

# WILL

A Will is a legal document in which a person declares to whom his possessions are to go after his death.

An Estate includes all real estate and all personal property that you own. Some assets will not be part of an Estate. For example, if you have an insurance policy which has a particular person named as beneficiary or if you own property to which the right of survivorship applies (property owned jointly) these will not be part of the Estate.

## **Should you prepare a Will?**

Without a Will, lengthy and expensive Court proceedings may be necessary before an Estate can be distributed to the beneficiaries. Also, it can be very upsetting to your family if your intentions were not stated and this could create unnecessary conflict among your family and beneficiaries.

A Will ensures that your assets will be distributed to those friends, relatives and charities whom you wish to benefit. In the absence of a Will, your assets will be distributed according to a scheme stated in the Intestate Succession Act. This Act results in the surviving relatives inheriting in certain percentages and such a distribution may not be what you would have wished.

## **Who can make a Will?**

If you are 18 years of age or older and have the mental capacity to understand the nature and effect of the Will, you can make a Will. If you made a Will, but you did not have testamentary capacity when the Will was executed, the Will is not valid. Your estate would then be distributed under the Intestate Succession Act or by a prior valid Will, if any.

## **How do I make a Will?**

It is possible in Alberta to make a Will entirely in your own handwriting. It does not need to be witnessed. This is referred to as a Holograph Will.

A Will is an important and carefully worded legal document. It is wise for everyone to have their Wills drafted by a lawyer to ensure that their wishes are carried out and to prevent any misunderstanding or conflict among beneficiaries. The cost is minimal compared with the possible costs of rectifying problems caused by improperly drafted and executed Wills.

A lawyer will also assess your need for an Enduring Power of Attorney and Personal Directive. These documents appoint someone to handle your legal and personal affairs in the event of your mental incapacity and provide direction to your medical care givers in the event of hospitalization for a terminal illness.