

Wills Review – Getting it Together

**(Based on YPLEA booklet “10 Common Questions About
Wills and Estates)**

**Robert Pritchard, Executive Director
Yukon Public Legal Education Association**

Yukon Public Legal Education Association - YPLEA

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Topics this evening:

- Wills – what is it, why important, what should be included
- Questions and issues. Other legal questions if time permits.

Guidelines for discussion

- Confidential information – avoid questions about specific situations that affect privacy
- Legal information not advice – talk to a lawyer about your specific concern (p. 30)
- Legal words explained (p. 31)
- Individual questions – make appointment with Robert Pritchard 668-5297



What is a Will?

- Written directions for after you die
- Sets out wishes and how to deal with your assets (money, property, items)
- Names **guardian** for children under 19
- Wishes about burial
- Names **executor**



Why should you have a will?

- Avoids delays, complications & uncertainty
- **You choose** your own executor
- **You decide** how things get distributed
 - Spouse only and/or children
 - Common law relationship
 - Children – step-children, estranged, guardian,
 - Separated or divorced
 - Wishes for burial, cremation or funeral



What if you die without a will?

- **Intestate** means you die without a valid will
- Your spouse or other relative or the Yukon public guardian and trustee may apply to the court to be appointed as the administrator of the estate
- Intestate property must be used to pay debts first – what is left goes to relatives in a specific order

(This may not be the way you want your assets to be distributed.)

- Common law partner is not automatically entitled to share in the estate – must go to court to ask for their interest



Who can make a will?

- Adult over the age of 19 years
- Mentally capable
 - Must understand that you are writing a will
 - Must appreciate the nature and extent of the property (assets) that you own
- Made freely and voluntarily – not pressured into it

What makes a valid will?



- Written or printed and dated
- Signed in ink
- Signed in front of two witnesses, present together during signing
- Two witnesses also sign the will in your presence, and each other
- Witnesses should not be beneficiaries or spouse of beneficiary of will
- Handwritten will is valid if will is written ENTIRELY in your handwriting and signed by you – doesn't require witness



What about kits or forms?

Can be used - but be careful

- Legal meaning of words
- Laws are different in other provinces
- May not consider all possible facts and cause problems when you die

What should you put in your will?



- Declare who you are – this is last will. Previous wills are revoked or cancelled
- Name your executor – can also name alternate executor
- State what property is to be given to beneficiaries – money, property, specific items
- State what is to be done with all property that is left over after the specific gifts (bequests) have been given out
- For beneficiaries under 19 years or have a disability that will require on-going help – make a trust and appoint trustee. Appoint guardian for children
- Special authority of executor to deal with some of your assets (selling assets, income tax reducing)
- Preference for burial, cremation, funeral – let family know before you die
- Your signature and signatures of two adult witnesses



Can you change your will?

- Can change or cancel (revoke) your will as long as you are mentally capable
- Write whole new will or **codicil** (change to a specific section) – requires 2 witnesses, attach to original will
- You can deliberately destroy your will – best done in front of a witness, or a signed note by you saying that you had destroyed it
- Marriage cancels a will – exception is if you say “in contemplation of marriage”
- Separated or divorced – best to make a new will if you want or do not want your former spouse to benefit from the estate



What can't you give away in your will?

- Jointly owned property
 - Joint tenancy
 - Joint bank account
- Life insurance
- Others –
 - Life interests
 - Non-titled land interests, etc.



Are there other considerations?

- Dependents
- Debts
- Former spouse, child support
- Assets outside of Yukon

Further questions?