

List of Key Words

Estate Administration Resource Guide



Public Guardian and Trustee of Yukon

Information Resources - Whitehorse, Yukon

Office of the Public Guardian and Trustee

867-667-5366; toll free (in Yukon) 1-800-661-0408, ext. 5366

Email: publicguardianandtrustee@gov.yk.ca

Web site: www.publicguardianandtrustee.gov.yk.ca

Location: Third Floor Andrew A. Philipsen Law Centre, 2134 – 2nd Avenue

Yukon Public Law Library

867-667-3086; toll free (in Yukon) 1-800-661-0408, ext. 3086

Email: yukon.law.library@gov.yk.ca

Web site: www.justice.gov.yk.ca/prog/cs/library.html

Location: Ground Floor Law Courts, 2134 – 2nd Avenue

Registry of the Supreme Court of Yukon

867-667-5937; toll free (in Yukon) 1-800-661-0408, ext. 5937

Email: courtservices@gov.yk.ca

Web site: www.yukoncourts.ca/courts/supreme.html

Location: Ground Floor Law Courts, 2134 – 2nd Avenue

Non-Government

Yukon Public Legal Education Association (YPLEA)

867-668-5297; toll free (in Yukon) 1-866-667-4305

Email: ypleayt@gmail.com

Web site: www.yplea.com

Law Society of Yukon (Lawyer Referral Service)

867-668-4231

Email: info@lawsocietyyukon.com

Web site: www.lawsocietyyukon.com

Lawyer Referral Service - half-hour consultation with a lawyer - \$30 plus GST

Lawyers

To contact a lawyer's office, look in the phone directory under "Lawyers" in the Yellow Pages or under names of local law firms

Public Guardian and Trustee Key Words

These key words will help you understand some of the legal terms that you may come across if you become involved in the administration of an estate.

These definitions do not replace legal advice from a lawyer about what these terms mean and how they may apply in your situation.

These definitions may be worded differently than the definitions in a statute (law) so that they are easier to understand. Please note that if there is a conflict between a definition here and what is in a statute, the definition in the statute applies.

— A —

Administrator: A man appointed by the court to administer the estate of someone who died without a will. An administrator is also appointed where there is a will but it either fails to appoint an executor or the executor named in the will is unable or unwilling to act.

Administratrix: A woman appointed by the court to administer the estate of someone who died without a will. An administratrix is also appointed where there is a will but it either fails to appoint an executor or the executor named in the will is unable or unwilling to act.

Alternate Executor: A man named as a secondary executor by the testator to carry out the provisions of the will, to administer the estate and distribute the property should the primary executor decline and/or is unable to carry out the duties.

Alternate Executrix: A woman named as a secondary executor by the testator to carry out the provisions of the will, to administer the estate and distribute the property should the primary executor decline and/or is unable to carry out the duties.

— B —

Beneficiary: A person who inherits property from a deceased person under a will, an insurance policy, a trust, or under the intestate rules of the *Estate Administration Act*. If there is more than one beneficiary the term “beneficiaries” is used.

Bond: A written promise to pay or forfeit money or do some act if certain circumstances occur or a certain period of time passes. An administrator or executor may be asked to provide a bond to ensure they perform their duties properly.

— C —

Caveat: A form filed in Supreme Court by a person who opposes the issuing of Letters of Administration or a Grant of Probate. It requires that the person be notified of any action taken in the matter. Letters of Administration or a Grant of Probate cannot be issued while a caveat is in force.

Clearance Certificate: A document obtained from the Canada Revenue Agency. The clearance certificate is obtained by the legal representative of the estate prior to distribution of the estate property. The clearance certificate certifies that all amounts for which the taxpayer (the deceased and the estate) is liable for under the *Income Tax Act*, including interest and penalties, are paid.

Co-Executor: A second man named as executor by the testator to carry out the provisions of the will, to administer the estate and distribute the property with the other named executor.

Co-Executrix: A second woman named as executrix by the testator to carry out the provisions of the will, to administer the estate and distribute the property with the other named executrix.

Consanguinity: Relationship by blood. The connection or relation of persons descended from a common ancestor. The word is distinguished from "affinity", which is the connection existing due to marriage, between each of the married persons and the kindred of the other.

— E —

Estate: A general term usually used to refer to all the property owned by a person at the time of death.

Executor: A man appointed by the testator to carry out the provisions of the will, to administer the estate and distribute the property.

Executrix: A woman appointed by the testator to carry out the provisions of the will, to administer the estate and distribute the property.

— G —

Grant of Probate: An order of the Supreme Court of Yukon confirming that the will is valid. It provides the personal representative with proof of his or her authority to handle the deceased's affairs, and is sometimes called "Letters of Probate".

— I —

Insolvent Estate: As defined in section 96 of the *Estate Administration Act*, this term means the real and personal estate of a deceased person that is not sufficient for payment in full of their debts and liabilities.

Intestate: A person who dies without a will (or without a valid will). An intestate's property, after payment of debts, will be distributed among relatives according to the rules set out in the *Estate Administration Act*.

Inventory: To make a detailed list of assets of an estate.

Issue: All persons who have descended from a common ancestor. This includes children, grandchildren, and any other descendants of whatever degree.

— L —

Letters of Administration: An order of the Supreme Court of Yukon authorizing a named individual to handle the affairs of a person who died without a will. The authorized individual is known as the administrator or administratrix.

Letters of Administration with Will Annexed: An order of the Supreme Court of Yukon authorizing a named individual as the legal representative of an estate where the testator died with a will but it either fails to appoint an executor or the executor named in the will is unable or unwilling to act.

— N —

Net Value: The monetary value of an estate after payment of liabilities including income tax, debts, funeral expenses and administration expenses.

Next of Kin: Describes persons related by blood; denotes those persons who are nearest relatives.

Notary Public: A person legally empowered to witness and certify documents and take affidavits.

— P —

Passing of Accounts: A process available to the personal representative of the estate (executor or administrator) or the trustee to bring an accounting of the estate into the Supreme Court for review and approval.

Per Stirpes: A type of distribution that results in a beneficiary's share being transferred to the beneficiary's children if the beneficiary dies before the maker of the will rather than dividing this share among the other beneficiaries under the will. For example, if a testatrix leaves all of her property to her issue per stirpes, and has three children, A, B, and C, but C dies before the testator, then C's one-third share would go to C's children and not to A and B. The presence or absence of this technical term in a will has very significant consequences and should involve a lawyer's advice.

Personal Representative: The person granted legal authority to handle the deceased's estate. The personal representative is an executor or executrix if appointed by a will, and an administrator or administratrix if appointed by the Court where there is no valid will, or no appointment of an executor or executrix in a valid will.

Probate: The process of filing the will in the Supreme Court of Yukon, together with the necessary documentation to establish that it is the last will of the deceased and that the will meets all legal requirements.

Property: A general term usually used to mean everything owned by a person. In law, the term “real property” refers to land and buildings, while “personal property” refers to everything else.

Public Guardian and Trustee: A government official who is authorized by law to act as the personal representative of a deceased person who dies without a will when no relative or creditor applies to the court to act as administrator or administratrix of the estate. The Public Guardian and Trustee takes on this role only as an administrator of last resort, and only after being notified by the Registrar of Vital Statistics or Chief Coroner that there is no known next of kin.

— R —

Renunciation: A legal document sworn by a person named as an executor or an executrix of a will who has chosen to give up their right to apply for a Grant of Probate and administer the estate according to the terms of the will.

Residual Estate: The remainder of an estate once all debts, expenses, and specific legacies and bequests have been paid or made.

— S —

Supreme Court: Any reference to “Supreme Court” in Public Guardian and Trustee publications means the Supreme Court of Yukon.

— T —

Testate: A person who dies leaving a will.

Testator: A man who makes a will.

Testatrix: A woman who makes a will.

Trustee: A person who holds property on behalf of another. A trustee is required by law to administer the person’s property fairly and in their best interests. An executor or executrix appointed under a will is a trustee, as he or she holds the deceased’s property on behalf of the beneficiaries and creditors of the deceased. A person who is required to hold and invest a child’s inheritance until age 19 is also a trustee of that inheritance for the child. The will may designate the personal representative, the child’s guardian, another person or a trust company as a trustee for this purpose.

— W —

Will: A document that contains the wishes of the person who makes it about the disposition of their property after they die. The will usually appoints a person to handle all of the deceased’s affairs and sets out who is to receive the deceased’s property. In order to be valid, a will must be signed and witnessed in the manner set out in the *Wills Act*.

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ISBN 978-1-55362-483-7

For more information, or to obtain copies of these publications, please contact:

Government of Yukon, Department of Justice

Public Guardian and Trustee

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www.justice.gov.yk.ca