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<b>ESTATE ADMINISTRATION</b> <b>Armstrong</b> <b>Release No. 7, August 2024</b>
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*Estate Administration: A Solicitor's Reference Manual* is a how-to guide dealing with all aspects of estate administration in Ontario. Text is augmented by up-to-date forms, precedents, letters and checklists. Commonly used statutes and regulations are reproduced in full. All aspects of estate administration are examined, including the conveyancing of real property and the income tax implications arising upon death.

### What's New in this Update:

This release features updates to Appendix IF. Issues in Focus and Appendix WP. Words and Phrases.

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## Highlights

- **APPENDIX IF. ISSUES IN FOCUS—§ IF:9. Will Revocation Clauses—Whether the clause ‘I revoke all former wills & testamentary dispositions’, contained in a will, has the effect of revoking beneficiary designations?**— A testator may designate a beneficiary to a plan (e.g., pension plan, retirement plan, welfare or profit-sharing fund, trust, scheme), via the execution of an instrument or a will. A beneficiary designation, however, may be subsequently revoked and/or deemed inoperative in situations which include, but are not necessarily limited to, the following: (a) an inconsistency arises as between the original designation and the subsequent designation (both contained in competing testamentary dispositions, for example an instrument or a will), such that they are incapable of standing together; (b) the testator subsequently executes a will containing a designation which relates expressly to the plan, either generally or specifically; or (c) the testator subsequently executes a will containing a revocation clause relating expressly to the designation, either generally or specifically. Although each case must be assessed on its own individual facts and circumstances, generally speaking, a revocation clause in a will containing language to the effect of ‘I revoke all former wills & testamentary dispositions’, effectively revokes previously made (or, former) beneficiary designations as per item (c) above, and accordingly, renders them void.
- **APPENDIX IF. ISSUES IN FOCUS— § IF:23. Can a will be challenged on the basis that the stated purpose of the gift is no longer possible?**— Where a bequest is made to a non-existent charity, the court must first consider whether the testator’s paramount intention was to make a gift with a general charitable purpose rather than a particular institution in mind. If the intention of the testator was to support a charitable purpose and not a specific charity, the doctrine of *cy-pres* will apply. Under the doctrine of *cy-pres*, where a clear charitable intention is expressed, it will not be permitted to fail because the mode specified by the testator cannot be executed. Instead, the law will substitute another mode *cy-pres* as near as possible to the mode specified by the testator for the same charitable purpose; however, the doctrine of *cy-pres* will not apply if it can be shown that the testator meant to benefit the named non-existent institution and no other.

## ProView Developments

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- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView

- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages