These procedures do not constitute an audit and consequently I do not express an audit opinion on these financial statements.

Accounting firm
 Accountant: _____
 Firm name: _____
 Complete address: _____

 Phone: _____
 Fax: _____
 File no.: _____

Date

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

- 3.1 If you also object to the application that accounts be passed formally, you or your lawyer should come to the hearing and tell the judge your position and reasons.
- 3.2 If you support the application that accounts be passed formally, or you have no position, you or your lawyer should come to the hearing and tell the judge your position and reasons. Or you can tell the applicant(s) directly and they will tell the judge what your position is.
- 3.3 At the end of the hearing, the judge will make an order and you will receive a copy of it later. You will be bound by the judge's order.
4. If you receive no reply from the personal representative(s), the court hearing shown above will take place.

ACC 7

COURT FILE NUMBER	_____
COURT	Surrogate Court of Alberta
JUDICIAL DISTRICT	_____
ESTATE NAME	_____
PROCEDURE	Application by a person interested in the estate that accounts be passed formally
DOCUMENT	Affidavit
DEPONENT(S) NAMES(S)	_____
DATE OF AFFIDAVIT	_____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are all persons interested in the estate as defined in the Surrogate Rules.

Respondents

2. The respondents are all the persons interested in the estate as defined in the Surrogate Rules.

Service of documents

3. The respondents will be served in the manner prescribed in the Surrogate Rules with:

3.1 ACC 6 Application including notice of hearing

3.2 ACC 7 Affidavit of the applicant(s)

Grounds for application

4. The applicant(s) request that accounts for the period _____ to _____ be passed formally because _____.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent _____

Commissioner's Name: _____

Appointment Expiry Date: _____

ACC 8

COURT FILE NUMBER _____

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE

Application by a person interested in the estate that accounts be passed formally

DOCUMENT

Reply by the personal representative(s)

PARTIES

APPLICANT(S) _____

RESPONDENT(S) _____

PERSONAL REPRESENTATIVES _____

BENEFICIARIES (RESIDUARY) _____

LIFE TENANTS _____

BENEFICIARIES (NON RESIDUARY) _____

BENEFICIARIES (INTESTACY) _____

TRUSTEES FOR DEPENDENT ADULTS _____

ATTORNEYS APPOINTED UNDER THE POWERS
OF ATTORNEY ACT FOR INCOMPETENT ADULTS _____

MINORS _____

MISSING PERSONS _____

UNPAID CLAIMANTS _____

BONDING COMPANIES _____

COMPLETE ADDRESS FOR SERVICE ON THE
PERSONAL REPRESENTATIVE(S) OF ANY
DOCUMENTS IN THIS ACTION _____

-
1. This reply is in answer to the application by a person interested in the estate that accounts be passed formally.
 2. The personal representative(s) consent to the application and will apply for a formal passing of accounts for the period _____ to _____ in accordance with the Surrogate Rules if there are any objections to the financial statements.

or

2. The personal representative(s) object to the application and they will not apply for a formal passing of accounts.

3. Filed with this reply is:

3.1 ACC 9 Affidavit of the personal representative(s)

4. Costs proposal:

4.1 The costs of the personal representative(s) to be paid by _____.

Personal Representative

Date

Name: _____

Complete address:

Lawyers for Personal Representative(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

ACC 9

COURT FILE NUMBER _____

COURT

Surrogate Court
of Alberta

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE

Application by a person interested in the estate that accounts be passed
formally

DOCUMENT

Affidavit of the personal representative(s) objecting to passing
accounts formally

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

EXHIBITS ATTACHED _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Deponent(s)

1. The deponent(s) are the personal representative(s) of the estate.

Reasons for objecting to making a formal accounting

2. The personal representative(s) object to the application that accounts be passed formally because _____.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

ACC 10

COURT FILE NUMBER _____

COURT _____

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE _____

**Application by the personal representative(s) to dispense with a formal
passing of accounts and to pass accounts informally**

DOCUMENT _____

Application

PARTIES

APPLICANT(S) _____

RESPONDENT(S) _____

BENEFICIARIES (RESIDUARY) _____

LIFE TENANTS _____

BENEFICIARIES (NON RESIDUARY) _____

BENEFICIARIES (INTESTACY) _____

TRUSTEES FOR DEPENDENT ADULTS _____

ATTORNEYS FOR INCOMPETENT ADULTS _____

MINORS _____

MISSING PERSONS _____

UNPAID CLAIMANTS _____

BONDING COMPANIES _____

COMPLETE ADDRESS FOR SERVICE ON THE
APPLICANT(S) OF ANY DOCUMENTS IN THIS
ACTION _____

1. The applicant(s) request an order:
 - 1.1 Deeming service of all documents on all parties sufficient.
 - 1.2 Dispensing with a formal passing of accounts for the period ____ to ____.
 - 1.3 Determining that the personal representative(s) have fully and satisfactorily accounted to a date to be stated in the order.
 - 1.4 Setting the compensation for the personal representative(s) for the accounting period.
 - 1.5 Directing distribution of the estate.
 - 1.6 Discharging the personal representative(s).
 - 1.7 Allowing and directing payment of costs (including disbursements and G.S.T.) of this application to be paid from the residue of the estate.
 - 1.8 Cancelling the bond.
 - 1.9 Providing for any other matters which might be required.

2. Filed with this application are:
 - 2.1 ACC 11 Affidavit of the personal representative(s)
 - 2.2 Financial statements
 - 2.3 ACC 12 Signed releases

3. Cost proposal:
 - 3.1 Personal representative(s) costs to be paid from the residue of the estate on a solicitor/client basis.
 - 3.2 Respondent(s) costs to be paid as ordered by the court.

4. The applicant relies on the provisions of the *Administration of Estates Act R.S.A. 1980, c.A-1*, as amended, and the Surrogate Rules.

Personal Representative
 Name: _____
 Complete address:

Date

Lawyers for Personal Representative(s)
 Responsible lawyer: _____
 Firm name: _____
 Complete address:

 Phone: _____
 Fax: _____
 File no.: _____

NOTICE OF HEARING:	THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____;
ON _____	
PLACE _____	
TIME _____	

Please read the enclosed application and affidavit carefully so that you can understand what the application is about.

If you consent to or do not oppose the application, you may:

1. Tick the last box on the notice of objection. Sign and return the notice of objection to the trustee(s); or
2. Do nothing further; or
3. Attend at the hearing and indicate your position to the court.

If you oppose any part of the application, you must:

1. Complete and file the enclosed notice of objection with the court described above at least five days before the hearing, that is by _____; and
2. Serve a filed copy of the notice of objection on the applicant. The applicant's address for service appears on the application form; and
3. Come to the hearing and tell the judge what part of the accounting you object to and why.

If you oppose any part of the application but you do not file and serve the notice of objection:

1. You will not be allowed to take part in the proceedings unless the judge specifically agrees to let you; and
2. The hearing will take place anyway even if you are not allowed to take part in the proceedings; and you will be bound by the judge's order.

In any event, the judge will make an order and a copy of the order will be sent to you later.

ACC 11

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by the personal representative(s) to dispense with a formal
passing of accounts and to pass accounts informally**

DOCUMENT **Affidavit**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

DOCUMENTS ATTACHED

Financial statements

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicants

1. The applicant(s) are the personal representative(s) of the estate.

Respondents

2. The respondents are all the persons interested in the estate as defined in the Surrogate Rules who have not signed releases.

Releases

3. The following persons who are residuary beneficiaries of the estate have signed releases indicating their approval of the financial statements. The releases are attached and marked as shown:

Release #1 Name: _____

Release #2 Name: _____

4. The other respondent residuary beneficiaries, who have all received releases but have not signed them nor communicated with the applicant(s) about the financial statements, are

_____.

The applicant(s) do not know what position these respondents take.

Service of documents

5. Copies of the financial statements have been mailed to all the persons interested in the estate either at their last known addresses or in care of their lawyers of record.
6. The respondents will be served in the manner prescribed in the Surrogate Rules with:

6.1 ACC 10 Application including notice of hearing

6.2 ACC 11 Affidavit of the personal representative(s)

6.3 ACC 3 Notice of objection

Financial statements

7. The financial statements:
 - 7.1 Are an accurate statement of the administration of the estate.
 - 7.2 Show all the property and debts of the deceased that the personal representative(s) have been able to ascertain.
 - 7.3 Show all the property received and debts and claims paid by the personal representative(s).
 - 7.4 Are for the period _____ to _____.
 - 7.5 Are _____ accounting.

Claimants

8. Claimants and amounts not yet paid are:

8.1 _____.

Advertising for creditors and claimants

9. _____

Distribution

10. No distribution of the deceased's property has been made except as is reflected in the financial statements.

11. Once the court approves the financial statements, the personal representative(s) undertake to distribute the estate property as set out in the schedule of distribution.

Compensation

12. Compensation for the personal representative(s) is based on _____.

13. _____

Reasons for application

14. The applicant(s) are applying for this order because _____.

Special matters

15. _____

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

ACC 12

COURT FILE NUMBER _____

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

DOCUMENT

Release # _____

PERIOD COVERED _____

_____ to _____

THIS RELEASE HAS BEEN SIGNED BY _____

OF _____

WHO IS A PERSON BENEFICIALLY INTERESTED IN THE RESIDUE OF THE ESTATE.

1. I have received from the personal representative(s) of the estate financial statements covering the period _____ to _____.

- 2. I approve the financial statements including the schedule of distribution and the schedule of compensation for the personal representative(s).
- 3. I understand that I will receive my share of the estate property as shown on the schedule of distribution, once the personal representative(s) have received releases from all the necessary beneficiaries.
- 4. If all the necessary beneficiaries do not sign a release, I understand that the personal representative(s) will apply for a court order approving the financial statements or dispensing with the need to pass accounts formally. The personal representative(s) will then distribute the estate property according to the order.
- 5. Until the financial statements have been approved by all concerned or by the court, my release will be held in trust.
- 6. In signing this release, I release and discharge the personal representative(s), their heirs, successors, personal representatives and assigns from any further claims by me against the estate and its property and against the personal representative(s) for their management and distribution of the estate to the date of this release.
- 7. This is _____ release.

Signature of Beneficiary

Date

Witness to signature of _____

This document requires an affidavit of execution. Use Form NC 11.

ACC 13

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

ESTATE NAME _____

PROCEDURE **Application by _____**

PARTIES

APPLICANT(S) _____

RESPONDENT(S) _____

PERSONAL REPRESENTATIVE(S) _____

BENEFICIARIES (RESIDUARY) _____

LIFE TENANTS _____

BENEFICIARIES (NON RESIDUARY) _____

BENEFICIARIES (INTESTACY) _____

TRUSTEES FOR DEPENDENT ADULTS _____

ATTORNEYS FOR INCOMPETENT ADULTS _____

MINORS _____

MISSING PERSONS _____

UNPAID CLAIMANTS _____

BONDING COMPANIES _____

HEARD BEFORE THE HONOURABLE JUDGE

ON _____

ORDER

THE COURT HAS:

Reviewed the affidavit and other documents filed in this application;

Heard representations from counsel for the parties;

Considered the application;

AND THE COURT ORDERS:

JUDGE OF THE SURROGATE COURT
OF ALBERTA

ENTERED AT _____, ALBERTA

ON _____

CLERK OF THE SURROGATE COURT

DA 1

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by the trustee(s) to pass accounts formally
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT **Application**

APPLICANT(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE
APPLICANT(S) OF ANY DOCUMENTS IN THIS
ACTION _____

1. The applicant(s) request an order:
 - 1.1 Deeming service of all documents on all interested persons sufficient.
 - 1.2 Passing the accounts.

- 1.3 Setting the compensation for the trustee(s) for the accounting period.
 - 1.4 Allowing and directing payment of costs (including disbursements and G.S.T.) of this application to be paid from the estate of the dependent adult.
 - 1.5 Setting the next accounting period for formally passing accounts.
 - 1.6 Discharging the trustee(s).
 - 1.7 Providing for any other matters that might be required.
2. Filed with this application are:
- 2.1 DA 2 Affidavit of the trustee(s)
 - 2.2 Financial statements
3. Person(s) who will be served with notice of this application are
- 3.1 Dependent adult _____
 - 3.2 Next nearest relative _____
 - 3.3 Person in charge of the institution _____
 - 3.4 Guardian(s) of dependent adult _____
4. Costs proposal:
- 4.1 Costs of the trustee(s) to be paid by _____.
5. The applicant(s) rely on the provisions of the Act and the Surrogate Rules.

Applicant _____ *Date* _____
Name: _____
Complete address: _____

Lawyers for Applicant(s)
Responsible lawyer: _____
Firm name: _____
Complete address: _____

Phone: _____
Fax: _____
File no.: _____

NOTICE OF HEARING: THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____:

ON _____

PLACE _____

TIME _____

Please read the enclosed documents carefully so that you can understand what the application is about.

If you consent to or do not oppose the application, you may:

1. Do nothing further; or
2. Attend at the hearing and indicate your position to the court.

If you oppose any part of the application, you should come to the hearing and tell the judge what part of the accounting you object to and why.

In any event, the judge will make an order and a copy of the order will be sent to you later.

DA 2

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by the trustee(s) to pass accounts formally
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT **Affidavit**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

DOCUMENTS ATTACHED **Financial statements**

THE DEPONENT(S) SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENTS' KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

1. The applicant(s) are the trustee(s) of the estate of the dependent adult.

Consents

2. The applicant(s) have sought and received approval of the financial statements and consent to the application from

Name: _____
 Relationship to dependent adult: _____

Consent attached as Exhibit A

Notice of application

3. The applicant(s) will serve notice of this application on the remaining persons listed on the application together with copies of

- 3.1 DA 1 Application including notice of hearing
- 3.2 DA 2 Affidavit of the trustee(s)
- 3.3 Financial statements

Financial statements

4. The financial statements:

4.1 Show all the property and debts of the dependent adult that the trustee(s) have been able to ascertain through examination and verification of the supporting documentation.

4.2 Contain the following supporting documentation:

Property description: _____
Document: _____
Registered in name of: _____

4.3 Show all the receipts to and disbursements from the trust.

4.4 Are for the period _____ to _____.

4.5 Are _____ accounting.

Distribution

5. No distribution of the dependent adult's property has been made except as is reflected in the financial statements.

Compensation

6. Proposed compensation for the trustee(s) is shown on the compensation schedule attached to the financial statements.

7. The trustee(s) have not pre-taken compensation.

Special matters

8. _____

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

DA 3

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by the trustee(s) to pass accounts formally
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT **Terms of accountant's engagement**

DIRECTION

1. The accounting firm _____ is engaged to provide the following services with regard to the financial statements for the estate of _____ for the period _____ to _____:

- a. to perform a compilation engagement of the financial statements.
- b. to perform a review engagement of the financial statements.
- c. to perform a review engagement of the financial statements with a disclosure of the review engagement procedures applied in arriving at the overall negative assurance opinion, with regard to specific items ... in the financial statements.
- d. to carry out specified auditing procedures with regard to items _____ in the financial statements or financial information.
- e. to perform an audit of the financial statements.

2. All accounting documentation must be made available to the accounting firm.

3. The accounting firm's fee and necessary disbursements are payable by _____.

4. When the accounting firm has completed its review as directed, it will report the results, including all exceptions, irregularities, and other pertinent comments, to the Surrogate Court and the persons interested in the estate by _____.

5. In particular, the accounting firm is directed to review items numbered _____ from the estate financial statements and to:

5.1 _____

The accounting firm of _____ accepts the terms of this engagement.

Accounting firm
 Accountant: _____
 Firm Name: _____
 Complete address: _____
 Phone: _____
 Fax: _____
 File no. _____

Date

ORDER: ISSUE THIS DIRECTION

JUDGE OF THE SURROGATE COURT
OF ALBERTA

DATE

DA 4.1

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by the trustee(s) to pass accounts formally
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT **Accountant's engagement report**

To the Surrogate Court of Alberta:

1. This report is prepared solely for submission to the Surrogate Court of Alberta, the trustee(s), and the persons interested in the estate as identified by the court.
2. I have reviewed the financial statements for the estate of _____ for the period _____ to _____, as ordered by the Surrogate Court on _____.
3. These financial statements were prepared by the trustee(s) and provided to the court and to me.
4. My responsibility was to express an opinion on the plausibility of the financial statements based on my review. This review was made in accordance with generally accepted standards for review engagements and accordingly consisted primarily of enquiry, analytical procedures and discussion related to information supplied to me by the trustee(s).
5. A review does not constitute an audit and consequently I do not express an audit opinion on these financial statements.
6. Based on my review, nothing has come to my attention that causes me to believe that these financial statements are not, in all material respects, in accordance with generally accepted accounting principles.
7. _____

Accounting firm

Date

Name: _____

Complete address: _____

Phone: _____

Fax: _____

File no.: _____

DA 4.2

COURT FILE NUMBER _____

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE

**Application by the trustee(s) to pass accounts formally
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT

Accountant's engagement report

To the Surrogate Court of Alberta:

1. This report is prepared solely for submission to the Surrogate Court of Alberta, the trustee(s), and the persons interested in the estate as identified by the court.
2. I have received the financial statements for the estate of _____ for the period _____ to _____, as ordered by the Surrogate Court on _____.
3. These financial statements were prepared by the trustee(s) and provided to the court and to me.
4. The court directed me to conduct specified auditing procedures on items numbered _____ in the financial statements. My responsibility was to report on the results of applying these procedures, including any errors I found.
5. I adopted the following procedures for the review:

_____.

6. I report as follows:

7. These procedures do not constitute an audit and consequently I do not express an audit opinion on these financial statements.

Accounting firm

Date

Name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

DA 5

DEPENDENT ADULT NAME _____

DOCUMENT

Schedule 1: Inventory of property and debts
Dependent Adults Act, R.S.A. 1980, c. D-32

VALUE OF ESTATE AS OF _____

Land and buildings (net of encumbrances)	\$ _____
Other property (gross)	\$ _____
Gross value of estate	\$ _____
Debts (excluding encumbrances on land)	\$ _____
Net value of estate	\$ _____

SUMMARY

<input type="checkbox"/> Land, mines & minerals, and leasehold interests	\$ _____
<input type="checkbox"/> Money or debts due the deceased and secured by a mortgage or agreement for sale	\$ _____
<input type="checkbox"/> Cash	\$ _____
<input type="checkbox"/> Shares in public and private companies	\$ _____
<input type="checkbox"/> Bonds, debentures, and treasury bills	\$ _____
<input type="checkbox"/> Life insurance	\$ _____
<input type="checkbox"/> Annuities, pensions, and benefit plans	\$ _____
<input type="checkbox"/> Household goods, personal effects, collections, vehicles, and boats	\$ _____
<input type="checkbox"/> Business interests	\$ _____
<input type="checkbox"/> Farming interests	\$ _____
<input type="checkbox"/> Any other property	\$ _____

PROPERTY

LAND AND BUILDINGS

Description: _____

Gross value: \$ _____

Encumbrances: _____

Net value: \$ _____

OTHER PROPERTY

Description: _____

Gross value: \$ _____

TOTAL VALUE OF PROPERTY \$ _____

DEBTS

Description: _____

Value: \$ _____

TOTAL VALUE OF DEBTS \$ _____

NET VALUE OF ESTATE \$ _____

INCOME SOURCES

Description: _____

Monthly amount: \$ _____

TOTAL MONTHLY INCOME \$ _____

EXPENSES

Description: _____

Monthly amount: \$ _____

TOTAL MONTHLY EXPENSES \$ _____

DA 6

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by an interested person that
accounts be passed formally
an inventory of property and debts be filed
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT **Application**

APPLICANT(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE
APPLICANT(S) OF ANY DOCUMENTS IN THIS
ACTION

-
1. The applicant(s) request an order:
 - 1.1 Deeming service of documents on all interested persons sufficient.
 - 1.2 Requiring the trustee(s) to pass accounts formally for the period ____ to ____ in accordance with the Surrogate Rules.
 - 1.3 Requiring the trustee(s) to file an inventory of property and debts of the estate of the dependent adult.
 2. Filed with this application is:
 - 2.1 DA 7 Affidavit of the applicant(s)
 3. Person(s) who will be served with notice of this application are
 - 3.1 Trustee(s) of the dependent adult _____
 - 3.2 Dependent adult _____
 - 3.3 Next nearest relative _____
 - 3.4 Person in charge of the institution _____
 - 3.5 Guardian(s) of dependent adult _____
 4. Costs proposal:
 - 4.1 Costs of the applicant(s) to be paid by _____.
 5. The applicant(s) rely on the provisions of the Act and the Surrogate Rules.

Applicant
Name: _____
Complete address:

Date

Lawyers for Applicant(s)
Responsible lawyer: _____
Firm name: _____
Complete address:

Phone: _____
Fax: _____
File no.: _____

<p>NOTICE OF HEARING:</p> <p>ON _____</p> <p>PLACE _____</p> <p>TIME _____</p>	<p>THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____:</p>
--	---

Please read the enclosed documents carefully so that you can understand what the application is about.

You will soon be receiving a reply from the trustee(s) of the estate of the dependent adult. The reply will tell you what position the trustee(s) are taking about this application.

1. The trustee(s) may consent to the application and
apply for a formal passing of accounts
file an inventory of property and debts of the dependent adult

In this case:
 - 1.1 The court hearing shown above will be adjourned.
 - 1.2 You will receive copies of the financial statements / inventory from the trustee(s). If you need more information, you should ask the trustee(s) for it.
 - 1.3 If the applicant(s) are satisfied with the financial statements / inventory, they may cancel the court hearing that will be arranged to pass accounts formally. You will be informed of this.
 - 1.4 If the applicant(s) are not satisfied with the financial statements / inventory, the court hearing that will be arranged to pass accounts formally will take place. You will be informed of this.

2. The trustee(s) may object to the application and refuse to
apply for a formal passing of accounts
file an inventory

In this case:
 - 2.1 The court hearing shown above will take place.
 - 2.2 You will receive an affidavit from the trustee(s) before the hearing that will tell you why they object to the application and refuse to apply for a formal passing of accounts or to file an inventory.

3. Your position at the court hearing shown above:
 - 3.1 If you also object to the application that accounts be passed formally or that an inventory be filed, you or your lawyer should come to the hearing and tell the judge your position and reasons.
 - 3.2 If you support the application that accounts be passed formally or that an inventory be filed, or you have no position, you or your lawyer should come to the hearing and tell the judge your position and reasons. Or you can tell the applicant(s) directly and they will tell the judge what your position is.
 - 3.3 At the end of the hearing, the judge will make an order and you will receive a copy of it later. You will be bound by the judge's order.

4. If you receive no reply from the trustee(s), the court hearing shown above will take place.

DA 7

COURT FILE NUMBER

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT

DEPENDENT ADULT NAME

PROCEDURE

**Application by an interested person that accounts be passed formally
an inventory of property and debts be filed
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT

Affidavit

DEPONENT(S) NAMES(S)

DATE OF AFFIDAVIT

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant(s)

- 1. The applicant(s) are interested persons who are concerned for the welfare of the dependent adult because the applicant(s) are _____.

Notice of application

- 2. The applicant(s) will serve notice of this application on the persons listed on the application together with copies of
 - 2.1 DA 6 Application including notice of hearing
 - 2.2 DA 7 Affidavit of the applicant(s)

Grounds for application

- 3. The applicant(s) request that accounts for the period _____ to _____ be passed formally because _____.
- 4. The applicant(s) request that an inventory of the property and debts of the dependent adult be filed because _____.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

DA 8

COURT FILE NUMBER

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT

DEPENDENT ADULT NAME

PROCEDURE

**Application by an interested person that
accounts be passed formally
an inventory of property and debts be filed
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT

Reply by the trustee(s)

APPLICANT(S)

COMPLETE ADDRESS FOR SERVICE ON THE TRUSTEE(S) OF ANY DOCUMENTS IN THIS ACTION _____

- 1. This reply is in answer to the application by an interested person that accounts be passed formally.
- 2. The trustee(s) consent to the application and will apply for a formal passing of accounts for the period ____ to ____ in accordance with the Surrogate Rules.

or

- 1. This reply is in answer to the application by an interested person that an inventory of property and debts of the dependent adult be filed.
- 2. The trustee(s) consent to the application and will file an inventory of property and debts in the estate of the dependent adult as of ____ in accordance with the Surrogate Rules.

or

- 1. This reply is in answer to the application by an interested person that accounts be passed formally and an inventory of property and debts of the dependent adult be filed.
- 2. The trustee(s) consent to the application and will apply for a formal passing of accounts for the period ____ to ____ and will file an inventory of property and debts in the estate of the dependent adult as of ____ in accordance with the Surrogate Rules.

or

- 1. This reply is in answer to the application by an interested person that accounts be passed formally / an inventory of property and debts of the dependent adult be filed.
- 2. The trustee(s) object to the application and they will not apply for a formal passing of accounts / file an inventory.
- 3. Filed with this reply is:

3.1 DA 9 Affidavit of the trustee(s)

- 4. Costs proposal:

4.1 Costs of the applicant(s) to be paid by _____.

Trustee _____
Name: _____ *Date*
Complete address:

Lawyers for Trustee(s)
Responsible lawyer: _____
Firm name: _____
Complete address:

Phone: _____
Fax: _____
File no.: _____

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by an interested person that accounts be passed formally an inventory of property and debts be filed *Dependent Adults Act, R.S.A. 1980, c. D-32***

DOCUMENT **Affidavit of the trustee(s) objecting to formally passing accounts filing an inventory**

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

EXHIBITS ATTACHED _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Deponent(s)

1. The deponent(s) are the trustee(s) of the estate of the dependent adult.

Reasons for objecting to making a formal accounting

2. The trustee(s) object to the application that accounts be passed formally / an inventory of property and debts be filed because _____.

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON _____

Deponent

Commissioner's Name:

Appointment Expiry Date:

DA 10

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by the trustee(s) to dispense with a formal passing of accounts and to approve of the accounts as filed to dispense with accounting for four years *Dependent Adults Act, R.S.A. 1980, c. D-32***

DOCUMENT **Application**

APPLICANT(S) _____

COMPLETE ADDRESS FOR SERVICE ON THE
APPLICANT(S) OF ANY DOCUMENTS IN THIS
ACTION _____

1. The applicant(s) request an order:
 - 1.1 Deeming service of all documents on all interested persons sufficient.
 - 1.2 Dispensing with a formal passing of accounts for the period ____ to ____.
 - 1.3 Approving the financial statements as filed with the clerk.
 - 1.4 Dispensing with the requirement to account for four years.
 - 1.5 Setting the date for the next formal passing of accounts.
 - 1.6 Setting the compensation for the trustee(s) for the accounting period.
 - 1.7 Allowing and directing payment of costs (including disbursements and G.S.T.) of this application to be paid from the estate of the dependent adult.
 - 1.8 Cancelling the bond.
 - 1.9 Terminating the trusteeship order.
 - 1.10 Discharging the trustee(s).
 - 1.11 Providing for any other matters which might be required.
2. Filed with this application are:
 - 2.1 DA 11 Affidavit of the trustee(s)
 - 2.2 Financial statements
 - 2.3 DA 12 Signed consents
3. Person(s) who will be served with notice of this application are
 - 3.1 Dependent adult _____
 - 3.2 Next nearest relative _____
 - 3.3 Person in charge of the institution _____
 - 3.4 Guardian(s) of dependent adult _____
4. Costs proposal:
 - 4.1 Costs of the trustee(s) to be paid by _____.
5. The applicant(s) rely on the provisions of the Act and the Surrogate Rules.

Applicant

Date

Name: _____

Complete address:

Lawyers for Applicant(s)

Responsible lawyer: _____

Firm name: _____

Complete address:

Phone: _____

Fax: _____

File no.: _____

<p>NOTICE OF HEARING:</p> <p>ON _____</p> <p>PLACE _____</p> <p>TIME _____</p>	<p>THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____:</p>
---	---

Please read the enclosed documents carefully so that you can understand what the application is about.

If you consent to or do not oppose the application, you may:

1. Do nothing further; or
2. Attend at the hearing and indicate your position to the court.

If you oppose any part of the application, you should come to the hearing and tell the judge what part of the accounting you object to and why.

In any event, the judge will make an order and a copy of the order will be sent to you later.

DA 11

COURT FILE NUMBER _____

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME
PROCEDURE

**Application by the trustee(s) to dispense with a formal passing of accounts and to approve of the accounts as filed to dispense with accounting for four years
*Dependent Adults Act, R.S.A. 1980, c. D-32***

DOCUMENT

Affidavit

DEPONENT(S) NAME(S) _____

DATE OF AFFIDAVIT _____

THE DEPONENT(S) EACH SWEAR UNDER OATH OR AFFIRM THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicants

- 1. The applicant(s) are the trustee(s) of the estate of the dependent adult.

Consents

- 2. The applicant(s) have sought and received approval of the financial statements and consent to the application from

Name: _____
 Relationship to dependent adult: _____
 Consent attached as Exhibit A

Notice of application

- 3. The applicant(s) will serve notice of this application on the remaining persons listed on the application together with copies of

- 3.1 DA 10 Application including notice of hearing
- 3.2 DA 11 Affidavit of the trustee(s)
- 3.3 Financial statements

Financial statements

- 4. The financial statements:
 - 4.1 Show all the property and debts of the dependent adult that the trustee(s) have been able to ascertain through examination and verification of the supporting documentation.
 - 4.2 Contain the following supporting documentation:
 - Property description: _____
 - Document: _____
 - Registered in name of: _____
 - 4.3 Show all the receipts to and disbursements from the trust.
 - 4.4 Are for the period _____ to _____.
 - 4.5 Are _____ accounting.

Distribution

- 5. No distribution of the dependent adult's property has been made except as is reflected in the financial statements.

Compensation

- 6. Proposed compensation for the trustee(s) is shown on the compensation schedule attached to the financial statements.
- 7. The trustee(s) have not pre-taken compensation.

Reasons for application

- 8. The applicant(s) are applying for this order because _____.

Special matters

9. _____

SWORN OR AFFIRMED BY EACH DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

Deponent

Commissioner's Name:

Appointment Expiry Date:

DA 12

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

DOCUMENT **Approval of financial statements and consent to the application**

Dependent Adults Act, R.S.A. 1980, c. D-32

PERIOD COVERED _____ to _____

THIS APPROVAL AND CONSENT HAS BEEN SIGNED BY _____

OF _____

RELATIONSHIP TO DEPENDENT ADULT _____

1. I am an interested person in the estate of the dependent adult because I am the dependent adult's _____.

2. I have received from the trustee(s) of the estate financial statements covering the period _____ to _____.

3. I approve the financial statements including the schedule of compensation for the trustee(s).

4. I understand that the trustee(s) will apply for a court order _____. I consent to this application.

Signature of person interested

Date

Witness to signature of _____

DA 13

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application** _____
Dependent Adults Act, R.S.A. 1980, c. D-32

APPLICANT(S) _____

HEARD BEFORE THE HONOURABLE JUDGE

_____ ON _____

ORDER

THE COURT HAS:

Reviewed the affidavit and other documents filed in this application;

Heard representations from counsel for the applicants;

Considered the application;

AND THE COURT ORDERS:

JUDGE OF THE SURROGATE COURT
OF ALBERTA

ENTERED AT _____, ALBERTA

ON _____

CLERK OF THE SURROGATE COURT

DA 14

COURT FILE NUMBER _____

COURT **Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Formal passing of accounts**
Dependent Adults Act, R.S.A. 1980, c. D-32

DIRECTION

1. The application by the trustee(s) of the dependent adult's estate to pass accounts formally is adjourned.

2. The court directs that

JUDGE OF THE SURROGATE COURT
OF ALBERTA

DATE

For the use of the court only.

DA 15

COURT FILE NUMBER

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT

DEPENDENT ADULT NAME

PROCEDURE

**Application by the trustee(s) to pass accounts formally
*Dependent Adults Act, R.S.A. 1980, c. D-32***

DOCUMENT

Reference to Public Trustee

DIRECTION

1. The financial statements submitted to the Surrogate Court for the period _____ to _____ by _____ are referred to the Public Trustee.
2. The reference to the Public Trustee is to determine whether certain expenditures shown on the financial statements are appropriate under the *Dependent Adults Act*, the *Public Trustee Act* and general trust law.
3. The items referred to the Public Trustee from the financial statements are items numbered _____:
 item # _____
 item # _____
 item # _____
 item # _____
4. The Public Trustee will report the results of the examination to the Surrogate Court and the parties by _____.
5. All accounting documentation is available to the Public Trustee.

6. The Public Trustee's fee plus necessary disbursements is to be charged against _____.

ORDER: ISSUE THIS DIRECTION

JUDGE OF THE SURROGATE COURT
OF ALBERTA

DATE

DA 16

COURT FILE NUMBER _____

COURT

**Surrogate Court
of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE

**Application by the Public Trustee for approval of accounts as submitted
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT

Application

APPLICANT

Public Trustee

COMPLETE ADDRESS FOR SERVICE ON THE
PUBLIC TRUSTEE OF ANY DOCUMENTS IN THIS
ACTION

The Office of the Public Trustee

1. The Public Trustee requests an order:

- 1.1 Deeming service of all documents on all interested persons sufficient.
- 1.2 Approving the accounts in the form submitted.
- 1.3 Setting trustee compensation for the Public Trustee for the accounting period.
- 1.4 Allowing and directing payment of costs (including disbursements and G.S.T.) of this application to the Public Trustee to be paid from the estate of the dependent adult.
- 1.5 Providing for disbursements to be paid by the Crown.
- 1.6 Setting the next accounting period for submitting accounts for approval.
- 1.7 Providing for any other matters that might be required.

2. Filed with this application is

- 2.1 DA 17 Affidavit of the Public Trustee

3. The Public Trustee relies on the provisions of the *Dependent Adults Act*, the *Public Trustee Act*, and the Surrogate Rules.

4. Persons who will be served with notice of this application are

- 4.1 Dependent adult _____
- 4.2 Nearest relative of dependent adult _____
- 4.3 Person in charge of the institution _____

4.4 Guardian(s) of dependent adult

Applicant
For the Public Trustee for the Province of Alberta
Complete address:

Date

Lawyers for Applicant
Responsible lawyer: _____
Firm name: _____
Complete address: _____
Phone: _____
Fax: _____
File no.: _____

<p>NOTICE OF HEARING:</p> <p>ON _____</p> <p>PLACE _____</p> <p>TIME _____</p>	<p>THIS APPLICATION WILL BE HEARD BY A JUDGE OF THE SURROGATE COURT OF ALBERTA, JUDICIAL DISTRICT OF _____:</p>
--	---

Please read the enclosed documents carefully so that you can understand what the application is about.

If you consent to or do not oppose the application, you may:

1. Do nothing further; or
2. Attend at the hearing and indicate your position to the court.

If you oppose any part of the application, you should come to the hearing and tell the judge what part of the accounting you object to and why.

In any event, the judge will make an order and a copy of the order will be sent to you later.

DA 17

COURT FILE NUMBER _____

COURT **Surrogate Court of Alberta**

JUDICIAL DISTRICT _____

DEPENDENT ADULT NAME _____

PROCEDURE **Application by the Public Trustee for approval of accounts as submitted
Dependent Adults Act, R.S.A. 1980, c. D-32**

DOCUMENT **Affidavit**

DEPONENT'S NAME _____

DATE OF AFFIDAVIT _____

DOCUMENTS ATTACHED

Financial statements
Compensation statement

THE DEPONENT SWEARS UNDER OATH OR AFFIRMS THAT THE FOLLOWING INFORMATION IS WITHIN THE DEPONENT'S KNOWLEDGE AND IS TRUE. WHERE THE INFORMATION IS BASED ON ADVICE OR INFORMATION AND BELIEF, THIS IS STATED.

Applicant

1. The applicant is the Public Trustee of Alberta and the trustee of the estate of the dependent adult.

Consents

2. The applicant has sought and received approval of the financial statements and consent to the application from

Name: _____
 Relationship to dependent adult: _____
 Consent attached as Exhibit A

Notice of application

3. The applicant will serve notice of this application on the remaining persons listed on the application together with copies of

- 3.1 DA 16 Application with notice of hearing
 3.2 DA 17 Affidavit
 3.3 Financial statements

Financial statements

4. The financial statements:
- 4.1 Show all the property and debts of the dependent adult that the trustee has been able to ascertain through examination and verification of the supporting documentation.
- 4.2 Contain the following supporting documentation:
- Property description: _____
 Document: _____
 Registered in name of: _____
- 4.3 Show all the receipts to and disbursements from the trust.
- 4.4 Are for the period _____ to _____.
- 4.5 Are _____ accounting.

SWORN OR AFFIRMED BY THE DEPONENT BEFORE A COMMISSIONER FOR OATHS AT _____, ALBERTA ON

 Deponent

 Commissioner's Name:

 Appointment Expiry Date:

DA 18

COURT FILE NUMBER _____

COURT	Surrogate Court of Alberta
JUDICIAL DISTRICT	_____
DEPENDENT ADULT NAME	_____
PROCEDURE	Application by the Public Trustee for approval of accounts as submitted <i>Dependent Adults Act, R.S.A. 1980, c. D-32</i>
APPLICANT	Public Trustee

HEARD BEFORE THE HONOURABLE JUDGE

ON _____

ORDER

ACCOUNTS ARE APPROVED AS SUBMITTED

THE COURT HAS:

Reviewed the affidavit, financial statements and other documents filed in this application;

Heard representations from counsel for the Public Trustee;

Considered the application;

AND THE COURT ORDERS:

JUDGE OF THE SURROGATE COURT
OF ALBERTA

ENTERED AT _____, ALBERTA

ON _____

CLERK OF THE SURROGATE COURT

Surrogate Court Rules (Gazette version)

Surrogate Court Act Dependent Adults Act

SURROGATE RULES

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Definitions

1 In these Rules,

- (a) “Act” means the *Surrogate Court Act*;
- (b) “beneficiaries” includes persons who receive gifts of any kind under a will and heirs on intestacy;
- (c) “claimants” includes creditors;
- (d) “contentious matter” means
 - (i) proceedings respecting caveats,
 - (ii) formal proof of a will,
 - (iii) proceedings in which the right to obtain or retain a grant is in dispute, or
 - (iv) any other matter in dispute that arises in the administration of an estate to which these Rules apply;
- (e) “file” means file with the clerk in the judicial district in which an application must be made;
- (f) “financial statement” means a formal financial report or statement required to be prepared by a personal representative under Part 3;
- (g) “form” means a form in Schedule 3;
- (h) “formal proof of a will” means proof of a will in solemn form;
- (i) “minor” includes an unborn child;
- (j) “person” includes an organization or society;
- (k) “person interested in an estate” means a person referred to in rule 57;
- (l) “personal representative” means an executor of a will or an administrator or trustee of an estate to which these Rules apply, and includes a person named as an executor or trustee in a will before a grant is issued;
- (m) “residuary beneficiary” means a person receiving a part or all of the residue of the estate;
- (n) “sign” with reference to a document means the execution of the document whether by signing or by some other means;
- (o) “will” includes any testamentary disposition.

Rules of Court

- 2(1)** The *Alberta Rules of Court* (Alta. Reg. 390/68), except Part 34, apply to an application to the court if the matter is not otherwise dealt with under these Rules or the context indicates otherwise.
- (2)** The court may vary any rule in any case where the court decides it is appropriate to do so.
- (3)** Subrule (2) does not apply if the rule imposes a duty on the court.

(4) If provision for a procedure or matter is not made in these Rules or is not included in and cannot be analogized to the *Alberta Rules of Court* (Alta. Reg. 390/68), the court may make any order concerning it that is necessary or appropriate in the circumstances.

Reference to another court

3(1) If at any time the Surrogate Court is of the opinion that a matter before it is in the jurisdiction of the Court of Queen's Bench, the Surrogate Court may refer that matter to the Court of Queen's Bench, which may deal with it without further application.

(2) If at any time the Court of Queen's Bench is of the opinion that a matter before it is in the jurisdiction of the Surrogate Court, the Court of Queen's Bench may refer that matter to the Surrogate Court, which may deal with it without further application.

Application for direction

4 A personal representative or a person interested in an estate may apply to the court for directions at any time.

Notice to attend or produce

5(1) The court may issue

- (a) a notice to compel attendance or to compel the production of any relevant documents, or
- (b) a notice of future applications.

(2) The court may

- (a) issue a notice to classes of persons interested in the estate generally rather than to individuals by name, and
- (b) state the method of service to be used for the notice.

Venue

6(1) An application for a grant must be filed in a judicial district in which the deceased resided on the date of death unless the court permits otherwise.

(2) If the deceased resided outside Alberta immediately before dying, an application for a grant may be filed in any judicial district where the deceased had property on the date of death.

Date of affidavit

7 An affidavit filed under these Rules may be dated before the date on which it or any other document is filed.

Additional information

8 On any application to which these Rules apply, the court may require the applicant to give any additional information that the court decides is necessary.

Forms

9 The forms in Schedule 3 are the forms required to be filed under these Rules.

PART 1

NON-CONTENTIOUS MATTERS

**Division 1
Application for Grant**

Grants

10(1) The following grants may be applied for under this Part:

- (a) grants that are unlimited and unrestricted, including
 - (i) a grant of probate;
 - (ii) a grant of administration with will annexed (*cum testamento annexo*);
 - (iii) a grant of administration;
 - (iv) a supplemental grant (*cessate*);
 - (v) a grant of double probate;
- (b) grants that are limited to part of the deceased's property, including
 - (i) a grant of administration of unadministered property (*de bonis non administratis*);
 - (ii) a grant of re-sealed probate with respect to property in Alberta;
 - (iii) a grant of re-sealed administration with respect to property in Alberta;
 - (iv) a grant of administration limited to specific property;
 - (v) a grant of administration of property not included in another grant (*caeterorum bonorum*);
 - (vi) an ancillary grant;
- (c) grants that are for a limited time, including
 - (i) a grant of administration until a will is found;
 - (ii) a grant of administration during the minority, absence or mental incompetence of the personal representative (*durante minoritate, absentia, dementia*);
- (d) grants that are for a particular purpose only, including
 - (i) a grant of administration when the validity of a will is in question (*pendente lite*);
 - (ii) a grant of administration for the purpose of litigation (*ad litem*);
 - (iii) a grant of administration for the preservation of property (*ad colligendum bona defuncti*);
 - (iv) a grant of administration limited to a specified matter.

(2) The court may issue any grant that is not referred to in subsection (1) that the court considers proper in the circumstances.

Preference

11(1) Preference must be given to an applicant for a grant of probate or administration with will annexed in the following order unless the court, on application, orders otherwise:

- (a) a personal representative named in a will;
- (b) a residuary beneficiary named in a will;
- (c) a life tenant of the residue in a will;
- (d) an heir on intestacy, excluding the Crown, if the residue is not completely disposed of in a will;
- (e) a beneficiary receiving a specific gift in a will;
- (f) a contingent beneficiary of the residue in a will;
- (g) a contingent beneficiary of a specific gift in a will;
- (h) the Crown in right of Alberta.

(2) Preference must be given to an applicant for a grant of administration in the following order unless the court, on application, orders otherwise:

- (a) the husband or wife of the deceased;
- (b) a child of the deceased;
- (c) a grandchild of the deceased;
- (d) issue of the deceased other than a child or grandchild;
- (e) a parent of the deceased;
- (f) a brother or sister of the deceased;
- (g) a child of the deceased's brother or sister if the child is an heir on intestacy;
- (h) next of kin of the deceased of closest and equal degree of consanguinity who are heirs on intestacy and who are not otherwise referred to in this subsection;
- (i) a person who has an interest in the estate because of a relationship with the deceased;
- (j) a claimant;
- (k) the Crown.

(3) Unless the court, on application, orders otherwise, preference must be given to a person living in Alberta if applicants for a grant of administration have equal priority under subrules (1) or (2) but some live outside Alberta.

(4) Unless the court, on application, orders otherwise, a grant of administration must not be given to more than 3 persons at the same time.

Limited grant

12(1) If the grant applied for is limited in any manner, the limitation must appear clearly on the application.

(2) If the grant given is limited in any manner, the limitation must appear clearly on the grant.

Forms required 13(1) An applicant for a grant of probate or a grant of administration with will annexed

(a) must file the following forms:

- (i) Form NC 1;
- (ii) Form NC 2;
- (iii) Form NC 3 Schedule 1;
- (iv) Form NC 4 Schedule 2;
- (v) Form NC 8;
- (vi) Form NC 5 Schedule 3;
- (vii) Form NC 6 Schedule 4;
- (viii) Form NC 7 Schedule 5;
- (ix) Form NC 19;
- (x) Form NC 27;

(b) if the circumstances require, must file the following forms:

- (i) Form NC 20;
- (ii) Form NC 17;
- (iii) Form NC 22;
- (iv) Form NC 23;
- (v) Form NC 24;
- (vi) Form NC 12;
- (vii) Form NC 14;
- (viii) Form NC 24.1;
- (ix) Form NC 25.

(2) An applicant for a grant of administration or a limited grant of administration

(a) must file the following forms:

- (i) Form NC 1;
- (ii) Form NC 2;
- (iii) Form NC 3 Schedule 1;

- (iv) Form NC 5 Schedule 3;
 - (v) Form NC 6 Schedule 4;
 - (vi) Form NC 7 Schedule 5;
 - (vii) Form NC 21;
 - (viii) Form NC 27;
- (b) if the circumstances require, must file the following forms:

- (i) Form NC 17;
- (ii) Form NC 22;
- (iii) Form NC 23;
- (iv) Form NC 24;
- (v) Form NC 15;
- (vi) Form NC 16;
- (vii) Form NC 24.1;
- (viii) Form NC 25.

(3) An applicant for a grant who is an attorney entitled by law to make the application must file the following forms and any relevant forms referred to in subrule (1) or (2):

- (a) Form NC 28;
- (b) Form NC 29.

(4) An applicant for a grant of double probate must file the following forms and any relevant forms referred to in subrule (1):

- (a) Form NC 30;
- (b) Form NC 31.

(5) An applicant for an order to re-seal a foreign grant of probate or administration or an ancillary grant must file the following forms and any relevant forms referred to in subrule (1) or (2):

- (a) Form NC 32 application;
- (b) Form NC 33 affidavit;
- (c) a copy, duplicate or exemplification of the foreign grant that complies with section 30(3) of the *Administration of Estates Act*;
- (d) a certificate from the foreign court or some other proof satisfactory to the court that the foreign grant is unrevoked and fully effective;
- (e) proof that the signing formalities of any will comply with the law of Alberta if the deceased owned an interest in land in Alberta.

(6) An applicant must file any forms or documents not referred to in subrules (1) to (5) that the court or the circumstances of the estate require.

Will

Void gift **14** If a gift to a beneficiary under a will is void because the beneficiary is a witness to the will or the spouse of a witness, an application made with respect to the will must indicate that the gift is void.

Wills and codicils **15** Subject to section 4 of the *Administration of Estates Act*, the original will and any original codicils must be attached to an application for a grant of probate or a grant of administration with will annexed.

Identification by witness **16(1)** If possible, the applicant, the person before whom the applicant's affidavit is sworn and the judge must each mark the will, and any codicil, in such a way that the will is identified for the purposes of the application and of any affidavit respecting the application.

(2) Any marking on a will must be made below the signatures on either the front or back of the last page of the will and must not obliterate or damage the original will.

(3) A witness to a will must prove that the signing formalities were observed by providing an affidavit in Form NC 8 and the original will must be an exhibit to the affidavit.

(4) If a will is a holograph will, a person other than the applicant, unless otherwise ordered by the court, must prove the deceased's handwriting by providing an affidavit in Form NC 9.

(5) An affidavit sworn by a witness to a will at the time that a will is signed is acceptable as proof that the formalities were observed, unless there is an apparent change in the will that the witness has not satisfactorily explained in the affidavit.

(6) An affidavit referred to in subrule (5) may be in a form other than Form NC 8 if it is sworn before these Rules come into force.

(7) The court may require any further identification of a will the court considers necessary if the will is written on more than one piece of paper and not all pieces are identified by the signature or initials of the deceased and the witnesses.

(8) The following may be used to mark a will for identification under this rule:

(a) respecting Schedule 2 of the application:

This is the will referred to in Schedule 2 and is exhibit A to the affidavit of _____, a witness to this will.

(Applicant's Signature)

(A Commissioner for Oaths)

(Judge of the Surrogate Court)

(b) respecting an affidavit of a witness to the will:

This is exhibit A referred to in the affidavit of (deponent's name).

Sworn before me on _____

(A Commissioner for Oaths)

Proving
signing of will

17 If the deceased at the time a will was made

- (a) was blind,
- (b) was illiterate,
- (c) did not fully understand English,
- (d) indicated an intention to give effect to the will with a mark, or
- (e) indicated an intention to give effect to the will by having another person sign at the deceased's direction,

the applicant must satisfy the court that the deceased and the witnesses were present when the will was signed, that the will was fully explained to the deceased and that the deceased appeared to the witnesses to fully understand the will.

Will in foreign
language

18 If a will is written in a language other than English, the applicant must give an affidavit in Form NC 10 verifying the will's translation into English.

Witnesses
dead

19 If both witnesses to a will are dead or neither witness can give an affidavit for any reason, the applicant may establish proof that the formalities required for a will to be valid were observed by an affidavit

- (a) attesting to the authenticity of the signature of the deceased, or
- (b) from any person
 - (i) who did not sign as a witness,
 - (ii) who was present during the signing of the will, and
 - (iii) who can attest to the circumstances.

Dated will

20(1) If there is no indication on a will of the date on which the will was signed or reference to the date is imperfect, one of the attesting witnesses must give evidence of the date on which the will was signed.

(2) If subrule (1) cannot be complied with, the court may require the applicant

- (a) to give evidence of the signing of the will between 2 stated dates, and
- (b) to give evidence that a search for a later will has been made and none was found.

Minor testator

21 If the deceased was under 18 years of age at the time the will was signed, the applicant must

prove that section 9 of the *Wills Act* was complied with at the time the will was signed.

Other documents

22(1) If a will refers to a document or the applicant knows of a document that may form part of a will, the applicant must give the document to the court with the application.

(2) If a document referred to in subrule (1) is not given with an application, the applicant must explain to the satisfaction of the court why it is not.

Formal proof of will

23 The court may require formal proof of a will under Part 2 or any other proof satisfactory to the court, if

- (a) no witness is available to swear the necessary affidavit,
- (b) the appearance of the will indicates an attempt to cancel it by burning, tearing or any other act of destruction,
- (c) words in the will that might be important have been erased or obliterated, or
- (d) in the opinion of the court, circumstances require formal proof of the will.

Lost will

24 If an original will is lost or destroyed but a copy or other evidence of it exists, the court may admit the copy or other evidence to probate if

- (a) the will is proved formally under Division 3 of Part 2, or
- (b) in the opinion of the court, the will can be adequately identified under this Part.

Alterations, etc.

25 If the court directs that any alterations, interlineations, erasures or obliterations should be omitted from a will, the clerk must omit them from the copy of the will attached to the grant.

Notice Required

Notice of application

26(1) An applicant must serve notice of any application for a grant

- (a) in Form NC 19, Form NC 20 or Form NC 21 to the persons listed in Form NC 6 as filed, and
- (b) in Form NC 22, Form NC 23, Form NC 24 or Form NC 24.1 to the appropriate persons, if any.

(2) A copy of the completed application must be served with a notice required under subrule (1) on any person who is a residuary beneficiary or an heir on intestacy.

(3) Service under this rule may be made

- (a) by single registered mail, or
- (b) by serving a lawyer who is authorized to accept service on behalf of a person.

(4) If a person is required to be served under this rule, proof of the service must be filed in Form NC 27.

(5) If the applicant does not file proof of service on a person as required by subrule (4), the court may issue a grant only if it is satisfied with the reason given by the applicant for not filing the proof of service as required.

(6) Service under this section is valid despite a later amendment to the application that is made at the direction of the court.

Unknown beneficiary

27 If an applicant knows of a particular beneficiary but does not know the identity or address of the beneficiary, the applicant must file an affidavit in Form NC 25 to that effect with the application.

Bonds

Bonds

28(1) Subject to subrule (2), a personal representative who is not a resident of Alberta must provide a bond.

(2) A personal representative is not required to provide a bond if

- (a) the personal representative is resident in Alberta, or
- (b) there are 2 or more personal representatives and one of them is resident in Alberta.

(3) If a non-resident personal representative must provide a bond, the bond must be from an insurer licensed under the *Insurance Act* to undertake guarantee insurance as defined in that Act.

(4) A bond must be for an amount equal to

- (a) the gross value of the deceased's property in Alberta,
- less
- (b) if the court so orders, any amount distributable to the personal representative as a beneficiary.

Dispensation from bond

29(1) A non-resident personal representative may apply to dispense with the requirements of rule 28(1) or to reduce the amount of a bond by filing an affidavit in Form NC 17.

(2) An applicant under this rule may file a beneficiary's consent to dispensing with a bond in Form NC 18 in support of the application.

Application re bond

30(1) Any person interested in an estate may apply to the court for an order that a bond be required from a resident personal representative despite rule 28(2) if the personal representative is not named as executor in the will.

(2) Any person interested in an estate may apply to the court for an order requiring a non-resident personal representative to provide a bond despite rule 28(2), whether or not an application is made under rule 29.

Powers of court

31(1) The court, on an application under rule 29 or 30, may, after considering the interests of the beneficiaries and claimants of the estate,

- (a) require a bond;

- (b) reduce the amount of a bond;
- (c) dispense with the bond requirements;
- (d) impose conditions on the applicant or any other person interested in the estate;
- (e) require more information;
- (f) do any other thing that the circumstances require.

(2) The court must not require a lawyer representing an applicant to undertake to retain control of the property in the estate as a condition of dispensing with a bond.

Personal Representatives

Renunciation **32(1)** If a personal representative named in a will does not wish to or cannot apply for a grant of probate, the personal representative must renounce in Form NC 12 or by a method approved by the court.

(2) Before a grant of administration may be issued to an applicant, all those who rank higher or equal to the applicant under rule 11(2) must renounce their rights to apply for a grant in form NC 14 or NC 15 or by a method approved by the court.

(3) The court, at any time, may dispense with a renunciation required by subrule (1) or (2).

(4) Renunciation under this rule does not by itself prevent a personal representative named in a will from applying for a grant of administration with will annexed.

Nominations **33** On an application for a grant of probate or a grant of administration with will annexed, in accordance with rule 11 the persons entitled to administration may nominate in Form NC 16 a person to be the personal representative.

Grant of double probate **34(1)** If all the personal representatives named in a will do not apply for a grant of probate at the same time, the personal representatives who do not apply

(a) must reserve their right to apply later by filing Form NC 13 at the time the initial grant of probate is applied for, and

(b) may apply by filing Forms NC 30 and NC 31 for a grant of double probate at any time after filing Form NC 13.

(2) A personal representative to whom subrule (1) applies who does not comply with subrule (1)(a) may not apply for a grant of double probate.

(3) An alternative personal representative named in a will may apply for a grant of double probate if it is necessary for the alternative personal representative to complete the administration of the estate.

(4) The original grant of probate must be surrendered with an application under this rule.

Grant of re-sealed probate or re-sealed administration

35(1) An applicant may apply in accordance with rule 13(5) and (6) for an order resealing a foreign grant, as defined in section 30 of the *Administration of Estates Act*.

(2) An application under subrule (1) must show only the property and debts of the deceased in Alberta.

(3) A foreign grant is proof without more of the death of the person whose estate is dealt with in the grant and that

- (a) the signing formalities of the foreign jurisdiction were observed and the will is the last will of the deceased, or
- (b) the deceased left no will.

Ancillary grant

36(1) An applicant may apply in accordance with rule 13(5) and (6) for an ancillary grant if

- (a) part of the deceased's property is in Alberta, but the deceased was not resident in Alberta at the time of death, and
- (b) the deceased was a resident of a jurisdiction that is not listed in section 30(1)(a) of the *Administration of Estates Act*.

(2) An application under subrule (1) must show only the property and debts of the deceased in Alberta.

(3) A foreign grant is proof without more of the death of the person whose estate is dealt with in the grant and that

- (a) the signing formalities of the foreign jurisdiction were observed and the will is the last will of the deceased, or
- (b) the deceased left no will.

Unadministered property

37(1) If a deceased was the personal representative of an intestate person, another person may apply for a grant of administration of the unadministered property of the intestate person.

(2) If a deceased was the personal representative of a testate person and the deceased did not appoint a personal representative for the deceased's estate, another person may apply for a grant of administration with will annexed of the unadministered property of the testate person.

(3) If the personal representative of a testate person resigns and there is no alternative personal representative named in the will, another person may apply for a grant of administration with will annexed of the unadministered property of the testate person.

(4) An applicant under subrule (1), (2) or (3)

- (a) subject to subrule (5), must file the same documents as those filed in the original application for a grant, and
- (b) must file an affidavit attesting to the details of the original grant and to the death or resignation of the personal representative.

(5) An application under subrule (1), (2) or (3) must show only the description and value of the unadministered property on the date of the application.

- (6) The original grant must be surrendered with an application under subrule (1), (2) or (3).

Claimants

Notice to claimants

- 38(1)** If a personal representative publishes a notice to claimants, the personal representative must do so in accordance with this rule and may use Form NC 34.
- (2) A notice to claimants must be published in a newspaper
- (a) that is published or circulated in the area where the deceased usually lived, or
- (b) if the deceased did not usually live in Alberta, that is published or circulated in the area where a significant amount of the deceased's property is situated.
- (3) A notice to claimants must be published,
- (a) in the case of an estate with a gross value of \$100 000 or less, at least once, or
- (b) in the case of an estate with a gross value of more than \$100 000, at least twice with not less than 6 days between the publications.

Notice by claimant

- 39(1)** A claimant must notify a personal representative of the claim not more than 30 days after the date on which the last notice is published under rule 38.
- (2) A claimant who does not comply with subsection (1) may make a claim against an estate only with the prior consent of the court.

Verification of claims

- 40(1)** If a personal representative has notice of a claim against the estate, the personal representative may require the claimant to verify the claim using a statutory declaration in Form NC 35.
- (2) If a claimant does not give a value to any security held by the claimant wholly or partly to secure the claim, the personal representative may apply to the court for an order under section 41(6) of the *Administration of Estates Act* by filing a notice of motion in Form C1 and an affidavit in Form C2.

Valuation of security

- 41(1)** If a dispute arises between a personal representative and a claimant with respect to the value of security held wholly or partly by the claimant to secure any claim against the estate, the personal representative may apply to the court for an order under this rule.
- (2) A personal representative must give 3 days' notice of an application under subrule (1) to the claimant.
- (3) On an application by the personal representative, the court may
- (a) require the claimant to file a statutory declaration specifying the value of the security with the personal representative within the time limited by the order, and
- (b) declare that the rights of the claimant against the estate in respect of the claim or the part of it that is secured are barred if the claimant does not comply with the order under clause (a).
- (4) If a claim is secured, the personal representative may

- (a) consent to the claimant's ranking with other claimants for the amount of the claim after the value of the security specified in the declaration is deducted, or
- (b) require an assignment of the security to the estate at the value specified in the declaration of the claimant.

(5) If an assignment is required under subrule (4), the difference between the value at which the security is assigned to the estate and the amount of the gross claim of the claimant is the amount for which the claimant ranks with other claimants.

(6) If the personal representative requires an assignment of a security under subrule (4), the claimant must assign the security to the estate after the claimant has received

- (a) payment of the value of the security as specified in the declaration, and
- (b) interest to the date of payment if the indebtedness bears interest.

(7) Nothing in this Part prejudices any of the rights or remedies of a secured claimant before the personal representative has given notice that an assignment of the security is required and payment is tendered in respect of that security.

(8) If the claim of a claimant is based on a negotiable instrument that is not mature or exigible and on which the deceased is indirectly or secondarily liable, the claim is secured for the purposes of this Part, and the claimant must give the value of the liability of the person primarily liable on the instrument as the claimant's security for repayment of the claim.

(9) If, after the instrument referred to in subrule (8) matures, the liability is not paid by the person primarily liable, the claimant may amend and revalue the claim.

Contested claims

42 Part 2, Division 5 applies if a personal representative does not agree to all or part of a claim by a claimant against an estate.

Claims not yet payable

43(1) Rules 40, 41 and 42 apply to a claim that is not payable at the time a grant is issued in respect of the estate and for which, for that reason, an action for the recovery of the claim cannot be brought.

(2) If a claim to which subrule (1) applies is established, the claimant may take proceedings to enforce payment of it only with the consent of the court.

Duties of the Clerk

Fees

44 The clerk may charge fees in accordance with Schedule 2 for the performance of duties and services by the clerk under these Rules.

Applications

45 The clerk must

- (a) number and date every application for a grant when it is filed,
- (b) record the information in the appropriate court records,
- (c) present all applications to the court for its order and direction, and
- (d) send any rejection notice in Form NC 26 to the applicant.

- Grants **46** The clerk must
- (a) sign all grants and copies of any will forming part of or attached to a grant;
 - (b) issue all grants under the seal of the court;
 - (c) record all grants and copies of wills in the appropriate court records.
- Retention of documents **47** The clerk must retain a sealed duplicate of all grants issued.
- Copies of documents **48** Unless the court requires otherwise, the clerk, on payment of the required fee, must give copies of all documents filed in the court to any person who asks for them.
- Clerk's certificate **49** The clerk may issue a certificate in Form NC 49 that a grant or other document is in force.

Division 2 Administration of the Estates of Minors

- Applications **50(1)** A person may apply for a grant of trusteeship of the estate of a minor.
- (2)** An applicant for a grant under this Division must file the following forms:
- (a) Form NC 43;
 - (b) Form NC 44.
- (3)** If the minor who is the subject of an application is 14 years of age or over, the applicant must file an election in Form NC 45.
- Publication **51** The court may require a notice of intention to apply for trusteeship of the estate of a minor in Form NC 46 to be published at the time and in the manner ordered by the court.
- Bonds **52** An applicant under this Division must provide a bond unless the court dispenses with the bond.
- Dispensing with bond **53** An applicant may apply to dispense with a bond by filing an affidavit in Form NC 47.
- Application of rules **54(1)** This Division and rules 38 to 43, 55 to 70, 95 and 96 apply to an application for a grant of trusteeship of the estate of a minor and to the administration of the estate of a minor.
- (2)** Part 3, except rule 97(2), applies to the trustee of the estate of a minor.

PART 2
CONTENTIOUS MATTERS

Division 1
General

- Application** **55(1)** An application to the court may be made under this Part respecting any contentious matter.
- (2)** If applying a rule in this Division would lead to a conflict respecting the application of a rule in any other Division in this Part, the rule in the other Division applies and the rule in this Division does not.
- Parties** **56(1)** If a personal representative is not joined as an applicant in an application under this Part, that personal representative must be shown as a respondent in documents filed with the court.
- (2)** The respondents in an application under this Part must be grouped in accordance with the classes set out in rule 57 in any documents filed with the court.
- Persons interested in the estate** **57** Subject to rule 78, the classes of persons who may be interested in a particular estate are the following:
- (a) personal representatives;
 - (b) residuary beneficiaries;
 - (c) life tenants;
 - (d) specific beneficiaries who have not received their entitlement under the will;
 - (e) heirs on intestacy;
 - (f) trustees of dependent adults under the *Dependent Adults Act*;
 - (g) attorneys appointed under the *Powers of Attorney Act*;
 - (h) minors;
 - (i) missing persons;
 - (j) convicts;
 - (k) unpaid claimants;
 - (l) bonding companies;
 - (m) a group of persons with identical interests ordered to be a class by the court.
- Commencement of action** **58** A person may commence an application under this Part by filing
- (a) a notice of motion in Form C1, and
 - (b) an affidavit in Form C2.

- Documents to be served** **59(1)** An applicant must serve copies of the documents required to be filed under these Rules or the *Alberta Rules of Court* (Alta. Reg. 390/68) on all the persons interested in the estate, if any.
- (2) If a missing person as defined in the *Public Trustee Act* or a convict is a person interested in an estate, the applicant must serve the Public Trustee with notice of the application.
- Service** **60(1)** Service may be made on a person
- (a) personally or by double registered mail in the case of an originating document,
- (b) by ordinary mail delivery or electronic transmission in the case of documents that are not originating documents,
- (c) if documents filed in the matter give an address for service, at that address, or
- (d) by serving a lawyer who is authorized to accept service on behalf of a person.
- (2) Proof in Form NC 27 that a person has been served must be filed with the court.
- Notice** **61** Notice of an application must be given
- (a) to the personal representative 30 days before the hearing;
- (b) to the Public Trustee 10 days before the hearing;
- (c) to other persons interested in the estate, if they are residents of Alberta, 10 days before the hearing;
- (d) to other persons interested in the estate, if they are not residents of Alberta, 30 days before the hearing.
- Representation** **62(1)** At any time during the proceedings, the court may
- (a) decide that certain parties form a class with identical interests whether or not they are also in a class referred to in rule 57,
- (b) require that all the parties in a class be represented by the same lawyer,
- (c) determine which parties may cross-examine witnesses and make representations to the court,
- (d) require 2 or more persons to be represented by different lawyers if they are represented by the same lawyer, or
- (e) appoint a lawyer to represent an unrepresented person.
- (2) One or more of the persons in a class may appoint a particular lawyer to represent them if they do not accept the lawyer appointed by the others in the class to represent the class.
- (3) The costs of a lawyer appointed under subrule (2) may be paid from the estate only if the court specifically orders that the costs are to be paid from the estate.

- Proceedings in chambers** **63** All proceedings to which this Part applies must be before a judge in chambers unless the court or these Rules require otherwise.
- Procedure at hearing** **64(1)** The court, on hearing an application, may
- (a) receive evidence by affidavit or orally;
 - (b) summarily dispose of the issues arising out of the application;
 - (c) direct a trial of issues arising out of the application;
 - (d) grant any relief to which the applicant is entitled because of a breach of trust, wilful default or other misconduct of a respondent;
 - (e) direct that notice of the court's judgment or order be given to a particular person;
 - (f) dispense with service of notice on any person if, in the opinion of the court, service is impractical;
 - (g) subject to subrule (2), dispense with service of an order and order that a person is bound by the court's order as if the person had received notice of it;
 - (h) order costs to be paid from the estate or by any person who is a party to the application;
 - (i) make any order that the court considers necessary in the circumstances.
- (2)** If service on a person is dispensed with under subrule (1) and an order is obtained by fraud or non-disclosure of material facts, that person is not bound by the order.
- Standing** **65** A person served with notice of an order may
- (a) apply to vary, discharge or add to the order within 14 days after being served, and
 - (b) attend any proceedings in respect of the order.
- Trial of an issue** **66** If the court orders the trial of an issue, the court must order the procedure to be followed and the terms and conditions under which the trial is to take place.
- Time limit** **67(1)** An applicant must not apply for an order requiring a personal representative to accept or refuse probate until at least 60 days after the date of the death of the testator.
- (2)** Despite subrule (1), an applicant may apply for an order requiring a personal representative to accept or refuse probate during the period referred to in subrule (1) if, in the opinion of the court, the circumstances warrant the granting of the order.
- Production of testamentary documents** **68** If an applicant applies for an order requiring the production of a testamentary document, the court may require a person by affidavit or by an appearance before the court,
- (a) to explain why the document should not be produced and deposited with the clerk,
 - (b) to explain why the document cannot be produced,

- (c) to give a statement that no testamentary document is or has been in the person's possession or control, or
- (d) to give any information the person has that is relevant to discovering the document's present location.

Security for costs

69 The court may order security for costs to be posted by any party at any stage of the proceedings under this Division.

Time for completion

70 The court may set a time or times within which matters or proceedings respecting an estate under this Part must be completed.

Division 2 Proceedings on Caveats

Caveat against issue of grant

71(1) A person may file a caveat under the *Administration of Estates Act* in Form C3 against the issue or resealing of a grant.

(2) The clerk must send a copy of any caveat filed with respect to an estate to the applicant for a grant in respect of that estate.

(3) If a caveat expires or is withdrawn or removed, an application for a grant becomes a non-contentious matter and must be continued under Part 1.

Warning to caveator

72 An applicant for a grant may file and serve on a caveator a warning in Form C4.

Objection to grant

73(1) A caveator may file a notice of objection in Form C9 to a grant being issued under Part 1 and serve it on the applicant not more than 10 days after the caveator is served with the warning.

(2) Despite subsection (1), a caveator may apply to the court for an order extending the time within which the caveator must file and serve a notice of objection.

(3) If a caveator files and serves a notice of objection within the time allowed, the application must be continued under Division 3.

(4) If a caveator does not file and serve a notice of objection within the time allowed, the clerk must remove the caveat and the application for a grant must be continued under Part 1.

Frivolous or vexatious caveat

74(1) Despite rule 73, if a caveator files and serves a notice of objection to an informal grant, the applicant may apply for an order that the caveat is frivolous or vexatious and that the caveat be removed.

(2) If the court determines that a caveat is frivolous or vexatious, the court may order that the caveat be removed and award costs against the caveator.

(3) If the court determines that a caveat is not frivolous or vexatious, the application for a grant must be continued under Division 3.

(4) If the court determines that a caveat is not frivolous or vexatious but that it should be removed in the circumstances of the estate, the court may order that the caveat be removed.

Division 3
Formal Proof of a Will

- Applications** **75(1)** A personal representative or a person interested in the estate may apply to the court
- (a) to obtain formal proof of a will, whether or not an application for a grant has been made under Part 1;
 - (b) to set aside a grant issued under Part 1 and require formal proof of the will;
 - (c) to prevent the issue of a grant under Part 1 and require formal proof of a will;
 - (d) to obtain an order that the deceased died intestate;
 - (e) to request the appointment of a personal representative;
 - (f) to request the appointment of a personal representative other than the one appointed by a grant issued under Part 1;
 - (g) to restrain a personal representative from exercising any powers during an application under this subrule;
 - (h) to appoint a special personal representative to conduct an application under this subrule.
- (2)** The court may order a person to apply for an order under subrule (1).
- (3)** An application under subrule (1) operates to stay proceedings under an application under Part 1.
- (4)** If an application under subrule (1) is filed, a personal representative appointed by a grant issued under Part 1 must not distribute any of the property of the estate unless
- (a) the court approves the distribution, or
 - (b) all persons interested in the estate consent to the distribution.
- (5)** Subject to subrule (4), if an application is filed to appoint a personal representative under this Part and to restrain a personal representative appointed by a grant issued under Part 1 from acting, the personal representative appointed by the grant issued under Part 1 must not exercise any of the powers of a personal representative during the application for formal proof of the will without the consent of the court.
- Original will lost or destroyed** **76** If an original will is lost or destroyed, a person interested in the estate must apply for an order under rule 75 unless
- (a) the applicant shows to the satisfaction of the court that section 41 of the *Alberta Evidence Act* applies, or
 - (b) the court orders otherwise.
- Required documents** **77(1)** A person may commence an application under this Division by filing the following and serving them on the persons interested in the estate:
- (a) if the application is made by a personal representative,

- (i) Form C5;
 - (ii) Form C6;
 - (iii) Form C8;
 - (b) if the application is made by a person interested in the estate, a notice of objection in Form C9;
 - (c) if the application is ordered by the court, direction by the court that the will be formally proved.
- (2) If a court file has already been opened for the estate, the clerk must record all of the documents under subrule (1) in the existing file.
- (3) If there is no court file, the documents under subrule (1)(a) and (b) are originating documents and the clerk must open a court file.
- (4) If an application under this Division is not contested or opposed, the court may make an order under this Division based on the documents filed without requiring more.

Persons interested in the estate

78 Despite rule 57, the classes of persons interested in an estate who may apply for an order under rule 75 are the following:

- (a) surviving spouse;
- (b) adult children;
- (c) Public Trustee or any other person representing minors;
- (d) trustees of dependent adults under the *Dependent Adults Act*;
- (e) attorneys appointed under the *Powers of Attorney Act*;
- (f) Public Trustee when representing missing persons or convicts;
- (g) heirs on intestacy;
- (h) personal representatives and beneficiaries in any will in respect of which an application is made under these Rules;
- (i) personal representatives appointed under a prior grant issued in respect of the will;
- (j) the alleged deceased if the fact of death is an issue.

Action commenced by a person interested in the estate

79(1) If a person interested in an estate files an application under this Division, a personal representative named in the will may

- (a) file the documents referred to in rule 77(1)(a);
- (b) renounce all right to be the personal representative of the estate if the personal representative has not intermeddled in the estate;
- (c) apply to be discharged;

(d) apply for an order that the application is frivolous or vexatious.

(2) An application under this Division or under Part 1 is not by itself intermeddling in the estate.

Special applications

80(1) If a personal representative renounces all rights or does not respond to a notice of objection in Form C9, a person interested in the estate may apply to the court for directions on how to proceed.

(2) The court may appoint a personal representative to administer the estate and conduct proceedings under this Division until a grant is issued.

Order requiring formal probate

81(1) The court may require formal proof of a will with respect to which an application is made under Part 1 whether before or after a grant is issued.

(2) An order referred to in subrule (1) must give the reasons for requiring formal proof of the will.

(3) If an order is made under subrule (1), the personal representative or applicant, as the case may be, must file the documents required under rule 77(1)(a).

Parties

82 If a personal representative renounces or fails to respond to a notice of objection in Form C9, the person filing the notice of objection is the applicant in any application to the court for further directions.

Hearing in chambers

83(1) Despite rule 85, the hearing of an application for formal proof of a will under this Division must be in chambers if the only issue is proof of the death of the testator or proving the signing of the will or both.

(2) In subrule (1), “proving the signing of the will” means

- (a) proving the fact of the testator's signature and handwriting,
- (b) proving the fact of the witnesses' signatures, presence and qualifications, or
- (c) proving that the signing of the will complied with the *Wills Act*.

Evidence

84(1) Evidence at a hearing in chambers referred to in rule 83 may be given by affidavit or orally or both.

(2) Any person who took instructions for the preparation of the will is compellable as a witness respecting

- (a) the circumstances of that person's involvement in the preparation of the will and of any lawyer's retainer,
- (b) the instructions given by the testator,
- (c) the preparation of the will or the circumstances of its signing, or
- (d) any steps taken to ascertain or record by any means the testator's capacity or the witness's or lawyer's opinion concerning that capacity.

Trial

85(1) The hearing in an application for formal proof of a will under this Division must be in the form of a trial before the court and must not be held in chambers,

- (a) if several witnesses are necessary in the opinion of the court, or
- (b) if the court orders a trial.

(2) If the hearing is a trial, the applicant must apply to the court in chambers for directions on the procedure to be followed at the trial.

(3) The court on application under subrule (2) may

- (a) set the procedure to be followed at the trial, including
 - (i) giving directions on pre-trial discovery and examinations,
 - (ii) ordering the discovery of documents,
 - (iii) stating the parties and their roles,
 - (iv) ordering the representation of parties, or
 - (v) dispensing with pre-trial procedures and sending the matter straight to trial,

or

- (b) despite subrule (1), order a hearing in chambers on affidavit or oral evidence or both respecting certain issues.

Order of decisions

86 The court must do the following on an application for formal proof of a will:

- (a) if several wills of the deceased are in issue, consider each will in turn in the order in which they were made, beginning with the most recent;
- (b) as soon as the court admits to probate one or more wills that dispose of all of the property of the deceased, consider no further wills;
- (c) if the wills admitted to probate do not dispose of all of the property of the deceased, consider whether an intestacy exists;
- (d) if a will is opposed and an application for a declaration of intestacy is made, decide whether the will should be admitted to probate.

Order of proceedings

87 In an application for formal proof of a will under this Division,

- (a) the proponent of the will must be heard first and must present evidence concerning the proof of death, proof of the signing of the will and the capacity of the deceased, and
- (b) the contestant must be heard next.

Other proceedings

88 An application for formal proof of a will may be combined with another application to the court concerning the same estate.

- Witness fees** **89** Any person who appears as a witness at a hearing under this Division
- (a) is entitled to an appearance fee in the amount required to be paid to witnesses in civil cases, and
 - (b) may be given a preparation fee and any additional fees in amounts specified by the court.
- Powers of the court** **90** On an application under this Division the court may
- (a) determine the fact of death;
 - (b) determine whether the deceased died testate or intestate;
 - (c) determine which will of the deceased, if any, to admit to probate;
 - (d) determine the heirs of a deceased on intestacy;
 - (e) terminate any grant issued under Part 1 appointing a personal representative;
 - (f) terminate the appointment of a personal representative who was appointed to make an application for formal proof of a will;
 - (g) issue any grant referred to in rule 10;
 - (h) direct the payment of costs, including penalizing any person who required formal proof of the will if it became clear during the proceedings that
 - (i) the application was frivolous or vexatious,
 - (ii) the person caused undue delay, or
 - (iii) the person had no substantial basis for requiring the scrutiny of the court;
 - (i) determine any other matter that the court considers relevant or that is incidental to the application.
- Order final** **91(1)** Subject to subrule (2), in the absence of fraud and even if a will is discovered after the court makes a decision under rule 86, a grant issued under rule 90 based on that decision is binding on all persons.
- (2)** A person referred to in rule 78 who was not served with notice of proceedings under this Division may apply for an order under this Division in respect of a testamentary instrument that has not been considered by the court in a prior application under this Division.
- Appeal** **92** Despite rule 91, an appeal lies to the Court of Appeal from the whole or any part of an order under this Division.
- Return and revocation of informal grant** **93(1)** If an application is made under rule 75 for formal proof of a will, a personal representative who has been appointed by a grant issued under Part 1 must return the grant to the court unless the court orders otherwise.
- (2)** If a personal representative does not return a grant, the court may issue an order requiring delivery of the grant to the clerk.

(3) If the court revokes a grant after proceedings for formal proof of a will are concluded, the clerk must endorse the following on the grant:

Revoked by Order of M __ Justice _____
on _____

(Clerk of the Surrogate Court) (seal)

Division 4 Proof of Death

- Proof of death**
- 94(1)** The court may permit a person to swear to the death of another person if there is no direct evidence of the death but there is evidence from which the death can be presumed.
- (2) An application for permission to swear to the death of a person may be made
- (a) in Forms C1 and C2, and
- (b) without notice or on the notice the court orders.
- (3) The court may declare that the death of a person is proven or presumed if the court is satisfied with the evidence and the form of the evidence presented to the court.

Division 5 Claims on an Estate

- Contested claim**
- 95** If a personal representative does not agree with all or part of the claim of a claimant against the estate, the personal representative must serve the claimant with a notice of contestation in Form C11.
- Application to court**
- 96(1)** A claimant whose claim is contested may apply to the court for an order allowing the claim and setting the amount by filing a notice of claim with affidavit in Form C12 and serving it on the personal representative.
- (2) A claimant must make an application under subrule (1) within 60 days of receiving the notice of contestation under rule 95.
- (3) The court may waive the time limit in subrule (2) if
- (a) the claimant applies to the court for an extension of time before the expiration of the 60 days, and
- (b) the application is heard not more than 3 months after the last day of the original 60-day period.

PART 3**ACCOUNTING****Division 1
General****Requirement
for an
accounting**

- 97(1)** A personal representative must give an accounting of the administration of the estate at regular intervals
- (a) by preparing financial statements showing the property and money received and the property distributed and the money paid out respecting the administration of the estate, and
 - (b) by giving the financial statements to the beneficiaries.
- (2)** Unless the court orders a longer or shorter period, a personal representative must give an accounting of the administration of the estate every 2 years after the date of death or the date of the end of the latest period for which an accounting is given.
- (3)** The court may require, or a person interested in the estate may apply to the court for an order requiring, the personal representative to give an accounting of the administration of the estate at any time.
- (4)** A beneficiary of only a specific gift under a will
- (a) is entitled to an accounting that is in respect of only that gift, and
 - (b) who has received that gift may not apply for an order under subrule (3).

**Contents of
financial
statements**

- 98(1)** The financial statements respecting an estate must include the following:
- (a) an inventory of property and debts at the beginning and end of the accounting period;
 - (b) a statement of all property and money received during the accounting period showing whether it is capital or income;
 - (c) a statement of all property distributed and money paid out during the accounting period showing whether it is capital or income;
 - (d) a statement of all changes to property made and all debts of the estate paid or incurred by the personal representative during the accounting period;
 - (e) a statement of all expenses incurred or paid during the accounting period;
 - (f) in the case of a final passing of accounts, a statement of anticipated receipts and disbursements;
 - (g) a reconciliation, where necessary, showing the items required to balance the opening net value of the estate with the closing net value of the estate;
 - (h) a distribution schedule, including interim distributions and the proposed final distribution, if appropriate;
 - (i) a proposed compensation schedule for the personal representative showing the basis on which it is calculated and its allocation to income or capital.

- (2) The financial statements may be separate or combined as long as they can be followed clearly.
- (3) The financial statements may be in any format, but each entry must be numbered consecutively.
- (4) If the will or other trust instrument specifies separate capital and income interests, the financial statements must distinguish entries respecting capital from entries respecting income.
- (5) The court, at any time, may require further financial statements or more particulars with respect to the financial statements presented.

Acceptable
documen-
tation

99 The following documentation is sufficient to confirm ownership by the estate of the property referred to:

- (a) in the case of publicly traded securities and commercial paper,
 - (i) a certificate, or
 - (ii) a letter from a dealer registered under the *Securities Act*, a bank or a trust corporation, whether registered under the *Loan and Trust Corporations Act* or not, carrying on business in any jurisdiction in Canada stating that the dealer, bank or trust corporation is holding securities for the estate, either by having them in its possession, through a securities depository or by some other means that is in accordance with current practice in the industry;
- (b) in the case of private company shares,
 - (i) a certificate, or
 - (ii) a letter from a duly authorized officer of the company or from the company's lawyer confirming the holding;
- (c) in the case of bank balances, cash, term deposits, treasury bills, annuities, pensions, retirement plans, royalty trusts, and similar property,
 - (i) a certificate or statement of account, or
 - (ii) a letter from a financial institution stating that the financial institution is holding property for the estate, either by having it in its possession, through a securities depository, or by some other means that is in accordance with current practice in the industry;
- (d) in the case of household goods and personal effects,
 - (i) a letter or bill of lading from any depository where the goods or effects are stored, or
 - (ii) an inventory, the accuracy of which is attested to by the personal representative, indicating possession of the goods or effects on behalf of the estate;
- (e) in the case of real property, a current certified copy of the certificate of title.

Division 2 Releases

Releases

100(1) A personal representative may, on the presentation of accounts to the residuary beneficiaries, obtain releases in Form ACC 12 from the residuary beneficiaries.

(2) The releases obtained under subrule (1) need not be filed.

Effect of
release

101 A personal representative may rely on a release for confirmation that, in the opinion of the residuary beneficiary giving the release,

- (a) the accounting in respect of the estate presented to the beneficiary is satisfactory;
- (b) the personal representative may be compensated as set out in the statement of compensation included in the financial statements;
- (c) the personal representative may distribute the estate in accordance with the statement of distribution included in the financial statements.

Bond

102 Releases obtained under rule 100 do not constitute the cancellation of a bond.

Division 3 Dispensing with Formal Passing of Accounts

Dispensing
with passing
accounts

103(1) A personal representative may apply for an order dispensing with the formal passing of the accounts and passing the accounts informally by filing the following and serving copies on the persons interested in the estate who have not given releases:

- (a) Form ACC 10;
- (b) Form ACC 11;
- (c) the financial statements;
- (d) all signed releases in Form ACC 12.

(2) A personal representative need not serve a beneficiary from whom the personal representative has received a signed release under rule 100.

Proceeding
without notice

104 If no notice of objection is filed by a person interested in the estate or if all residuary beneficiaries have signed releases, an application under rule 103 may proceed without notice to any other person.

Court order

105 Even if all the residuary beneficiaries have signed releases, the court

- (a) must be satisfied with all the required documentation respecting the estate whether or not all the residuary beneficiaries have signed releases;
- (b) may make the order applied for;
- (c) may do anything it may do under rule 113.

Objection

106(1) If any person interested in the estate objects to an application under this Division, that person must file and serve a notice of objection in Form ACC 3 in accordance with rule 114.

(2) If a notice of objection is filed, the court must hold a hearing under Division 4 on the matter.

**Division 4
Passing Accounts**

- Required forms** **107(1)** A personal representative may apply for an order formally passing accounts by filing the following and serving copies on the persons interested in the estate who have not given releases
- (a) Form ACC 1;
 - (b) Form ACC 2;
 - (c) the financial statements;
 - (d) all signed releases in Form ACC 12;
 - (e) any notice of objection in Form ACC 3.
- (2)** The personal representative must serve the notice of hearing attached to Form ACC 1 not less than 30 days before the hearing.
- Application by person interested in estate** **108(1)** A person interested in an estate may apply for an order requiring the formal passing of accounts by filing the following and serving copies on the personal representative:
- (a) Form ACC 6;
 - (b) Form ACC 7.
- (2)** An applicant must serve the notice of hearing attached to Form ACC 6 not less than 30 days before the hearing.
- (3)** In an application by a person interested in an estate that accounts be formally passed, the person interested in the estate is the applicant and the personal representative is one class of respondent.
- Reply** **109(1)** A personal representative who is served with notice under rule 108 must file and serve a reply in Form ACC 8 not less than 10 days before any scheduled hearing on the applicant and all persons interested in the estate who have not given releases.
- (2)** In a reply, the personal representative may
- (a) give an accounting to the applicant and other parties if one has not been given before that time,
 - (b) object to the application that accounts be formally passed, or
 - (c) consent to the application that accounts be formally passed.
- Withdrawal** **110** If a personal representative gives an accounting pursuant to rule 109(2)(a) that satisfies the applicant, the applicant must withdraw the application by giving a letter to that effect to the clerk and serving a copy of the letter on any of those who were served with notice of the application.
- Objection** **111** If the personal representative objects pursuant to rule 109(2)(b) to an application for an order requiring the formal passing of accounts, the personal representative must file an affidavit in Form

ACC 9 and serve it not less than 10 days before the scheduled hearing on the applicant and the persons interested in the estate who have not given releases.

Consent to an
accounting

112(1) If a personal representative consents under rule 109(2)(c) to an application, the personal representative

- (a) must adjourn any scheduled hearing and set a new date for a hearing in accordance with subrule (2), and
- (b) must serve the documents in rule 107(1) and the notice of hearing not more than 60 days after serving a reply under rule 109 on the persons interested in the estate who have not given releases.

(2) The new date set under subrule (1) must occur on the earlier of

- (a) a day that is not more than 40 days after the day on which the documents are served under subrule (1), and
- (b) a day that is not more than 120 days after the personal representative is served under rule 108(1).

Powers of
court

113(1) The court may

- (a) set a date for a hearing and direct that notice of the hearing be served on the persons specified by the court within the periods specified despite the time limits for service in rules 107, 108 and 112;
- (b) direct a formal passing of one or more or all entries;
- (c) reject the application;
- (d) dispense with a formal passing and pass the accounts on an informal basis;
- (e) make any other determination that the court considers appropriate.

(2) At a hearing to pass interim or final accounts, the court may

- (a) pass the accounts;
- (b) vary or amend the financial statements;
- (c) set the compensation for the personal representative and give any directions in that respect;
- (d) decide any matters in dispute summarily;
- (e) order the trial of any matter in dispute, set the procedure the parties must follow and set time limits if it is appropriate;
- (f) appoint a person to assist the court in determining any matters on which the court requires further clarification or explanation;
- (g) direct the payment of debts or charges;
- (h) confirm the beneficiaries and their several interests and direct distribution of the estate to them;

- (i) direct the substitution for or the reduction or cancellation of any bond;
- (j) direct payment to the Public Trustee or any other trustee of any money to which a minor, missing person or convict is entitled;
- (k) allow and direct payment of costs;
- (l) generally dispose of all matters incidental to the administration of the estate to a date to be stated in the order.

(3) If the court makes an order referred to in subrule (2)(f), the order must not include an examination of maintenance payments ordered by the Provincial Court or the Court of Queen's Bench other than to determine whether or not the payments have been made.

(4) On a final passing of accounts, the court, in addition to the powers referred to in subrule (2), may

- (a) discharge a personal representative who is an administrator;
- (b) determine whether a personal representative who is an executor has fully and satisfactorily accounted to a date to be stated in the order;
- (c) make any other order that the court considers appropriate.

Notice of
objection

114(1) In any proceedings under Division 3 or this Division, if a person interested in the estate objects to financial statements or part of them, the person must file a notice of objection in Form ACC 3 with the court and serve a copy of it on the personal representative and all persons interested in the estate not less than 20 days before the scheduled hearing.

(2) In a notice of objection, the objecting person

- (a) must give particulars of the objection in Form ACC 3,
- (b) if there is an objection to an entry in the financial statements, must indicate the entry objected to by its number, and
- (c) if there is an objection to the manner in which the personal representative has administered the estate, must state the objection.

(3) A person who does not file and serve a notice of objection may only make representations at the scheduled hearing with the permission of the court.

(4) If a person does not appear at the scheduled hearing and has not filed and served a notice of objection as required, that person is deemed to have consented to the administration of the estate as recorded in the financial statements.

Examination of
accounts by an
accountant

115(1) The court, at any time and whether at a hearing or not, may order one or more entries in the financial statements of a personal representative to be examined by an accountant.

(2) An accountant referred to in subrule (1) must be a chartered accountant, a certified general accountant or a certified management accountant.

(3) The court must determine the nature, scope and extent of the accountant's examination.

(4) The terms of the accountant's appointment may be in Form ACC 4.

(5) An accountant's fees, disbursements and other charges are payable out of the residue of the estate unless otherwise ordered by the court.

Access to records

116 A personal representative and any other person having knowledge or possession of documents relating to the administration of an estate must make all records and other pertinent documents available to an accountant appointed under rule 115 and must co-operate fully with the accountant.

Report

117(1) At the end of the examination, an accountant appointed under rule 115 must file a report in Form ACC 5 and serve a copy of the report by ordinary mail on the personal representative and on the persons interested in the estate.

(2) The court may require the accountant to appear at any hearing and give any further explanations the court needs in order to pass the accounts.

PART 4

DEPENDENT ADULTS

Application of Part

118(1) This Part applies to the administration of the estate of a dependant adult pursuant to a trusteeship order.

(2) Words used in this Part have the meaning given to them under the *Dependent Adults Act*.

Contents of financial statements

119(1) The accounts filed by a trustee respecting an estate must be in the form of financial statements that include the following:

- (a) an inventory of property and debts at the beginning and end of the accounting period using Form DA 5;
- (b) a statement of all property and money received during the accounting period;
- (c) a statement of all property distributed and money paid out during the accounting period;
- (d) an indication of all changes to property and all debts of the estate paid or incurred during the accounting period;
- (e) a statement of all expenses incurred or paid during the accounting period using Form DA 5;
- (f) in the case of a final passing of accounts, a statement of anticipated receipts and disbursements;
- (g) a reconciliation, where necessary, showing the items required to balance the opening net value of the estate with the closing net value of the estate;
- (h) a proposed compensation schedule for the trustee showing the basis on which it is calculated.

(2) The financial statements may be separate or combined as long as they can be followed clearly.

(3) The financial statements may be in any format, but each entry must be numbered consecutively.

(4) The court, at any time, may require further financial statements or more particulars with respect to the financial statements presented.

Acceptable
documentation

120 The following documentation is sufficient to confirm ownership by the estate of the property referred to:

- (a) in the case of publicly traded securities and commercial paper,
 - (i) a certificate, or
 - (ii) a letter from a dealer registered under the *Securities Act*, a bank or a trust corporation, whether registered under the *Loan and Trust Corporations Act* or not, carrying on business in any jurisdiction in Canada stating that the dealer, bank or trust corporation is holding securities for the estate, either by having them in its possession, through a securities depository or by some other means that is in accordance with current practice in the industry;
- (b) in the case of private company shares,
 - (i) a certificate, or
 - (ii) a letter from a duly authorized officer of the company or from the company's lawyer confirming the holding;
- (c) in the case of bank balances, cash, term deposits, treasury bills, annuities, pensions, retirement plans, royalty trust and similar property,
 - (i) a certificate or statement of account, or
 - (ii) a letter from a financial institution stating that the financial institution is holding property for the estate, either by having it in its possession, through a securities depository, or by some other means that is in accordance with current practice in the industry;
- (d) in the case of household goods and personal effects,
 - (i) a letter or bill of lading from any depository where the goods or effects are stored, or
 - (ii) an inventory, the accuracy of which is attested to by the trustee, indicating possession of the goods or effects on behalf of the estate;
- (e) in the case of real property, a current certified copy of the certificate of title.

Required
forms

121(1) A trustee may apply for an order passing the accounts by filing the following and serving copies on any interested persons who have not signed an approval and consent form:

- (a) an application for an order passing the accounts in Form DA 1;
- (b) an affidavit in Form DA 2;
- (c) the financial statements;
- (d) all signed approval and consent forms in Form DA 12.

(2) The trustee must serve the notice of hearing attached to Form DA 1 not less than 10 days before the hearing.

(3) Where any date fixed for a hearing under this Division is adjourned for any reason, adequate notice of the rescheduled hearing must be given to any interested persons.

(4) For the purposes of this Part, an approval and consent form may be in Form DA 12.

Application by
an interested
person

122(1) An interested person may apply for an order that a trustee bring in and pass the accounts or file an inventory by filing the following and serving copies on the trustee and any interested persons:

- (a) an application that the trustee pass the accounts or file an inventory in Form DA 6;
- (b) an affidavit in Form DA 7.

(2) The applicant must serve the notice of hearing attached to Form DA 6 not less than 30 days before the hearing.

Parties

123 In an application by an interested person that the trustee pass the accounts or file an inventory, the interested person is the applicant and the trustee is the respondent.

Reply

124(1) A trustee who is served with notice under rule 122 must file and serve a reply in Form DA 8 on the applicant and any interested persons not less than 10 days before any scheduled hearing.

(2) In a reply, the trustee may

- (a) agree to give and give an accounting or inventory to the applicant and any interested persons if one has not been given before that time,
- (b) object to the application that accounts be passed,
- (c) object to the application that an inventory be filed,
- (d) consent to the application that accounts be passed, or
- (e) consent to the application that an inventory be filed.

Accounting
given

125 Where the trustee has given an accounting under rule 124(2)(a) that satisfies the applicant, the applicant must withdraw the application by filing a letter to that effect with the clerk and serving a copy of the letter on all those who were served with notice of the application.

Objection to
accounting
formally

126 If the trustee objects under rule 124(2)(b) or (c) to an application, the trustee must file an affidavit in Form DA 9 and serve it on the applicant and any interested persons not less than 10 days before the scheduled hearing.

Consent to
accounting
formally or
filing inventory

- 127(1)** If a trustee consents under rule 124(2)(d) or (e) to an application, the trustee
- (a) must adjourn any scheduled hearing and set a new date for a hearing in accordance with subrule (2), and
 - (b) must serve the documents in rule 121(1) on the applicant and any interested persons not more than 60 days after serving the reply.
- (2)** The new date set under subrule (1) must occur on the earlier of
- (a) a day that is not more than 40 days after the day on which the documents are served under subrule (1), and
 - (b) a day that is not more than 120 days after the trustee is served under rule 122(1).

Powers of
court

- 128(1)** The court may
- (a) set a date for a hearing and direct that notice of the hearing be served on the persons specified by the court within the periods specified despite the time limits for service in rules 121, 122 and 127;
 - (b) reject the application;
 - (c) make any other determination that the court considers appropriate.
- (2)** At a hearing to pass interim or final accounts, the court may
- (a) pass the accounts;
 - (b) vary or amend the financial statements;
 - (c) set the compensation for the trustee and give any directions in that respect;
 - (d) decide any matters in dispute summarily;
 - (e) order the trial of any matter in dispute, set the procedure the parties must follow and set time limits if it is appropriate;
 - (f) appoint a person to assist the court in determining any matters on which the court requires further clarification or explanation;
 - (g) direct the payment of debts or charges;
 - (h) direct the substitution for or the reduction or cancellation of any bond;
 - (i) allow and direct payment of costs;
 - (j) generally dispose of all matters incidental to the administration of the estate to a date to be stated in the order.
- (3)** If the court makes an order referred to in subrule (2)(f), the order must not include an examination of maintenance payments ordered by the Provincial Court or the Court of Queen's Bench other than to determine whether or not the payments have been made.
- (4)** On a final passing of accounts, the court, in addition to the powers referred to in subrule (2), may

- (a) discharge a trustee;
- (b) make any other order that the court considers appropriate.

Reference to Public Trustee **129(1)** The court, at any time and whether at a hearing or not, may refer one or more entries in the financial statements of a trustee to the Public Trustee in accordance with the *Public Trustee Act* to determine whether any expenditure is appropriate.

(2) The Public Trustee's fees, disbursements and other charges are payable from the estate unless otherwise ordered by the court.

Examination of accounts by an accountant **130(1)** The court, at any time and whether at a hearing or not, may order one or more entries in the financial statements of a trustee to be examined by an accountant.

(2) An accountant referred to in subrule (1) must be a chartered accountant, a certified general accountant or a certified management accountant.

(3) The court must determine the nature, scope and extent of the accountant's examination.

(4) The terms of the accountant's appointment may be in Form DA 3.

(5) An accountant's fees, disbursements and other charges are payable from the estate unless otherwise ordered by the court.

Access to records **131** A trustee and any other person having knowledge or possession of documents relating to the administration of an estate must make all records and other pertinent documents available to the Public Trustee or an accountant appointed under rule 130 and must co-operate fully with the Public Trustee and the accountant.

Report **132(1)** At the end of the examination, the Public Trustee or an accountant appointed under rule 130 must file a report by letter in the case of the Public Trustee or in Form DA 4 in the case of an accountant with the court and serve a copy of the report by ordinary mail on the trustee and on any interested persons.

(2) The court may require the Public Trustee or accountant to appear at any hearing and give any further explanations the court needs in order to pass the accounts.

Approving and dispensing with passing accounts **133(1)** A trustee may apply for an order approving the accounts or dispensing with passing the accounts for a period of not more than 4 years by filing the following and serving copies on the persons interested in the estate who have not signed an approval and consent form:

- (a) Form DA 10;
- (b) Form DA 11;
- (c) the financial statements;
- (d) all signed approvals and consent forms.

(2) A trustee need not serve an interested person from whom the trustee has received a signed approval and consent form.

- Proceeding without notice **134** If all interested persons have signed approval and consent forms, an application under rule 133 may proceed without notice to any other person.
- Court order **135** If all the interested persons have signed approval and consent forms, the court
- (a) must be satisfied with all the required documentation respecting the estate whether or not all the interested persons have signed approval and consent forms;
 - (b) may make the order applied for;
 - (c) may do anything it may do under rule 128.
- Public Trustee **136(1)** If the Public Trustee is the trustee, the Public Trustee must submit the accounts for approval by filing the following and serving copies on any interested persons who have not signed an approval and consent form:
- (a) Form DA 16;
 - (b) Form DA 17;
 - (c) the financial and compensation statements;
 - (d) all signed approval and consents forms.
- (2)** The Public Trustee must serve any interested persons with notice of the hearing attached to Form DA 16 not less than 10 days before the hearing.
- (3)** If the court so orders, the Public Trustee must bring in and pass accounts in accordance with rule 121.

PART 5

TRANSITIONAL, REPEAL AND COMMENCEMENT

- Application of Rules **137(1)** *Unless the court orders otherwise, these Rules apply to all estates whether or not the administration of the estate was commenced before these Rules come into force.*
- (2)** *Any proceeding to which these Rules would otherwise apply that was begun in the Court of Queen's Bench before these Rules come into force continues as if these Rules had not been enacted unless the Court of Queen's Bench orders otherwise.*
- Deposit of will of a living person **138(1)** *The clerk must not accept a will for deposit with the court after the date on which these Rules come into force.*
- (2)** *Rule 41 of the Surrogate Rules (Alta. Reg. 20/71) continues to apply to any will on deposit for safekeeping with the court on the date on which these Rules come into force.*
- Repeal **139** *Subject to rule 138, the Surrogate Court Rules (Alta. Reg. 20/71) are repealed.*

Coming into
force

140 *These Rules come into force on the date on which section 47(1) of the Miscellaneous Statutes Amendment Act, 1992 comes into force.*

SCHEDULE 1

LEGAL AND PERSONAL REPRESENTATIVE COMPENSATION

Definition

- 1** For the purpose of this Schedule,
- (a) “core legal services” are the legal services listed in Table 1 of Part 2 normally rendered by a lawyer for the personal representatives in connection with the administration of an estate;
 - (b) “non-core legal services” are legal services listed in Part 2 Table 2 rendered by a lawyer for the personal representatives that are in addition to the core legal services required in the administration of an estate;
 - (c) “personal representatives' duties” are the tasks listed in the Table in Part 1 normally required to be performed by a personal representative in the administration of an estate;
 - (d) “time of distribution” means
 - (i) when the estate property is distributable to the beneficiaries immediately on the death of the deceased, the time when distribution to the beneficiaries is complete,
 - (ii) the time when the transfer of a minor's property to the minor's trustees is complete, or
 - (iii) when the estate property is not all distributable to the beneficiaries immediately on the death of the deceased because trusts delay the final distribution, the time when distribution of immediately distributable property to the beneficiaries is complete, and transfer of the trust property to the trustees is complete.

PART 1

PERSONAL REPRESENTATIVES' COMPENSATION

Determination

- 1(1)** Personal representatives may receive fair and reasonable compensation for their responsibility in administering an estate by performing the personal representatives' duties.
- (2)** Compensation paid to a personal representative is for all the services performed by the personal representative to complete the administration of the estate including distribution of the estate and the conclusion of any trusts.
- (3)** A personal representative may receive compensation for the care and management of property in an estate only if
- (a) there is no outright distribution of that estate property at the date of death, and
 - (b) the trust is not varied by agreement among the affected beneficiaries or by the court.

Factors to be
considered

- 2** The following factors are relevant when determining the compensation charged by or allowed to personal representatives:
- (a) the gross value of the estate;

- (b) the amount of revenue receipts and disbursements;
- (c) the complexity of the work involved and whether any difficult or unusual questions were raised;
- (d) the amount of skill, labour, responsibility, technological support and specialized knowledge required;
- (e) the time expended;
- (f) the number and complexity of tasks delegated to others;
- (g) the number of personal representatives appointed in the will, if any.

Additional
compensation

3 Additional compensation may be allowed when personal representatives

- (a) are called upon to perform additional roles in order to administer the estate, such as exercising the powers of a manager or director of a company or business,
- (b) encounter unusual difficulties or situations, or
- (c) must instruct on litigation.

Compensation
fixed in will

4 If the compensation payable to the personal representative is fixed in a will, no greater amount can be charged or allowed unless the fixed amount is varied by agreement among the affected beneficiaries or by order of the court.

Compensation
to be shared

5 The compensation once determined must be shared among the personal representatives in proportions agreed to among the personal representatives or as ordered by the court.

Pre-taking
compensation

6(1) Personal representatives may be paid compensation before completing the administration of the estate if

- (a) the will provides for it,
- (b) all the affected beneficiaries agree to it, or
- (c) the court orders it.

(2) If all or any part of the amount of compensation paid to a personal representative under subrule (1) is later reduced by the court, the personal representative must repay the disallowed amount immediately to the estate with interest at a rate and for a period set by the court.

Lawyer
performs
personal
representa-
tives' work
Schedule on
accounting

7 If a lawyer or other agent performs some or all of the duties of the personal representative, the amount payable to the personal representative must be reduced commensurately.

8 If a personal representative is required to give the beneficiary of an estate an accounting in which compensation to the personal representative is shown, the personal representative must give the beneficiary a copy of this Part.

Expenses

9 Personal representatives are entitled to reimbursement for expenses properly incurred by them in the administration of the estate, including the following:

- (a) expenses reasonably incurred by the personal representatives in carrying out their duties;
- (b) fees or commissions to agents, including lawyers, accountants, real estate agents, securities brokers, investment advisors, appraisers, auctioneers and other professionals, engaged to perform estate administration services or to buy or sell estate property.

Table

Personal Representatives' Duties

- 1** Making arrangements for the disposition of the body and for funeral, memorial or other similar services.
- 2** Determining the names and addresses of those beneficially entitled to the estate property and notifying them of their interests.
- 3** Arranging with a bank, trust company or other financial institution for a list of the contents of a safety deposit box.
- 4** Determining the full nature and value of property and debts of the deceased as at the date of death and compiling a list, including the value of all land and buildings and a summary of outstanding mortgages, leases and other encumbrances.
- 5** Examining existing insurance policies, advising insurance companies of the death and placing additional insurance, if necessary.
- 6** Protecting or securing the safety of any estate property.
- 7** Providing for the protection and supervision of vacant land and buildings.
- 8** Arranging for the proper management of the estate property, including continuing business operations, taking control of property and selling property.
- 9** Retaining a lawyer to advise on the administration of the estate, to apply for a grant from the court or to bring any matter before the court.
- 10** Applying for any pensions, annuities, death benefits, life insurance or other benefits payable to the estate.
- 11** Advising any joint tenancy beneficiaries of the death of the deceased.
- 12** Advising any designated beneficiaries of their interests under life insurance or other property passing outside the will.
- 13** Arranging for the payment of debts and expenses owed by the deceased and the estate.
- 14** Determining whether to advertise for claimants, checking all claims and making payments as funds become available.
- 15** Taking the steps necessary to finalize the amount payable if the legitimacy or amount of a debt is in issue.

- 16** Determining the income tax or other tax liability of the deceased and of the estate, filing the necessary returns, paying any tax owing and obtaining income tax or other tax clearance certificates before distributing the estate property.
- 17** Instructing a lawyer in any litigation.
- 18** Administering any continuing testamentary trusts or trusts for minors.
- 19** Preparing the personal representative's financial statements, a proposed compensation schedule and a proposed final distribution schedule.
- 20** Distributing the estate property in accordance with the will or intestate succession provisions.

PART 2

LAWYERS' COMPENSATION

- | | |
|-----------------------------------|--|
| Categories of service | <p>1 A lawyer may charge fees for the following categories of legal services in the administration of estates:</p> <ul style="list-style-type: none"> (a) core legal services; (b) non-core legal services. |
| Personal representatives' duties | <p>2 A lawyer may charge fees for legal services that involve carrying out personal representatives' duties.</p> |
| Agreement | <p>3(1) The lawyer and the personal representatives must agree to the categories of service that the lawyer will perform and to an arrangement or amount for each category of fees, disbursements and other charges.</p> <p>(2) The fees agreed to must cover, up to the time of distribution of the estate,</p> <ul style="list-style-type: none"> (a) all the core legal services or non-core legal services, (b) any personal representatives' duties required to be performed by the lawyer, and (c) any other services required to be performed by the lawyer. |
| Lawyer as personal representative | <p>4 When a lawyer is also appointed as the personal representative under a grant, the lawyer may charge additional fees for any core and non-core legal services performed by the lawyer as a lawyer.</p> |
| Factors to be considered | <p>5 The following factors are relevant when determining the fees charged by or allowed to a lawyer:</p> <ul style="list-style-type: none"> (a) the complexity of the work involved and whether any difficult or novel questions were raised; (b) the amount of skill, labour, responsibility and specialized knowledge required; (c) the lawyer's experience in estate administration; |

- (d) the number and importance of documents prepared or perused;
- (e) whether the lawyer performed services away from the lawyer's usual place of business or in unusual circumstances;
- (f) the value of the estate;
- (g) the amount of work performed in connection with jointly held or designated assets;
- (h) the results obtained;
- (i) the time expended;
- (j) whether or not the lawyer and the personal representative concluded an agreement and whether the agreement is reasonable in all the circumstances.

Disbursements **6** Reasonable costs incurred by a lawyer as disbursements and other charges in performing services in any category are allowed in addition to any fees charged.

Statement of fees and disbursements to be in writing **7(1)** A lawyer must present a written statement of fees, disbursements and other charges to the personal representative, showing the details of the services performed, together with a copy of this Part.

(2) If the personal representative is required to give the beneficiaries of an estate an accounting in which legal fees are shown, the personal representative must give them a copy of this Part.

Taxing accounts **8(1)** The lawyer or the personal representative may have the lawyer's account reviewed by the taxing officer under rules 627 to 658 of the *Alberta Rules of Court* (Alta. Reg. 390/68).

(2) The taxing officer or the court may review fees, disbursements and other charges and may increase or decrease any of them.

Table 1

Core Legal Services

1 Receiving instructions from the personal representatives.

2 Giving the personal representatives information and advice on all matters in connection with the administration of the estate, including the following:

- (a) the basis for the lawyer's fees for the different categories of legal services;
- (b) the basis for the personal representatives' compensation and preparation of the proposed compensation schedule;
- (c) providing a copy of this Schedule to the personal representatives.

3 Reviewing the will or the provisions of the *Intestate Succession Act* with the personal representative.

4 Receiving information from personal representatives about the following:

- (a) the deceased;
- (b) the beneficiaries;
- (c) the estate property;
- (d) the deceased's debts;
- (e) minors.

5 Obtaining details of all the property and debts of the deceased for the purposes of an application to the court, including the following:

- (a) the full nature and value of the property of the deceased as at the date of death including the value of all land and buildings and a summary of outstanding mortgages, leases and any other encumbrances;
- (b) any pensions, annuities, death benefits and any other benefits;
- (c) any debts owed by the deceased as at the date of death;
- (d) preparing all required documents for grant applications;
- (e) preparing notices to all beneficiaries;
- (f) arranging for surviving spouse to receive notices under the *Family Relief Act* and *Matrimonial Property Act*, if necessary;
- (g) arranging for dependants to receive notices under the *Family Relief Act*, if necessary;
- (h) attending on signing of application for grant, filing with the court, payment of fees and dealing with the clerk;
- (i) advising the Public Trustee, if necessary;
- (j) receiving the grant.

6 Preparing documents to advertise for claimants, arranging for advertising and obtaining affidavit of publication.

7 Preparing declarations of transmission and powers of attorney for stocks and bonds transferrable under the Alberta grant.

8 Preparing transmission and transfer documents for land transferrable under the Alberta grant.

9 Preparing all other documents required to transmit and transfer property transferrable under the Alberta grant.

10 Advising the personal representatives on any trusts required by the will.

11 Advising the personal representatives to prepare and file tax returns.

12 Confirming receipt of clearance certificates from Revenue Canada.

13 Submitting personal representatives' financial statements for approval to the beneficiaries on an informal basis.

14 Preparing releases and obtaining and filing them with the court if so instructed by the personal representatives.

15 Generally advising the personal representatives on all matters referred to in this Table.

Table 2

Non-Core Legal Services

1 Acting as conveyancing lawyer on any sale of land.

2 Acting as lawyer on the sale of other property or businesses.

3 Preparing personal representatives' financial statements for submission to residuary beneficiaries.

4 Preparing all documents and acting for the personal representatives in any court proceedings involving the estate, including but not limited to the following:

- (a) formal proof of a will;
- (b) formal passing of accounts;
- (c) all other contentious matters.

5 Negotiating with any taxing authorities in Alberta or elsewhere with respect to the assessment and payment of any taxes or duties levied against the deceased, the estate or the beneficiaries and preparing all documents in connection with the negotiations.

6 Arranging to obtain a resealed or ancillary grant in another jurisdiction.

7 Preparing all documents and obtaining a resealed or ancillary grant in Alberta.

8 Preparing all documents and obtaining a grant of double probate.

9 Preparing all documents and obtaining a grant of trusteeship of minors' estates.

10 Dealing with any claims by claimants.

11 Setting up any trusts required by the will and arranging for the reimbursement of the trustees for services rendered to the trusts.

12 Identifying property not forming part of the estate but passing by survivorship or passing directly to a named beneficiary outside the will, including

- (a) preparing documentation to transfer land and other property held in joint tenancy to the surviving tenants;
- (b) preparing documentation to pass property to designated beneficiaries outside the will.

13 Arranging for any other legal services not included in Table 1.

14 Generally advising the personal representative on all matters referred to in this Table.

SCHEDULE 2**COURT FEES**

1 For issuing grants of probate or letters of administration or resealing grants, excluding trusteeship but including 1 certified copy of the document, where the net value of property in Alberta is	
(a) \$10 000 or under	\$ 25
(b) over \$10 000 and not more than \$25 000	\$ 100
(c) over \$25 000 and not more than \$50 000	\$ 200
(d) over \$50 000 and not more than \$100 000	\$ 400
(e) over \$100 000 and not more than \$250 000	\$ 600
(f) over \$250 000 and not more than \$500 000	\$ 1500
(g) over \$500 000 and not more than \$1 000 000	\$ 3000
(h) over \$1 000 000	\$ 6000.
2 Except items referred to in section 1, for documents that require the opening of a court file respecting an estate and all subsequent filings or acts, a single fee of	\$ 200
3 For each application for trusteeship	\$ 200
4 For issuing each grant of double probate, supplemental grant or grant of administration of unadministered property	\$ 200
5 For each caveat filed	\$ 200
6 For each certified copy of a document other than the initial certified copy	\$ 10
7 For each search	\$ 10
8 For a photostatic copy or faxed copy, per page	\$ 1