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Changes to Probate Application Materials Coming in 2022

2021 has already seen significant changes to Ontario's estate laws, [some](#) of which have already taken effect, with [other](#) effective as of January 2022.

Most recently, a further amendment to the [Rules of Civil Procedure](#) has been approved in respect of the procedure for obtaining a Certificate of Appointment of Estate Trustee with (or without) a Will (commonly referred to as "probate") and the related court forms.

Estate solicitors will be aware that there are currently over 40 court forms relating to probate applications. Even for those with experience with such matters, applying for probate in itself can be a complicated and costly exercise depending on the circumstances. Many individuals named in testamentary documents struggle to properly complete and file the appropriate forms, creating an access to justice issue.

In light of these concerns and the potentially complex nature of probate applications in their current state, the probate application process is being simplified under a new Rule 74.04 of the *Rules of Civil Procedure* (which replaces both Rules 74.04 and 74.05, which currently address applications for probate with and without a will, respectively). While some of the components of a probate application prepared in accordance with Rule 74.04 remain unchanged, the court forms have been consolidated and their contents somewhat simplified. Copies of the new forms are available [here](#).

The new probate process and consolidated forms are more consistent with the [process for applying for probate in respect of a small estate](#) (currently valued at \$150,000.00 or less), which was introduced earlier this year to increase access to justice. The changes are expected to make the probate process easier to navigate for lawyers and non-lawyers alike. The new forms only will be accepted as of January 2022.