



WILLS

Matter

SPEAK NOW OR FOREVER HOLD YOUR PEACE

When someone dies, it is time of sadness and mourning. However, there are legal steps that must be taken within certain legal time limits. These legal time limits are called “limitation periods”.

In British Columbia, a spouse or child is entitled to ask the court to change the Will of their spouse or parent under the British Columbia *Wills Variation Act*. We will discuss these types of claims in more detail in future editions of *Wills Matter*.

It is important to remember that a claim under the *Wills Variation Act* must be made “within six months from the date of the issue of Probate of the Will”. If this “limitation period” is not met, you may forever lose your legal claim.

What is “the date of the issue of Probate of the Will”?

The Executor under the Will is, in most cases, required to present the Will to the Court – this is called Probate. The Executor is required to give notice of the application for Probate to all persons who may have a claim under the *Wills Variation Act*.

After the Executor applies for Probate, the Court may then make an Order granting Probate to the Executor. This is when the “clock starts ticking” with respect to the “limitation period” for a *Wills Variation Act* application.

The Executor is not required to give any notice that the Order granting Probate has been made by the Court, so if you do not take steps to protect your legal rights as soon as you receive notice for the application for Probate, you may be caught by the six month “limitation period”.

If you are considering making a *Wills Variation Act* claim, be sure to seek legal advice right away from our experienced Estate Litigation lawyers.

Contact *Fulton & Company's Wills & Estates Team*

if you have any questions regarding wills or estate matters.

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