



Wills Act Public Engagement Survey

About the Engagement:

The Government of Yukon is seeking direction on how the Wills Act should be updated. Presently, the Act is not consistent with similar acts across Canada, and changes could be made to better meet the needs of modern Yukon society.

Your responses will help to ensure that changes to the Act reflect the needs and concerns of all Yukoners.

Information about wills:

A will is a written document setting out your wishes about how to deal with your property after you have died. A will normally includes specific directions about how your property should be given out, and gives powers to your executor to carry out the instructions in your will. The will only applies to property still owned at the time of death. That property is referred to as your estate.

In order to be valid (meaning, legally enforceable), your will must be properly signed and witnessed. If you make a will, you are called a testator. The person who inherits part of your estate as a gift or bequest (a specific item or amount of money) under your will is called a beneficiary.

A will can be updated or changed while you are alive and mentally capable to make a change. A will only becomes legally binding after you die.

A will ensures that your estate is distributed in the way that you want, with the least uncertainty or difficulty as possible. Without a will, there can be delays, complication and uncertainty as to how your estate will be dealt with and who it will go to.

Definitions:

WILL a written document setting out a person's wishes about how to deal with their property after they have died. It can include any or all of the things that a person owns such as land, vehicles, artwork, bank accounts.

BENEFICIARY A person (including an individual, an institution such as a charity or a corporate body) who inherits property from a deceased person under a will, or under the intestate rules of the Estate Administration Act or the Indian Act. A beneficiary is also the person who is named to receive the proceeds of an insurance policy or a retirement or pension plan.

BEQUEST A gift of a specific item or amount of money under a will.

COMMON LAW SPOUSE Defined for estates as living in a marriage-like relationship for more than 12 months before death.

ESTATE A general term used to mean all of the property owned (or interests held) by a person at the time of their death.

EXECUTOR A person appointed by a will to manage the deceased person's estate, including arranging for the funeral, paying all debts and expenses, filing tax returns and transferring property to the beneficiaries. The executor is the personal representative of the estate and has a fiduciary (trust) relationship to the creditors and beneficiaries of the estate.

TESTATOR A person who makes a will.

Question One: whether to create a registry of wills

The Government of Yukon is considering creating a registry of wills. This registry would record where a person's will is located and when it was signed. This could help family and friends find the will more easily. The registry would not keep a copy of the will itself.

Would you consider using a registry if it were available?

- Yes
- No
- Not sure/ depends

Comments:

Question Two: Should marriage affect a will?

Currently, Yukon law states that a will becomes void (cancelled) if you marry after it is made, even if it was not your intention to change anything about the previous will after your marriage. The only exception is if you say in your will that you are making the will in contemplation of marriage (with the expectation that you will marry a specific person).

Do you believe that a will should be voided when someone marries, unless it clearly says in the will that it should continue past the date of marriage?

- Yes
- No
- Not sure/ depends

Comments:

Question Three: How should divorce affect a will?

Currently, a person's will is not automatically changed or cancelled after someone is divorced. This means that if a person dies after a divorce without cancelling their will or writing a new one, their former spouse could receive the person's property as set out by their will. The only exception is if you say in your will what should happen if you get divorced.

A. Do you believe that a will should be changed automatically by a divorce in cases where the person who made the will gave no specific instructions on what should happen if they get divorced?

- Yes
- No
- Not sure/ depends

Comments:

B. If so, which of the following automatic changes would you agree with most:

- 1. Any gifts to the former spouse should be cancelled, and if they were appointed as the Executor (person appointed to manage the will) their appointment should also be cancelled, but the rest of the will should stay the same; or**
- 2. The entire will should be cancelled.**

- Option one
- Option two
- Neither option
- Not sure/ depends

Comments:

Question Four: Should common law relationships affect a will?

Common law spouses are spouses who have been living together for one year or more. Currently Yukon's Wills Act does not include any instructions dealing with common law spouses. If a common law spouse dies, the surviving spouse might be able to receive part of their property through other Yukon laws, but the fact that they are in a common law relationship will not change the person's will, unless their will says otherwise.

Which of the following statements do you most agree with:

- No change is needed: being in a common law relationship should not change a person's will, unless the will says otherwise; or
- Change is needed: being in a common law relationship should be treated the same as marriage, unless the will says otherwise; or
- I'm not sure if change is needed.

Comments:

Question Five: What should happen when common law spouses marry?

How much do you agree or disagree with the following statement:

If a person has a common law spouse when they write their will, and later they marry the same person, their will should not be voided (cancelled) or changed by their marriage.

- Strongly disagree
- Disagree
- Neutral
- Agree
- Strongly agree

Please explain why you agree or disagree, or share comments:

***Do you have a will, or do you plan to write a will in the future?**

- Yes, I have a will
- Yes, I plan to write a will in the future
- No
- Not sure/ prefer not to say

***Which of the following apply to you (check all that apply):**

- Currently married
- Currently in a common-law relationship
- Have separated from a common-law partner in the past
- Have been divorced
- Currently single
- Prefer not to say

***Do you or your spouse own property in a Canadian jurisdiction outside of Yukon?**

- Yes
- No
- Prefer not to say

***Do you or your spouse own property in a jurisdiction outside of Canada?**

- Yes
- No
- Prefer not to say

***Are you a Yukon resident?**

- Yes
- No

***Which community do you live in?**

- Beaver Creek
- Burwash Landing
- Carcross
- Carmacks
- Dawson City
- Destruction Bay
- Faro
- Haines Junction
- Ibex Valley
- Marsh Lake
- Mayo
- Mount Lorne
- Old Crow
- Pelly Crossing
- Ross River
- Tagish
- Teslin
- Watson Lake
- Whitehorse
- Prefer not to say

Other:

***How old are you?**

Under 18 years old

18-29 years old

30-39 years old

40-49 years old

50-59 years old

60-64 years old

65 years old or older

Prefer not to say

Thank you for taking the survey.