

Table of Contents

<i>About the Author</i>	v
<i>Publisher's Foreword</i>	vii
<i>Preface</i>	ix
<i>Acknowledgments</i>	xi
<i>Note on Form Use</i>	xiii
<i>Contents Checklist</i>	xxi
Part I Introduction	PTI-X
Chapter 1 Introduction	1-1
Part II Complete Wills	PTII-X
Chapter 2 Planning and Recording the Will	2-1
Chapter 3 Wills with Outright Distributions	3-1
Chapter 4 Wills Containing Testamentary Trusts	4-1
Chapter 5 Codicils	5-1
Part III Clauses and Memoranda	PTIII-X
Chapter 6 Appointment of Executors and Trustees	6-1
I. Introduction	6-4
II. Complete Appointments	6-5
III. Additions to Appointment Clauses	6-23
IV. Miscellaneous Appointments	6-27
Chapter 7 Life Insurance and Registered Funds	7-1
I. Introduction	7-3
II. Registered Funds and Pensions	7-4
III. Insurance Declarations and Trusts	7-14.12
IV. Miscellaneous	7-33
Chapter 8 Gifts of Personalty and Household Effects	8-1
I. Introduction	8-4
II. Absolute Gifts	8-5
III. Gifts Subject to Exceptions	8-11
IV. Gifts Subject to Life Interest	8-13
V. Directions in Event of Non-Survival of Donee	8-15
VI. Power to Trustees to Deal with Effects	8-21
VII. Disposal According to List or Memorandum	8-27
VIII. Gifts of Specific Items	8-28
Chapter 9 Residences	9-1
I. Introduction	9-4
II. Absolute Gifts	9-6

O'BRIEN'S V—WILLS AND TRUSTS

	III.	Gifts Subject to Charge or Life Interest	9-11
	IV.	Directions to Hold Property for Use of Spouse, Children and Others	9-12
	V.	Cottage and Seasonal Property	9-23
	VI.	Directions to Provide Home for Spouse or Children	9-27
	VII.	Directions to Hold Property Until Occurrence of Specified Event	9-31
	VIII.	Directions for Upkeep of Property	9-36
	IX.	Options and Rights to Lease or Purchase	9-37
	X.	Provision of Funds for Purchase, Upkeep and Other Purposes	9-38
	XI.	Exemptions from Obtaining Probate for Certain Real Property in Ontario	9-39
Chapter 10		Debts and Duties	10-1
Chapter 11		Gifts of Money and Securities	11-1
	I.	Introduction	11-8
	II.	General Forms of Legacies	11-10
	III.	Legacies from Specified Assets	11-14
	IV.	Gifts of Bank Accounts and Moneys on Deposit	11-16
	V.	Gifts of Securities	11-19
	VI.	Gifts for the Care of Animals	11-27
	VII.	Gifts of Money to Employees	11-30
	VIII.	Specific Gifts with Substitutionary Legacies	11-32
	IX.	Debts Owed to Testator	11-32
	X.	Gifts Subject to Conditions	11-38
	XI.	Legacies Charged on Real Property	11-41
	XII.	Advances	11-43
	XIII.	Abatement and Priority	11-48
	XIV.	Ademption	11-53
	XV.	Lapse	11-55
	XVI.	Postponement of Payment of Legacies	11-57
	XVII.	Reduction or Increase of Legacies	11-59
	XVIII.	Directions as to Payment or Satisfaction of Legacies	11-61
	XIX.	Payment of Legacies in Installments or After Specified Period	11-63
Chapter 12		Charitable Gifts	12-1

TABLE OF CONTENTS

	I.	Gifts for General Charitable Purposes	12-2
	II.	Gifts for Educational Purposes	12-10
	III.	Gifts for Religious Purposes	12-13
	IV.	Gifts of Marketable Securities	12-13
	V.	Gift to Donor Advised Fund to Establish Foundation in Testator's Name	12-14
	VI.	Accounting for Charitable Gifts	12-15
Chapter 13		Funds	13-1
	I.	Introduction	13-2
	II.	Specific Funds	13-4
	III.	Discretionary Funds	13-13
	IV.	Miscellaneous	13-15
Chapter 14		Annuities	14-1
	I.	Introduction	14-2
	II.	Annuities Payable Out of General Estate or Charged on Gifts	14-3
	III.	Annuities Payable Out of Special Fund	14-5
	IV.	Annuities to be Purchased	14-10
	V.	Prepayment of Premiums to Provide Immediate Annuities	14-13
	VI.	General Directions	14-13
Chapter 15		Residue	15-1
	I.	Introduction	15-6
	II.	Payment of Income	15-7
	III.	Time of Division or Distribution	15-22
	IV.	Division Into Shares	15-25
	V.	Advances to Beneficiaries	15-28
	VI.	Distribution of Capital	15-30
	VII.	Composite Clauses	15-39
	VIII.	Entire Residue of Estate Into Qualifying Testamentary Spousal Trust	15-56
Chapter 16		Minor Beneficiaries	16-1
Chapter 17		Encroachments	17-1
Chapter 18		Conversion	18-1
Chapter 19		Administration of Corporate Shares	19-1
	I.	Introduction	19-3
	II.	Dealing with Shares	19-4
	III.	Voting	19-10
	IV.	Options	19-10
	V.	Shares Used to Direct Company Management	19-16

O'BRIEN'S V—WILLS AND TRUSTS

	VI. Multiple Wills	19-18
	VII. Miscellaneous	19-39
Chapter 20	Business and Partnership Interests	20-1
	I. Introduction	20-2
	II. Gifts of a Business	20-3
	III. Carrying on Business	20-5
	IV. Partnerships	20-10
	V. Options to Purchase	20-12
	VI. New or Reorganized Business	20-13
Chapter 21	Notes and Guarantees	21-1
Chapter 22	Real Estate	22-1
	I. Introduction	22-2
	II. Management, Maintenance and Repair	22-2
	III. Disposal	22-6
	IV. Options	22-7
	V. Multiple Wills	22-8
Chapter 23	Investments	23-1
Chapter 24	Determination of Capital and Income	24-1
	I. Introduction	24-2
	II. Determination by Estate Trustees	24-2
	III. Directions by Testator	24-4
	IV. The Rule in Allhusen v. Whittell	24-5
Chapter 25	Division in Specie	25-1
Chapter 26	Borrowing	26-1
Chapter 27	Care of Children	27-1
Chapter 28	Adopted Children, Stepchildren, and Children Born Outside Marriage	28-1
Chapter 29	Powers of Appointment	29-1
	I. Introduction	29-2
	II. Grant	29-3
	III. Exercise	29-10
	IV. Renunciation	29-12
Chapter 30	Burial and Cemetery Plots	30-1
	I. Introduction	30-2
	II. Funeral Arrangements and Tombstones	30-2
	III. Cemetery Plots	30-6
Chapter 31	Provision for Executors and Trustees	31-1
	I. Introduction	31-3
	II. Selling Assets to Estate Trustees	31-8
	III. Remuneration	31-9
	IV. Passing of Accounts	31-13
	V. Powers of Estate Trustees	31-14

TABLE OF CONTENTS

	VI. Miscellaneous Provisions	31-20
Chapter 32	Contemplation of Marriage	32-1
Chapter 33	Alternative Dispute Resolution	33-1
Chapter 34	Miscellaneous Clauses	34-1
	I. Introduction	34-2
	II. Formalities	34-2
	III. Common Disaster Clauses	34-5
	IV. Community of Property	34-6
	V. Family Law Clauses	34-7
	VI. Organ Transplants and Autopsies	34-9
	VII. Directions and Declarations	34-10
	VIII. Provisions for Changes in Will in Specified Circumstances	34-12
Chapter 35	Memoranda to Trustees	35-1
	I. Introduction	35-2
	II. General	35-3
	III. Concerning Benefits for Spouse	35-4
	IV. Concerning Benefits for Spouse and Children	35-6
	V. Concerning Children and Other Relatives	35-10
	VI. Concerning Companies and Shares	35-14
Part IV	Other Estate Planning Matters	PTIV-X
Chapter 36	Powers of Attorney	36-1
	I. Introduction	36-2
	II. General and Limited Powers of Attorney	36-47
	III. Specific Powers	36-84
	IV. Miscellaneous	36-88
Chapter 37	Planning for People with Disabilities	37-1
Chapter 38	Probate Tax Planning	38-1
Chapter 39	Multiple Wills	39-1
	I. Introduction	39-2
	II. Complete Wills	39-6
	III. Miscellaneous Clauses	39-25
Chapter 40	Insurance Declarations and Trusts	40-1
Chapter 40A	Virtual Signing and Commissioning of Documents in Light of Covid-19	40A-1
Chapter 40B	Substantial Compliance	40B-1
Part V	Inter Vivos Trusts	PTV-X
Chapter 41	Inter Vivos Trusts — Introduction	41-1
Chapter 42	Trust Documents	42-1
	I. Introduction	42-2
	II. Trust Agreements	42-3

O'BRIEN'S V—WILLS AND TRUSTS

	III.	Declarations and Acknowledgments	42-185
	IV.	Trusts for Charities	42-192
	V.	Resignation, Appointment and Amendment	42-221
Chapter 43		Optional Clauses	43-1
	I.	Introduction	43-2
	II.	General Trust Provisions	43-3
	III.	Provisions Concerning Trustees	43-8
Index			Index-1