



Executors and Administrators: Distributing an Estate



**Community Legal
Information**
Empowerment Through Knowledge

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Introduction




This guide is for people who are executors of a PEI will. It is also for administrators for a PEI resident who died without a will. It offers basic information about wills, how to act on a will, and what to do if someone dies without a will. If you want to learn more about wills, read our guide *Wills*.

This resource was made possible through the generous support of the Law Foundation of Prince Edward Island. We appreciate their ongoing support of our work and for access to justice on PEI.

About Us

Community Legal Information is a registered charity. We provide plain-language legal information and low-cost lawyer referrals.

Community Legal Information

-  www.legalinfopei.ca
-  info@legalinfopei.ca
-  902-892-0853; 1-800-240-9798 (toll-free)



The information in this publication is not legal advice and does not replace guidance from a lawyer.

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The Basics of Wills and Estates

What is a will?

A **will** is a legal document that outlines what someone wants done with their property and who will distribute their property after they die.

An **estate** is the property someone leaves behind when they die. This includes personal possessions, land, buildings, and money. It does not include property that already has named beneficiaries. For example, life insurance, Registered Retirement Savings Plans (RRSPs), Tax-Free Savings Accounts (TFSAs), etc.

A **testator** is the person who the will belongs to. They are also called the will-maker.

A **beneficiary** is a person or organization named in the will to receive something from the estate. Examples of organizations that may be beneficiaries include charities or universities.

An **executor** is the person a will-maker chooses to carry out the wishes written in their will. A will-maker can choose more than one executor.

An **administrator** is the person appointed by the Court to distribute the deceased person's property if they die without a will, without choosing an executor, or when the executor cannot act.

The PEI *Probate Act* outlines the laws about making a will on PEI.

The Estates Section of the PEI Supreme Court deals with matters about wills. In this guide, we refer to the Estates Section of the Supreme Court as ‘the Court.’

You can find more information about how the Estate Section operates in Rule 65 of the [Rules of Civil Procedure](#). The **Rules of Civil Procedure** set out the rules to the legal process.

Rules of Civil Procedure

i www.courts.pe.ca/rules-of-civil-procedure

What does an executor or administrator do?

An **executor** is the person a will-maker chooses to carry out the wishes written in their will. A will-maker can choose more than one executor. Executors don’t have to be PEI residents.

An **administrator** is the person appointed by the Court to distribute the deceased person’s property if they die without a will, without choosing an executor, or when the executor cannot act.

The executor or administrator:

- Makes funeral and burial arrangements.
- Applies for Probate or Administration.
- Gathers all the deceased’s assets.
- Makes sure the deceased’s expenses, debts, and taxes are paid.
- Files the deceased’s tax returns.

**Rules of Civil
Procedure**



- Reports to the beneficiaries.
- Distributes the estate and all other belongings according to the will (if there is one).
- Maintains accurate records of everything.
- Notifies the life insurance broker of the death (if applicable).
- Applies for different benefits from the Canada Pension Plan (CPP) (if applicable).

Who pays the deceased person's debt and taxes?

The estate pays the deceased person's debts and taxes. Debts and taxes are paid before distributing any gifts to beneficiaries. Beneficiaries, executors, and administrators are not personally responsible for paying off debt that the estate does not cover. Some exceptions to this are:

- If an executor misapplies funds.
- If an executor favours one creditor over another.
- If the estate does not have enough money to pay taxes and the Canada Revenue Agency (CRA) takes back RRSPs or Registered Retirement Income Funds (RRIFs) from a beneficiary to pay taxes.

The executor or administrator also pays the deceased person's income taxes, capital gains tax, and any other taxes from the estate. **Capital gains tax** is a tax that is paid when any property that is not a person's primary residence is disposed of. Disposing a property can mean selling the property or passing it on through an estate.

- The estate pays income taxes for income earned during the year up to the date of death.
- Capital gains taxes are paid on property that has increased in value up to the date of death. Some exceptions are the will-maker's principal residence.
- There may be additional taxes that the estate needs to pay on income or capital gains.

The executor or administrator should then apply to the CRA for a clearance certificate. A **clearance certificate** is a document from the CRA that states that all the deceased person's taxes are paid. This allows the executor or administrator to distribute the rest of the estate without personal responsibility to CRA.





Information for Executors

Who can be an executor?

An **executor** is the person a will-maker chooses to carry out the wishes outlined in their will. A will-maker can choose more than one executor. They must be competent and at least 18 years old. **Competent** means that they can understand legal or financial matters and make legal or financial decisions.

They may be family members, beneficiaries of the will, or neither. They may or may not live on PEI. An executor may pay more taxes or need help from a tax accountant if they:

- Do not live in Canada, or
- Live in Canada but are not a Canadian citizen.

It is important that a will-maker ask for consent before naming someone as their executor.

A will-maker may name co-executors or alternate executors. **Co-executors** act together to carry out a will. An **alternate executor** acts as an executor if the first executor named cannot or does not want to be the executor.

What steps should I take after the will-maker dies?

After a will-maker dies, the executor should start carrying out their duties. This list may be helpful. For a full list, see 'Checklist for Executors' on page 30.

- Find the will and read it. If you don't know where the will is, reach out to the [Law Society of PEI](#). They may be able to help you find it.
- Make sure a funeral is arranged. The estate pays for the funeral, unless the will-maker had pre-paid for their funeral and burial arrangements.
- Get a Statement of Death from the funeral home and make copies. You will need this to apply for probate. You may also need to show it to banks and other institutions.
- Get an original death certificate and make copies. You may need this for life insurance and other institutions. You can get a death certificate from [Vital Statistics](#).
- Make an inventory of the estate. Include details about the assets and their value. You will need this to apply for probate. Learn more about probate on page 11.
- Inform the beneficiaries of the steps to settle the estate and their share in the estate.
- Apply for probate. For more information see page 12.
- Tell the beneficiaries when you are granted probate. Gifts are only distributed after all debts are paid.
- File the will-maker's tax returns.
- Pay debts and get a clearance certificate from the CRA.
- Distribute gifts.
- Prepare an accounting.

Law Society of PEI

- 📄 www.lawsocietypei.ca
- ✉ lawsociety@lspei.pe.ca
- ☎ 902-566-1666

Vital Statistics

- 📄 www.princeedwardisland.ca/en/topic/birth-marriage-and-death-certificates
- ✉ vsmontague@gov.pe.ca
- ☎ 902-838-0880

When should an executor act?

As an executor, you should apply for probate within:

- 30 days of the will-maker's death, if you live on PEI.
- 90 days of the will-maker's death, if you do not live on PEI.

If you do not carry out your duties as an executor, a beneficiary or someone who is affected by your inaction can apply to the Court to fine you. The fine maybe up to \$100 per month for every month that you do not act.

If there is a good reason that delayed you from acting as an executor, the Court may excuse the delay. You must provide proof of a good reason.

Law Society of PEI



Vital Statistics



What are Letters Probate?

Probate is the process of declaring a will valid. An executor files a will with the Court so that they can be granted Letters Probate.

Letters Probate are documents that the Court grants that confirm an executor's authority to act on a will. They also limit future claims (for example, unpaid bills) against an estate to a six-month period.

There is a fee for probating a will. It costs about 0.4% to 1% of the estate's value. The estate covers that cost.

The time it takes to get Letters Probate depends on many factors, including:

- The complexity of the estate. For example, if a person has properties in many locations, or lots of assets and debts.
- If the will is contested. The Court may resolve disputes or claims against a will before granting Letters Probate.

Is probate always required?

An executor may not need to probate a will if:

- The estate is small with no property to give away.
- The primary beneficiary is named on all assets. For example, deeds, bank accounts, and investments are jointly owned. These assets usually go to the surviving joint owner if this was the deceased's intent.





- The will-maker named beneficiaries who receive assets like RRSPs, RRIFs, TFSAs, First Home Savings Accounts (FHSAs), life insurance, and pension plans.
 - If the deceased named beneficiaries for these assets, the payout goes directly to beneficiaries and is not part of the estate.

If no beneficiary is named, or the beneficiary is the estate, the payout goes to the estate. However, banks may freeze the deceased's accounts and refuse to let someone access the accounts without letters probate.

How do I apply for probate?

You can apply for probate yourself or hire a lawyer to do it for you. You will need to get certain documents and file certain forms. Applying for probate costs between 0.4% to 1.0% of the estate's value. You can find the forms on the [Court's website](#).

Supreme Court Forms

 www.courts.pe.ca/forms

To apply for probate, you need to file the following documents at the Court:

- The original will.
- A funeral director's statement of death or death certificate. Ask [Vital Statistics](#) for a death certificate.
- Form 65A – this is your petition for probate.
- Form 65D – this is the oath you take as an executor.
- Form 65E – this is an inventory of the estate. It includes details about the assets and their value.

Supreme Court Forms



- Form 65F – a proof of the will.
 - If the will-maker has a Proof of Will Declaration, you can file that.
 - If not, you may need to contact a witness who signed the will to swear that the will is authentic or provide two affidavits. An **affidavit** is a written and sworn statement of facts.
 - The first affidavit states that you could not locate the witnesses. The second affidavit is from a person who can identify the signatures of the witness and the will-maker.
- Form 65G – a proof of codicil (if applicable).
 - A **codicil** is an addition or change that the will-maker made to the will. You need this if the will-maker made a will, then added to, or changed it.
- Form 65XX – an affidavit verifying all the information you filed.

You will need many copies of the Letters Probate and death certificate. You will need them to prove to banks and other institutions that you are the executor of the estate.

After you get Letters Probate, the Court puts a notice in the Royal Gazette to announce the will-maker's death and ask creditors to come forward to get paid. The **Royal Gazette** is the official PEI government newspaper. The government uses it to publish notices. Creditors have six-months to make a claim against the estate after the notice is published.

Vital Statistics

- www.princeedwardisland.ca/en/topic/birth-marriage-and-death-certificates
- vsmontague@gov.pe.ca
- 902-838-0880

Vital Statistics



What do I do after getting Letters Probate?

After you get Letters Probate, you should:

- Notify the beneficiaries about you getting Letters Probate and their share of the estate.
 - You can notify them by personal delivery or registered mail.
 - You can give them copies of the will.
- Notify life insurance agents, banks, and other institutions of the death.
- Start collecting the assets of the estate. All debts must be paid before distributing any gifts.
 - If there is a will, assets are distributed accordingly.
 - If there is no will, assets are distributed according to the *Probate Act*. See page 21 for more information.

This list may be helpful. For a full checklist see ‘Checklist for Executors’ on page 30.

- Store any important papers in a safe place. This includes any paper assets like bonds or stocks. These may be sold later or dealt with as outlined in the will.
- Open a bank account for the estate. Close other accounts.
- Get access to any safety deposit boxes the deceased had.
- Collect any income or benefits from the will-maker’s employer.
- Collect proceeds of RRSPs, RRIFs, TFSAs, FHSAs, segregated funds, life insurance benefits, pension plans, or any other financial products if the beneficiary is the estate or there is no named beneficiary.

- Claim government pensions or death benefits.
- Store household and personal property. They may be sold later or dealt with as outlined in the will.
- Determine what real estate property the will-maker owned. This may be sold later or dealt with as outlined in the will.
 - For tax purposes, you will need to know its value at the date of death and its cost.
- Keep detailed records and receipts.

If the will-maker has RRSPs, TFSAs, FHSAs, a life insurance policy, or other financial products that they named beneficiaries for, these will automatically go to the beneficiaries. They will not be considered as part of the estate. This will reduce the cost of probate, but it will not reduce income taxes on proceeds from these financial products.

Proceeds from these accounts and plans without named beneficiaries will be part of the estate. They may be used to cover the will-maker's debt or be distributed to their beneficiaries as stated in the will.

If the will-maker has RRSPs and RRIFs that they named beneficiaries for, the estate pays tax for them even though the proceeds automatically go to the beneficiaries. If there is not enough money in the estate to pay the taxes, the RRSP and RRIF beneficiaries will be required to pay the taxes.

If there are no beneficiaries named for RRSPs, RRIFs, TFSAs, FHSAs, or a life insurance policy, or the beneficiary named is the estate, you should:

- Gather these along with the other assets, and
- Add them to the value of the estate.





You should then:

- Pay the will-maker's debts in this order, as outlined in the *Probate Act*:
 - Anything owed to CRA
 - Mortgages and other secured debts.
 - Funeral expenses (unless pre-paid) to a maximum of \$2,500.
 - Expenses of administration or probate.
 - Medical and nursing home expenses.
 - All other debts, for example, credit cards and loans.
- File the will-maker's income taxes.
 - You can find more information on the [CRA's website](#).
- Get a clearance certificate from the CRA.
 - You can find more information on the [CRA's website](#).
- Distribute any gifts or property as outlined in the will.
- Prepare an accounting.
 - An **accounting** is a report of all the income received and any expenses, fees, and gifts the estate paid.

You may need help from lawyers or accountants during this process. You can use estate funds to pay for their fees.

Canada Revenue Agency (CRA)

- www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4011/preparing-returns-deceased-persons.html
- www.canada.ca/en/revenue-agency/services/tax/individuals/life-events/doing-taxes-someone-died/clearance-certificate.html
- 1-800-959-8281

Preparing Returns for Deceased Persons



Apply for a clearance certificate



What if the will-maker has property in another province?

If the will-maker owned property in another province, you may have to reseal the will in that province later. **Resealing a will** is when a will that is probated and approved in one Commonwealth jurisdiction is probated and approved in another jurisdiction.

What if the will-maker lives on PEI but has property in another country?

If the will-maker has property in another country, they may need a will in that jurisdiction to deal with those assets or a certified international will. If the will-maker died without an international will, you may need legal advice. Their international property may be dealt with according to the laws in that country.

If the will-maker has property in a Commonwealth country, it may be possible to reseal a PEI will in that country.

What if the will-maker lived in another province or country?

If you are an executor for someone who lives in another Canadian province, you may need to apply for Letters Probate in that province or territory.

If the will-maker lived in a different province or country, their property may be distributed according to the laws of that province or country.

What if someone contests the will?


If someone files a claim against the will, the matter goes to Court if it is not settled outside of Court. The Court resolves disputes or claims against a will. The Court listens to evidence from all sides and decides if the will is valid or not.

If you are an executor for a will that is being contested, you may need legal advice. Contact us to see if our [Lawyer Referral Service](#) may work for you.

Community Legal Information

 www.legalinfopei.ca

 info@legalinfopei.ca

 902-892-0853

What if I am an executor for someone who was the executor of another will?

If someone dies and they were the executor of someone else's will, you, as that person's executor, do not become the executor of the other will. You, or someone else, would have to apply to the Court to become the administrator of the other will.

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Do I get paid for being an executor?

The estate should pay you for any legitimate estate expenses you pay out of pocket for settling the estate. You can get a commission that is limited to 5% of the value of the estate, if you get Court approval. You should maintain detailed accounts and a log of the time you spent on administering the estate.

If you are paid by the estate, the estate is considered your employer, and you are an employee. The estate must withhold CPP, and you must pay income tax on the commission.

What if there is a testamentary trust?

A **trust** is a legal agreement between a will-maker and a trustee. The **trustee** manages finances for the will-maker's children or any other beneficiary they identify after they die. The trustee is either named in the will or appointed by the Court.

If a will creates a trust, make sure assets are safe or invested. The trustee manages and distributes the fund according to the will.

The trustee is responsible for:

- Paying the beneficiaries as outlined in the will.
- Setting up and updating records for the trust.
- Making sure any businesses or property are properly managed and insured.
- Filing annual tax returns for the trust.





I don't want to be an executor. What can I do?

If the will-maker who named you as their executor is alive and competent, let them know. They may change their will to name another executor.

If the will-maker is deceased, you must let the Court know that you refuse to act as an executor. You have 30 days if you are a PEI resident or 90 days if you are not a PEI resident to:

- File Form 65K with the Court, or
- Submit a written declaration of your refusal to the Court.

If you want to file your refusal with the Court, you may need legal advice from a lawyer. Contact us and ask about our [Lawyer Referral Service](#).

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- info@legalinfopei.ca
- 902-892-0853; 1-800-240-9798 (toll-free)

If the will-maker named an alternate executor, they become the executor. If the will-maker did not name anyone else, it is as if they did not name an executor in their will. Someone must apply to become the administrator of the estate.

If you do not do your role as an executor or take steps to refuse the role, anyone set to benefit from the will may ask the Court to fine you.

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Information for Administrators

What happens if someone dies without a will?

If someone dies without a will, a family member or friend must apply to the Court to become the administrator. An **administrator** is the person appointed by the Court to distribute the deceased person's property if they die without a will, without choosing an executor, or when the executor cannot act.

An administrator may also be appointed if:

- The executor died or refuses or is unable to act on the will.
- There is a will, but it is invalid.

The *Probate Act* outlines how someone's property is distributed if they die without a will.

After all debts are paid, the estate is divided as follows.

If the deceased:

- Had a spouse and no children, the whole estate goes to their spouse.
- Had a spouse and one child, each person receives half of the estate.
- Had a spouse and more than one child, a third of the estate goes to their spouse and the rest is divided equally among their children.

- Had no spouse or children, the estate goes to their parents.
- Had no living parents, the estate goes to their siblings. If their siblings predeceased them, the sibling's portion goes to the sibling's children.
- Had no spouse, children, parents, siblings, or nieces/nephews, the estate goes to the closest surviving next of kin.
- Had no surviving relatives, the estate may go to the government.

If the deceased is separated but not divorced, and their spouse is not in a common-law relationship with someone else, their will is still valid. Their separation agreement may affect the will.

If the deceased and their spouse are separated but not divorced, and their spouse is in a common-law relationship with someone else, they do not inherit from the estate.

If the deceased's child predeceased them, but they have grandchildren, the grandchildren may get the portion that their child would have received.

If the deceased had RRSP, RRIFs, TFSAs, FHSAs, or a life insurance policy that they named beneficiaries for, these funds will automatically go to the beneficiaries. They will not be considered as part of the estate. This will reduce the cost of probate but will not reduce the income tax on the proceeds for these financial products.

Proceeds from these accounts and plans without named beneficiaries will be part of the estate. They may be used to cover the deceased's debt or distributed to their dependants.

If the deceased has RRSPs and RRIFs that they named beneficiaries for, the estate pays tax for them even though the proceeds automatically go to the beneficiaries. If there is not enough money in the estate to pay the taxes, the RRSP and RRIF beneficiaries will be required to pay the taxes.

If the beneficiary of RRSPs, RRIFs, TFSAs, FHSAs, or a life insurance policy is the estate, or if there are no named beneficiaries, the administrator will:

- Gather these along with the other assets, and
- Add them to the value of the estate.

Who can be an administrator?

An administrator must:

- Be competent. **Competent** means that they can understand legal or financial matters and make legal or financial decisions.
- Be at least 18 years old.
- Be a spouse, family member, or friend.

If more than one person applies to be the administrator, the Court may appoint one administrator or joint administrators.





What are Letters of Administration?

Letters of Administration are documents that the Court grants to the person appointed as the administrator of an estate. This happens after someone applies to be administrator because:

- There is no will, or
- The existing will is invalid, or
- The existing will does not name an executor, or
- There is no executor to act on a will.

How do I apply to be the administrator?

You can apply to be the administrator yourself or hire a lawyer to do it for you. You will need to get certain documents and file certain forms. Applying for administration costs about 0.4% to 1.0% of the value of the estate. The estate covers that cost. You can find the forms on the [Court's website](#).

Supreme Court Forms

 www.courts.pe.ca/forms

Supreme Court Forms




To apply to be the administrator, file with the Court:

- A death certificate. You can get one from [Vital Statistics](#).
- Form 65B or Form 65C – the application for administration.
 - Form 65B is used when there is a will but no executor.
 - Form 65C is used when there is no will.
- Form 65I – this is the oath you take as an administrator.
- Form 65E – this is an inventory of the estate. It includes details about the assets and their value.
- Bond/Surety – you must either:
 - Have two beneficiaries who are willing to pledge their assets as a guarantee. Their assets must be worth the value of assets disclosed on the inventory, or
 - Buy a fiduciary bond worth the same amount. If you buy a fiduciary bond, the estate pays the cost. You may need the Court to release you from the bond after you distribute the estate.
- Form 65H – an affidavit verifying the information you filed, and the deceased’s will. An **affidavit** is a written and sworn statement of facts.
 - Form 65H is only used if there is a will but no executor.


You may need many copies of the Letters of Administration and death certificate. You will need them to prove to banks and other institutions that you are the administrator of the estate.

After you get Letters of Administration, the Court puts a notice in the Royal Gazette. This announces the deceased's death and asks creditors to come forward to get paid. The **Royal Gazette** is the official PEI government newspaper. The government uses it to publish notices. Creditors have six-months after the notice is published to make a claim against the estate.

Vital Statistics

 www.princeedwardisland.ca/en/topic/birth-marriage-and-death-certificates

 vsmontague@gov.pe.ca

 902-838-0880

What do I do after getting Letters of Administration?

After you get Letters of Administration, you should:

- Notify any beneficiaries about you being the administrator and their share of the estate.
 - You can notify them by personal delivery or registered mail.
- Notify any life insurance agents, banks, and other institutions of the death.
- Start collecting the assets of the estate.
 - All debts must be paid before distributing any gifts. If there is a will, the assets are distributed according to the will.
 - If there is no will, the assets are distributed according to the *Probate Act*. See page 21 for more information.

Vital Statistics



This list may be helpful. For a full list, see page ‘Checklist for Administrators’ on page 32.

- Store any important papers in a safe place. This includes any paper assets like bonds or stocks. These may be sold later or dealt with as outlined in the will (if there is one).
- Open a bank account for the estate. Close all other accounts.
- Get access to any safety deposit boxes the deceased had.
- Collect any income or benefits from the deceased’s employer.
- Collect proceeds of RRSPs, RRIFs, TFSAs, FHSAs, segregated funds, life insurance benefits, pension plans, or any other financial products if the beneficiary is the estate or there is no named beneficiary.
- Claim government pensions or death benefits.
- Store household and personal property. They may be sold later or dealt with as outlined in the will (if there is one).
- Determine what real estate property the deceased owned. This may be sold later or dealt with as outlined in the will (if there is one). For tax purposes, you will need to know its selling value at the date of death and its cost.
- Keep detailed records and receipts.





You should then:

- Pay for the deceased's debts in this order, as outlined in the *Probate Act*:
 - Anything owed to CRA
 - Mortgages and other secured debts.
 - Funeral expenses (unless pre-paid) to a maximum of \$2,500.
 - Expenses of administration or probate.
 - Medical and nursing home expenses.
 - All other debts. For example, credit cards and loans.
- File the deceased's income taxes.
 - You can find more information on the [CRA's website](#).
- Get a clearance certificate from the CRA.
 - You can find more information on the [CRA's website](#).
- Distribute any gifts or property as outlined in the will.
- Prepare an accounting.
 - An **accounting** is a report of all the income received and any expenses, fees, and gifts the estate paid.
- Get a release from your bond.

You may need help from lawyers or accountants during this process. The estate pays for their fees.

Canada Revenue Agency (CRA)

- ❶ www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4011/preparing-returns-deceased-persons.html
- ❶ www.canada.ca/en/revenue-agency/services/tax/individuals/life-events/doing-taxes-someone-died/clearance-certificate.html

Preparing Returns for Deceased Persons



Apply for a clearance certificate



Do I get paid for being an administrator?




The estate should pay you for any legitimate estate costs you pay out of pocket for settling the estate. You can get a commission limited to 5% of the estate, if the Court approves it.

How do I get released from the bond?

To get released from the insurance bond, you must close the estate. You may get the release by:

- Getting written consent from the beneficiaries.
 - Give the beneficiaries a copy of the accounting and ask them to sign a final consent to release you from the bond.
- Applying to the Court.
 - In more complex situations, an administrator may need to apply to the Court to get a release from the bond. If you are in this situation, contact us to talk about our [Lawyer Referral Service](#).

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-  info@legalinfopei.ca
-  902-892-0853; 1-800-240-9798 (toll-free)

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Checklist for Executors

- Find the will and read it.
- Make sure a funeral is arranged. The estate pays for the funeral, unless the will-maker had pre-paid for their funeral and burial arrangements.
- Get a Statement of Death from the funeral home and make copies.
- Get an original death certificate and make copies.
- Make an inventory of the estate with details about each asset's value.
- Inform the beneficiaries of the process to settle the estate and their share in the estate.
- Apply for probate. File with the Court:
 - The original will.
 - A funeral director's statement of death or death certificate.
 - Form 65A
 - Form 65D
 - Form 65E
 - Form 65F or a Proof of Will Declaration (if there is one), or two affidavits.
 - Form 65G
 - Form 65XX
- Make copies of the Letters Probate.
- Tell the beneficiaries when you are granted probate.
- Notify life insurance agents, banks, and other institutions of the death.

- Start collecting the assets of the estate. They will be distributed according to the will after debts are paid. Store any important papers in a safe place.
 - Open a bank account for the estate. Close all other accounts.
 - Get access to any safety deposit boxes the deceased had.
 - Collect any income or benefits from the will-maker's employer.
 - Collect proceeds of RRSPs, RRIFs, TFSAs, FHSAs, segregated funds, life insurance benefits, pension plans, or any other financial products if the beneficiary is the estate or there is no named beneficiary.
 - Claim government pensions or death benefits.
 - Store household and personal property.
 - Determine what real estate property the will-maker owned.

- Keep detailed records and receipts.

- Pay debts in this order:
 - Anything owed to CRA.
 - Mortgages and other secured debts.
 - Funeral expenses (unless pre-paid) to a maximum of \$2,500.
 - Expenses of administration or probate.
 - Medical and nursing home expenses.
 - All other debts, for example, credit cards and loans.

- File the will-maker's tax returns.

- Get a clearance certificate from the CRA.

- Distribute gifts according to the will.

- Prepare an accounting.

Checklist for Administrators

- Get a Statement of Death from the funeral home and make copies.
- Get an original death certificate and make copies.
- Make an inventory of the deceased's property. Include details about the assets and their value.
- Inform any beneficiaries, family, or next of kin of the process to administer the estate and their share in the estate.
- Apply for Letters of Administration. File with the Court:
 - A death certificate.
 - Form 65B if there is a will or Form 65C if there is no will.
 - Form 65I
 - Form 65E
 - Bond/Surety
 - Form 65H (only if there is a will but no executor).
- Make copies of the Letters of Administration.
- Notify any beneficiaries about you being the administrator and their share of the estate.
- Notify any life insurance agents, banks, and other institutions of the death.

- Start collecting the assets of the estate. They will be distributed according to the will (if there is one) or the *Probate Act* (if there is no will).
 - Store any important papers in a safe place.
 - Open a bank account for the estate. Close all other accounts.
 - Get access to any safety deposit boxes the deceased had.
 - Collect any income or benefits from the deceased's employer.
 - Collect proceeds of RRSPs, RRIFs, TFSAs, FHSAs, segregated funds, life insurance benefits, pension plans, or any other financial products if the beneficiary is the estate or there is no named beneficiary.
 - Claim government pensions or death benefits.
 - Store household and personal property.
 - Determine what real estate property the deceased owned.

- Keep detailed records and receipts.

- Pay debts in this order:
 - Anything owed to CRA.
 - Mortgages and other secured debts.
 - Funeral expenses (unless pre-paid) to a maximum of \$2,500.
 - Expenses of administration or probate.
 - Medical and nursing home expenses.
 - All other debts, for example, credit card debt or loans.

- File the will-maker's tax returns.

- Get a clearance certificate from the CRA.

- Distribute the estate according to the will (if there is one) or the *Probate Act* (if there is no will). According to the *Probate Act*, if the deceased:
 - Had a spouse and no children, the whole estate goes to their spouse.
 - Had a spouse and one child, each person receives half of the estate.
 - Had a spouse and more than one child, a third of the estate goes to their spouse and the rest is divided equally among their children.
 - Had no spouse or children, the estate goes to their parents.
 - Had no living parents, the estate goes to their siblings. If a sibling predeceased them, the sibling's portion goes to the sibling's children.
 - Had no spouse, children, parents, siblings, or nieces/nephews, the estate goes to the closest surviving next of kin.
 - Had no surviving relatives, the estate may go to the government.

- Prepare an accounting.

- Apply to Court to get released from your bond.

Glossary

Accounting

A report of all the income received and any expenses, fees, and gifts the estate paid.

Administrator

The person appointed by the Court to distribute the deceased person's property if they die without a will, without choosing an executor, or when the executor cannot act.

Affidavit

A written and sworn statement of facts.

Alternate executor

The person who acts as an executor if the executor named cannot or does not want to be an executor.

Beneficiary

A person or organization named in the will to receive something from the estate.

Capital gains tax

A tax that is paid when any property that is not a person's primary residence is disposed of. This could be by selling the property or by passing it on through an estate.

Clearance certificate

A document from the Canada Revenue Agency that states that all the deceased person's taxes have been paid.

Codicil

An addition or change that the will-maker made to their will.



**Co-executors**

People a will-maker chooses to act together to carry out the will.

Competent

Being able to understand financial or legal matters and make informed legal or financial decisions.

Estate

The property someone leaves behind after they die. This includes personal possessions, land, buildings, and money.

Executor

The person a will-maker chooses to carry out their wishes outlined in their will. A will-maker can choose more than one executor.

Letters of Administration

Documents that the Supreme Court grants to the person appointed as the administrator of an estate.

Letters Probate

Documents that the Supreme Court grants that confirm the executor's authority to act on a will.

Probate

The process of declaring a will valid.

Resealing a will

When a will that is probated and approved in one Commonwealth jurisdiction is probated and approved in another jurisdiction.

Royal Gazette

The official PEI government newspaper. The government uses it to publish notices.

Rules of Civil Procedure

A guide to the legal process.

Testator

The person who the will belongs to.

Trust

A legal agreement between an asset owner and a trustee. It makes the trustee responsible for managing assets for beneficiaries.

Trustee

Manages assets for a trust for children under 18 and/or beneficiaries after the will-maker's death.

Will

A legal document that outlines what someone wants done with their property and who will distribute their property after they die.

Support Services

General Supports

Adult Protection Program

-  www.princeedwardisland.ca/en/information/health-pei/adult-protection-program
-  Charlottetown: 902-368-4790
Montague: 902-838-0786
O'Leary: 902-859-8730
Souris: 902-687-7096
Summerside: 902-888-8440

Provides help or intervention to vulnerable adults who are unable to protect themselves from abuse or neglect.


Hospice Palliative Care Association of PEI (Hospice PEI)

-  www.hospicepei.ca
-  hpca@hospicepei.ca
-  902-368-4498

Hospice PEI is a community of caring individuals making each day count for their care recipients, their families and loved ones through their volunteer supported, hospice, caregiver and grief support programs. They also advocate and educate for quality hospice and palliative care both provincially and nationally.


Eastern Kings Hospice Inc.

 www.facebook.com/easternkingshospiceinc

 902-215-0286


Provides bedside support for individuals and their families who are going through an end-of-life experience.


Southern Kings Hospice Association

 902-838-2269

Coordinates volunteers who provide high quality palliative care and support to terminally ill people and their families.


Office of the Public Trustee, Public and Official Guardian

 www.princeedwardisland.ca/en/information/justice-and-public-safety/public-trustee-public-and-official-guardian


 902-368-6281

A provincial government office that can be a substitute decision maker, guardian, or trustee if there is no other option.

Seniors Navigator

 www.princeedwardisland.ca/en/information/social-development-and-seniors/seniors-navigator

 seniors@gov.pe.ca

 902-213-5820; 1-866-770-0588

Supports near seniors, seniors, their caregivers, and family members with accessing programs and services from community organizations, municipal, provincial and federal governments.





Supreme Court of PEI – Estates Section

☎ 902-368-6004

The Estates Section of the PEI Supreme Court deals with matters about wills.

Vital Statistics

📄 www.princeedwardisland.ca/en/topic/birth-marriage-and-death-certificates

✉ vsmontague@gov.pe.ca

☎ 902-838-0880

A government department that issues birth, marriage, and death certificates and other documents and licenses.

More Resources

Community Legal Information also offers these resources:

- [Wills](#)
- [Planning Ahead and Staying Safe: A Guide for Indigenous Seniors](#)
- [Powers of Attorney](#)
- [Health Care Decisions](#)

We have guides on other legal topics. All guides are free and are on our website. Contact us for paper copies.

Community Legal Information

📄 www.legalinfopei.ca

✉ info@legalinfopei.ca

☎ 902-892-0853; 1-800-240-9798 (toll-free)



Community Legal Information is a charitable organization that receives funding from Justice Canada, the Law Foundation of PEI, the Law Society of PEI, the PEI Department of Justice and Public Safety, and other sources. CLI provides Islanders with understandable and useful information about the law and the justice system in Prince Edward Island.

For more information on other legal topics, visit www.legalinfopei.ca, email us at info@legalinfopei.ca, or call us at **902-892-0853** or **1-800-240-9798**. You can also find us on social media.

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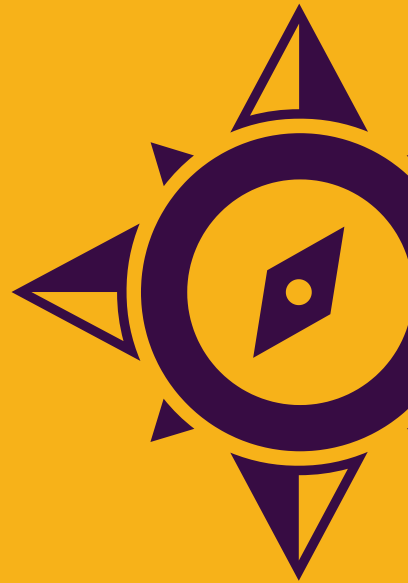
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