



**HULL & HULL LLP**

Barristers and Solicitors

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### **Updates to Estate Legislation Regulations**

With all the changes and anticipated changes coming to Ontario's estate legislation announced this year, some of these important developments have received less attention than others, notwithstanding that they have already taken effect.

Our readers will already know that, as of April 1, 2021, [new rules](#) apply to Applications for Certificates of Appointment in respect of "small estates". A copy of the court forms that have been made available since last month's post are available [here](#). The corresponding updates to the *Rules of Civil Procedure* by way of the addition of new Rule 74.1 is available [here](#).

Major amendments have also been proposed under Bill 245 to modernize the *Succession Law Reform Act*. The changes currently under consideration are summarized [here](#) on our blog.

Below, we briefly summarize two recent developments not previously covered in our Solicitor's Tips and which, amongst all of the other changes announced so far this year, have been receiving less attention than these important developments may warrant.

#### **Increase to Preferential Share**

Since 1995, the preferential share to which a surviving married spouse is entitled on intestacy was set at \$200,000.00. In February of 2021, the related [Regulation](#) to the *Succession Law Reform Act* was updated to provide that the preferential share in respect of the estate of a person who died on March 1, 2021 or later is increased to \$350,000.00. For estates where the deceased died before March 1, 2021, the amount of the preferential share remains the old figure of \$200,000.00.

When clients are considering making a will, as well as during the estate planning process itself, they may wish to consider the respective entitlements of their spouses and children on an intestacy in choosing to depart from that manner of distribution under the will. Where clients have made a will in consideration of the old preferential share value, they may wish to revisit their estate plans in light of this update. It is important to keep this new figure in mind during any such discussions.

#### **Increase to Assets Distributable to Minor Beneficiaries**

Pursuant to subsection 51(1.1) of the [Children's Law Reform Act](#), the total amount that may be paid to a parent or other person with lawful custody of a child on behalf of the child shall not exceed "the prescribed amount or, if no amount is prescribed, \$10,000." In order to accept a greater sum on behalf of a child, the parent or custodian's appointment of a guardian of property is typically required.

Also in February of 2021, however, [O. Reg. 120/21](#) came into force to set the prescribed amount under subsection 51(1.1) of the *Children's Law Reform Act* at \$35,000.00. The change proposed under Schedule 2 to Bill 245 with respect to this provision simply removes the reference to \$10,000.00 in the legislation and clarifies that subsection 51(1.1) applies in respect of funds payable under court order (which is currently excluded from the application of section 51 under subsection 51(2)) or on an intestacy. However, considering that the Act already refers to a prescribed amount under its Regulations and the prescribed amount has already been set at \$35,000.00, this development has garnered relatively limited attention to date.

It is possible that this development may, similarly, alter how a parent or other individual seeking to benefit minor beneficiaries wishes to dispose of his or her assets on death.