



HULL & HULL LLP
Barristers and Solicitors

Probate Applications and COVID-19

Our previous Solicitor's Tips have covered a number of best practices relating to the filing of applications for Certificates of Appointment of Estate Trustee With or Without a Will (more commonly known as probate applications), including best practices when [assisting non-spouses with such applications](#), how to address [real property](#) and [assets passing outside of an estate](#), the [proof of death requirement](#), strategies relating to the [payment of probate fees](#), and other [general tips](#).

More recently, however, a new province-wide practice direction has altered the manner in which solicitors are able to file probate applications. As of October 6, 2020, probate applications and supporting documents may be filed by email. The email address to which the probate application should be submitted depends on the jurisdiction, with the list of court email addresses available [here](#).

The practice direction provides as follows:

- The application form and supporting documents (affidavits, consents, proof of death, renunciations, draft certificates, motions) should be submitted by email only.
- Original documents filed in support of the application (e.g. wills, codicils, bonds, ancillary certificates) and certified copies must be filed in hard copy by mail or courier to the Superior Court of Justice location where the application was filed or provided at the court office.
- Estate administration tax payments and any filing fees must also be sent by mail or courier to the court office or provided at the court office.
- Certificates of Appointment of Estate Trustee will be electronically issued and delivered by email to the address provided by the applicant.

There is a new information form (available [here](#)) that must be submitted with probate applications being submitted by email, as well as specific requirements as to the email subject lines and size of email attachments. The nature of the probate application otherwise remains unchanged.

As was previously the case, when arranging for the delivery of original documents (such as an original will), it may be prudent to advise clients regarding the risk of sending documents in the mail and consider alternative delivery options. When mailing original documents for the purposes of a probate application, a practice that has become more common during the pandemic, it may be prudent to prepare and retain a notarial copy of the document in the event that the original document is lost in the

mail. In the case of estate administration tax payments delivered via mail, payment by trust cheque from the law firm rather than bank draft may be a safer option.

It will be interesting to see how best practices in terms of probate applications continue to evolve in light of the recent addition of the option to attend to such filings by email.