



SECTION 1

**The Old & The New:
A Look at Probate in Nova Scotia**

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THE OLD AND THE NEW A LOOK AT PROBATE IN NOVA SCOTIA

When Bill 74, the *Probate Act*, was introduced on November 3, 2000, Justice Minister Michael Baker, quoting from Benjamin Franklin noted that "... in this world nothing can be said to be certain, except death and taxes," and that this bill deals with both. The new *Probate Act* also contains significant changes that are meant to modernize and simplify the practice of probate law in the Province. One of our colleagues has dubbed the changes "evolutionary" rather than "revolutionary"¹ and with the exception of significant change to the laws concerning the devolution of land, "procedural in nature, but none the less important in terms of cost and convenience".²

The *Probate Act* was proclaimed into law on October 1, 2001, bringing with it some historic reforms to the probate system in Nova Scotia. As a consolidated version of the *Act* is not yet available, it can be found in Bill 74 of the Acts of 2000 and Bill 25 of the Acts of 2001. The latter, called the *Justice Administration Amendment (2001) Act*, contains in Part VIII a number of amendments to Bill 74, most of which deal with the most significant of the reforms – changes to the laws relating to the devolution of land.

For the first time, the *Act* contains Regulations and "fill in the blank" forms. The forms are included with your conference materials for easy reference. Attached to this paper you will find a copy of the 'starter kit' for opening probate and administration at the Court of Probate, which provides, among other things information about availability of the *Act* and Regulations from government offices.

OLD VERSUS NEW - WHEN THEY APPLY

This paper isn't directed towards the 'old' probate statute - but aims to highlight some of the new features of probate in Nova Scotia. Suffice it to say that the 'old' *Probate Act*³ will apply to estates

¹T.C. Matthews, "Law Reform in Nova Scotia - A New Probate Act" (2001), 20 E.T. & P.J. 298.

²Ibid

³R.S.N.S. 1989, c.359.

opened at the Probate Court before October 1, 2001,

- the administration of land which is part of an estate for which the will predates October 1, 2001, and
- the administration of land owned by a person who died without a will (intestate) before October 1, 2001.

Subject to the above, all estates that are 'opened' at Probate Court from October 1, 2001 will follow the provisions of the 'new' *Probate Act*. When the will is dated on and after October 1, 2001, and when the intestate dies on or after that date, the land of the deceased will devolve under the new legislation.

There have been questions about the possibility of 'opting' in to the new *Act* in situations where the 'old' *Act* would otherwise apply, and that will not be permitted by the Registrars of the Probate Court.

There are a few changes in terminology in the new *Probate Act*, (which I will refer to in the remainder of this paper as the '*Probate Act*' or '*new Act*'). The phrase "personal representative" is used to include both executor/administrator, unless either of those terms is specifically required. The Court will now issue a "grant" of probate or administration or administration with will annexed, rather than the previous letters testamentary etc. A comparative list of the 'old' and the 'new' terms can be found in the 'starter kit' appended to this paper.

CONVEYANCING

As previously noted, perhaps the most significant of the reforms is to the law by which real property devolves. Nova Scotia has been unique in Atlantic Canada, and indeed in Canada, in vesting the "heirs-at-law" of a deceased intestate person with title to their land. We have also been unique in allowing the testator to bypass the executor in devising land directly to a beneficiary. These laws have changed.

A most useful summary of these changes, their significance and practice tips has been prepared for

conference participants by Erin O'Brien Edmonds, and there is no need for me to elaborate further. Some of the other significant changes to the *Probate Act* are set out in the following pages.

PROOF OF A WILL

Previously, the affidavit of a witness to a will, (proving that they watched it being signed) was made *after death at the* Court of Probate. Quite often, years pass between the signing of a will and the death of a testator. Sometimes witnesses to the will were dead or could not be located. This has caused delay and added to the expense in processing an estate.

Under the new *Act*, an affidavit of execution of a will may be made *at any time after the will is signed* including at the time of the application for a grant from the Court, and the affidavit may be deposited to by a barrister of the Supreme Court, notary public, registrar or deputy registrar of probate or any other person that the registrar directs. This allows for the affidavit of execution to be signed by a witness as soon as they have observed the testator signing his or her will. Commissioners of Oaths are not permitted to take the oath of a witness to a will.

If the affidavit is not taken before death, it may be taken at the Probate Court or elsewhere by the above mentioned persons. If none of the above persons are available the Registrar will provide directions for the execution of this affidavit.⁴

Regulation 11, "Proof of execution of will", contains provisions that consolidate many existing Probate Court practices for proving the execution of a will and has added a few others.

ASSET PROTECTION PRIOR TO A GRANT

A person may apply to the Probate Court for an order restraining any other person from dealing with property of a deceased under section 17 of the new *Act*. This wasn't available under the old *Act*. The court has the power to award costs as it sees fit in these applications.

⁴Regulation 11(9).

The office of the Public Trustee has an expanded role in the protection of estate assets. The Public Trustee may take possession of any of the deceased's property - real and personal - which hasn't been possessed by an executor or by persons entitled under intestacy laws to share in the distribution of the estate.⁵ The purpose for such possession by the Public Trustee is to protect and preserve the property. In addition, the Public Trustee becomes vested with the personal property of an intestate until the appointment of an administrator by the probate court.⁶

The Public Trustee need not make application to court in order to take possession of the property, and while the Public Trustee has possession of it they have all the powers an executor or administrator would have over that property and is entitled to be paid compensation and expenses for their actions.⁷

ENTITLEMENT TO ADMINISTER

Section 32 of the *Act* gives the spouse and children of the deceased equally the first right to administer an estate, followed by persons living in Nova Scotia who are entitled to share in the distribution of an intestacy or because they are adult residual beneficiaries. Next in line is the Public Trustee followed by non-resident adult residual beneficiaries or heirs of the intestate, followed last by creditors or persons with a cause of action against the estate.

NON-RESIDENT ADMINISTRATORS

In the past non-resident heirs of a person who died without a will were not entitled to be the administrators of the intestate's estate. In many cases, the Public Trustee took on the role if heirs in Nova Scotia were unable or unwilling to take on the role of administrator. Under the new *Act*, non-residents are entitled to be appointed as administrators, subject to receiving consent of the

⁵Section 18.

⁶Section 45.

⁷Section 18.

Public Trustee.⁸ In most cases these administrators must be bonded.

NOMINEE ADMINISTRATOR

Because our new *Act* permits the heirs of a person who dies without a will to nominate a trust company as administrator of the estate instead of taking on the role themselves, the cost of posting security may be avoided. Sections 32(4) and (5) also permit the heirs to nominate a person other than a trust company to be their administrator. In these cases the other person must provide security to the Court. In order to be appointed written consent from the Public Trustee and heirs must be made (in Form 15 or 16) and filed at the Probate Court. Registrars are prohibited from issuing a grant to a 'nominee' until the forms have been filed with the court or a court order dispensing with the forms is on file.⁹

BONDS AND SECURITY

Section 40 of the *Probate Act* requires non-resident executors to post security for their role as personal representative unless any one of the following circumstances apply:

- a) the executor is the sole beneficiary of the estate, or is a trust company or Public Trustee;
- b) all beneficiaries under the will are adult and consent to dispense with the security;
- c) there is a co-executor residing in Nova Scotia; -
- d) the date of the will predates the proclamation of the *Act*;
- e) the will says otherwise.

⁸Section 32(1)(d).

⁹Regulation 35(2)

Because Sections 40(2) and 40(3) of the *Act* allow the court to dispense with posting security in certain situations, Regulation 42(11) requires the personal representative to file an affidavit that establishes the facts required for such dispensation. In cases where the personal representative is the sole beneficiary under the will of the deceased person, the affidavit will set out this fact. In situations where a non-resident is the executor under the will, they may file an affidavit stating that all persons who are or may be beneficially interested in the estate are adults and are competent, and have consented in writing to the court dispensing with the requirement for security. All the written consents from the beneficiaries must be filed with the court as well. There are no prescribed forms of affidavit or consent to dispense with security. Upon filing these affidavits the Registrar may dispense with the otherwise required security.

Practitioners may want to consider adding a clause to the will precedent that acknowledges that the executor is or may become non-resident and waives the requirement to post a bond or other form of security for carrying out their role as personal representative under the will.

In the case of administrators, security will always be required, unless the administrator is the sole beneficiary of the estate, or is a trust company or the Public Trustee.

The Regulations allow for the following forms of security: a bond or policy of guarantee of a guarantee company (as defined in the *Sureties Act*), a personal bond and affidavit of justification, letters of credit from a financial institution acceptable to a Registrar, or other security satisfactory to the registrar.

The amount of security required is 1.5 times the value of an estate.¹⁰ Regulation 41 defines value of an estate to mean "the value of the assets of the deceased" calculated on:

- a) the gross value of personal property of the deceased; and

¹⁰Regulation 42(2).

- b) the fair market value of real property of the deceased less the amount of any mortgages and other encumbrances registered against the property at the Registry of Deeds for the probate district in which the real property is located, that passes by will or wills or that transfers or will be transferred to a trust under a will or wills whether or not the trust described in the will is described as being separate from the estate or that passes upon intestacy.

Mobile homes are considered real property for the purposes of the calculation of value. Mortgages and other encumbrances registered against the mobile home at the Personal Property Registry or the Registry of Deeds for the probate district in which the mobile is located are to be deducted from the fair market value of that mobile home.

Guaranty bonds and personal bonds are familiar forms of security, and are commonly called 'bonds'. Under the new Regulations, a personal bond will require one surety only if the estate value is \$100,000 or less. Otherwise, it will require two sureties (as are currently required for a personal bond).¹¹ The court will also now accept letters of credit from a financial institution.

Although the regulations allow for a registrar to accept any "other such security" and this will be a matter of discretion for a Registrar. Many of the Probate Court facilities are not now equipped for safekeeping of financial documents.

Some other changes to the "bonding" provisions for Probate Court include a provision allowing more than one bond or other security to be given in any estate. This will limit the liability of a surety. It may also reduce the cost of the security. In these cases the total value of all the security given shall be equal to 1.5 times the value of the estate.

¹¹Regulation 42(3).

Personal sureties must be residents of Nova Scotia and together (if there is more than one) must have property of a value equal to or greater than 1.5 times the value of the estate over and above the total amount of all mortgages and other encumbrances registered against their property.¹²

Regulation 42(6) allows a Registrar to reduce the amount of security required to be given under sections 40, 41, 42 and 81 of the *Act*, after considering the interests of the persons who have a financial interest in an estate.

Bonds or other security may be assigned by the Registrar when she or he is satisfied that a condition of the bond or other security has been breached. The Registrar will be notified of this situation by application for the assignment of the security. The Regulations also provide that the person that has been assigned the security, their heirs and personal representatives, will be entitled to the same rights under the bond or other security as if it had been originally given to them.¹³

The Regulations also allow the Registrar to order a personal representative to provide alternate or additional security, when an application is made by a person interested in the estate and upon being satisfied that the security is inadequate or insufficient.¹⁴

NOTICE OF ISSUING GRANT

Section 43 of the *Act* institutes a new procedure. Once a grant is issued, the personal representative must give notice of that fact to each person entitled to share in the distribution of the estate. Regulation 44 requires the personal representative to do this within 20 days after the grant is issued. By virtue of regulation 22, they must serve these notices personally or by registered mail or by

¹²Regulation 42(5).

¹³Regulation 42(8)(9).

¹⁴Regulation 42(10).

service on a lawyer authorized to accept service on behalf of the person entitled to share in the distribution of the estate.

Notice forms are prescribed.¹⁵ Four different forms of notice are available for distribution. They include a notice to beneficiaries (residuary), a notice to beneficiaries (non-residuary), a notice to heirs (intestacy) and a notice to persons who may have statutory rights (the *Matrimonial Property Act*, *Testators Family Maintenance Act*, *Vital Statistics Act*). Regulation 22 requires notices for persons under 19 years of age and mentally incompetent persons to be served on a parent, guardian, court appointed guardian, or attorney under the *Power of Attorney Act*, of that person.

The personal representative is required to file an affidavit proving service of this notice with the court, within 60 days after the grant has been issued. If a personal representative needs more time the Registrar may extend that sixty-day period.¹⁶

ADVERTISING

Another 'next step' after a grant has been issued, is for the personal representative to advertise the estate. The procedure for advertising remains the same as it was, although the request for advertisement in the Royal Gazette is now in a prescribed form¹⁷ and there is no longer a distinction for estates under \$800.00. The estate must be advertised in the Royal Gazette for a period of 6 months.

What has changed is the stipulation of deadlines and procedures for making claims. Regulation 48 echoes section 63 of the *Act* by requiring a creditor to file the claim (in Form 32) with the court within that 6-month advertising period. The creditor must also serve a personal representative with the claim. If they do not do so but subsequently wish to make a claim they will have to obtain the

¹⁵Forms 24-27.

¹⁶Regulation 44(2)(3).

¹⁷Form 31.

consent of the court to do so. Claims may not be filed against the estate after the court makes the final order passing the accounts and discharging the personal representative.¹⁸

If the personal representative receiving a claim doesn't agree with it or any part of it, then, by Regulation 48(3), the personal representative is required to serve the creditor or claimant with a notice of contested claim (Form 33) and file it with the court. That form requires the personal representative to give reasons for disputing of the claim. If a claim is contested, then the parties may have it dealt with by the Probate Court under Part III or Part IV of the Regulations.¹⁹

Under section 63 of the *Act* a personal representative is entitled to pay the estate debts and distribute the assets, reserving funds to pay any claims filed within the 6 month period of advertising once that period has expired.

INVENTORY AND APPRAISALS

Filing the inventory within 3 months of the date of a grant continues to be mandatory in the new *Act*, but the enforcement of this requirement is stronger. After the expiry of 3 months from the grant of probate or administration, the Registrar may send a notice to the personal representative, requiring them to file the inventory within 30 days of receipt of that notice.²⁰ Failure to comply with the notice may result in an order requiring the inventory to be filed, and a failure to respond to the order may result in removal of the personal representative.²¹ Supplementary inventories will be required where property comes into the possession or knowledge of a personal representative after an inventory has been filed.

Appraisals are no longer mandatory. But an interested party may make application to the Registrar for the appointment of an appraiser of estate assets if they are dissatisfied with the efforts of the

¹⁸Section 64(2).

¹⁹Regulation 48(4).

²⁰Section 57 and Regulation 46.

²¹Section 61.

personal representative in that regard.²² Applicants will be responsible for proposing the particulars of the appraiser and method for appraisal, not the Registrar. Regulation 73 directs the applicant to provide specific information to the court and deals with the element of court costs on such an application. Completed appraisals must be filed with the court.²³

EXTRA PROVINCIAL GRANTS

In the past there were two procedures for dealing with estates from other provinces, countries or territories, called "resealing and ancillary grants". Section 37 of the new *Act* combines these into one procedure entitled "Extra-Provincial Grants". The requirement to advertise before the application is made to the Probate Court has been eliminated. Section 37(1)(b) provides that documents filed with the court in a language other than English may be required to be translated by a certified translator. Regulation 32 sets out what documents must be filed with the court and directs a Registrar to use the priorities of section 32 of the *Act* in making the appointment of a personal representative for the estate. It also tells the applicant to list only the assets of the deceased that are in Nova Scotia.

REMOVAL OF PERSONAL REPRESENTATIVE

The powers of a Judge of Probate Court to remove a personal representative are broadened under the new *Act* – the Court need only be satisfied that such removal would be in the best interests of the persons interested in the estate. Section 61 sets out specific reasons for removal of a personal representative and these include non-compliance with an order of the Court, insolvency or mental incompetence of the personal representative, neglect to administer the estate, wasting the estate, being convicted of theft and theft/fraud offences under the *Criminal Code of Canada*.

Section 61(2) provides for "friendly" applications for the discharge of a personal representative. The

²²Section 59.

²³Section 60.

personal representative who retires or is removed must make an accounting of the administration of the estate up to that time.²⁴

HEIRS - UNASCERTAINED, MISSING, PRESUMED DEAD

As with the old *Act*, this new *Act* (section 81) assists the personal representative faced with an heir/beneficiary who is absent and supposed, or presumed, to be dead. But section 82 is new and aims to provide a process to deal with the share of an unascertained heir or beneficiary. It allows for a personal representative to request that they be at liberty to distribute the proceeds of an estate having regard only to the claims of the persons ascertained to be entitled and whose residence and address are known.

ACCOUNTING, SETTLEMENT & DISTRIBUTION

Also known as “closings”, this topic is more than ably covered in the conference materials by Sharron Atton, Registrar of Probate for Halifax, and Richard Neidermayer. The following remarks only briefly highlight some of the changes.

The new *Act* allows the personal representative to present their accounts for the Probate Court after 6 months and requires them to do so within 18 (unless the court extends the time frame). It allows the process to be accomplished either by documentation or by a hearing before the Registrar, at the option of the persons who are interested in the estate.

There is an option to avoid closings in testate estates, where the surety (if there is one) and all unpaid beneficiaries, (who must all be adult and competent), agree in writing that a final accounting is unnecessary.²⁵

²⁴Section 62.

²⁵Section 69(3).

Another change is found in section 68(2). A person interested in the estate, including an unpaid creditor and surety may apply to the court for an order requiring the personal representative to give an accounting. This is intended to be used when the personal representative has not complied with the 18-month time frame to provide an accounting. It also allows the court to assess the personal representative for the cost of that application and for the final accounting.

Part III of the Regulations set out the procedural elements of closings, and include rules for appointing an audit accountant²⁶, taxing solicitors accounts²⁷, and guidelines for setting the commission of the personal representative²⁸.

TAXES

Changes have been made to the amount of taxes collected and the collection system. The *Eurig*²⁹ and *Balders*³⁰ decisions required the Government to remove estate-taxing provisions from Regulations and to move them into Statute. Nova Scotia did so by amendments to the *Probate Act* in 1999. With the Royal Assent on November 30, 2000, only one tax is being charged on an estate and is payable upon the grant being made by the Probate Court. From November 30, 2000, taxes are to be paid on the total of the net value of real estate and gross value of personal property, according to the following schedule:

- a) In estates not exceeding \$10,000, \$70.00;
- b) In estates exceeding \$10,000 but not exceeding \$25,000, \$150.00;

²⁶Regulation 60.

²⁷Regulation 61.

²⁸Regulation 62.

²⁹Re *Eurig Estates* [1998] 2 S.C.R. 565; 213 N.R. 55; 114 O.A.C. 55; (1999) 165 D.L.R. (4th) 1.

³⁰*Hugh Balders v. Attorney General of Nova Scotia et al* (No. 2) (1999), 179 N.S.R. (2d) 146; 553 A.P.R. 146.

- c) In estates exceeding \$25,000 but not exceeding \$50,000, \$250.00;
- d) In estates exceeding \$50,000 but not exceeding \$100,00, \$700.00;
- e) In estates exceeding \$100,000, \$700.00 plus an additional \$12.00 for every \$1000 or fraction thereof in excess of \$100,000.

This represents a decrease in the total of the former opening and closing taxes for estates under \$100,000, no change for estates valued at \$100,000, and an increase in estates over \$100,000 in value.

REGULATIONS

A final word about the Regulations. One of the goals of probate reform was to remove procedural matters from the *Probate Act* and put them in a separate place. Another was to streamline probate procedures and make them clear and user friendly. The Regulations are divided into four parts. Part I - General, covers administrative matters of the court, Registrar's roles and duties and general rules for probate court applications. Part II - Non-contentious matters, sets out the standard procedures for obtaining a grant from the court where there is no contention to the right to the grant. Part III - Accounting, Settlement and Distribution covers closing concerns and Part IV - Contentious matters, pertains to disputes over wills and estates and contains procedural requirements for bringing them before the Court. It also endorses mediation as an alternative to the court process and in Schedule "A" sets out procedures for conducting mediation. -

Many knowledgeable people were consulted during the process of probate reform. While that process began in the 1970's, the final stage was set by the Law Reform Commission study and report during 1996-1999 and was concluded by the Probate Reform Project of the Department of Justice. Members of the practicing bar and the bench volunteered countless hours to assist the Law reform Commission and the Reform Project, and their serious commitment towards the goal of probate reform has been greatly appreciated.

OPENING AN ESTATE - WILL - OCTOBER 2001

These materials are provided to assist individuals in opening an estate in the Court of Probate and obtaining a Grant of Probate, on or after October 1, 2001. They include the following documents:

- Probate Checklist
- Probate terminology
- Probate taxes
- Forms 2,8,12, 24,25,27, 28, 29 and 31

The Forms provided are the standard forms required to **open a typical** estate. These materials do not replace the need for legal information and advice. Lawyers are available as a resource for probate questions. The Legal Information Society of Nova Scotia (formerly Public Legal Education) is another resource. They operate a Legal Information Line for general legal information and a Lawyer Referral Service for individual legal information. Both services can be reached at 455-3135 in Halifax Regional Municipality , and toll free in Nova Scotia at 1-800-665-9779.

Individual's processing applications for a Grant of Probate, **MUST** have their forms completed prior to their appointment.

Probate Staff **are not** permitted to assist in the completion of forms nor are we permitted to give legal advice.

Where to find the Probate Act and Regulations: ~

Copies of the Probate Act (Bill 74 of the Acts of 2000 and Bill 25 of the Acts of 2001) are available in print, for a fee, at Service Nova Scotia (424-7580) and on the Internet at www.gov.ns.ca/legi/legc. Copies of the Regulations and Forms are available in print at the Probate Court and, for a fee, at the Registry of Regulations (424-6723). The regulations and Forms are available on the Internet at www.gov.ns.ca/just/. They are also available on the Internet site of the Nova Scotia Barristers Society, at www.nsbs.ns.ca.

PROBATE CHECK LIST

1. Make a copy of Will and any Codicil(s).
2. If the Affidavit(s) of Execution of the Will and any Codicil(s) (Form 2) has not been completed, contact one of the witnesses to the Will and Codicil(s) and have them come to Probate Court or go to a Lawyer or Notary Public to sign the Affidavit(s).
3. Complete the Application for a Grant (Form 8), and other supporting documents required by the Application.
4. File the original Will and Codicil(s), the Affidavit(s) of Execution of Will and Codicil(s), the Application for a Grant (Form 8), a proof of death document, and other required supporting documents, at Probate Court.
5. Obtain a Grant of Probate once it has been issued by the Court.
6. Complete and send out Notice of Grant to each person entitled to share in the distribution of the estate (Form 24, 25, 27, as applicable), and later file the Affidavit of Service (Form 28) at Probate Court.
7. Run the advertisement in the Royal Gazette (Form 31).
8. Obtain issue of Royal Gazette showing the advertisement.
9. Complete Inventory (Form 29) and file it at Probate Court.

**PROBATE ACT AND REGULATIONS
NEW TERMINOLOGY**

OLD	NEW
Petition and oath for a grant	Application for a grant
Place of abode	Residence of deceased
Ancillary/Resealing	Extra-provincial grant
---	Limited grant
---	Reservation of Right to Apply for Grant
---	Subsequent grant
Grant of Administration/Administration CTA de bonis non	Grant of unadministered property
Executor/Administrator	Personal Representative
---	Nomination
Bond	Security
One bond required	More than one bond or other security may be allowed by Registrar
---	Notice after grant
Final Accounts (Closings)	Passing accounts without a hearing
Final Accounts (Closings)	Passing accounts with a hearing
---	Notice of objection
Petition & citation for a show cause hearing	Notice of application and affidavit
---	Mediation
---	Notice of rejection
Certificate of Probate or Administration	Certificate of status
---	Notice of contested claim

NEW TERMINOLOGY	DEFINITION
Final decree	Order passing the accounts of the personal representative
Value of an estate	Value of assets of the deceased calculated on the gross value of the personal property, and the fair market value of the real property less the amount of any mortgages and encumbrances registered against the real property at the Registry of Deeds for the district in which the real property is located.
Security	Bond or policy of a guarantee company; personal bond; letters of credit from a financial institution acceptable to registrar; other such security satisfactory to registrar.
Amount of Security	->1 ½ times the value of the estate as calculated as defined above.
Medical Expenses - insolvent estates	Includes private nursing and home care expenses of the deceased, but not the cost of assistance given to the deceased pursuant to the Social Assistance Act or Employment Support and Income Assistance Act from a residence designated pursuant to the Social Assistance Act
Accounting not required	When all unpaid beneficiaries under the will are adult, competent and agree in writing and all sureties agree in writing that accounting is not required for the estate, the personal representative may file the prescribed form with all releases with the court in lieu of an accounting and final order passing the accounts.

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NEW TERMINOLOGY	DEFINITION
Notice of objection to application	A person interested in an estate may object to an application before the court by completing and filing this form with the court.
Residence of deceased	The probate district in which the deceased resided at the time of death is the probate district in which the deceased lived during the last 2 or more years of life. Where the deceased did not reside in one probate district for 24 consecutive months prior to death, the registrar shall decide which probate district the deceased was resident in at death based on at least 2 factors: the length of time the deceased resided in a probate district other than the one in which they died, and the location of the deceased's property.
Limited grants	Grants that are limited to part of the deceased's property and grants that are for a limited time or purpose.
Notice of rejection	When an application for a grant and material required to accompany the grant are incomplete or contain errors the registrar sends out a prescribed form by ordinary mail to the applicant.
Service under the Regulations	Service of all notices and other documents required to be served under the regulations shall be by personal service, registered mail, service on a lawyer authorized to accept service on behalf of a person or such other means as directed by the registrar or the court - unless service is otherwise specified in any particular regulation.

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NEW TERMINOLOGY	DEFINITION
Reservation of right to apply for a grant	Any person who is entitled to apply for a grant who does not apply at the time of the initial application may reserve the right to apply at a future time by filing the prescribed form with the court at the time the initial application is made.
Nomination	Any person (s) who is/are entitled to a grant under Section 32(1)(a)(b) or (d) of the <i>Probate Act</i> , may with the written consent of the Public Trustee, nominate another person, including a trust company, as administrator of all or part of the property of a deceased person.
Notice after grant	Section 43 of the <i>Probate Act</i> requires a personal representative, after the grant is issued by the court, to give notice of the grant in the prescribed form and manner to each person entitled to share in the distribution of the estate.
Mediation	During any contentious probate matter, the parties may agree to adjourn the proceeding and refer any or all matters in dispute to mediation. The procedure for conducting the mediation is set out in Schedule "A" to the regulations.
Notice of contested claim	When a personal representative disputes all or part of a claim filed against an estate, the personal representative must file a notice of contested claim in the prescribed form with the court and will serve a copy on the claimant.

PROBATE TAXES
(effective November 30th, 2000)

In Estates not exceeding \$10,00.00	\$70.00
In Estates exceeding \$10,000.00 but not exceeding \$25,000.00	\$150.00
In Estates exceeding \$25,000.00 but not exceeding \$50,000.00	\$250.00
In Estates exceeding \$50,000.00 but not \$100,000.00	\$700.00
In Estates exceeding \$100,000.00	\$700.00
plus an additional \$12 for every \$1,000.00 or fraction thereof in excess of \$100,000.00	

\$250,000.00 = \$2,500.00

\$500,000.00 = \$5,500.00

\$1,500,000.00 = \$17,500.00

\$300,000.00 = \$3,100.00

\$1,000,000.00 = \$11,500.00

\$2,000,000.00 = \$23,500.00

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Application for a Grant of Probate
 (S. 33(1))**

I, name in full, of street and postal address, place,
 in the County of county, Province of province, postal code,
 applicant,

make oath and say:

1. name of deceased late of place, in the County/Municipality of
county/municipality, Province of Nova Scotia, occupation, died on or
 about month and day, 20 , at place, in the County/Municipality
 of county/municipality, Province of province, and at the time of
 death the residence of the deceased was

(a) at place, in the County/Municipality of county/municipality,
 Province of Nova Scotia.

OR

(b) outside Nova Scotia and the deceased had, at such time, property in Nova Scotia.

[Choose (a) or (b) and delete the other.]

2. To the best of my information and belief

(a) the deceased was/was not of the age of majority at the time the will was made and
was/was not married and was/was not a registered domestic partner at that time;

(b) the deceased, at the time of death, was married / unmarried / a widower / a widow /
 separated / divorced / a registered domestic partner; {circle one}

(c) the deceased did/did not marry and was/was not a registered domestic partner after the
 deceased's will was made;

Form 8 (cont.)

- (d) neither name of witness nor name of witness, the witnesses to the attached will and codicil(s) is a beneficiary or the spouse of a beneficiary named in the will or any codicil(s); [if so, give details]
- (e) the deceased was predeceased by [list the names, addresses and ages at death and dates of death respectively of predeceasing spouse(s) and children, and beneficiaries named in will]
- (f) there are/are no marriage contracts, separation agreements or court orders that affect the appointment of the applicant as personal representative of the estate of the deceased; [if there are, give details]
- (g) the attached will and codicil(s) is/are the true and original last will and codicil(s) of the deceased;
- (h) no other application has been made for a grant of probate or administration of this estate; and
- (i) the fair market value of all the assets of the deceased that the deceased died possessed of or entitled to that pass by a will or wills or that are transferred or will be transferred to a trust under a will or wills, whether or not the trust is described in the will as being separate from the estate, or that pass upon intestacy, is:
 - (i) real property less encumbrances \$
 - (ii) personal property (gross value) \$
 - Total: \$which includes all insurance, RRSP's, RRIF's, pensions, superannuation and annuities payable to the estate of the deceased. [Do not include real property outside Nova Scotia or real property held in joint tenancy, or insurance, RRSP's, RRIF's, pensions, superannuation or annuities payable to a named beneficiary. Include a mobile home in real property, less any encumbrance upon it.]

3. The real property of the deceased is situate at _____ place in Nova Scotia

4. I am the executor of the deceased named in the attached will or codicil(s).
[If any executor named in the attached will or codicil(s) is not applying or is reserving the right to apply, provide explanation.]

5. I will faithfully administer the property of the deceased by
- (a) paying the just debts of the deceased, all taxes payable in respect of the estate of the deceased and the legacies contained in the attached will and codicil(s) so far as it or they extend and the law binds me;
 - (b) filing with the court a full and true inventory of all assets of the deceased in Form 29 within 3 months after the date of the grant;

Form 8 (cont.)

- (c) disclosing to the court the existence of any asset and any encumbrance on real property, the value of which has not been disclosed in the inventory, within 30 days of when I learn of it;
- (d) undertaking to pay the Minister of Finance the taxes payable under the *Probate Act* with respect to any asset that passes to me as the personal representative of the deceased and has not previously been disclosed to the Court, upon a determination being made as to the value of that asset;
- (e) rendering a true account of my executorship whenever required by law to do so; and
- (f) distributing all the property of the deceased according to law.

6. I will surrender to this court the grant to be issued to me whenever so required by the court or the registrar.

7. I request that the court issue a grant of probate to the applicant.

Sworn before me at _____,)
 in the County of _____, Province _____)
 of Nova Scotia, on _____, 20.)
 _____)
 _____)
 A Barrister of the Supreme Court of Nova Scotia,)
 Commissioner of Oaths in and for the Province of)
 Nova Scotia, Notary Public in and for the Province)
 of Nova Scotia.)

Signature of applicant

[Note: the text and signature areas of this form may be adapted as required where there is more than one applicant.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Renunciation (Probate)
(S. 34(1))**

1. The deceased, _____, name of deceased, made a will or codicil in which I am named an executor of the deceased.
2. I am entitled to apply for a grant of probate of the deceased's estate.
3. I have not intermeddled in the deceased's estate.
4. I renounce my right to a grant of probate of the deceased's estate without prejudice to any right to inherit from the estate.

Signed at _____ place _____, province _____, on _____ month and day _____, 20____.

Signature of witness
[name and address of witness - please print]

Signature of person renouncing
[name and address of person - please print]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Notice to Beneficiaries (Residuary)
(S. 44(1)(a))**

TO: Name: _____

Complete address: _____

You are named as a residuary beneficiary in the last will* of _____ name of the deceased

Probate of the will was granted on _____ date of grant

The personal representative of the estate will collect the estate property, pay the debts, and complete the administration of the estate and do anything else required of them. Then the personal representative will be in a position to account to you before distributing any portion of the estate left after payment of all debts and expenses of the estate.

You can contact _____ name of personal representative at _____ address, _____ phone number for any further information you may need.

Signature of personal representative or
lawyer for personal representative

Date

Name:
Complete address:
Telephone:
Fax:
E-mail:

* Enclosed with this notice is a copy of the will.

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Notice to Beneficiaries (Non-Residuary)
(S. 44(1)(b))**

TO: Name: _____

Complete address: _____

You are named as a beneficiary in the last will* of _____ name of deceased

The will* gives you _____ description

Probate of the will was granted on _____ date of grant

The personal representative of the estate will collect the estate property, pay the debts, and complete the administration of the estate and do anything else required of them. Then the personal representative will be in a position to distribute your gift as long as it is not needed to pay for debts and expenses of the estate.

You can contact _____ name of personal representative at _____ address _____ phone number _____ for any further information you may need.

Signature of personal representative or
lawyer for personal representative

Date

Name:
Complete address:
Telephone:
Fax:
E-mail:

* Enclosed with this notice is a copy of the relevant portion of the will.

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Notice to Persons Who May Have Statutory Rights
(S. 44(1)(d))**

TO: Name: _____

Complete address: _____

You may be entitled to share in the distribution of the estate of _____ name of deceased under the *Matrimonial Property Act*, *Testators' Family Maintenance Act* and/or *Vital Statistics Act*. The question of whether you are entitled, and for how much, must be settled before the estate can be finally distributed.

A grant of _____ type of grant was issued on _____ date of grant, 20____.
Enclosed with this notice is a copy of the grant.

If you want to take this further, you should consult a lawyer immediately. **You must make your application within 6 months from the date the court issued the grant.** Please sign and return this form to the undersigned to show that you have received this notice.

Signature of personal representative or
lawyer for personal representative

Date

Name:
Complete address:
Telephone:
Fax:
E-mail:

I acknowledge receipt of this notice and of a copy of the grant in this estate.

Signature of addressee
[Name of addressee and complete address - please print]

Date

[The text of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA
IN THE ESTATE OF _____, Deceased

**Affidavit of Service - Notice of Grant
 (S. 44(2))**

I, _____ name of personal representative _____, of _____ street and postal address, place, province/state, country _____,

make oath and say:

1. I am the personal representative for the estate of _____ name of deceased _____.
2. I have served on each of the following, who are the persons who have or may have an interest in this estate, a notice of grant, copies of which are attached as Exhibit "A" to this my affidavit.

<u>Notice Form #</u>	<u>Name</u>	<u>Address</u>	<u>Date served</u>
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[Attach a separate sheet of paper if necessary]

3. I have been unable to serve the following persons:

<u>Notice Form #</u>	<u>Name</u>	<u>Address</u>	<u>Reason not served</u>
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[Attach a separate sheet of paper if necessary]

Form 28 (cont.)

4. To the best of my knowledge, the persons named in paragraph(s) 2 and/or 3 are the persons who have or may have an interest in this estate.

5. I undertake to advise the court as soon as I have ascertained or found the persons listed in paragraph 3 or any additional persons who have or may have an interest in this estate and to provide the court with copies of the notices served on those interested persons.

Sworn before me at _____ ,)
in the County of _____ ,)
Province of Nova Scotia,)
on _____ , 20 ____ .)
_____))
_____))
A Barrister of the Supreme Court of Nova Scotia,)
Commissioner of Oaths in and for the Province)
of Nova Scotia, Notary Public in and for the)
Province of Nova Scotia)

Signature of personal representative

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

Bonds and debentures Number: Coupons due or accrued interest: Subtotal value bonds and debentures:	\$
Stocks and shares Company: Certificate No: Number of shares: Subtotal value stocks and shares:	\$
Annuities, pensions, superannuation, R.R.S.P.'s, R.R.I.F.'s payable to the estate Description: Subtotal value annuities, pensions, superannuation, R.R.S.P.'s, R.R.I.F.'s :	\$
Household goods, personal effects, vehicles, boats Description: Subtotal value household goods, personal effects, vehicles, boats:	\$
Business interests Description: Subtotal value business interests:	\$
Miscellaneous property not before mentioned Description: Subtotal value miscellaneous property:	\$
Total personal property value	\$
Total value of estate	\$

Affidavit

I, _____, name of personal representative, the personal representative of this estate **make oath and say:**

1. The inventory of this estate is to the best of my knowledge, information and belief, a true statement of all the assets of the deceased at the date of death, and shows the fair market value of those assets.
2. I shall file a further inventory with the court within 30 days after any additional real or personal property comes into my possession or knowledge or where any valuation in this inventory appears to me to have been made in error.
3. The value of the deceased's estate for the purpose of subsection 87(1) of the *Probate Act* and Section 41 of the *Probate Court Practice, Procedure and Forms Regulations*
 - (a) is unchanged from the date of the grant.

Form 29 (cont.)

(b) has changed to \$ _____ and a payment of probate tax in the amount of \$ _____ shall be made to reflect this change.

(c) has changed to \$ _____ and a refund of probate tax in the amount of \$ _____ is hereby applied for to reflect this change.

[Note: choose the applicable option in paragraph 3 and delete the others.]

Sworn before me at _____ , _____)
in the County of _____ , _____)
Province of Nova Scotia, _____)
on _____ , 20 _____ . _____)
_____)

A Barrister of the Supreme Court of Nova Scotia,)
Commissioner of Oaths in and for the Province)
of Nova Scotia, Notary Public in and for the)
Province of Nova Scotia)

Signature of personal representative

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Request for Advertisement
(S. 47)**

To: The Royal Gazette Part I
[Address]

Please advertise the estate information noted below in the *Royal Gazette Part I* for a period of 6 months. A cheque in the amount of \$ _____ is enclosed. [Note: fees for advertising are set out in the *Royal Gazette Part I Fees Regulations* under the *Communications and Information Act*.]

1. Name of deceased:
2. Place of residence of deceased at date of death:
3. Name of personal representative [note whether executor or administrator]:
Address:
4. Name of lawyer representing estate:
Address:
5. Date of grant of probate/administration:

NOTE: All persons having legal demands against this estate must file a notice of claim in Form 32 within 6 months from the date of the first advertisement.

All persons indebted to the estate must make immediate payment to the personal representative noted.

[The text of this form may be adapted as required where there is more than one personal representative.]

OPENING AN ESTATE - NO WILL - OCTOBER 2001

These materials are provided to assist individuals in opening an estate for a person who died without a will on or after October 1, 2001, in the Court of Probate, and obtaining a Grant of Administration. They include the following documents:

- Administration Checklist
- Probate terminology
- Probate taxes
- Forms 9, 13, 15, 18, 19, 26, 27, 28, 29 and 31

The Forms provided are the standard forms required to **open** a typical estate for a person who has died without a will. These materials do not replace the need for legal information and advice. Lawyers are available as a resource for probate questions. The Legal Information Society of Nova Scotia (formerly Public Legal Education) is another resource. They operate a Legal Information Line for general legal information and a Lawyer Referral Service for individual legal information. Both services can be reached at 455-3135 in Halifax Regional Municipality, and toll free in Nova Scotia at 1-800-665-9779.

Individual's processing applications for a Grant of Probate, **MUST** have their forms completed prior to their appointment.

Probate Staff **are not** permitted to assist in the completion of forms nor are we permitted to give legal advice.

Where to find the Probate Act and Regulations:

Copies of the Probate Act (Bill 74 of the Acts of 2000 and Bill 25 of the Acts of 2001) are available in print, for a fee, at Service Nova Scotia (424-7580) and on the Internet at www.gov.ns.ca/legi/legc. Copies of the Regulations and Forms are available in print, at the Probate Court, and, for a fee, at the Registry of Regulations (424-6723). The Regulations and Forms are available on the Internet at www.gov.ns.ca/just/. They are also available on the Internet site of the Nova Scotia Barristers Society, at www.nsbs.ns.ca.

ADMINISTRATION CHECKLIST

1. Complete Application for a Grant (Form 9 or 9A), Security (Forms 18 and 19 as applicable) and other supporting documents, as required.
2. File Application, proof of death document, security, and other supporting documents required.
3. Complete and send out Notice of Grant (Forms 26-27, as applicable), and later file Affidavit of Service (Form 28) at Probate Court.
4. Run the advertisement in the Royal Gazette (Form 31).
5. Obtain issue of Royal Gazette showing the advertisement.
6. Complete Inventory (Form 29) and file it at Probate Court.

**PROBATE ACT AND REGULATIONS
NEW TERMINOLOGY**

OLD	NEW
Petition and oath for a grant	Application for a grant
Place of abode	Residence of deceased
Ancillary/Resealing	Extra-provincial grant
---	Limited grant
---	Reservation of Right to Apply for Grant
---	Subsequent grant
Grant of Administration/Administration CTA de bonis non	Grant of unadministered property
Executor/Administrator	Personal Representative
---	Nomination
Bond	Security
One bond required	More than one bond or other security may be allowed by Registrar
---	Notice after grant
Final Accounts (Closings)	Passing accounts without a hearing
Final Accounts (Closings)	Passing accounts with a hearing
---	Notice of objection
Petition & citation for a show cause hearing	Notice of application and affidavit
---	Mediation
---	Notice of rejection
Certificate of Probate or Administration	Certificate of status
---	Notice of contested claim

NEW TERMINOLOGY	DEFINITION
Reservation of right to apply for a grant	Any person who is entitled to apply for a grant who does not apply at the time of the initial application may reserve the right to apply at a future time by filing the prescribed form with the court at the time the initial application is made.
Nomination	Any person (s) who is/are entitled to a grant under Section 32(1)(a)(b) or (d) of the <i>Probate Act</i> , may with the written consent of the Public Trustee, nominate another person, including a trust company, as administrator of all or part of the property of a deceased person.
Notice after grant	Section 43 of the <i>Probate Act</i> requires a personal representative, after the grant is issued by the court, to give notice of the grant in the prescribed form and manner to each person entitled to share in the distribution of the estate.
Mediation	During any contentious probate matter, the parties may agree to adjourn the proceeding and refer any or all matters in dispute to mediation. The procedure for conducting the mediation is set out in Schedule "A" to the regulations.
Notice of contested claim	When a personal representative disputes all or part of a claim filed against an estate, the personal representative must file a notice of contested claim in the prescribed form with the court and will serve a copy on the claimant.

PROBATE TAXES
(effective November 30th, 2000)

In Estates not exceeding \$10,00.00	\$70.00
In Estates exceeding \$10,000.00 but not exceeding \$25,000.00	\$150.00
In Estates exceeding \$25,000.00 but not exceeding \$50,000.00	\$250.00
In Estates exceeding \$50,000.00 but not \$100,000.00	\$700.00
In Estates exceeding \$100,000.00	\$700.00
plus an additional \$12 for every \$1,000.00 or fraction thereof in excess of \$100,000.00	

\$250,000.00 = \$2,500.00

\$500,000.00 = \$5,500.00

\$1,500,000.00 = \$17,500.00

\$300,000.00 = \$3,100.00

\$1,000,000.00 = \$11,500.00

\$2,000,000.00 = \$23,500.00

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Application for a Grant of Administration
(S. 33(2))**

I, _____, of _____, street and postal address _____,
_____ place _____, in the County of _____ county _____,
Province of _____ province _____, postal code _____, applicant,

make oath and say:

1. _____, name of deceased _____, late of _____ place _____, in the County/Municipality of _____ county/municipality _____, Province of Nova Scotia, _____ occupation _____, died on or about _____ month and day _____, 2 _____, at _____ place _____, in the County/Municipality of _____ county/municipality _____, Province of _____ province _____, and at the time of death the residence of the deceased was
(a) at _____ place _____, in the County/Municipality of _____ county/municipality _____, Province of Nova Scotia.

OR

(b) outside Nova Scotia and the deceased had, at such time, property in Nova Scotia.

[Choose (a) or (b) and delete the other.]

2. I have caused a diligent and careful search to be made for a will, any codicil thereto or testamentary paper of the deceased but have been unable to discover any.

3. (a) I am _____ relationship of applicant _____ to the deceased and am therefore entitled to make this application.

[Attach Form 12 renunciation from each person having a prior or equal right to apply.]

OR

Form 9 (cont.)

- (b) I am the nominee applicant under subsection 32(4) of the *Probate Act* and am entitled to make this application.

[Attach Form 14 renunciation/nomination/consent from persons having prior or equal right to apply.]

[Choose (a) or (b) and delete the other.]

4. To the best of my information and belief

- (a) the deceased, at the time of death, was married / unmarried / a widower / a widow / separated / divorced / a registered domestic partner [circle one] and left the following person(s) who are entitled by law to share in the estate: [List the names, addresses, age, relationship to deceased of each heir.]
- (b) the deceased was predeceased by the following person (s) who would have been entitled by law to share in the estate: [List the names, addresses and dates of death respectively of of each predeceasing heir.]
- (c) there are/are no marriage contracts, separation agreements or court orders that affect the appointment of the applicant as personal representative of the estate of the deceased; [If there are, give details.]
- (d) no other application has been made for a grant of probate or administration of this estate; and
- (e) the fair market value of all the assets of the deceased that the deceased died possessed of or entitled to that pass by a will or wills or that are transferred or will be transferred to a trust under a will or wills, whether or not the trust is described in the will as being separate from the estate, or that pass upon intestacy, is
- | | | |
|------|---------------------------------|----|
| (i) | real property less encumbrances | \$ |
| (ii) | personal property (gross value) | \$ |
| | Total: | \$ |

which includes all insurance, RRSP's, RRIF's, pensions, superannuation and annuities payable to the estate of the deceased. [Do not include real property outside Nova Scotia or real

property held in joint tenancy, or insurance, RRSP's, RRIF's, pensions, superannuation and annuities payable to a named beneficiary. Include a mobile home in real property, less any encumbrance upon it.]

5. The real property of the deceased is situate at _____ place in Nova Scotia

6. I will faithfully administer the property of the deceased by

- (a) paying the just debts of the deceased and all taxes payable in respect of the estate of the deceased;

Form 9 (cont.)

- (b) filing with the court a full and true inventory of all assets of the deceased in Form 29 within 3 months after the date of the grant;
 - (c) disclosing to the court the existence of any asset and any encumbrance on real property the value of which has not been disclosed in the inventory within 30 days of when I learn of it;
 - (d) undertaking to pay the Minister of Finance the taxes payable under the *Probate Act* with respect to any asset that passes to me as the personal representative of the deceased and has not previously been disclosed to the court, upon a determination being made as to the value of that asset;
 - (e) rendering a true account of my administration whenever required by law to do so; and
 - (f) distributing all the property of the deceased according to law.
7. I will surrender to this court the grant to be issued to me whenever so required by the court or the registrar.
8. I request that the court issue a grant of administration to the applicant.

Sworn before me at _____,)
in the County of _____, Province _____)
of Nova Scotia, on _____, 20____.)
_____)
_____)
A Barrister of the Supreme Court of Nova Scotia,)
Commissioner of Oaths in and for the Province of)
Nova Scotia, Notary Public in and for the Province)
of Nova Scotia.)

Signature of applicant

[Note: the text and signature areas of this form may be adapted as required where there is more than one applicant.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Renunciation (Administration)
(S. 34(3))**

1. The deceased, _____, name of deceased _____, died intestate.
2. I am entitled to apply for a grant of administration under the *Probate Act* because I am the deceased's _____ relationship to deceased _____.
3. I have not intermeddled in the deceased's estate.
4. I renounce my right to a grant of administration of the deceased's estate without prejudice to any right to inherit from the estate.

Signed at _____ place _____, province _____, on _____ month and day _____, 20____.

Signature of witness
[name and address of witness - please print]

Signature of person renouncing
[name and address of person - please print]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Renunciation, Nomination and Consent to Appointment
of Personal Representative (Administration)
(S. 35(1))**

1. The deceased, _____ name of deceased _____, died intestate.
2. I am entitled to apply for a grant of administration under the *Probate Act* because I am the deceased's _____ relationship to deceased _____.
3. I have not intermeddled in the deceased's estate.
4. I renounce my right to a grant of administration of the deceased's estate without prejudice to any right to inherit from the estate.
5. I nominate _____ name of nominee _____ as administrator of the estate of the deceased.

Signed at _____ place _____, _____ province _____, on _____ month and day _____, 20 _____.

Signature of witness
[name and address of witness - please print]

Signature of person renouncing/nominating
[name and address of person - please print]

I consent to the nomination of _____ name of nominee _____ as administrator of the estate of the deceased.

Public Trustee

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Security - Bond or Policy of Guarantee of Guarantee Company
(S. 42(1)(a))**

The principal in this security is _____
name of personal representative

The surety in this security is _____, a corporation authorized to
name of guarantee company
act as a surety in the Province of Nova Scotia.

The obligee in this security is the registrar of the probate court for the probate district of
name of district
, Province of Nova Scotia, acting for the benefit of creditors and persons
entitled to share in the estate of the deceased.

The principal and the surety are jointly and severally bound to the registrar of the probate court
for the probate district of _____, Province of Nova Scotia, in the
name of district
amount of \$ _____, to be paid to the registrar for which payment we bind ourselves and
each of us, our heirs, executors, administrators and assigns.

The duties of the principal are

- (a) to make and file with the court a full and true inventory of the property of the deceased that has, or may, come into the knowledge and/or possession of the principal;
- (b) to administer all such property according to law;
- (c) to pay the debts of the deceased;
- (d) when lawfully required, to render a proper and full account of the administration of the estate; and
- (e) to distribute to the persons entitled, all property remaining after payment of the debts of the deceased and the costs of administration of the estate.

Form 18 (cont.)

The primary obligation under this security belongs to the principal. The principal is liable under this security for any amount found by the court to be owing to any creditors of the estate and persons entitled to share in the estate to whom proper payment has not been made.

The surety, provided it has been given reasonable notice of any proceeding in which an order or decision may be made against the principal for failure to perform the obligations of this security shall, on order of the court, and on default of the principal to pay any final amount made against the principal in the proceeding, pay to the registrar the amount of any deficiency in the payment by the principal, but the surety shall not be liable to pay more than the amount of the security.

Signed at _____ place _____, Nova Scotia, on _____ month and day _____, 20 _____.

Signature of witness

Signature of principal

Signed and sealed at _____ place _____, Nova Scotia, on _____ month and day _____, 20 _____.

[guaranty company]

[Signature of witness]

per: _____
[Signature of authorized representative]

[Note: the text and signature areas of this form may be adapted as required where there is more than one principal.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Security - Personal Bond and Affidavit of Justification
(S. 42(1)(b))**

The principal in this security is _____
name of personal representative

The surety in this security is _____
name of surety

The obligee in this security is the registrar of the Probate Court for the Probate District of
name of district _____, Province of Nova Scotia acting for the benefit of creditors and
persons entitled to share in the estate of the deceased.

The principal and the surety are jointly and severally bound to the registrar of the Probate Court
for the Probate District of _____ name of district _____, Province of Nova Scotia, in the amount of
\$ _____, to be paid to the registrar, for which payment we bind ourselves and each of us,
our heirs, executors, administrators and assigns.

The duties of the principal are

- (a) to make and file with the court and full and true inventory of the property of the deceased
that has, or may come into the knowledge and/or possession of the principal;
- (b) to administer all such property according to law;
- (c) to pay the debts of the deceased;
- (d) when lawfully required, to render a proper and full account of the administration of the
estate; and
- (e) to distribute to the persons entitled, all property remaining after payment of the debts of the
deceased and the costs of administration of the estate.

Form 19 (cont.)

The primary obligation under this security belongs to the principal. The principal is liable under this security for any amount found by the court to be owing to any creditors of the estate and persons entitled to share in the estate to whom proper payment has not been made.

The surety, provided they have been given reasonable notice of any proceeding in which an order or decision may be made against the principal for failure to perform the obligations of this security shall, on order of the court and on default of the principal to pay any final amount made against the principal in the proceeding, pay to the registrar the amount of any deficiency in the payment by the principal, but the surety shall not be liable to pay more than the amount of the security.

Signed at _____ place _____, Nova Scotia, on _____ month and day _____, 20 _____.

Signature of witness

Signature of principal

Signed and sealed at _____ place _____, Nova Scotia, on _____ month and day _____, 20 _____.

[Signature of witness]

[Signature of surety]

Affidavit of Justification

I _____ name of surety _____, of _____ full address _____, occupation _____,

make oath and say:

1. I am the proposed surety on behalf of the principal in this security of the property of _____ name of deceased _____, deceased, named in this security, for the faithful administration of the property of the deceased.
2. My residence and occupation are correctly stated above and I have property of a value equal to the amount of \$ _____ over and above all encumbrances and over and above what will pay my just debts and every sum for which I am now bail, or for which I am liable as surety or endorser or otherwise.

3. I am of the age of majority.

Sworn before me at _____, in the)
County of _____, Province of)
Nova Scotia, on _____, 20 .)
_____)
Barrister of the Supreme Court of Nova Scotia,)
Commissioner of Oaths in and for the Province of)
Nova Scotia, Notary Public in and for the Province)
of Nova Scotia.)

_____) Signature of surety

Notes: This form of security may be adapted for use by an administrator with will annexed or a non-resident executor or administrator.

The text and signature areas of this form may be adapted as required where there is more than one principal or surety.

IN THE COURT OF PROBATE FOR NOVA SCOTIA
IN THE ESTATE OF _____, Deceased

Notice to Heirs (Intestacy)
(S. 44(1)(c))

TO: Name: _____
Complete address: _____

name of deceased died without leaving a will. In this circumstance, the provisions of the *Intestate Succession Act* determine which relatives of the deceased inherit the estate. You **may** be one of these relatives, and you **may be** entitled to inherit under this estate.

Administration of the estate was granted on _____ *date of grant*

The personal representative of the estate will collect the estate property, pay the debts, and complete the administration of the estate and do anything else required of them. Then, if it is determined that you are entitled to inherit under the estate, the personal representative will be in a position to account to you as an heir before distributing any portion of the estate left after payment of all debts and expenses.

You can contact _____ *name of personal representative* at _____ *address*, _____ *phone number* for any further information you may need.

Signature of personal representative or
lawyer for personal representative

Date

Name:
Complete address:
Telephone:
Fax:
E-mail:

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Notice to Persons Who May Have Statutory Rights
(S. 44(1)(d))**

TO: Name: _____
Complete address: _____

You **may** be entitled to share in the distribution of the estate of _____ name of deceased under the *Matrimonial Property Act, Testators' Family Maintenance Act* and/or *Vital Statistics Act*. The question of whether you are entitled, and for how much, must be settled before the estate can be finally distributed.

A grant of _____ type of grant was issued on _____ date of grant, 20____.
Enclosed with this notice is a copy of the grant.

If you want to take this further, you should consult a lawyer immediately. **You must make your application within 6 months from the date the court issued the grant.** Please sign and return this form to the undersigned to show that you have received this notice.

Signature of personal representative or
lawyer for personal representative

Date

Name:
Complete address:
Telephone:
Fax:
E-mail:

I acknowledge receipt of this notice and of a copy of the grant in this estate.

Signature of addressee
[Name of addressee and complete address - please print]

Date

[The text of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Affidavit of Service - Notice of Grant
(S. 44(2))**

I, _____ name of personal representative, of _____ street and postal address, place, province/state, country,

make oath and say:

1. I am the personal representative for the estate of _____ name of deceased.
2. I have served on each of the following, who are the persons who have or may have an interest in this estate, a notice of grant, copies of which are attached as Exhibit "A" to this my affidavit.

<u>Notice Form #</u>	<u>Name</u>	<u>Address</u>	<u>Date served</u>
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[Attach a separate sheet of paper if necessary]

3. I have been unable to serve the following persons:

<u>Notice Form #</u>	<u>Name</u>	<u>Address</u>	<u>Reason not served</u>
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[Attach a separate sheet of paper if necessary]

Form 28 (cont.)

4. To the best of my knowledge, the persons named in paragraph(s) 2 and/or 3 are the persons who have or may have an interest in this estate.

5. I undertake to advise the court as soon as I have ascertained or found the persons listed in paragraph 3 or any additional persons who have or may have an interest in this estate and to provide the court with copies of the notices served on those interested persons.

Sworn before me at _____ , _____)
in the County of _____ , _____)
Province of Nova Scotia, _____)
on _____ , 20 ____ . _____)
_____)

A Barrister of the Supreme Court of Nova Scotia,)
Commissioner of Oaths in and for the Province)
of Nova Scotia, Notary Public in and for the)
Province of Nova Scotia)

Signature of personal representative

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____ , Deceased

**Inventory
(S. 45)**

Note: attach a schedule for any type of property for which there is insufficient space.

<p>Part I: Real Property in Nova Scotia (includes mobile home(s), mortgage interests, and vendors' and purchasers' interests in agreements of purchase and sale)</p> <p>Less: [list mortgage(s), balance owing and name(s) of mortgagee(s)]</p> <p>Less: [list encumbrances and balance owing]</p> <p>Total of real property value</p>	<p align="center">Value at Death</p> <p align="center">\$</p>
<p>Part II: Personal Property (all assets except real property)</p> <p>Bank accounts, cash on hand</p> <p>1. Bank:</p> <p> Branch:</p> <p> Savings account number:</p> <p> Accrued interest:</p> <p> Principal:</p> <p> Chequing account number:</p> <p>2. Cash on hand:</p> <p>3. Uncashed cheques (with particulars):</p> <p> Subtotal value bank accounts, cash on hand:</p> <p>Life insurance payable to the estate</p> <p> Company:</p> <p> Policy number:</p> <p> Subtotal value life insurance:</p>	<p align="center">Value at Death</p> <p align="center">\$</p> <p align="center">\$</p>

Bonds and debentures Number: Coupons due or accrued interest: Subtotal value bonds and debentures:	\$
Stocks and shares Company: Certificate No: Number of shares: Subtotal value stocks and shares:	\$
Annuities, pensions, superannuation, R.R.S.P.'s, R.R.I.F.'s payable to the estate Description: Subtotal value annuities, pensions, superannuation, R.R.S.P.'s, R.R.I.F.'s :	\$
Household goods, personal effects, vehicles, boats Description: Subtotal value household goods, personal effects, vehicles, boats:	\$
Business interests Description: Subtotal value business interests:	\$
Miscellaneous property not before mentioned Description: Subtotal value miscellaneous property:	\$
Total personal property value	\$
Total value of estate	\$

Affidavit

I, _____, name of personal representative, the personal representative of this estate **make oath and say:**

1. The inventory of this estate is to the best of my knowledge, information and belief, a true statement of all the assets of the deceased at the date of death, and shows the fair market value of those assets.
2. I shall file a further inventory with the court within 30 days after any additional real or personal property comes into my possession or knowledge or where any valuation in this inventory appears to me to have been made in error.
3. The value of the deceased's estate for the purpose of subsection 87(1) of the *Probate Act* and Section 41 of the *Probate Court Practice, Procedure and Forms Regulations*
 - (a) is unchanged from the date of the grant.

Form 29 (cont.)

- (b) has changed to \$_____ and a payment of probate tax in the amount of \$_____ shall be made to reflect this change.
- (c) has changed to \$_____ and a refund of probate tax in the amount of \$_____ is hereby applied for to reflect this change.

[Note: choose the applicable option in paragraph 3 and delete the others.]

Sworn before me at _____, _____)
in the County of _____, _____)
Province of Nova Scotia, _____)
on _____, 20____. _____)

A Barrister of the Supreme Court of Nova Scotia,)
Commissioner of Oaths in and for the Province)
of Nova Scotia, Notary Public in and for the)
Province of Nova Scotia)

Signature of personal representative

[The text and signature area of this form may be adapted as required where there is more than one personal representative.]

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF _____, Deceased

**Request for Advertisement
(S. 47)**

To: The Royal Gazette Part I
[Address]

Please advertise the estate information noted below in the *Royal Gazette Part I* for a period of 6 months. A cheque in the amount of \$ _____ is enclosed. [Note: fees for advertising are set out in the *Royal Gazette Part I Fees Regulations* under the *Communications and Information Act*.]

1. Name of deceased:
2. Place of residence of deceased at date of death:
3. Name of personal representative [note whether executor or administrator]:
Address:
4. Name of lawyer representing estate:
Address:
5. Date of grant of probate/administration:

NOTE: All persons having legal demands against this estate must file a notice of claim in Form 32 within 6 months from the date of the first advertisement.

All persons indebted to the estate must make immediate payment to the personal representative noted.

[The text of this form may be adapted as required where there is more than one personal representative.]