

When should you review or update your Will? Here are some important triggers to be aware of:

It is suggested that Wills be reviewed every 3 to 5 years to ensure that any major changes in an individual's financial and personal circumstances are addressed in their Will, and that it still reflects their wishes. There are some particular major life events that can affect a Will, along with estate planning, that should make an individual reconsider the planning in their current Will.

Have you moved recently?

If you have recently moved out of the country or even out of the province, you should consider re-drafting your Will in the new jurisdiction. Each province in Canada has different laws governing estate succession, and planning techniques used in one Province may not be valid or effective in another Province. Moving to another country or acquiring assets in another country can also add complexity to your estate planning that would require revisiting your Will.

Have your appointed Executors who moved out of Province or out of country, or no longer get along?

If someone you appointed as an Executor has moved out of the province or country, the courts may require additional steps and expenses for them to act under your Will. Making appropriate provisions to deal with this in your Will or changing your appointed Executor can avoid this. Furthermore, if you've appointed multiple executors acting jointly in your Will, do they still get along? If not, you should reconsider these appointments.

Change in financial situation or started a new business

Perhaps you have come into a large sum of money or have set up a new business or professional practice. These changes can determine which estate planning options will be most beneficial and may influence the way you would like to distribute your estate. If you have established a corporation, reviewing your estate planning options should be top priority.

Change in distribution wishes/beneficiaries

The people in your life and their relationships with you may change since your last Will was prepared. Perhaps they have passed away or your relationship has changed. Your Will should reflect who you would like to benefit from your estate when you are gone. Reviewing your Will and making changes is the only way to make sure your wishes regarding your assets are honoured.

Marriage or Engagement

If you have married recently or are newly engaged, this is a good time to consider the role of your new spouse/partner in your estate plan and to create a new Will.

Divorce or Separation

Divorce, unlike marriage, will not result in the revocation of your Will. However, the appointment of your former spouse as an executor and any gifts to your former spouse will be treated as though your former spouse has predeceased you. The Executor appointment and gifts in the Will go to the backup(s) named in the Will (if any).

It is very important to amend your Will upon separation. A separation alone will not affect the validity of your Will or any of the appointments or gifts in it. If you are separated, fail to update your Will, and you die before your divorce is finalized, then your spouse will still receive all gifts and appointments as laid out in the existing Will.

Your Will should be reviewed and likely changed after a divorce or separation so you can ensure that it still reflects your wishes. It is also an important time to reconsider your beneficiary designations on any products such as RRSPs, TFSAs and the like, that you may own.

Death of your spouse

The death of your spouse will affect your Will in much the same way as a divorce. It is important to make sure that the backup executors are still the people best equipped to shoulder the heavy responsibility of administering your estate and that your backup beneficiaries are still people you would like to benefit.

Birth of children

Providing for the care of your children is one of the most important reasons to implement an estate plan. Your Will should ensure that you can appoint a Guardian for your children and to provide for them financially, by way of gifts or even trusts (to ensure they do not receive their entire inheritance at age 18). The birth of a new child is the perfect time to ensure that your Will covers all your children and leaves them protected and with adequate care.

If you have a child with a disability, reviewing your Will and estate planning options can allow you to ensure that your child is cared for when you are gone. If you do not implement specific planning measures in your Will, your child's access to government benefits may be clawed-back or taken away entirely.

If any of these situations have happened, or will happen soon, it may be time to review your Will and contact your lawyer if amendments are required. The situations above are only some of the possible reasons why an individual should review their Will. If it has been 5 years since you last thought about your Will and your estate planning, now might be a good time to review and re-examine these. Not doing so can lead to unwanted and unintended consequences that can affect your surviving family.

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