

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **190**, Approved and Ordered **MAR 27 2013**

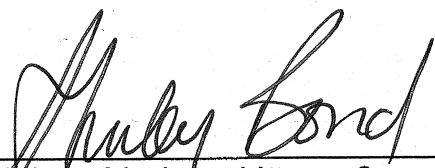


~~Lieutenant Governor~~
Administrator

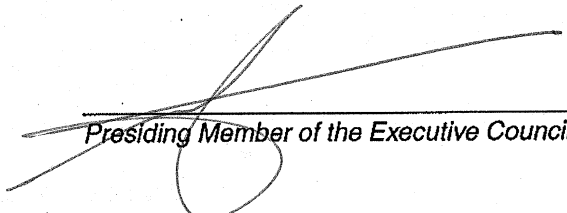
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ ^{Administrator}, by and with the advice and consent of the Executive Council, orders that, effective March 31, 2014,

- (a) the following sections of the *Wills, Estates and Succession Act*, S.B.C. 2009, c. 13, are brought into force:
 - (i) section 1, except for the definitions of "declarant", "small estate" and "small estate declaration", and paragraph (e) of the definition of "representation grant";
 - (ii) sections 2 to 11, 13 to 16, 19 to 108, 121 to 190, 191 (1), 192 to 196, 198, 199, 200 (b) and (c), 203 to 206, 208, 209, 211 to 216, 222, 225 (b), 226 to 235, 237 to 240, 243, 244 (a) and (b), 247 to 249, 254 to 256, 257 (b), 258, 260, 263 (a), 265 and 269,
- (b) section 56 of the *Wills, Estates and Succession Amending Act, 2011*, S.B.C. 2011, c. 6, is brought into force,
- (c) the following are amended as set out in the attached Schedule A:
 - (i) the Public Guardian and Trustee Fees Regulation, B.C. Reg. 312/2000;
 - (ii) the Public Guardian and Trustee Regulation, B.C. Reg. 457/99,
- (d) the *Wills, Estates and Succession Regulation* as set out in the attached Schedule B is made,
- (e) the *Wills Notices Regulation*, B.C. Reg. 192/84, is repealed, and
- (f) the orders in council listed in the attached Schedule C are revoked.



Minister of Justice and Attorney General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Public Guardian and Trustee Act*, R.S.B.C. 1996, c. 383, ss. 23 and 28
Wills, Estates and Succession Act, S.B.C. 2009, c. 13, ss. 184 and 270
Wills, Estates and Succession Amendment Act, 2011, S.B.C. 2011, c. 6, s. 59

Other: OIC 1265/2000; 1752/99; 1111/84

SCHEDULE A

PUBLIC GUARDIAN AND TRUSTEE FEES REGULATION

1 *The Fee Schedule of the Public Guardian and Trustee Fees Regulation, B.C. Reg. 312/2000, is amended*

(a) by repealing item 4, and

(b) by repealing item 13 and substituting the following:

Column 1 Duty or Service	Column 2 Fee	Column 3 By Whom Payable	Column 4 When Payable
13 <i>Wills, Estates and Succession Act:</i> (a) Examining notice of civil claim under section 61 (b) Reviewing and commenting on a proposed settlement of a wills variation action (c) Reviewing and commenting on a proposed settlement of an action brought pursuant to Division 6 of Part 4 (d) Administering the estate of a deceased person or acting under section 110, 164 or 167	\$100	The plaintiff	On service of notice of civil claim
	\$500	The plaintiff	On demand of payment
	\$500	The plaintiff	On demand of payment
	(i) (A) 3% of gross value of real property conveyed to beneficiary or heir, plus (B) 5% of gross sale price of real property sold by agent, plus (C) 7% of gross sale price of real property sold without agent, plus (D) 7% of cash received other than the sale of real property, plus (E) 7% of the gross value of securities at the time the administration commences and 7% of their growth in value, plus	The estate if funds available, otherwise the beneficiary or heir	Before the conveyance
		The estate	On receipt of proceeds
		The estate	On receipt of proceeds
	The estate	On receipt	
	The estate	On commencement of administration and on recognition of capital growth	

	(F) 7% of the gross value of other personal property,		The estate, if the property is sold or if it is transferred or delivered and if funds are available from the estate, or the beneficiary or heir, if the property is transferred or delivered and the funds are not available from the estate	On receipt of proceeds available from the estate, or before transfer or delivery if funds are not available from the estate
	plus (G) If the sum of the amounts payable under clauses (A) through (F) is less than \$3,500, then an additional amount is payable in the sum of \$3,500 - ((A) + (B) + (C) + (D) + (E) + (F))		The estate, if funds available, otherwise the beneficiary or heir	On demand of payment
	plus (ii) 5% of the income earned by estate,		The estate	On receipt
	plus (iii) 0.4 of 1% per annum, computed monthly, on the gross value of all assets,		The estate	Monthly
	plus (iv) \$75 per hour for staff time spent identifying, locating and proving heirs.		The estate	On demand of payment
(e) Reviewing a notice to the court under section 121 (1), or 138 (2) and providing comments under section 124	\$300		The applicant	On service of notice
(f) Acting as representative of estate under section 150	\$300		The party seeking appointment	Before the appointment becomes effective
(g) Examining and responding to an application to appoint a trustee to hold and administer a minor's estate under section 153 (3)	\$500		The applicant	On service of notice

PUBLIC GUARDIAN AND TRUSTEE REGULATION

- 2 *Section 7.1 of the Public Guardian and Trustee Regulation, B.C. Reg. 457/99, is amended by striking out “section 67.1 (3) of the Estate Administration Act” and substituting “section 147 (3) of the Wills, Estates and Succession Act”.*

SCHEDULE B

WILLS, ESTATES AND SUCCESSION REGULATION

PART 1 – GENERAL

- 1 Definition
- 2 Prescribed taxes
- 3 Prescribed jurisdictions
- 4 Prescribed amount
- 5 Prescribed rate

PART 2 – WILLS NOTICES

- 6 Filing wills search certificate in court registry
- 7 Court registrar’s duties in respect of wills search and certificates
- 8 Index of wills notices
- 9 Transfers to “inactive” index
- 10 Wills searches
- 11 Certificates
- 12 Fees

PART 1 – GENERAL

Definition

- 1 In this regulation, “Act” means the *Wills, Estates and Succession Act*.

Prescribed taxes

- 2 The prescribed taxes for the purposes of section 32 (b) [*occupancy costs of spousal home*] of the Act are taxes on capital gains associated with the spousal home.

Prescribed jurisdictions

- 3 The prescribed jurisdictions for the purposes of section 138 (1) [*resealing foreign grant and ancillary grants*] of the Act are the following:
- (a) any member of the British Commonwealth of Nations;
 - (b) any of the states of the United States of America;
 - (c) Hong Kong (Special Administration Region of China).

Prescribed amount

- 4 The prescribed amount for the purposes of section 158 (3) (e) [*application to remove or pass over personal representative*] of the Act is \$10 000.

Prescribed rate

- 5 The prescribed rate for the purposes of section 171 (2) [*provable debts*] of the Act is 5% per year.

PART 2 – WILLS NOTICES

Filing wills search certificate in court registry

- 6 Where a certificate referred to in section 77 (3) [*search of records*] of the Act is required or used in support of an application for a representation grant, the certificate must be filed in the court registry in which the application for the representation grant is made.

Court registrar's duties in respect of wills search and certificates

- 7 (1) The district registrar at the court registry in which the application referred to in section 6 is made must keep the certificate of search on file in the court registry.
- (2) If the certificate of search refers to a wills notice in respect of a will or codicil bearing the same date as the will or codicil in respect of which a representation grant is issued, the district registrar must
- (a) mark on a photocopy of the certificate of search the place and date of issuance of the letters of administration with the will annexed or letters probate, the wills notice number referred to on the certificate of search, the court registry filing number and the date of the will or codicil that is the subject of the representation grant, and
 - (b) mail the photocopy to the chief executive officer.

Index of wills notices

- 8 (1) The chief executor officer must maintain an “active” index of wills notices, listing all notices filed under sections 73 [*filing of notice of will*], 74 [*filing of notice of revocation*] and 75 [*filing notice of change of place of will*] of the Act, relating to wills of will-makers in respect of whom the chief executive officer has not been notified of the issuance of a grant of letters of administration with the will annexed or letters probate.
- (2) The chief executive officer must maintain an “inactive” index of wills notices, listing all notices filed under sections 73 to 75 of the Act, relating to wills of will-makers in respect of whom the chief executor officer has been notified of the issuance of a grant of letters probate or letters of administration with the will annexed.

Transfers to “inactive” index

- 9 On receipt of a photocopy of a certificate of search marked as required by section 7, the chief executor officer must transfer to the “inactive” index information relating to all wills notices which are clearly identifiable as pertaining to the will-maker on whose behalf the representation grant has been issued, after which the chief executive officer may destroy the photocopy.

Wills searches

- 10 A search under section 77 (1) or (2) of the Act must be limited to a search of the “active” index referred to in section 8 (1) unless the application for search specifically requests that the search be made in the “inactive” index.

Certificates

- 11 A certificate under section 77 (3) of the Act may be accompanied by an abstract of information from each wills notice or by copies of the wills notices, or by a combination of abstracts and copies.

Fees

- 12 (1) The fees under Division 7 [*Registration of Notice of Will*] of Part 4 [*Wills*] of the Act are the following:
- (a) under section 73 or 74 of the Act, \$17 for each notice filed;
 - (b) under section 75 of the Act,
 - (i) \$17 for each notice filed, or
 - (ii) \$1 700 for 100 or more notices that are filed by a person at one time, whichever is less;
 - (c) under section 77 of the Act,
 - (i) \$20 for each search request submitted,
 - (ii) an additional \$33 for each search request submitted when same day service is requested and provided, and
 - (iii) an additional \$5 for each alias name recorded on the search request form.
- (2) For fees in subsection (1), except in paragraphs (b) (ii) and (c) (ii) and (iii), a further operator fee of \$1.50, plus any tax imposed under Part IX of the *Excise Tax Act* (Canada) on the operator fee, may be charged for any transaction done by electronic means from a location outside a government office or at a government office by a person who is not a government employee.

SCHEDULE C

1 The following orders in council are revoked:

- (a) OIC 321/1896;
- (b) OIC 516/1898;
- (c) OIC 566/1900;
- (d) OIC 76/1902;
- (e) OIC 508/1903;
- (f) OIC 988/1913;
- (g) OIC 51/1914;
- (h) OIC 1163/1914;
- (i) OIC 1625/1918;
- (j) OIC 1682/1918;
- (k) OIC 221/1930;
- (l) OIC 72/1934;
- (m) OIC 767/1934;
- (n) OIC 1322/1934;
- (o) OIC 1443/1934;
- (p) OIC 995/1935;
- (q) OIC 1082/1940;
- (r) OIC 2299/1954;
- (s) OIC 254/1961.

