

NOTICE TO PROFESSION

1. Fixed or Limited-Term Administration Bonds

It has come to our attention that lawyers and/or personal representatives are occasionally filing administration bonds that are for a fixed or limited term. This is not in keeping with the provisions of the *Court of Queen's Bench Surrogate Court Practice Act*, which requires that the bond remain in effect until it is cancelled by court order. In the future, fixed or limited-term administration bonds will not be accepted.

2. Procedure for an Order to Bring in a Testamentary Paper

It has come to our attention that an inconsistent practice has developed regarding applications for an order under the *Court of Queen's Bench Surrogate Court Practice Act* for the production of testamentary documents. Counsel are advised that, in the future, the following procedure is to be followed to apply for this type of order:

- (i) The documents to be filed are as follows:
 - (a) a notice of application and application;
 - (b) an affidavit/affidavits in support; and
 - (c) a draft order, which would ordinarily be in Form 74I.
- (ii) In accordance with the Queen's Bench rules, and in particular rule 74.02(17), the application can be made on an *ex parte* basis, although obviously a judge has discretion to order service if that appears, from the materials, to be appropriate.
- (iii) The proceeding should be commenced as a **probate proceeding** and **not** as a civil proceeding.

JEFFREY J. OLIPHANT
Associate Chief Justice
Court of Queen's Bench

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