

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 356

, Approved and Ordered June 27, 2022


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective October 3, 2022, the Supreme Court Civil Rules, B.C. Reg. 168/2009, are amended as set out in the attached Schedule.



Attorney General and Minister Responsible for Housing



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: Court Rules Act, R.S.B.C. 1996, c. 80, s. 1

Other: O.C. 302/2009

R10535118

SCHEDULE

1 Rule 25-2 (2) (b) of the Supreme Court Civil Rules, B.C. Reg. 168/2009, is amended

(a) by repealing subparagraph (i) substituting the following:

(i) either

(A) each person who, under Division 1 of Part 3 of the *Wills, Estates and Succession Act*, is an intestate successor of the deceased or would have been an intestate successor if the estate exceeded the preferential share of the spouse as described in section 21 (2) to (5) of that Act, or

(B) if there is no such person, the Attorney General, and , **and**

(b) in subparagraph (ii) by striking out “subparagraph (i)” and substituting “subparagraph (i) (A)”.

2 Form P2 in Appendix A.1 is amended in the Schedule for Grant of Administration Without Will Annexed and the Schedule for Ancillary Grant of Administration Without Will Annexed by striking out “, or a longer period provided in an instrument,” and by striking out “or longer if required by the will,”.

3 Forms P3 and P5 in Appendix A.1 are repealed and the following forms substituted:

FORM P3 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mmm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR AFFIRM) THAT:

1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”), and am applying for:

[Check whichever one of the following 2 boxes is correct.]

a grant of probate.

a grant of administration with will annexed.

[Check the box for whichever one of the following section 2's is best and provide any required information. The first four section 2's provide a guided response for the most common situations and the last two section 2's provide a more flexible alternative]

2 I am named as an executor or alternate executor as[*name as it appears in the will*]..... in the will and my appointment has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will.

2 [*name of organization*] is named as an executor or alternate executor as[*name as it appears in the will*]..... in the will and the appointment of [*name of organization*] has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will. I am the [*organizational title*] of [*name of organization*] and I am authorized by [*name of organization*] to swear this affidavit on the [*name of organization*]'s behalf as applicant.

[*If you checked the immediately preceding boxes, check whichever one of the immediately following 3 boxes is correct and complete any required information.*]

No other persons are named in the will as executor.

No other persons are named in the will as executor who are not parties to this application.

Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after that/those person('s/s') name(s):

[*Complete the following for each named person.*]

.....[*name*]..... is not named as an applicant on the submission for estate grant because that person

has renounced executorship

is deceased

other[*briefly set out reason*].....

2 I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*.

2 [*name of organization*] is not named as an executor or alternate executor in the will, and [*name of organization*] is a beneficiary or nominee referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*. I am the [*organizational title*] of [*name of organization*] and I am authorized by [*name of organization*] to swear this affidavit on [*name of organization*]'s behalf as applicant.

2 My relationship to the deceased is[*state your relationship*]...

2 [*name of organization*]'s relationship to the deceased is[*state the organization's relationship*]. I am the [*organizational title*] of [*name of organization*] and I am authorized by [*name of organization*] to swear this affidavit on [*name of organization*]'s behalf as applicant.

3 [*Check whichever one of the immediately following 2 boxes is correct.*]

I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

4 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places, both physical and electronic, where the deceased usually kept important documents and that no testamentary document that is dated later than the date of the will has been found.

5 I believe that the will is the last will of the deceased that deals with property in British Columbia.

- 6 I believe that the will complies with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* and
 - (a) I am not aware of there being any issues that would call into question the validity or contents of the will,
 - (b) I am not requesting that the will be recognized as a military will executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*,
 - (c) I am not aware of there being any interlineations, erasures or obliterations in, or other alterations to, the will, and
 - (d) I am not aware of there being any issues arising from the appearance of the will.
- 7 An originally signed version of the will is being filed with the submission for estate grant.
- 8 A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is filed with this application, and the certificate indicates that no testamentary document that is dated later than the date of the will has been found.
- 9 All documents referred to in the will are attached to the will.
- 10 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 11 I will administer according to law all of the deceased's estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.
- 12 I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

SWORN (OR AFFIRMED) BEFORE)
 ME at, British Columbia)
 on[dd/mmm/yyyy].....)
)
)
 A commissioner for taking)
 affidavits for British Columbia)
[print name or affix stamp of commissioner]....

FORM P5 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.].... affidavit
 of[name]..... in this case
 and was made on[dd/mmm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR GRANT OF
 ADMINISTRATION WITHOUT WILL ANNEXED**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR AFFIRM) THAT:

1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”) and am applying for a grant of administration without will annexed.

2 [Check one of the immediately following 6 boxes and provide the required information]

I am a person referred to in paragraph[select (a), (b), (d), (e), (f) or (g)]..... of section 130 of the *Wills, Estates and Succession Act*.

I am a person nominated under paragraph[select (a), (c) or (e.1)] of section 130 of the *Wills, Estates and Succession Act*.

My relationship to the deceased is[state your relationship]...

[name of organization] is a person referred to in paragraph (g) of section 130 of the *Wills, Estates and Succession Act*. I am the [organizational title] of [name of organization] and I am authorized by [name of organization] to swear this affidavit on [name of organization]’s behalf as applicant.

[name of organization] is a person nominated under paragraph[select (a), (c) or (e.1)] of section 130 of the *Wills, Estates and Succession Act*. I am the [organizational title] of [name of organization] and I am authorized by [name of organization] to swear this affidavit on [name of organization]’s behalf as applicant.

[name of organization]’s relationship to the deceased is[state the organization’s relationship]. I am the [organizational title] of [name of organization] and I am authorized by [name of organization] to swear this affidavit on the [name of organization]’s behalf as applicant.

3 [Check whichever one of the immediately following 2 boxes is correct.]

I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

4 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places, both physical and electronic, where the deceased usually kept his or her important documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

no testamentary document of the deceased has been found.

one or more testamentary documents have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[briefly state the reasons].....

5 I believe that there is no will of the deceased.

6 [Check whichever one of the immediately following 3 boxes is correct and provide any required information.]

I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

The following grant(s) of probate or administration, or equivalent, has/have been issued in relation to the deceased in British Columbia or in another jurisdiction:.....
I believe that that grant is/those grants are not relevant to this application for the following reasons:[*briefly state the reasons*].....

The following person(s) has/have also applied for a grant of probate or administration:
....[*insert name(s)*]....

- 7 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 8 I will administer according to law all of the deceased's estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)
ME at, British Columbia)
on[*dd/mmm/yyyy*].....)
)
)
)
A commissioner for taking)
affidavits for British Columbia)
....[*print name or affix stamp of commissioner*]....

4 Form P4 in Appendix A.1 is amended

(a) by repealing sections 2 to 4 and substituting the following:

[*Check the box for whichever one of the following section 2's is best and provide any required information. The first four section 2's provide a guided response for the most common situations and the last two section 2's provide a more flexible alternative*]

2 I am named as an executor or alternate executor as[*name as it appears in the will*]..... in the will and my appointment has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will.

2 [*name of organization*] is named as an executor or alternate executor as[*name as it appears in the will*]..... in the will and the appointment of [*name of organization*] has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will. I am the [*organizational title*] of [*name of organization*] and I am authorized by [*name of organization*] to swear this affidavit on [*name of organization*]'s behalf as applicant.

[*If you checked the immediately preceding boxes, check whichever one of the immediately following 3 boxes is correct and complete any required information.*]

- No other persons are named in the will as executor.
- No other persons are named in the will as executor who are not parties to this application.

Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after that/those person('s/s') name(s):

[Complete the following for each named person.]

.....[name]..... is not named as an applicant on the submission for estate grant because that person

has renounced executorship

is deceased

other[briefly set out reason].....

2 I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*.

2 [name of organization] is not named as an executor or alternate executor in the will, and [name of organization] is a beneficiary or nominee referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*. I am the [organizational title] of [name of organization] and I am authorized by [name of organization] to swear this affidavit on [name of organization]'s behalf as applicant.

2 My relationship to the deceased is[state your relationship]...

2 [name of organization]'s relationship to the deceased is[state the organization's relationship]. I am the [organizational title] of [name of organization] and I am authorized by [name of organization] to swear this affidavit on [name of organization]'s behalf as applicant.

3 [Check whichever one of the immediately following 2 boxes is correct.]

I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

4 A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is filed with this application, and the certificate indicates that

[Check whichever one of the immediately following 2 boxes is correct.]

no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will included with this application.

no wills notice has been filed at all. ,

(b) in the second and seventh tick boxes of section 6 (c.1) by striking out "Attached is an affidavit" and substituting "Submitted for filing with the submission for estate grant is an affidavit of[name]....sworn....[dd/mm/yyyy]..."

(c) in the third tick box of section 6 (c.2) by striking out "Attached is an affidavit" and substituting "Submitted for filing with the submission for estate grant is an affidavit of[name]....sworn....[dd/mm/yyyy]..." and

(d) in section 7 by repealing paragraph (a) and substituting the following:

(a) Interlineations

There are one or more interlineations in the will, and the following applies to each of those interlineations:

[If you checked the immediately preceding box, check whichever one of the immediately following 4 boxes is correct and provide any required information. If there is more than one interlineation in the will, and none of the following boxes applies to all of those interlineations, then select each check box that applies and specify the page number and, if necessary, location of the interlineation to which each check box you have selected applies]

- I believe that the interlineation was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will.
- I believe that the interlineation was authenticated by the re-execution of the will or by the subsequent execution of a codicil.
- I cannot confirm that the interlineation was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will or was authenticated by the re-execution of the will or by the subsequent execution of a codicil but believe that the interlineation should form part of the will as it was present when the will was signed, and, pursuant to Rule 25-3 (20) (a), submitted for filing with the submission for estate grant is/are the following affidavit(s):
 - 1 the affidavit of[name]..... sworn[dd/mmm/yyyy].....
 - 2 the affidavit of[name]..... sworn[dd/mmm/yyyy].....
- I have no information to suggest that the interlineation reflects the will-maker's intentions.

5 Forms P6 and P7 in Appendix A.1 are amended

- (a) in section 5 by adding “, both physical and electronic,” after “in all places” and by adding “important” after “his or her”,**
- (b) by re-numbering sections 6 and 7 as sections 7 and 8, and**
- (c) by adding the following section:**

- 6 A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is filed with this application, and the certificate indicates that

[Check whichever one of the immediately following 2 boxes is correct.]

- no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will included with this application.
- no wills notice has been filed at all.

6 Form P9 in Appendix A.1 is amended

- (a) in section 2 by striking out “Rule 25-2 (1.1) (b)” and substituting “Rule 25-2 (1.1)” and by striking out “Rule 25-2 (1) (b)” and substituting “Rule 25-2 (1.1)”, and**
- (b) in section 5 by striking out “Rule 25-2 (1.1)” and substituting “Rule 25-2 (1.1) (b)”.**

7 Forms P10, P11, P14, P15, P25 and P26 in Appendix A.1 are amended in Part I of Exhibit A

(a) by striking out “below those items” and substituting “below those items. If the deceased only has a partial interest in the property, list the names of all registered owners, including the deceased, and specify the interest that each owner has in the property as a fraction expressed in numerals.”, and

(b) by striking out “123 Main Street, Victoria, BC” and substituting the following:

123 Main Street, Victoria, BC

Registered owners:

[...the deceased...], as to an undivided 1/2 interest;

[...legal name of co-owner...], as to an undivided 1/2 interest.

8 Form P10 in Appendix A.1 is amended in Part I of Exhibit B

(a) by striking out “encumber the property” and substituting “encumber the property. If the deceased only has a partial interest in the property, list the names of all registered owners, including the deceased, and specify the interest that each owner has in the property as a fraction expressed in numerals.”, and

(b) by striking out “123 Main Street, Calgary, AB” and substituting the following:

123 Main Street, Calgary, AB

Registered owners:

[...the deceased...], as to an undivided 1/2 interest;

[...legal name of co-owner...], as to an undivided 1/2 interest.

9 Form P11 in Appendix A.1 is amended in section 5 (a) by striking out “in accordance with section 138 of the Wills, Estates and Succession Act”.

10 Forms P14, P15 and P26 in Appendix A.1 are amended

(a) in Parts 1 and 2 of Exhibit A by adding “not disclosed or inaccurately disclosed” after “within British Columbia”, and

(b) in Part 3 of Exhibit A by adding “not disclosed or inaccurately disclosed” after “outside British Columbia.”.

11 Form P21 in Appendix A.1 is amended

(a) in Part 3 in the second tick box in section 1 by striking out “single” and substituting “joint”,

(b) in Part 3 by repealing section 2 and substituting the following:

2 [Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

[] Filed with this submission for resealing is/are the following Affidavit(s) of Delivery in Form P9 that confirms/collectively confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered:

Affidavit of ...[name]... sworn ...[dd/mmm/yyyy]...

Affidavit of ...[name]... sworn ...[dd/mmm/yyyy]...

Affidavit of ...[name]... sworn ...[dd/mmm/yyyy]...

[] No affidavit of delivery is attached. In accordance with Rule 25-2, no one, other than the applicant(s), is entitled to notice. , **and**

(c) in section 2 of the Schedule for Resealing of Grant of Administration without Will Annexed by striking out “, or a longer period provided in an instrument,” and by striking out “or longer if required.”.

12 Forms P22 and P23 in Appendix A.1 are amended in section 6 by striking out “attached to” and substituting “filed with”.

13 Form P29 in Appendix A.1 is amended by adding the following paragraph after “in relation to the deceased’s estate.”:

[Check whichever one of the immediately following 3 boxes is correct.]

The dispute does not relate to a will.

The dispute relates to a physical will.

The dispute relates to an electronic will.

14 Form P45 in Appendix A.1 is amended in the title by striking out “RULE 25-3 (1.1)” and substituting “RULE 25-3 (3)”.