

# SURROGATE CHECKLIST- APPLICATION RETURNED FOR THE FOLLOWING CORRECTIONS

Date \_\_\_\_\_ Clerk \_\_\_\_\_ Estate of \_\_\_\_\_ File # \_\_\_\_\_ Returned Via \_\_\_\_\_

**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.**

- Not our Judicial Centre (Rule 6) - File in \_\_\_\_\_.
- 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.
- Before/after date of death/will – proclamation of Wills and Succession Act.

## **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.
- NC1 continued on 2<sup>nd</sup> page, Estate name must appear on 2<sup>nd</sup> 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 1<sup>st</sup>, 2015**

- Para 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 revoked as executor apply Section 25 WSA; on or after June 1, 2015 former AIP priority revoked apply Section 13 EAA and Section 63 WSA
- Paragraph #3 incomplete (Acknowledgment of Trustee, Codicils, Renunciations, Affidavit to Dispense with Bond/other Security, Consents, etc.).
- Notices to be served in paragraph #4 missing \_\_\_\_\_.

## **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".
- Require particulars (including name & complete address) of spouse, former spouses, adult interdependent partner, and each child of the deceased (children of which relationship) Where spouse, former spouses or adult interdependent partner is deceased or divorced include date of death/divorce/relationship terminated. No gift to former Spouse/AIP on or after February 1, 2012 apply Section 25 or 63 WSA
- Require name & address of trustees/attorney for any mentally incompetent spouse or adult child. If no trustee/attorney appointed, give particulars.
- Where Section 34/35 of Wills Act or Section 3(3) of Intestate Succession Act or Section 32/33 or 66 of the Wills and Succession Act 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 (section 72/73 of the Wills and Succession Act is missing).

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

- Date of will/codicil should be \_\_\_\_\_.
- Explain here (or in NC9) 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.

## **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".
- 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 Section # of the Intestate Succession Act/Wills and Succession Act incorrect for beneficiary \_\_\_\_\_.
- Name all predeceased siblings, identify their surviving spouse/children and set out the share of gift each child receives where Section.34/35 of the Wills Act or Section 6 of the Intestate Succession Act or Section 25/32/33 or 63/67 of the Wills and Succession Act.
- Incorrect distribution pursuant to the Will/Intestate Succession Act /WSA. No gift to former Spouse/AIP on or after February 1, 2012 apply Section 25 or 63 WSA
- Require affidavit regarding missing or unknown beneficiaries (Form NC 25). SR 27
- State amount of property passing as a percentage or fraction unless specific bequest in will.
- Information regarding void / revoked gifts missing /incomplete.
- Missing clause "Except as otherwise provided, all beneficiaries are mentally capable".

**PLEASE LEAVE SHEET ATTACHED WHEN RE-SUBMITTING APPLICATION**

**SEE OVER**

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

- Acknowledgment of trustee not required - remove all reference (paragraph 5 on NC2).
- Require Acknowledgment of Trustee (name/age/address/paragraph # of will missing).
- Require NC11 Affidavit of Execution - 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 to determine jurisdiction. (Rule 6)
- Net value on top summary does not match net value on bottom/second page.
- Require undertaking to file a revised inventory if values are unknown/to be determined. (User Notes 2.8 NC7)

**NC 8/NC 9 Affidavit of Witness/Handwriting of deceased (Form missing/not sworn) \*\*Reminder only new form NC8 June 1<sup>st</sup>, 2015**

- Must explain here (or in Form NC 4) why there is no Form NC 8 from either attesting witness to will/codicil.
- 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 NC9 as per Rule 19 or if will/codicil is in holograph form then provide an affidavit in Form NC9 as per Rule 16(4).

**Back of Will/Codicil - Rule 16(1), (2) and (8) (all markings to be on 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.'s/Commissioner/Notary signature missing/differs from NC2.
- Line for Justice of Court of Queen's Bench of Alberta to sign is missing.

**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 Execution from \_\_\_\_\_ missing/incomplete/not prescribed form.
- Reference to the wrong Act s/b Estate Administration Act.

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

- Bond/Other Security not required - remove all reference.
- Bond/Other Security required – PR may apply to dispense with /reduce amount of bond (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 19; NC 20; NC 21; NC20.1) Section 12 Estate Administration Act (EAA).**

- Incorrect/June 1<sup>st</sup> new form of notice sent to beneficiary/void beneficiary \_\_\_\_\_, use NC \_\_\_\_\_.
- Description of gift/void gift incorrect/incomplete for beneficiary \_\_\_\_\_.

**Notice to Dependents (Form NC 22; NC 23; NC 24; NC 24.1) Section 11 Estate Administration Act (EAA) SR 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); original acknowledgements are required (required if spouse does not get all of the estate). Service can be by recorded mail or on solicitor acknowledging for spouse.
- Notice to spouse or adult interdependent partner of right to claim Family Maintenance (NC 23) missing; original acknowledgements are required (required if spouse or AIP does not get all of the estate). Service can be by recorded mail/solicitor acknowledging for AIP/Spouse
- Notice to a child/dependent child or minor grandchild or minor great-grandchild under the Wills and Succession Act (NC 24) required (Note: Must serve trustee or attorney if appointed, guardian/parent of a minor child).
- Notice to the Public Trustee under the Estate Administration Act (NC 24.1) missing for ( \_\_\_\_\_ )Section 11 EAA

**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 "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 (see attached)**

**PLEASE ENSURE AFFIDAVIT (NC 2) IS PROPERLY RE-SWORN IF CHANGES HAVE BEEN MADE TO ANY ATTACHMENTS, IF NOT RE-SWORN APPLICATION WILL BE AUTOMATICALLY RETURNED**

**PLEASE LEAVE SHEET ATTACHED WHEN RE-SUBMITTING APPLICATION**

August 2015