

SURROGATE CHECKLIST

Date _____ Clerk _____ Estate of _____ File # _____

Returned Via _____

PLEASE ENSURE AFFIDAVIT (NC2) IS PROPERLY RE-SWORN IF ANY CHANGES HAVE BEEN MADE TO IT OR ANY ATTACHMENTS. IF NOT RE-SWORN, YOUR APPLICATION WILL BE AUTOMATICALLY RETURNED.

I. PRELIMINARY MATTERS

Applications will be returned without further review or comment by the Clerks or a Justice if your application has one or more of the following deficiencies:

- Not our Judicial Centre (Rule 6) - File in _____.
- The Will/Codicil is not attached (Rule 15).
- Back of Will/Codicil - Rule 16(1), (2) and (8)
 - All markings to be on the back of the last (signature) page of the Will/Codicil.
 - Exhibit "A" to Affidavit of Witness/Handwriting not marked/incorrectly sworn/sworn wrong date - s/b _____.
 - P.R./Commissioner/Notary signature missing/differs from NC 2.
- Documents are not signed _____
- The wrong application has been filed (Rule 10(1) and (2)). Should be _____

PLEASE CORRECT YOUR APPLICATION AND RESUBMIT FOR FULL REVIEW.

II. APPLICATION FOR A GRANT WHEN THERE IS A WILL PURSUANT TO RULE 13(1)

Some forms may appear to be a duplication of information. To ensure your application is completed properly, you should make sure all forms have the required information. It is important that in addition to all the forms being properly completed, the Application contain sufficient information for the reviewing Justice to properly consider whether your application for the Grant applied for be granted.

“EAA” *Estate Administration Act*
“WSA” *Wills and Succession Act*
“WA” *Wills Act*
“Rule” Surrogate Rules
“AIP” Adult Interdependent Partner

- 15/30____day survivorship clause specified in will - affidavit on application should be sworn after such period.
- Please indicate on Form NC 1 or by covering letter the number of certified copies of the grant required.
- Applicable legislation – WA or WSA.

NC 1 Application For Grant (also Forms NC 28; NC 30; NC 32)

- Form missing/incorrect form; should use form NC _____.
- Information incorrect/incomplete_____.

- Application not dated/signed/address for service missing by _____Applicant _____ Solicitor.
- NC 1 continued on 2nd page, Estate name must appear on 2nd page; order should be Justice of the Court of Queen's Bench of Alberta.

NC 2 Affidavit on Application (Forms missing/incorrect form; should use NC ; not sworn/affirmed) new form June 1st, 2015

- Paragraph 1 - status/right of P.R. to apply incorrect/incomplete; must clear off all other executors, or other persons having prior or equal right to apply (predeceased, renounced, nominated, residuary beneficiary, etc.). On or after February 1, 2012 former spouse or former AIP is revoked as executor (apply Section 25 WSA).
- Paragraph #3 incomplete (Acknowledgment of Trustee, Codicils, Renunciations, Affidavit to Dispense with Bond/other Security, Consents, etc.).
- Paragraph #4 missing reference to the following notice(s) _____.
- Special matters, if any, need to be included and addressed.
- Require undertaking to file a revised inventory if values are unknown/to be determined. (User Notes 2.9 NC 7)

NC 3 Schedule 1 - Deceased (Form missing/complete all sections)

- Date/place of deceased's birth/death missing.
- Name of deceased/family member differs from will/codicil - use AKA or, in will referred to as _____.
- Require particulars (including name & complete address) of spouse, former spouses, AIP, and each child of the deceased. Where spouse, former spouses or AIP is deceased or divorced, include date of death/divorce/relationship terminated.
- Require name & address of trustees/attorney for any mentally incompetent spouse or adult child. If no trustee/attorney appointed, give particulars (deal with Section 11(4) of EAA).
- Where Sections 34 or 35 of Wills Act or Sections 32 or 33 of the WSA apply, give names of all predeceased children and confirm if they left surviving spouse/children (must identify surviving children in NC 6).
- Information specific to each child, minor grandchild or minor great-grandchild is missing (Sections 72 and 73 of WSA).

NC 4 Schedule 2 - Will/Codicil (Form missing/complete all sections)

- Date of will/codicil should be _____.
- Missing pages of will/codicil _____.
- Explain here (or in NC 9) why the witnesses cannot be located and what attempts have been made to locate.
- Clear off and/or provide any memorandum or other documents referred to in clause #_____ of will/codicil (Rule 22).
- Interlineations, alterations, erasures or obliterations in will/codicil not addressed.
- Name of witness _____ incorrect or not addressed.
- Section not completed on entering into marriage or adult interdependent partner agreement after the date of the will.

NC 5 Schedule 3 - Personal Representative(s) (Form missing/complete all sections)

- Status is incorrect / incomplete (named in the will or person with priority to apply).
- Name of P.R _____ differs from Will/Codicil (use AKA or in will referred to as _____).
- Indicate names of persons with prior or equal right to apply. Give names of persons having renounced or been nominated.

NC 6 Schedule 4 - Beneficiaries (Form missing/complete all sections)

- Age of beneficiaries missing/specify life estate/in trust for beneficiary _____.
- Name of beneficiary _____ differs from will: use AKA or in the Will referred to as _____.
- Address not complete for beneficiary _____. PO Box address not sufficient.

- Gift missing for beneficiary, (or void beneficiary) _____ (if adeemed, abated or lapsed, please give full particulars).
- Nature of gift incorrect/incomplete for beneficiary _____.
- Paragraph # of Will or Codicil incorrect for beneficiary _____.
- Name all predeceased siblings, identify their surviving spouse/children and set out the share of gift each child receives where Sections 34 or 35 of the Wills Act or Sections 25, 32 or 33 of the WSA apply.
- Incorrect distribution pursuant to the Will or WSA. No gift to former Spouse/AIP on or after February 1, 2012: apply Section 25 of WSA
- Require affidavit regarding missing or unknown beneficiaries Rule 27 (Form NC 25).
- State amount of property passing as a percentage or fraction unless specifically dealt with or a specific bequest in will.
- Information regarding void / revoked gifts missing /incomplete.
- Missing clause "Except as otherwise provided, all beneficiaries are mentally capable".

NC 6.1 Acknowledgment of Trustee (Form missing/complete all sections)

- Require Acknowledgment of Trustee (name/age/address/paragraph # of will missing) or undertaking to provide at a later date but prior to any distribution of funds to trustee.
- Require NC 11 Affidavit of Witness - incomplete/not prescribed form.

NC 7 Schedule 5 - Inventory of Property and Debts (Alberta assets including movable assets such as Canadian bank accounts/debts only/at date of death)

- Form missing/complete all sections.
- State where property is located – legal or municipal address.
- Arithmetic errors / gross or net values in opening summary not consistent with closing summary.

NC 8/NC 9 Affidavit of Witness/Handwriting of deceased (Form missing/not sworn) **Reminder only new form NC 8 June 1st, 2015**

- Must explain here (or in Form NC 4) why there is no Form NC 8 from either attesting witness to will/codicil.
- The NC 8 must be sworn prior to the applicant swearing the NC 2.
- Paragraph #2 - The will/codicil date left blank/incorrect _____.
- Paragraphs #5 - Address interlineations, alterations, erasures or obliterations in will/codicil.
- Add a paragraph 6, if the deceased was blind, marked the will/codicil; did not fully understand the language or requested another person to sign on the deceased's behalf.
- If will/codicil where witnesses are deceased or unable to give an affidavit then provide an affidavit in form NC 9 as per Rule 19 or if will/codicil is in holograph form then provide an affidavit in Form NC 9 as per Rule 16(4).

Renunciations/Nominations (Form NC 12; NC 14; NC 15; NC 16) (Form incorrect, should use Form NC _____)

- Renunciation(s)/nomination(s) from _____ missing.
- NC 11 Affidavit of Witness from _____ missing/incomplete/not prescribed form.
- Reference to the wrong Act s/b WSA.

Bond/Security Requirement (Rule 28 & 29 and 31(1)) (Required only where none of the P.R.s are a resident of Alberta)

- Bond/Other Security not required - remove all reference.
- Bond/Other Security required (Rule 28(1)) – PR may apply to dispense with /reduce amount of bond (Rule 29(1) NC 17)
- Consents from beneficiaries (NC 18) may be required by the Court.
- NC11 is missing/incorrect for the Consent to Waive Bond/Other Security of _____

Notice to Beneficiaries (Form NC 19; NC 20; NC 21; NC20.1) Section 12 Estate Administration Act.

- Incorrect/June 1st new form of notice sent to beneficiary/void beneficiary _____, use NC _____.
- Address/name incorrect or incomplete for beneficiary _____.
- Description of gift/void gift incorrect/incomplete for beneficiary _____.

Notice to family members (Form NC 22; NC 23; NC 24; NC 24.1) Section 11 Estate Administration Act. Rule 26

- Notice to spouse of right to claim Matrimonial Property (NC 22) (required when spouse does not receive all of the estate and when parties were married at time of death or, if divorced or separated, divorce or separation was within two years of death). Service can be by acknowledgement by spouse, recorded mail or on solicitor acknowledging for spouse. Acknowledgement of service from spouse, if obtained, must be an original for filing.
- Notice to spouse or AIP of right to claim Family Maintenance and Support (NC 23) missing. Notice required if spouse or AIP is not receiving all of the estate. Service can be by acknowledgement by spouse or AIP, recorded mail or on solicitor acknowledging for spouse or AIP. Acknowledgement of service from spouse or AIP, if obtained, must be an original for filing.
- Notice to a child/dependent child or minor grandchild or minor great-grandchild under the WSA (NC 24) required (Note: Must serve trustee or attorney if appointed, guardian/parent of a minor child).
- Notice to the Public Trustee under Section 11 of the EAA (NC 24.1) missing for _____.

NC 27 Affidavit of Service (Form missing/incomplete)

- Beneficiary(ies)/Trustee/Attorney/Guardian of Minor child not served _____.
- For each beneficiary served, name & address of service, date & mode of service and name of notice served, must be clearly stated in the Affidavit.
- Attach an originally signed Notice to Beneficiaries and mark same as exhibit(s) to the affidavit (you are not required to attach the application or postal receipts).
- Form _____ not served on Trustee/Attorney/Guardian of minor (_____) pursuant to Section 11 EAA.
- Other**

III. APPLICATION FOR A GRANT ON INTESTACY PURSUANT TO RULE 13(2)

- Please indicate on Form NC 1 or by covering letter the number of certified copies of the grant required.
- Date of death before or after proclamation of WSA.

NC 1 Application For Grant (also Forms NC 28; NC 32)

- Form missing/incorrect form; should use form NC _____.
- Information incorrect/incomplete _____.
- Application not dated/signed/address for service missing by Applicant Solicitor.
- NC1 continued on 2nd page, Estate name must appear on 2nd page; order should be Justice of the Court of Queen's Bench of Alberta.

NC 2 Affidavit on Application (Forms missing/incorrect form; should use NC ; not sworn/affirmed) new form June 1st, 2015

- Paragraph 1 - status/right of P.R. to apply incorrect/incomplete; must clear off all other persons having prior or equal right to apply (predeceased, renounced, nominated, residuary beneficiary, etc.). On or after June 1, 2015 surviving spouse's priority revoked apply Section 13 EAA and Section 63 WSA
- Paragraph #3 incomplete (Renunciations, Affidavit to Dispense with Bond/other Security, Consents, etc.).

- Paragraph #4 missing reference to the following notice(s) _____.
- Special matters, if any, need to be included and addressed.

NC 3 Schedule 1 - Deceased (Form missing/complete all sections)

- Date/place of deceased's birth/death missing.
- Require particulars (including name & complete address) of spouse, former spouses, AIP, and each child of the deceased (children of which relationship?). Where spouse, former spouses or AIP is deceased or divorced include date of death/divorce/relationship terminated. No gift to former spouse on or after February 1, 2012 apply Section 63 WSA.
- Require name & address of trustees/attorney for any mentally incompetent spouse or adult child. If no trustee/attorney appointed, give particulars (deal with Section 11(4) of WSA).
- Where Section 3(3) of Intestate Succession Act or Section 66 of the WSA apply, give names of all predeceased children & confirm if they left surviving spouse/children (must identify surviving children in NC6).
- Information specific to each child, minor grandchild or minor great-grandchild is missing (sections 72 and 73 of the WSA).

NC 5 Schedule 3 - Personal Representative(s) (Form missing/complete all sections)

- Status is incorrect / incomplete (person with priority to apply).
- Indicate names of persons with prior or equal right to apply. Give names of persons having renounced or nominated.

NC 6 Schedule 4 - Beneficiaries (Form missing/complete all sections)

- Age of beneficiaries missing.
- Address not complete for beneficiary _____. P.O. Box address is not sufficient.
- Nature of gift incorrect/incomplete for beneficiary _____.
- Section # of the Intestate Succession Act/WSA incorrect for beneficiary _____.
- Name all predeceased siblings, identify their surviving spouse/children and set out the share of gift each child receives where Section 6 of the Intestate Succession Act or Section 63/66 of the WSA.
- Incorrect distribution pursuant to the Intestate Succession Act /WSA. No gift to former spouse on or after February 1, 2012 apply Section 63 WSA.
- Require affidavit regarding missing or unknown beneficiaries Rule 27 (Form NC 25).
- State amount of property passing as a percentage or fraction.
- Missing clause "Except as otherwise provided, all beneficiaries are mentally capable".

NC 7 Schedule 5 - Inventory of Property and Debts (Alberta assets including movable assets such as Canadian bank accounts/debts only/at date of death)

- Form missing/complete all sections.
- State where property is located – legal or municipal address to determine jurisdiction.
- Arithmetic errors/gross or net values in opening summary not consistent with closing summary.
- Require undertaking to file a revised inventory if values are unknown/to be determined. (User Notes 2.9 NC7)

Renunciations/Nominations (Form NC 15; NC 16) (Form incorrect, should use Form NC _____)

- Renunciation(s)/nomination(s) from _____ missing.
- NC 11 Affidavit of Witness from _____ missing/incomplete/not prescribed form.
- Reference to the wrong Act s/b EAA.

Bond/Security Requirement (Rule 28 & 29 and 31(1)) (Required only where none of the P.R.s are a resident of Alberta)

- Bond/Other Security not required - remove all reference.
- Bond/Other Security required (Rule 28 (1)) – PR may apply to dispense with /reduce amount of bond (Rule 29(1) NC17)
- Consents (NC18) may be required by the Court.
- NC11 is missing/incorrect for the Consent to Waive Bond/Other Security of _____

Notice to Beneficiaries (Form NC 21;) Section 12 EAA.

- Incorrect/June 1st new form of notice sent to beneficiary _____, use NC 21.
- Address/name incorrect or incomplete for beneficiary _____.
- Description of gift incorrect/incomplete for beneficiary _____.

Notice to family members (Form NC 22; NC 23; NC 24; NC 24.1) Section 11 EAA Rule 26

- Notice to spouse of right to claim Matrimonial Property (NC 22) (required when spouse does not get all of the estate and when parties were married at time of death or, if divorced, divorce was within two years of death). Service can be by acknowledgment by spouse, recorded mail or on solicitor acknowledging for spouse. Acknowledgement of service from spouse, if obtained, must be an original for filing.
- Notice to spouse or AIP of right to claim Family Maintenance and Support (NC 23) missing. Notice required if spouse or AIP not receiving all of the estate. Service can be by acknowledgment by spouse or AIP, recorded mail or solicitor acknowledging for spouse or AIP. Acknowledgement of service from spouse or AIP, if obtained, must be an original for filing.
- Notice to a child/dependent child or minor grandchild or minor great-grandchild under the WSA (NC 24) required. Must serve trustee or attorney if appointed, guardian/parent of a minor child (see Section 11 of the EAA).
- Notice to the Public Trustee under Section 11 of the EAA (NC 24.1) missing for (_____).

NC 27 Affidavit of Service (Form missing/incomplete)

- Beneficiary(ies)/Trustee/Attorney/Guardian of Minor child not served _____.
- For each beneficiary served, name & address of service, date & mode of service and name of notice served, must be clearly stated in the Affidavit.
- Attach an originally signed Notice to Beneficiaries and mark same as exhibit(s) to the affidavit (you are not required to attach the application or postal receipts).
- Form _____ not served on Trustee/Attorney/Guardian of minor (_____) pursuant to Section 11 EAA.
- Other**

April, 2019