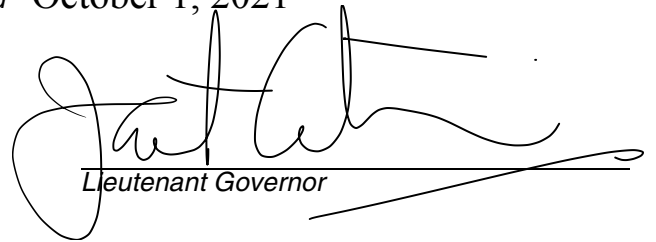


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 540

, Approved and Ordered October 1, 2021



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective December 1, 2021, the Supreme Court Civil Rules, B.C. Reg. 168/2009, are amended as set out in the attached Schedule.



Attorney General and Minister Responsible for Housing



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Court Rules Act, R.S.B.C. 1996, c. 80, s. 1*

Other: *O.C. 302/2009*

R10462896

SCHEDULE

1 Rule 23-3 (5) of the Supreme Court Civil Rules, B.C. Reg. 168/2009, is amended

(a) by repealing paragraph (a) and substituting the following:

(a) any document pertaining to the reciprocal enforcement of orders under the *Court Order Enforcement Act*; , **and**

(b) in paragraph (b) by adding the following subparagraph:

(viii) an originally signed version of a physical will, as defined in Rule 25-1 (1).

2 Rule 25-1 (1) is amended by adding the following definitions:

“physical will” means a written will that is not in electronic form;

“subscribing witness” includes a witness who subscribes a will while in the electronic presence of the will-maker;

“third-party electronic repository” means an electronic repository that is

(a) used to store an electronic will, and

(b) maintained by a person other than the will-maker; .

3 Rule 25-1 is amended by adding the following subrule:

Electronic wills – originals and digital reproductions

(7) For the purposes of this Part,

(a) an electronic will is deemed to be in its original electronic form if the will is in the electronic form in which it was first saved after being signed, and

(b) a document is a digital reproduction of an electronic will if the will is in an electronic form other than its original electronic form.

4 Rule 25-2 is amended

(a) by repealing subrule (1) and substituting the following:

Applications for estate grant or resealing

(1) Unless the court otherwise orders, a person intending to apply for either of the following must comply with the requirements of this rule:

(a) an estate grant;

(b) the resealing of a foreign grant in relation to the estate of a deceased. , **and**

(b) by adding the following subrules:

Notice of proposed application in relation to estate

(1.1) A person intending to bring an application referred to in subrule (1) must

(a) deliver the following documents to the persons referred to in subrule (2):

(i) a notice of proposed application in relation to estate in Form P1;

- (ii) if the intended applicant intends to apply for a grant of probate or a grant of administration with will annexed, a copy of the will in relation to which the application is to be made;
 - (iii) if the intended applicant intends to apply for the resealing of a foreign grant or for an ancillary grant of probate or an ancillary grant of administration with will annexed, a copy of the foreign grant and, if a copy of the will in relation to which the foreign grant was issued is not attached to the foreign grant, a copy of the will;
 - (iv) if the intended applicant intends to apply for an ancillary grant of administration without will annexed, a copy of the foreign grant, and
- (b) if the intended applicant is required to deliver a copy of a will under paragraph (a) (i) or (ii) and the will is an electronic will, the recipient of the notice is entitled to the will within 7 days after delivering a demand for the will in its original electronic form in Form P46.

**Recipient of notice entitled to will
in original electronic form**

- (1.2) A recipient of a notice described in subrule (1.1) (a) (i) is entitled to either
- (a) receive the will in its original electronic form, or
 - (b) receive access to the will in its original electronic form, if the original electronic will is stored only at a secure online location.

Demand for will in original electronic form

- (1.3) A notice recipient's right to the will or right to access under subrule (1.2) may be exercised by delivering a demand for the will in its original electronic form in Form P46.

Provision of will in original electronic form

- (1.4) An applicant must provide the will in its original electronic form or provide access to the will in its original electronic form within 7 days of receiving a demand in Form P46.

5 *Rule 25-2 is amended by adding the following subrule:*

When application may be made

- (2.1) A person may not make an application referred to in subrule (1) until at least 21 days after the date on which the person delivers the notice and other applicable materials referred to in subrule (1.1).

6 *Rule 25-2 (3) is amended by adding the following paragraph:*

- (h) if the will to which the notice relates does not contain a visible signature, the reasons why there is no visible signature.

7 *Rule 25-2 (10) is repealed and the following substituted:*

**If person to whom notice is to be delivered
is a mentally incompetent person**

- (10) Subrule (11) applies if, in respect of a person to whom documents are to be delivered under subrule (1),
- (a) one of the following is appointed for the person:
 - (i) a committee as defined in the *Patients Property Act*;
 - (ii) a person outside British Columbia acting in a similar capacity as a committee under the *Patients Property Act*, or
 - (b) the person is or may be mentally incompetent and no committee or person has been appointed as described in paragraph (a).

8 Rule 25-3 (3) is amended

(a) by repealing paragraph (a) and substituting the following:

- (a) if the application will be for a grant of probate or a grant of administration with will annexed, and if the will related to the application is a physical will, the following:
- (i) in the case of a physical will that was made when witnesses were present,
 - (A) subject to clause (B), the originally signed version of the will,
 - (B) if the originally signed version of the will does not exist or is not available, a physical copy or a copy saved in Portable Document Format (PDF), and
 - (C) 2 additional copies of the will;
 - (ii) in the case of a physical will that was signed in counterparts when witnesses were electronically present,
 - (A) subject to clause (B), the originals of each of the signed and witnessed counterparts,
 - (B) if one of the originals referred to in clause (A) does not exist or is not available, a copy of the counterpart, and
 - (C) 2 copies of the counterparts signed by the will-maker and 2 copies of the last page of each counterpart that was signed by the witnesses;
 - (iii) if an order has been made that affects the validity or content of the will and that order has not yet been filed in the proceeding within which the estate grant is being sought, a copy of that order; , **and**

(b) by adding the following paragraph:

- (a.1) if the application will be for a grant of probate or grant of administration with will annexed and the will related to the application is an electronic will, the following:
- (i) subject to subparagraphs (ii) to (iv), the signed will in its original electronic form, if that original exists or, if that original does not exist or is not available, a digital reproduction or physical copy of the will;

- (ii) if the original electronic form of a will was saved in PDF, the will in that format;
- (iii) if the original electronic will was not first saved in PDF,
 - (A) a physical copy, or a copy saved in PDF,
 - (B) an affidavit in Form P4, and
 - (C) an affidavit in Form P45;
- (iv) in the case of an electronic will that is maintained in a third-party electronic repository,
 - (A) a physical copy, or a copy saved in PDF,
 - (B) an affidavit in Form P4,
 - (C) an affidavit in Form P45, and
 - (D) information about how the third-party electronic repository can be accessed for the purpose of viewing the will;
- (v) if an order has been made that affects the validity or content of the electronic will and that order has not yet been filed in the proceeding within which the estate grant is being sought, a copy of that order; .

9 *Rule 25-3 (5) is amended by striking out “originally signed version of the will” and substituting “originally signed version of a physical will”.*

10 *Rule 25-3 (6) (f) is repealed and the following substituted:*

- (f) the applicant is not requesting that the will be recognized as a military will executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*, .

11 *Rule 25-3 (14) (a) is amended by adding the following subparagraph:*

- (i.1) on electronic devices or in third-party electronic repositories used by the deceased, .

12 *Rule 25-3 is amended by adding the following subrule:*

Confirmation that will is unaltered

- (22.1) If the electronic will filed by an applicant is alterable, the registrar may require the applicant to file an affidavit confirming that the electronic will was not altered before it was filed.

13 *The following rules are added:*

RULE 25-3.1 – AMENDMENT OF APPLICATION

When application may be amended

- (1) An applicant may amend the whole or any part of an application for estate grant filed by the applicant at any time before the grant, authorization to obtain estate information or authorization to obtain resealing information has been issued.

How amendments made

- (2) Unless the court otherwise orders, to amend an application under subrule (1), an applicant must
 - (a) amend the application in accordance with subrule (3),
 - (b) indicate on the amended application the date on which the original version of the application was filed,
 - (c) if any changes are being made to the submission for estate grant, include an affidavit swearing the information in the amended submission for estate grant is correct, and
 - (d) file the amended application and affidavit.

Identifying amendments

- (3) Unless the court otherwise orders, if an application is amended under this rule,
 - (a) any deleted wording must be shown as struck out, and
 - (b) any added wording must be underlined.

RULE 25-3.2 – WITHDRAWAL OF APPLICATION

Withdrawal of application before issuance of grant

- (1) At any time before a grant is issued, an applicant may withdraw the applicant's application for estate grant by filing a notice of withdrawal in Form P44 and delivering a copy of the notice of withdrawal to every person who was entitled to notice under the original application.

14 Rule 25-4 is amended by adding the following subrule:

Estate grant required attachments

- (1.1) An estate grant must have attached to it,
 - (a) in the case of a physical will that was made when witnesses were physically present, a copy of the originally signed version of the will,
 - (b) in the case of a physical will that was signed in counterparts when witnesses were electronically present, a copy of the counterpart signed by the will-maker and a copy of the last page of each counterpart that was signed by witnesses not physically in the presence of the will-maker, or
 - (c) in the case of an electronic will, a physical copy of the originally signed version of the will.

15 Rule 25-6 (11) is repealed and the following substituted:

Search for will

- (11) The applicant in an application brought under this rule must swear or affirm in the affidavit required under subrule (2) (c) that the applicant is satisfied that
 - (a) a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation,

- (i) in all places where the deceased usually kept important documents, and
- (ii) on electronic devices or in third-party electronic repositories used by the deceased, and
- (b) as a result of that search,
 - (i) if the foreign grant is a grant of probate or a grant of administration with will annexed, one of the following:
 - (A) no testamentary document of the deceased that is dated later than the date of the foreign will has been found;
 - (B) one or more testamentary documents of the deceased dated later than the date of the foreign will have been found, and the reasons why the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application, or
 - (ii) if the foreign grant is a grant of administration without will annexed, one of the following:
 - (A) no testamentary document of the deceased has been found;
 - (B) one or more testamentary documents of the deceased have been found, and the reasons why the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application.

16 Rule 25-14 (1) is amended by striking out “or” at the end of paragraph (q) and by adding the following paragraphs:

- (s) waiving an obligation under Rule 25-3 (14) to search an electronic device if the person does not have access to it, or
- (t) allowing a person to apply to amend an application in a manner other than as set out in Rule 25-3.1.

17 Rule 25-15 is amended by adding the following subrule:

Costs for accessing electronic will in third-party electronic repository

- (5) If a recipient of a notice of proposed application in relation to an estate is required to incur expenses in order to access a third-party electronic repository for the purpose of viewing an electronic will, the person applying for the estate grant must reimburse the recipient of the notice for those expenses.

18 Form P1 in Appendix A.1 is amended by striking out “[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]” and the following 2 tick boxes and substituting the following:

[Check whichever one of the immediately following 4 boxes is correct.]

- This application does not relate to a will or a foreign grant.
- This application relates to the physical will of the deceased dated[dd/mmm/yyyy]....., a copy of which will is provided with this notice.

[An electronic will is a will that has been signed, and is being stored, electronically.]

- This application relates to the electronic will of the deceased dated[dd/mmm/yyyy]....., a copy of which will is provided with this notice. You are entitled to the will or access on demand to the will in its original electronic form, using Form P46.
- This application is to reseal a foreign grant or for an ancillary grant and a copy of the foreign grant is provided with this notice. If the foreign grant relates to the will of the deceased, and that will does not form part of the foreign grant, a copy of the will is provided with this notice. In addition, if the grant relates to the electronic will of the deceased, you are entitled to the will or access on demand to the will in its original electronic form, using Form P46.

19 Form P2 in Appendix A.1 is amended

(a) by repealing section 1 of Part 3 and substituting the following:

- 1 [Check whichever one of the immediately following 3 boxes is correct and file the specified affidavit(s).]
- There is one applicant to this submission for estate grant and a [Select whichever one of the following 5 choices is correct: P3/P4/P5/P6/P7] ... affidavit is filed with this submission for estate grant.
 - There are 2 or more applicants to this submission for estate grant and a joint [Select whichever one of the following 5 choices is correct: P3/P4/P5/P6/P7]... affidavit on behalf of all applicants is filed with this submission for estate grant.
 - There are 2 or more applicants to this submission for estate grant and a [Select whichever one of the following 5 choices is correct: P3/P4/P5/P6/P7]... affidavit is filed with this submission for estate grant and [indicate number] affidavit(s) in Form P8 is/are filed with this submission for estate grant. ,

(b) in section 4 of Part 3 in the first tick box by adding “and 2 copies of the will” after “the originally signed version of the will”,

(c) in section 4 of Part 3 by striking out the second tick box and substituting the following:

- This application is for a grant of probate, or a grant of administration with will annexed, in relation to the will of the deceased dated[dd/mmm/yyyy]....., and, because the originally signed version of the will is not available, filed with this submission for estate grant are 3 copies of the will. ,

(d) in Part 4, in section 2 of the Schedule for Grant of Probate or Grant of Administration with Will Annexed, by striking out the following:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.] [List each named person on a separate line. Do not leave any paragraph blank or indicate “Not applicable”; clearly state why a paragraph does not apply.]

and substituting the following:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.]

[List each named person on a separate line. Do not leave any paragraph blank or indicate “Not applicable”; clearly state why a paragraph does not apply.]

[A person who does not survive a deceased person by 5 days, or a longer period provided in an instrument, is conclusively deemed to have died before the deceased. If a person survives a deceased person by 5 days, or longer if required by the will, for the purposes of this Form, the person is referred to as “surviving”.]

(e) in Part 4, in section 1 of the Schedule for Grant of Administration without Will Annexed and in section 2 of the Schedule for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed and the Schedule for Ancillary Grant of Administration without Will Annexed, by striking out the following:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.] [List each named person on a separate line.]

and substituting the following:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.]

[List each named person on a separate line. Do not leave any paragraph blank or indicate “Not applicable”; clearly state why a paragraph does not apply.]

[A person who does not survive a deceased person by 5 days, or a longer period provided in an instrument, is conclusively deemed to have died before the deceased. If a person survives a deceased person by 5 days, or longer if required by the will, for the purposes of this Form, the person is referred to as “surviving”.]
and

(f) in Part 4, in section 2 of the Schedule for Grant of Probate or Grant of Administration with Will Annexed, section 1 of the Schedule for Grant of Administration without Will Annexed and section 2 of the Schedule for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed, and the Schedule for Ancillary Grant of Administration without Will Annexed by striking out “living” wherever it appears and substituting “surviving” and by striking out “died before” wherever it appears and substituting “did not survive”.

20 Form P3 is amended by repealing sections 3 to 11 and substituting the following:

[Check the box for whichever one of the immediately following section 3’s is correct and provide any required information.]

3 I am named as an executor or alternate executor as[name as it appears in the will]..... in the will and my appointment has not been revoked under section 56 (2) of the Wills, Estates and Succession Act or by a codicil to the will.

[If you checked the immediately preceding box, check whichever one of the immediately following 3 boxes is correct and complete any required information.]

No other persons are named in the will as executor.

No other persons are named in the will as executor who are not parties to this application.

Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after that/those person(‘s/s’) name(s):

[Complete the following for each named person.]

.....[name]..... is not named as an applicant on the submission for estate grant because that person has renounced executorship is deceased other[briefly set out reason].....

- 3 I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*.
- 4 [Check whichever one of the immediately following 2 boxes is correct.]
- I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
- I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places, both physical and electronic, where the deceased usually kept important documents.
- 6 I believe that the will is the last will of the deceased that deals with property in British Columbia.
- 7 I believe that the will complies with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* and
- (a) I am not aware of there being any issues that would call into question the validity or contents of the will,
 - (b) I am not requesting that the will be recognized as a military will executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*,
 - (c) I am not aware of there being any interlineations, erasures or obliterations in, or other alterations to, the will, and
 - (d) I am not aware of there being any issues arising from the appearance of the will.
- 8 An originally signed version of the will is being filed with the submission for estate grant.
- 9 A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is attached to this application, and the certificate indicates that
- [Check whichever one of the immediately following 2 boxes is correct.]
- no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will included with this application.
- no wills notice has been filed at all.
- 10 All documents referred to in the will are attached to the will.
- 11 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 12 I will administer according to law all of the deceased's estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.
- 13 I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

21 Form P4 in Appendix A.1 is amended

(a) in section 5 by striking out “all places where the deceased usually kept his or her documents” **and substituting** “all places both physical and electronic where the deceased usually kept important documents”,

(b) in section 6 by repealing paragraph (c.1) and substituting the following:

(c.1) Copy of the Will

[Check whichever one of the immediately following 5 boxes is correct.]

- The will being filed is the physical original.
- The will being filed is a physical copy or PDF copy of a physical original. The applicant(s) cannot file the originally signed physical version of the will...*[if you have first hand knowledge of the reason the original cannot be filed, enter that here]*...*[if you do not have direct knowledge of all reasons why the original cannot be attached, include the following text and affidavit]*... . Attached is an affidavit explaining why a copy is available, but the original is not.
- The will being filed is a PDF and the original electronic form of the will was a PDF.
- The will being filed is a physical copy or PDF copy of an electronic original and, in addition, I am providing access information for a third-party electronic repository where the will in its original electronic form is stored ...*[insert information about electronic repository, for example: URL, user ID, password, etc.]*....
- The will being filed is a physical copy or PDF copy of an electronic original. The applicant(s) cannot file the will in its original electronic form because:

[If you checked the immediately preceding box, check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- the will in its original electronic form is in a format other than PDF and therefore is not able to be electronically filed in the court registry.
- the will in its original electronic form cannot be submitted ...*[if you have first hand knowledge of the reason the original cannot be filed, enter that here]*... *[if you do not have direct knowledge of all reasons why the original cannot be attached, include the following text and affidavit]*... Attached is an affidavit explaining why a copy is available but the original is not. ,

(c) in the first tick box of section 7 by striking out “[Go to section 8.]” **and substituting** “[If the will is electronic, go to section 7.1, otherwise go to section 8.]”,

(d) by repealing section 7 (b) and substituting the following:

(b) Words Erased or Obliterated

[Check whichever one of the immediately following 3 boxes is correct.]

- In each erasure or obliteration in the will, the words erased or obliterated are entirely effaced and cannot be ascertained on inspection.
- At least some of the words erased or obliterated are not entirely effaced and can be read, and none of the following boxes apply to all of those erasures or obliterations.
- Words in the will were erased or obliterated and

[If you checked the immediately preceding box, check whichever one or more of the immediately following 4 boxes is correct and provide any required information. If multiple

boxes apply, indicate the page number and location of the erasure or obliteration to which you are referring.]

- I believe that the erasure or obliteration was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will.
- I believe that the erasure or obliteration was authenticated by the re-execution of the will or by the subsequent execution of a codicil.
- I believe that the words erased or obliterated should not form part of the will and, pursuant to Rule 25-3 (21) (a), submitted for filing with the submission for estate grant is/are the following affidavit(s):
 - 1 the affidavit of[*name*]..... sworn[*dd/mmm/yyyy*].....
 - 2 the affidavit of[*name*]..... sworn[*dd/mmm/yyyy*].....
- I have no information to suggest that the erasures or obliterations reflect the will-maker's intentions. ,

(e) by adding the following section:

7.1 The electronic will has the following issues:

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- I am not aware of there being any issues in relation to the electronic will.
- The following issues arise in relation to the electronic will:

[If you checked the immediately preceding box, check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- the electronic signatures do not appear visually in the will[*state how will was signed*].....
-[*briefly state any other issues*]..... , **and**

(f) by repealing sections 8 and 9 and substituting the following:

8 *[Check whichever one of the following 2 boxes is correct and provide any required information.]*

- The will is a physical will, and

[Check whichever one of the immediately following 2 boxes is correct.]

- the will does not refer to any documents or refers only to documents attached to the will.
- the will refers to one or more documents not attached to the will, and

[If you checked the second of the immediately preceding boxes, complete the following for each document that is referred to in, but not attached to, the will.]

- a copy of[*identify document*]....

[Check whichever one of the immediately following 3 boxes is correct.]

- is attached as Exhibit to this affidavit.
- cannot be obtained by the applicant.
- is not attached, because it is not testamentary.

- The will is an electronic will, and

- the will does not refer to any documents or refers only to documents saved as part of the same file as the will.

the will refers to one or more documents not saved as part of the same file as the will, and

[If you checked the second of the immediately preceding 2 boxes, complete the following for each document that is referred to in, but not attached to, the will.]

a copy of*[identify document]*....

[Check whichever one of the immediately following 3 boxes is correct.]

is attached as Exhibit to this affidavit.

cannot be obtained by the applicant.

is not attached, because it is not testamentary.

9 *[Check whichever one of the immediately following 3 boxes is correct and provide any required information.]*

I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

The following grant(s) of probate or administration, or equivalent, has/have been issued, in relation to the deceased, in British Columbia or in another jurisdiction:
.....
..... I believe that that grant is/those grants are not relevant to this application for the following reasons:*[briefly state the reasons]*.....

The following person/people has/have also applied for a grant of probate or administration: ...*[insert name(s)]*....

22 Form P5 in Appendix A.1 is amended

(a) in the second tick box of section 3 by striking out “[select (a) or (c)]” and substituting “[select (a), (c) or (e.1)]”, and

(b) by repealing section 7 and substituting the following:

7 *[Check whichever one of the immediately following 3 boxes is correct and provide any required information.]*

I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

The following grant(s) of probate or administration, or equivalent, has/have been issued in relation to the deceased in British Columbia or in another jurisdiction:..... I believe that that grant is/those grants are not relevant to this application for the following reasons:*[briefly state the reasons]*.....

The following person(s) has/have also applied for a grant of probate or administration: *[insert name(s)]*....

23 Form P9 in Appendix A.1 is amended

(a) in section 2 by striking out “[identify the document(s), if any, that the applicant is required to deliver under Rule 25-2 (1) (b)]” and substituting “[identify the document(s), if any, that the applicant is required to deliver under Rule 25-2 (1.1) (b)]”,

(b) in section 3 by striking out “[Include the following section if applicable.]” and substituting “[Include the following sections if applicable.]”, and

(c) by adding the following section:

5 In accordance with Rule 25-2 (1.1):

No person who received notice demanded the will in its original electronic form.

I provided the will or access to the will in its original electronic form to the following person(s) ...*[insert name(s)]*... .

24 Form P10 in Appendix A.1 is amended

(a) by repealing sections 3 to 5 and substituting the following:

3 Attached to this affidavit as Exhibit A is a Statement of Assets, Liabilities and Distribution that discloses

(a) the real property and tangible personal property within British Columbia, and intangible personal property anywhere in the world, that passes to the applicant in the applicant’s capacity as the deceased’s personal representative,

(b) the value of that property, and

(c) the liabilities that charge or encumber that property.

[Check the box for whichever one of the immediately following section 4’s is correct and provide any required information.]

4 Attached to this affidavit as Exhibit B is a Statement of Real and Tangible Property Outside of British Columbia that discloses

(a) the real property and tangible personal property outside of British Columbia that passes to the applicant in the applicant’s capacity as the deceased’s personal representative,

(b) the value of that property, and

(c) the liabilities that charge or encumber that property.

4 There is no real property or tangible personal property outside of British Columbia that passes to the applicant in the applicant’s capacity as the deceased’s personal representative.

5 If I determine that there is any property or liability that has not been disclosed in Exhibit A, or that information contained in this affidavit is incorrect or incomplete, I will promptly after learning of the same file an affidavit of assets and liabilities in Form P14 to disclose the correct and complete information.

6 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset. , **and**

(b) by repealing Exhibit A and substituting the following:

EXHIBIT A

This is Exhibit A referred to in the affidavit of
, sworn/affirmed
 before me on[dd/mmm/yyyy].....

.....
 A commissioner for taking affidavits for
 British Columbia

Statement of Assets, Liabilities and Distribution

Full legal name of the deceased:
[first name] [middle name(s)] [last name/family name]

Other names in which the deceased held or may have held an interest in property:
 [Include all names that have been listed in Form P2.]

- 1
- 2
- 3 *etc.*

Part I Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at Death																					
<i>List item details and then list secured debt details below those items</i>																						
For example: <table style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 50%; padding: 2px;">123 Main Street, Victoria, BC</td> <td style="width: 5%;"></td> <td style="width: 45%;"></td> </tr> <tr> <td style="padding: 2px;">PID</td> <td></td> <td></td> </tr> <tr> <td style="padding: 2px;">Legal Description</td> <td></td> <td></td> </tr> <tr> <td style="padding: 2px;">Market Value</td> <td></td> <td></td> </tr> <tr> <td style="padding: 2px;"> <i>as per 2021 Assessment Notice</i></td> <td style="text-align: right; padding: 2px;">\$1,000,000.00</td> <td></td> </tr> <tr> <td style="padding: 2px;">Less: Prime Mortgage Company –</td> <td></td> <td></td> </tr> <tr> <td style="padding: 2px;"> Mortgage registered under No. 23456</td> <td style="text-align: right; padding: 2px;">– \$600,000.00</td> <td style="text-align: right; padding: 2px;">\$400,000</td> </tr> </table>	123 Main Street, Victoria, BC			PID			Legal Description			Market Value			<i>as per 2021 Assessment Notice</i>	\$1,000,000.00		Less: Prime Mortgage Company –			Mortgage registered under No. 23456	– \$600,000.00	\$400,000	
123 Main Street, Victoria, BC																						
PID																						
Legal Description																						
Market Value																						
<i>as per 2021 Assessment Notice</i>	\$1,000,000.00																					
Less: Prime Mortgage Company –																						
Mortgage registered under No. 23456	– \$600,000.00	\$400,000																				
TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA	\$400,000																					
Part II Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)	Value at Death																					
<i>List item details and then list secured debt details below those items</i>																						
TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA																						
Part III Intangible Personal Property within British Columbia that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at Death																					
<i>List item details and then list secured debt details below those items</i>																						
TOTAL INTANGIBLE PERSONAL PROPERTY																						

GROSS VALUE OF ASSETS LESS SECURED DEBTS	\$400,000
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EXHIBIT B

This is Exhibit B referred to in the affidavit of
....., sworn/affirmed
before me on[dd/mmm/yyyy].....

.....
A commissioner for taking affidavits for
British Columbia

Statement of Real and Tangible Property Outside of British Columbia

Full legal name of the deceased:
[first name] [middle name(s)] [last name/family name]

Other names in which the deceased held or may have held an interest in property:
[Include all names that have been listed in Form P2.]

- 1
- 2
- 3 etc.

Part I Real Property outside British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at Death
<i>List item details; it is unnecessary to list debts or liabilities that charge or encumber the property</i>	
<i>For example:</i>	
123 Main Street, Calgary, AB PID Legal Description Market Value [as per method determined]	\$2,000,000.00
TOTAL REAL PROPERTY OUTSIDE BRITISH COLUMBIA	\$500,000
Part II Tangible Personal Property outside British Columbia (including vehicles, furniture and other physical items)	Value at Death
<i>List item details; it is unnecessary to list secured debts</i>	
TOTAL TANGIBLE PERSONAL PROPERTY OUTSIDE BRITISH COLUMBIA	

TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA	
Part III Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand) <i>List item details and then list secured debt details below those items</i>	Value at Death
TOTAL INTANGIBLE PERSONAL PROPERTY	
GROSS VALUE OF ASSETS LESS SECURED DEBTS	
	\$400,000

26 Form P14 in Appendix A.1 is amended

(a) by repealing section 3 (a) of the Supplemental Affidavit of Assets and Liabilities for Domiciled Estate Grant and substituting the following:

- (a) the real property and tangible personal property within British Columbia, and intangible personal property anywhere in the world, of the deceased that was not disclosed or was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this proceeding, , **and**

(b) by repealing Exhibit A and substituting the following:

EXHIBIT A

This is Exhibit A referred to in the affidavit of
....., sworn/affirmed
before me on[dd/mmm/yyyy].....

.....
A commissioner for taking affidavits for
British Columbia

Supplemental Statement of Assets, Liabilities and Distribution

Full legal name of the deceased:
[first name] [middle name(s)] [last name/family name]

Other names in which the deceased held or may have held an interest in property:
[Include all names that have been listed in Form P2.]

- 1
- 2
- 3 etc.

Part I Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale) <i>List item details and then list secured debt details below those items</i>	Value at Death
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<i>For example:</i>		
123 Main Street, Victoria, BC		
PID		
Legal Description		
Market Value		
<i>as per 2021 Assessment Notice</i>	\$1,000,000.00	
Less: Prime Mortgage Company –		
Mortgage registered under No. 23456	– \$600,000.00	\$400,000
TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA		\$400,000
<hr/>		
Part II		
Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)		Value at Death
<i>List item details and then list secured debt details below those items</i>		
TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA		
<hr/>		
Part III		
Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)		Value at Death
<i>List item details and then list secured debt details below those items</i>		
TOTAL INTANGIBLE PERSONAL PROPERTY		
<hr/>		
GROSS VALUE OF ASSETS LESS SECURED DEBTS		\$400,000

27 Form P15 in Appendix A.1 is amended

(a) by repealing section 1 and substituting the following:

- I am an applicant for[Set out whichever one of the following 6 choices is correct: a grant of probate/a grant of administration with will annexed/a grant of administration without will annexed/an ancillary grant of probate/an ancillary grant of administration with will annexed/an ancillary grant of administration without will annexed]..... in relation to the estate of[legal name of deceased]..... (the “deceased”), **and**

(b) by repealing Exhibit A and substituting the following:

GROSS VALUE OF ASSETS LESS SECURED DEBTS	\$400,000
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28 Form P21 in Appendix A.1 is amended

(a) by striking out everything before Part 1 and substituting the following:

FORM P21 (RULE 25-6 (2))

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of[*legal name of deceased*]....., deceased

SUBMISSION FOR RESEALING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

This submission for resealing is submitted by:[*name of applicant(s)*].....

I am/We are applying for the resealing under Part 6 of the *Wills, Estates and Succession Act* of the grant issued by the[*name and province or country of issuing court*]..... on[*dd/mmm/yyyy*]..... (the “foreign grant”) in relation to the deceased described in Part 1 of this submission for resealing.

[Check whichever one of the following 2 boxes is correct.]

- I am/We are submitting with this submission for resealing an affidavit of assets and liabilities for resealing in Form P25 and therefore do not require an authorization to obtain resealing information.
- I/We request ...[*number of copies*]... certified copy(ies) of the resealed estate grant.
- I/We request ...[*number of copies*]... certified copy(ies) of the affidavit of assets and liabilities for resealing.
- I am/We are seeking an authorization to obtain resealing information so that I/we can secure the information necessary to prepare and submit an affidavit of assets and liabilities for resealing.
- I/We request ...[*number of copies*]... certified copy(ies) of the authorization to obtain resealing information.

This submission for resealing has 4 Parts:

- Part 1: Information about the Deceased
- Part 2: Information about the Applicant(s)
- Part 3: Documents Filed with this Submission for Resealing
- Part 4: Schedule

Date:[*dd/mmm/yyyy*].....

.....
 Signature of [] applicant [] lawyer for applicant(s)
[*type or print name*]..... ,

(b) in Part 3 by repealing section 1 and substituting the following:

- 1 [Check whichever one of the immediately following 3 boxes is correct and file the specified affidavit(s).]
- There is one applicant to this submission for resealing and a[Select whichever one of the following 2 choices is correct: P22/P23]... affidavit is filed with this submission for estate grant.
- There are 2 or more applicants to this submission for resealing and a single[Select whichever one of the following 2 choices is correct: P22/P23]... affidavit on behalf of all applicants is filed with this submission for estate grant.
- There are 2 or more applicants to this submission for resealing and a[Select whichever one of the following 2 choices is correct: P22/P23]... affidavit is filed with this submission for estate grant and [indicate number] affidavit(s) in Form P24 is/are filed with this submission for estate grant. ,

(c) in Part 4, in section 2 of the Schedule for Resealing of Grant of Probate or Grant of Administration with Will Annexed and the Schedule for Resealing of Grant of Administration without Will Annexed, by striking out “[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for resealing.] [List each named person on a separate line.]” and substituting the following:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.]

[List each named person on a separate line. Do not leave any paragraph blank or indicate “Not applicable”; clearly state why a paragraph does not apply.]

[A person who does not survive a deceased person by 5 days, or a longer period provided in an instrument, is conclusively deemed to have died before the deceased. If a person survives a deceased person by 5 days, or longer if required, for the purposes of this Form, the person is referred to as “surviving”.], **and**

(d) in Part 4, in section 2 of the Schedule for Resealing of Grant of Probate or Grant of Administration with Will Annexed and the Schedule for Resealing of Grant of Administration without Will Annexed, by striking out “living” wherever it appears and substituting “surviving” and by striking out “died before” wherever it appears and substituting “did not survive”.

29 Form P22 in Appendix A.1 is amended by repealing sections 5 to 7 and substituting the following:

- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places both physical and electronic where the deceased usually kept important documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

no testamentary document of the deceased that is dated later than the date of the will has been found.

one or more testamentary documents other than the will have been found. I believe that the other testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[briefly state the reasons]..... .

- 6 A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is attached to this application, and the certificate indicates that

[Check whichever one of the immediately following 2 boxes is correct.]

no wills notice has been filed in relation to a testamentary document that is dated later than the date of the will that forms part of the grant included with this application.

no wills notice has been filed at all.

- 7 I am not aware of there being any application for a grant of probate or administration in British Columbia.
- 8 Other than the grant I am submitting as part of this application, I am not aware of a grant of probate or administration, or equivalent, having been issued in relation to the deceased in any jurisdiction.
- 9 I have read the submission for resealing and the other documents referred to in that document and I believe that the information contained in that submission for resealing and those documents is correct and complete.
- 10 I will administer according to law the deceased's estate to which the submission for resealing relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

30 Form P23 in Appendix A.1 is amended by repealing sections 5 to 7 and substituting the following:

- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places both physical and electronic where the deceased usually kept important documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

no testamentary document of the deceased has been found.

one or more testamentary documents have been found. I believe that the testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[briefly state the reasons].....

- 6 A certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased is attached to this application, and the certificate indicates that

[Check whichever one of the immediately following 2 boxes is correct.]

a wills notice has been filed in relation to one or more testamentary documents that are addressed in section 5.

no wills notice has been filed at all.

- 7 I am not aware of there being any application for a grant of probate or administration in British Columbia.
- 8 Other than the grant I am submitting as part of this application, I am not aware of a grant of probate or administration, or equivalent, having been issued in relation to the deceased in any jurisdiction.

<i>For example:</i>		
123 Main Street, Victoria, BC		
PID		
Legal Description		
Market Value		
as per 2021 Assessment Notice	\$1,000,000.00	
Less: Prime Mortgage Company – Mortgage registered under No. 23456	– \$600,000.00	\$400,000
TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA		\$400,000
<hr/>		
Part II Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)		Value at Death
<i>List item details and then list secured debt details below those items</i>		
TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA		
<hr/>		
Part III Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)		Value at Death
<i>List item details and then list secured debt details below those items</i>		
TOTAL INTANGIBLE PERSONAL PROPERTY		
<hr/>		
GROSS VALUE OF ASSETS LESS SECURED DEBTS		\$400,000

33 The following Forms are added to Appendix A.1:

FORM P44 (RULE 25-3.2)

[Style of Proceeding]

NOTICE OF WITHDRAWAL OF APPLICATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[applicant(s)].....

TAKE NOTICE that the applicant(s),[name(s)]....., withdraw(s)[the applicant('s/s')]..... application for estate grant

Date:[dd/mmm/yyyy].....

.....
Signature of [] applicant [] lawyer for applicant(s)
.....[type or print name].....

FORM P45 (RULE 25-3 (1.1))

[Style of Proceeding]

AFFIDAVIT OF ELECTRONIC WILL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR AFFIRM) THAT:

[Use whichever of the immediately following 2 statements is correct and provide the required information.]

I confirm that the original electronic form of the will is ...[indicate format – MS Word, Apple Pages, Google Doc, etc.] Before creating a physical copy or creating a digital reproduction of the will in a Portable Document Format (PDF) to submit to the court registry as part of this application, I ensured that the last date the original electronic form of the will was edited is the same date that the electronic will was signed and witnessed, by checking in the following manner[provide explanation]

I confirm that the original electronic form of the will is ...[indicate format – MS Word, Apple Pages, Google Doc, etc.] Before creating a physical copy or creating a digital reproduction of the will in a Portable Document Format (PDF) to submit to the court registry as part of this application, I ensured that the original electronic form of the will was locked to prevent editing in the following manner[describe how will was locked to prevent editing].....

SWORN (OR AFFIRMED) BEFORE ME)
at , British Columbia)
on [dd/mmm/yyyy].....)
)
)
)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

FORM P46 (RULE 25-2 (1.1))

[Style of Proceeding]

DEMAND FOR ELECTRONIC WILL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address]....., in accordance with Rule 25-2 (1.1), require you, ...[insert name of applicant who gave you a Form P1 notice]... to provide me with either the will of ...[insert name of deceased]...in its original electronic form or access to the third-party electronic repository where the will of ...[insert name of deceased]... is stored, if this is where the sole copy of the will in its original electronic form can be accessed.

If there are expenses in order to access the third-party electronic repository where the will of ...*[insert name of deceased]*...is stored for the purpose of viewing the will, then, in accordance with Rule 25-15, you must reimburse me for those expenses.

You have 7 days to comply with this demand.

If I am concerned about the validity of the will, I am entitled to file a Notice of Dispute at any time and may choose to do so before the expiry of the 21-day notice period referred to in Form P1 Notice of Proposed Application in Relation to Estate, in order to prevent a grant from issuing to you, so that I have time to assess the electronic will. A Notice of Dispute filed must not be removed until it expires or is withdrawn by me or by order of the court.

Date:*[dd/mmm/yyyy]*.....

.....
Signature of notice recipient
.....*[type or print name]*.....