

## WILLS

A Will is a written document which provides for the disposition of your property upon your death. A Will comes into effect only upon your death.

A Will is an important legal document as it can assist in the orderly conduct of your business and financial affairs after your death. As well, through the use of a Will, you can ensure that your testamentary wishes are carried out. For example, in the absence of a Will, your property will be divided amongst immediate family members in specified proportions as set out by law. The specified proportions are subject to the claims of dependents who may not be adequately provided for in the statutory scheme and subject to the claim of a surviving spouse under the Family Law Act. The division and method of distribution may not be what you intended and may not meet the needs of your family. In addition, distribution of your estate is likely to be slower and more expensive if there is no Will. As well, absent a will, minor children will receive their share of your estate at the age of eighteen (18), whereas many people provide in their Wills that their children or grandchildren should not receive their share until a later specified age, such as twenty-one (21) or twenty-five (25).

Any property held on a joint tenancy (for example, a family home) will automatically pass to the surviving joint owner. The Will of

the joint owner who dies first will have no effect on such property.

Wills prepared by this firm usually make provisions for the appointment of guardians of infant children. While such a provision is not binding on the courts, your wishes as specified in your Will will carry great weight.

A Will is not an appropriate document to specify funeral arrangements and anatomical gifts as the Will is often not reviewed until after the deceased is buried. It is therefore preferable to deal with these matters in other ways, such as discussing funeral arrangements with family members and the executor and providing for anatomical gifts by completing the relevant portion of your Ontario Driver's License or the new Ontario Health Card.

In Ontario, a Will is revoked by marriage unless the Will is stated to be in contemplation of the particular marriage. Unless a contrary intention is expressed, a divorce will revoke the provisions of a Will in favour of a former spouse.

Wills are important legal documents and should be prepared after careful consideration and legal advice. In our opinion, the cost of preparing a Will is greatly exceeded by the peace of mind and ability to deal with your business affairs after your death.



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## POWERS OF ATTORNEY

A Power of Attorney is a form of a contract which appoints or authorizes the person named therein (your attorney) to act on your behalf and with your full authority when you may be unable to do so, such as during a time of legal incapacity. A Power of Attorney is valid only during your lifetime and ceases to be valid upon your death.

A Powers of Attorney is an important legal document as it can assist in the orderly conduct of your business and financial affairs during your lifetime.

The Substitute Decisions Act recognizes two different Continuing Powers of Attorney. One for Property (finances) and the other for Personal Care.

The person making a Continuing Power of Attorney for Property may give his or her attorney the authority to make any type of decision related to the person's property

(finances) that the person can make themselves, except make a Will. Conditions or limits can be imposed. The person must be at least 18 years old and mentally competent.

The person making a Power of Attorney for Personal Care authorizes his or her attorney to make decisions for health care, nutrition, shelter, clothing, hygiene or safety if the person is incapable of making decisions on his or her own. The person must be at least 16 years old and mentally competent. This power includes the right of the attorney to give or refuse consent to medical treatment on the person's behalf.

Powers of Attorney are important legal documents and should be prepared after careful consideration and legal advice. In our opinion, the cost of preparing Powers of Attorney are greatly exceeded by the peace of mind and ability to deal with your business affairs during a period of incapacity.