ESTATE PLANNING GUIDE

For Members of the **British Columbia Government Retired Employees' Association**

Professional. Affordable. Trusted.

A Message to Members of the BCGREA

At Upper Canada WILLS & Estates, we believe that members of the British Columbia Government Retired Employees' Association deserve access to clear, professional, and affordable estate planning services—delivered with the same dedication and commitment that you demonstrated throughout your careers in public service.

Through this preferred member program, BCGREA members and their spouses may access lawyer-prepared Wills and Powers of Attorney at preferred rates—often up to 50% below the national average. Our fully virtual process allows members across British Columbia to complete their estate planning conveniently from home, while working directly with licensed lawyers.

WHO WE ARE & WHAT WE DO

About Upper Canada Wills & Estates Ltd.

Upper Canada Wills & Estates Ltd. is a **national estate planning coordination service** that connects members with **licensed lawyers and notaries** to prepare professionally drafted Wills and Powers of Attorney.

We are not a law firm. Instead, we:

- Coordinate your file
- Will connect you with qualified legal professionals
- Ensure a smooth, efficient process
- Provide preferred member pricing through partner organizations

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Members choose Upper Canada Wills because we offer:

✓ **Professional Legal Preparation**
All documents are prepared by licensed lawyers or notaries

✓ **Affordable Pricing**
Typically **50% below national averages**

✓ **Convenience**
Complete the process from home

✓ **Trusted Network**
Serving partner organizations across Canada

Our Services

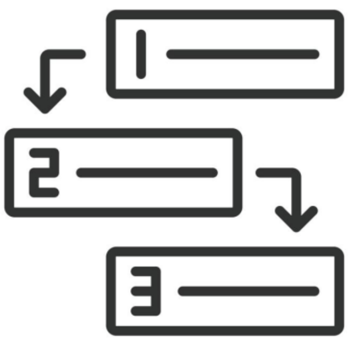
Last Will and Testament

A legally binding document that outlines how your estate will be distributed.

Powers of Attorney

- **Property** – financial decisions
- **Personal Care** – healthcare decisions

How the Process Works



Step 1 – Access Your Member Page

Visit your organization's dedicated Upper Canada Wills page.

Step 2 – Complete the Intake Form

Provide basic information about your situation and needs.

Step 3 – Lawyer Contact

A licensed lawyer or notary will contact you directly.

Step 4 – Consultation

Discuss your wishes, ask questions, and receive guidance.

Step 5 – Document Preparation

Your Will and Powers of Attorney are professionally drafted.

Step 6 – Review & Signing

Finalize your documents with proper legal execution.

What Makes Our Approach Different

- National reach with local legal compliance
- Streamlined and guided process
- Transparent, fixed pricing
- Designed specifically for member organizations

Typical Pricing (Preferred Member Rates)

- **Individual Package:** ~$450.00 + tax
- **Couple Package:** ~$695.00 + tax

Includes a **$95.00** administrative and operational fee payable to Upper Canada Wills and Estates Ltd (from this we pay a royalty of **$20.00** to the BCGREA for each completed transaction.) The balance of the total fee is payable to the assigned law firm for legal services rendered.

Start here:

SCAN TO LEARN MORE

ucwe.ca/bcgrea.html

https://www.ucwe.ca/bcgrea.html

Frequently Asked Questions

Why do I need a lawyer to prepare my Will?

A well-drafted Will can save your estate significant money. A poorly drafted or poorly prepared Will often results in expensive legal fees, court costs, and delays when attempting to obtain probate of a Will. If a Will is vague, confusing or open to interpretation, it may be necessary to bring the Will before the court to have a judge interpret the terms of the Will. Without proper legal advice, family conflict, uncertainty, and confusion may arise, which may result in very costly estate litigation.

What Is a Will?

A Will is a document containing your instructions and wishes for the administration and distribution of your estate after your death. It is important to have a Will that records your wishes so that your assets such as your house, land, car, shares, bank accounts and insurance policies, are distributed how you wish. You can also use a Will to appoint an executor, name a guardian for your children, set up property management for young beneficiaries, or forgive debts. Any person who has reached the age of majority in the province or territory where they reside or older and of sound mind can make a Will. The person who makes the Will is called the “Testator”.

Why do I need a Will?

Without a Will:

- You lose control over how your estate is distributed
- A court will appoint someone to administer your estate
- Your assets will be distributed according to provincial/territorial intestacy laws

- Delays and additional costs are common

These outcomes often differ significantly from what you may have intended

Any share of your estate allocated to any minor children will be held until they reach the age of majority (unless a court application is brought to release some of these funds). When the minor child reaches the age of majority, the child is entitled to receive the entire inheritance without any restrictions. If the child does not handle the inheritance wisely, there is nothing anyone can do about it.

What do I need to Prepare My Will

The following things should be considered when preparing your Will:

- Who will be the Executors (see following)
- Who will be the Beneficiaries (see following)
- What are your current assets and liabilities and how would you like them distributed
- Do you wish to have assets transferred to the Beneficiaries rather than sold
- Who will take care of your children upon your death
- Do you wish to be buried or cremated
- Are there any special requests for your funeral or headstone
- Would you like to set up a testamentary trust to provide for your children's children at a certain age and minimize tax liability for them

While many people wish to include funeral instructions in their Will, this is generally not recommended. In most cases, the executor may not review the Will until after funeral arrangements have already been made.

It is best to communicate your wishes directly to your executor or loved ones, or record them in a separate, accessible document. As your Will is an important legal document, it is important to make sure all the details of your Beneficiaries are correct, including the proper names and addresses of Executors and Beneficiaries.

Can I dispose of my property in any way I wish?

Yes, for the most part, you can give your property away however you wish, but there are a few exceptions. Your spouse may have a right to some of your property, and your children may be able to claim some of your property unless you expressly disinherit. Also, your estate will have to pay any debts that you die owing, and those debts will be paid before any property is passed to your named beneficiaries.

Can I change my Will?

To change your Will, do not just mark up the hard copy of your current Will. Markings added after the original Will can indicate foul play and it could cause problems. Instead, for small, simple changes – like changing the amount of a cash gift or changing the name of your executor -- you can make a Will codicil, which is an add-on amendment to a Will. If you want to make more significant changes, make a new Will instead of amending your old one.

What Is the Role of an Executor?

Executors are persons whom you trust to dispose of your assets in accordance with the instructions in your Will. It is important to select someone who understands legal and financial matters so they can properly administer your estate. In most cases, they will be entitled to a fee for the work required to administer the estate. The Executor, in effect, steps into the shoes of the deceased person and winds up the deceased person's personal affairs.

Some tasks usually performed by an Executor include:

- Locating the Will
- Arranging the funeral
- Applying for probate
- Obtaining a death certificate
- Informing investment bodies of the death
- Locating family and Beneficiaries
- Locating and assessing the value of assets
- Paying debts, income tax, funeral expenses
- Transferring assets and paying stamp duty; and
- Distributing any surplus to Beneficiaries.

Who can be the executor of my Will?

This is a very important role of your Will, and you must be certain of who you choose. This person can also be a beneficiary of your Will. You can choose among your family members (must be an adult) or a trustworthy friend. If this becomes a much more complicated matter, choose someone with estate expertise, like a Wills & Estate lawyer. If you prefer, you may choose joint executors, a combination of a person of your choosing and a lawyer.

What's Involved in Nominating an Executor?

In selecting your Executors, you should keep in mind the following:

- If you intend to leave most of your assets to a single person, such as your Spouse, then usually that person should be nominated as one of your Executors.
- You can nominate an independent person, such as a friend or advisor, whom you trust to act as co-Executor if you wish. It will be the responsibility of both Executors to work together in this situation.
- Consider the Executor's age before nominating them, especially if you nominate an Executor who is likely to pass away before you. If you nominate someone who is older than you, then you should consider nominating a substitute Executor as well.

You should also consider having substitute Executor(s) in the event a nominated Executor cannot act for some reason. For example, the complexity of administering the estate might be too complicated or your primary Executor is no longer available.

Why does an executor have to apply for Probate?

Each province has its own rules. But your executor must apply to your province's probate court for approval of your Will if you:

- died in debt. If the estate is essentially bankrupt, then the executor usually doesn't apply for probate because there's no money to cover the cost.
- had bank accounts, registered investments or life insurance policies without a named beneficiary. (And if the financial institution won't pay out the funds without probate), or
- owned property that you're not passing directly to your spouse or common-law partner through joint ownership.

What's best for my spouse and me, a joint Will or a separate Will?

A joint Will that is signed by the two spouses will leave their assets and property to each other, while a separate Will can cover each other separately.

A joint Will is "locked in" after one of the spouses dies, and it can be a burden for the living spouse to update and make changes. Since you still have independent estates, consider getting a separate Will or even a mirror Will. A mirror Will be identical to a joint Will, but this can be updated at any time, like a separate Will.

What is involved in Estate Planning?

Each Estate Plan is specifically tailored to everyone's own unique circumstances. A well-thought-out Estate Plan may include any or all of the following:

- Income-splitting opportunities in Wills and Trusts.
- Multiple Wills to protect business assets, to reduce probate fees, and to administer property in other jurisdictions.
- Trusts to protect assets and income from creditors.
- Discretionary trusts to ensure disabled loved ones will continue to receive the care and government benefits they need for their lifetimes.
- Powers of Attorney, and Trusts to help with planning for possible future incapacity.

What Are Beneficiaries?

Beneficiaries are persons who will receive your assets. They usually include your Spouse or partner and children. You may divide the assets in any way you wish. For example, you may wish to give children and stepchildren assets in percentage form, with one Beneficiary entitled to a greater interest than the other. Alternatively, you may wish to divide your assets into equal shares. You may also provide specific gifts such as your jewellery, house or car to beneficiaries. You may also set up trusts for any children or stepchildren so that assets will be passed to them when they reach a specific age.

Who can be a witness to my Will?

To avoid a conflict of interest, choose a separate witness from the beneficiary.

What Happens If I Don't Have a Will? (Intestacy)

If you don't have a Will when you pass away, you are said to have passed away "intestate". The Courts will apply a legal formula to decide who will receive your assets. Your assets will be distributed according to a rigid formula set down by the laws of intestacy.

These laws may:

- Force the sale of the family home or other family assets so other Beneficiaries can claim their share of the assets accordingly
- Not provide future financial protection for your children or grandchildren or any other dependent
- Leave incapacitated members of your family without adequate support or financial security

- May give your assets to the government if you have no relatives

Furthermore, you will have no say in who administers your estate or who may be appointed guardian of your children if they are under eighteen (18) years of age. If you do not have a Will, any family member may apply to the court for letters of administration, which, in effect, gives them the power as Executor of your estate, and they may legally administer your estate at their discretion.

What is Probate?

Simply put, probate is a legal approval process that confirms:

- the validity of a Will, and
- appointment of an executor.

Most estates will need probate if there are assets that need to be distributed. The more complicated the Will, the more likely probate is required.

What could happen if your executor doesn't apply for probate?

Without probate, your executor will likely have problems, such as if your executor contacts one of these institutions with a non-probated Will in hand:

- your bank,
- a mutual fund company,
- your pension plan provider, or
- the land title office.

Your executor then asks them to hand over your money or register a transfer of property title. Those institutions will want proof that:

- you've died,
- the Will is valid and is the final version,
- your executor is the person named in your Will, and
- no one will sue them if anyone contests the Will.

Why would a bank risk a lawsuit for handing out your money to the wrong person? They're not likely to take a risk by assuming your non-probated Will is valid. Instead, the bank may refuse to release your money until it gets the legal protection. And they can only get this legal protection from approval of your Will by the provincial probate court. That's the big upside to probate.

How much are probate fees in Canada?

Provincial probate costs and fee structures vary across Canada. Depending on your province of residence, you can be charged probate fees as follows:

- a flat rate, or
- a percentage of your assets, not your income.

Probate can cost approximately 5% of the value of the estate.

How does probate affect joint accounts or assets?

Many people believe that assets jointly held by two people don't need to go through probate if one were to die. For example, joint accounts usually transfer directly to the surviving account holder. But check the wording of your account agreement to confirm.

If the joint title on your home lists you and your partner as owners on the property's deed, you may register this joint title in a way that includes right of survivorship. That means that if one partner dies:

- the surviving partner gets full title to the home, and
- it doesn't have to go through probate.

This scenario can make a lot of sense, both now and after one of you dies.

What happens if I lose my Will or it is destroyed?

If you have lost your Will, this wouldn't automatically revoke your Will. A true copy of the original can be used to obtain a grant of probate. If this is not present, the estate will be distributed according to a previous Will or intestacy. Dealing with a lost Will is very difficult; make sure you keep your original Will in a safe and accessible place. You may want to keep a copy with the executor or beneficiary.

As the testator, you can destroy your Will, which will then be revoked. You may destroy it by burning or tearing it. If you are planning on writing a new Will, the previous one may be destroyed like this.

If I Get Married or Divorced, Does That Affect My Will?

If you marry after you have made a Will, the Will is generally revoked or cancelled, unless it was made in anticipation of marriage. If you divorce after you make your Will, it only revokes or cancels any gift to a former spouse. It also cancels your spouse's appointment as Executor, trustee or guardian in the Will. However, this won't apply if the Court is satisfied that the Will-maker did not intend by divorce to revoke the gift or appointment. If you wish to alter your Will or your marital circumstances change, you should seek the guidance of your solicitor to advise you accordingly.

I am separated from my spouse. When should I change my Will?

If you are separated from your spouse, you need to make a new Will as soon as possible. If you do not have a Will, the law in Ontario stipulates your spouse will be entitled to inherit either all or a large portion of your estate (depending on the number of children you may have, if any). If you have a valid Will, your existing Will remains in effect while you are separated unless you revoke it. It is common practice for married couples to normally leave everything to each other in their respective Wills. If you die before your divorce is finalized, and you have not made a new Will since separating, your former spouse will get everything.

Can I appoint a guardian for my children in my Will?

A Will is the best place to indicate who should be your child's guardian. Keep in mind however, that courts will not automatically appoint the person you name. A court will always consider your choice, but it will also assess the situation and then appoint the person it thinks will do the best job for your child. Also, if your child has another living parent, that parent will care for the child—the court will not name a guardian unless that other parent is found to be unfit.

Can I have multiple Wills?

In some provinces, you can have more than one Will.

For example, a common estate planning practice in Ontario involves using multiple Wills:

- The primary Will covers assets that require probate (known in Ontario as a "Certificate of Appointment of Estate Trustee") to be administered.
- The secondary Will deals with assets that do not require probate. (i.e. shares in privately held corporations or personal belongings).

This practice of separating assets under two or more different Wills generally has the effect of reducing Estate Administration Tax ("EAT", formerly and still sometimes referred to as "probate fees"). It allows for one's estate to pay the EAT only on assets that require probate.

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