

Glossary of Estate Terms

Here are a few terms or expressions you may run into in a will or estate context. These are not precise legal definitions; for precision you can look these definitions up yourself or consult with a lawyer or notary for clarification.

- Beneficiary is a person or organization that is entitled to receive some advantage under a will, sometimes a gift of money or property or use of property.
- Creditor is an individual or organization to whom an estate owes a debt.
- Decedent is the term given a person who is deceased.
- Estate is the total property (both real and personal) that is owned by the decedent immediately prior to death.
- Executor, Executrix, Estate Trustee are terms to describe a person or institution appointed by a testator to carry out the terms of their will.
- Family Law regulates the rights of spouses and dependants in regard to property, support inheritance and other matters of marriage, divorce and separation.
- Implied Trust is a trust arrangement inferred by law. It presumes an intention on the participants, for instance in a non-spousal joint investment account, to create a trust arrangement upon the death of one of the joint account holders for the benefit of another. A good example: a mother and daughter are joint account holders of mother's investment account to avoid paying probate fees when mother dies. The account passes into daughter's hands at mother's death but in the absence of evidence of mother "gifting" the investment account to daughter, daughter is deemed to be holding the investment in trust for mother's beneficiaries. Such situations often result in litigation between competing parties.
- Joint Account means a bank or investment account owned by two people, and which passes into the hands of the survivor upon the death of the other owner. Jointly owned real estate has a similar feature. Joint accounts or joint ownership will often allow bank and investment accounts to pass outside of probate.
- Litigation means the process of taking legal action by taking a case to court so that a judgement can be made.
- Power of Attorney is the authority to act for another in legal, financial or health matters. The person given the right to act is the attorney for property; he or she is improperly but nonetheless typically referred to as the Power of Attorney or POA.
- Probate is the process whereby a court establishes the validity of a will. Courts may levy a fee for probate which many people call "probate fee" or "probate tax", and which is based upon the value of the estate. Probate is usually required by financial institutions and provincial land registry systems in order to transfer bank and investment accounts and change title to property.
- Testator is the formal name of the person who has prepared a will. They may also be referred to as a will-maker.
- Will is the name of the document that directs the will-maker's final instructions on division and distribution of his or her assets at the date of death.
- Wills and Estates Succession Act (WESA) is British Columbia legislation that governs wills and estate matters. It has gained some attention as a result of a provision which, in certain circumstances, allows a court to add an individual as a beneficiary to a will in which they had been excluded.