



**INFORMATION SHEET**  
**TRANSFER OF BRAND ON THE**  
**DEATH OF A BRAND OWNER**

T-3 Version 2009-11-28

**NOTICE**

**Deadline to transfer the brand**

- The deceased owner's personal representative must notify the Brand Registrar of the death of the brand owner at the earliest possible time and must apply to transfer or surrender the brand within 2 years of the death of the brand owner.
- If the brand is not transferred or surrendered within the 2 year period, the registration of the brand may be cancelled at any time after that.

**Effect of transferring the brand**

- The Brand Registrar only transfers the brand. A brand transfer does not transfer title to livestock bearing the brand. The transfer of a brand does not affect the status of the ownership of the livestock or the livestock security interest in the livestock on which the brand was applied prior to the date on which the brand transfer was registered.
- If the beneficiary of the livestock, but not the brand, sells livestock bearing the brand after the Transfer is registered, the livestock inspectors may put a hold on the livestock or the sale proceeds.
- If the Transferee sells the deceased's livestock bearing the brand after the Transfer is registered, the livestock inspectors will not put a hold on the livestock or on the sale proceeds.

**Transferring a brand on the death of a brand owner**

The transfer of a brand on the death of a brand owner is more complicated than applying for a brand or transferring your brand yourself because of the various laws governing estates and transfers of property on death.

The procedure for transferring brands (or any other property) when someone dies falls within two main categories within which there are three sub-categories.

These are as follows:

**A. Transfers outside of the Estate of the deceased brand owner**

1. Transfer to Surviving Joint Owner
2. Transfer to Surviving Co-Owner
3. Transfer to a Designated Beneficiary

## **B. Transfers by the Estate of the deceased brand owner**

1. Transfer to the Deceased's Personal Representative
2. Transfer to the beneficiaries named in the deceased's Last Will and Testament
3. Transfer to relative under the *Intestate Succession Act*

### **A. Transfer outside of the deceased's estate**

The following three sections describe when a brand can be transferred outside the estate of a deceased brand owner.

#### **A-1. Transfer to Surviving Joint Owner(s)**

If the deceased owned the brand **jointly** with another person the brand can be transferred using the *Transfer to Surviving Joint Owner(s) form*.

This type of transfer only applies:

- for brands registered before January 1, 2009, but only if the brand owners completed and filed a *Joint Ownership Election Form* with the Brand Registrar (which was available to brand owners as of September, 2009), or
- for brands registered after January 1, 2009, but only if the deceased and the other brand owners applied for the brand as joint owners.

The documents required to transfer a brand to a surviving joint owner are:

- *Transfer to Surviving Joint Owner(s) form*
- *Additional Surviving Owners form* (if there are more than 2 surviving joint owners)
- *Funeral Director's Statement of Death or Death Certificate*

#### **A-2. Transfer to Surviving Co-Owner(s)**

If the deceased was a co-owner of the brand with another person the brand can be transferred using the *Transfer to Surviving Co-Owner(s) form*.

All brands owned by two or more persons are **co-owned** if

- the brand was registered before December 31, 2008 and the brand owners have not filed a *Joint Ownership Election form* with the Brand Registrar (which was available to brand owners as of September, 2009), or
- the brand was registered after January 1, 2009 and the deceased and the surviving brand owners applied for the brand as co-owners.

The documents required to transfer a brand to a surviving co-owner are:

- *Transfer to Surviving Co-Owner(s) form*

- *Additional Surviving Owners* form (if there are more than 2 surviving co-owners)
- *Funeral Director's Statement of Death or Death Certificate*
- Copy of the deceased brand owner's Last Will and Testament showing that the surviving co-owners are the sole beneficiaries of the deceased's interest in the brand
- If the deceased brand owner did not have a Will, the surviving co-owners must provide sufficient information on the form to satisfy the Brand Registrar that the surviving co-owners are the sole persons entitled to the brand under the *Intestate Succession Act*

### **A-3. Transfer to designated beneficiary**

If a person is the sole owner of a brand or a co-owner of a brand, that person may designate a person as the beneficiary of his or her brand by filing the *Designation of Beneficiary* form with the Brand Registrar.

If the Brand Registrar has a properly completed *Designation of Beneficiary* form on file the documents required to transfer the brand to the designated beneficiary are:

- *Transfer to Designated Beneficiary* form
- *Funeral Director's Statement of Death or Death Certificate*

### **B. Transfers by the Estate of the deceased brand owner**

If none of the above applies, the brand falls within the estate of the deceased brand owner and must be dealt with pursuant to the laws governing wills and estates. These rules are set out in the *Administration of Estates Act* and the *Surrogate Court Rules*. The following three sections describe how a brand is transferred by the estate of a deceased brand owner.

#### **B-1. Transfer to deceased's personal representative**

Depending on the circumstances, it may be necessary for a brand to be temporarily transferred to the Personal Representative of the deceased brand owner.

The documents required to transfer a brand to the deceased's personal representative are:

- *Transfer of Brand to Personal Representative*
- *Funeral Director's Statement of Death or Death Certificate*
- Copy of the Grant of Probate or Grant of Administration appointing the Personal Representatives of the Estate of the deceased brand owner

If the brand is transferred to the deceased's Personal Representative it will eventually be transferred to the beneficiaries of the estate, either under a Will or pursuant to the *Intestate Succession Act*.

#### **B-2. Transfer to the Beneficiaries named in the deceased's Last Will and Testament**

If the deceased died leaving a Will, the following provisions apply:

## **Beneficiary**

The brand will be transferred to:

- the person specifically named in the Will as the beneficiary of the brand, or
- if there is no specific bequest of the brand, to the residuary beneficiary named in the Will.

If any beneficiary named in the Will does not wish to have the brand transferred to him or her, the beneficiary must complete the *Renunciation of Brand by Beneficiary* form.

## **Where there is a Grant of Probate or Administration**

If there is a Grant of Probate or Grant of Administration, the Personal Representative named in the Grant must apply to transfer the brand. The following documents are required to transfer the brand where there is a Grant of Probate or Grant of Administration:

- *Estate Transfer of Brand from Deceased Owner*
- copy of the Grant of Probate or Grant of Administration with a the copy of the entire Will attached
- copy of Surrogate Court Form NC6 (Schedule 4 Beneficiaries) filed with the application for the Grant of Probate or Grant of Administration

If the beneficiary named in the Will is not the transferee of the brand, the beneficiary must give up his or her right to the brand. To do this the following document is required:

- *Renunciation of Brand by Beneficiary*

## **Where there is no Grant of Probate or Administration**

If there is no Grant of Probate or Grant of Administration, the Personal Representative named in the Will has priority to apply to transfer the brand.

If the Personal Representative named in the Will does not wish to or cannot apply to transfer the brand, preference will be given to a beneficiary of the deceased to transfer the brand in the following order of priority:

- a residuary beneficiary named in the Will
- a life tenant of the residue named in the Will
- an heir on intestacy, if the residue is not completely disposed of in the Will
- a beneficiary receiving a specific bequest in the Will
- a contingent beneficiary of the residue in the Will
- a contingent beneficiary of a specific gift in the Will

The Brand Registrar, however, can only accept a *Estate Transfer of Brand from Deceased Owner* from someone other than the Personal Representative if:

- the brand has not been transferred into the name of the Personal Representative of the Estate of the deceased; and
- the Personal Representative completes the *Renunciation of Right to Transfer Brand* form.

The following documents are required to transfer a brand when there is a Will but no Grant of Probate or Grant of Administration:

- *Estate Transfer of Brand from Deceased Owner*
- *Statutory Declaration of Personal Representative or Applicant (Will and no Grant)* along with
  - a copy of the entire Last Will and Testament, and
  - a copy of the Death Certificate or Funeral Director's Statement of Death.

If the Personal Representative named in the Will is not applying to transfer the brand the following document is required:

- *Renunciation of Right to Transfer Brand*

If the beneficiary named in the Will is not the transferee of the brand the beneficiary must give up his or her right to the brand. To do this the following document is required:

- *Renunciation of Brand by Beneficiary*

<b>B-3 Transfer of brand when there is <u>no</u> Last Will and Testament</b>
--

If the deceased died without leaving a Will the following provisions apply:

**Beneficiary**

The brand will be transferred in accordance with the *Intestate Succession Act*. The provisions of this *Act* can be summarized as follows:

<b>If a deceased dies leaving</b>	<b>the beneficiary is the deceased's</b>
a spouse* but no children**	spouse
a spouse and children with a net estate not exceeding \$40,000.00	spouse
a spouse and children with net estate exceeding \$40,000.00	spouse and children
no spouse, only children	children (and to the children of any deceased child)
no spouse or children	surviving parent or parents
no spouse, children or parents	brothers and sisters (and the children of any deceased brother or sister)
no spouse, children, parents, brothers or sisters	nephews and nieces
no spouse, children, parents, brothers or sisters, nephews or nieces	the next of kin in equal degrees of relationship to the deceased

\* "spouse" included an interdependent partner

\*\* "children" means all lineal descendents, whether born within or outside of marriage, adopted

If any beneficiary entitled to the brand under the *Intestate Succession Act* does not wish to have the brand transferred to him or her, the beneficiary must complete the *Renunciation of Brand* form.

#### **Where there is a Grant of Administration without Will Annexed**

If there is a Grant of Administration without Will Annexed the Personal Representative named in the Grant must apply to transfer the brand. The following documents are required to transfer the brand when there is a Grant of Administration without Will Annexed:

- *Estate Transfer of Brand from Deceased Owner*
- copy of the Grant of Administration without Will Annexed
- copy of Surrogate Court Form NC6 (Schedule 4 Beneficiaries) filed with the Application for a Grant of Administration without Will Annexed

If the person entitled to the brand under the *Intestate Succession Act* is not the transferee of the brand that person must give up his or her right to the brand. To do this the following document is required:

- *Renunciation of Brand*

#### **Where there no Grant of Administration without Will Annexed**

If there is no Grant of Administration without Will Annexed, the brand may be transferred by the person entitled to the brand under the *Intestate Succession Act*. Preference will be given to an applicant to transfer the brand in the following order of priority:

- the surviving spouse or surviving interdependent partner
- a child of the deceased
- a grandchild of the deceased
- an issue of the deceased other than a child or grandchild
- a parent of the deceased
- a brother or sister of the deceased
- next of kin of the deceased of closest and equal degree of relationship who are heirs on intestacy and who are not otherwise referred to above
- a person who has an interest in the estate because of a relationship with the deceased

Before an *Estate Transfer of Brand from Deceased Owner* can be accepted from an Applicant, all those who rank higher or equal to the Applicant in the above list must renounce their right to apply to transfer the brand by completing the *Renunciation of Right to Transfer Brand*.

In applying to transfer the brand, the Applicant shall provide the following:

- *Estate Transfer of Brand from Deceased Owner*
- *Statutory Declaration of Applicant (no Will and no Grant)* along with a copy of the Death Certificate or Funeral Director's Statement of Death

If the person having priority under the *Intestate Succession Act* is not applying to transfer the brand the following document is required:

- *Renunciation of Right to Transfer Brand*

If the person entitled to the brand under the *Intestate Succession Act* is not the transferee of the brand that person must give up his or her right to the brand. To do this the following document is required:

- *Renunciation of Brand by Beneficiary*

<b>QUESTIONNAIRE TO ASSIST IN SELECTING CORRECT FORMS TO COMPLETE</b>
---

Answering the following questions will help to determine what forms need to be completed to transfer the brand from the deceased brand owner.

### Ownership of the brand

1. Was the deceased the sole owner of the brand?

Yes (go to question 4)

No (answer questions 2 and 3)

2. If the deceased was one of two or more owners of the brand, did the deceased and the other owners own the brand jointly? (joint ownership was only available after September 1, 2009)

Yes Use the *Transfer to Surviving Joint Brand Owner(s)* form to transfer the brand.

No (go to question 3)

3. Is (are) the beneficiary (ies) of the brand (under the deceased's will or on intestacy) the surviving co-owner(s) of the brand?

Yes Use the *Transfer to Surviving Co-Owner(s)* form to transfer the brand.

No Continue to question 4 and submit the *Acknowledgment of Surviving Co-Owner and Beneficiary/Transferee* with this Estate Transfer form

### Estate Information

4. Does the deceased have a Last Will and Testament?

Yes (answer questions 5, 6, 7 and 11)

No (answer questions 8, 9, 10 and 11)

### Where there is a Will

5. If the deceased has a Will, is there a Grant of Probate or Grant of Administration?

Yes The following documents must be provided with this Estate Transfer Form

- copy of the Grant of Probate or Grant of Administration with a the copy of the Will attached
- copy of Surrogate Court Form NC6 (Schedule 4 Beneficiaries) filed with the Application for a Grant of Probate or Grant of Administration

No The following documents must be provided with this Estate Transfer Form

- *Statutory Declaration to Transfer Brand from Deceased with Will but without Grant*
- copy of the Last Will and Testament, and
- copy of the Death Certificate or Funeral Director's Statement of Death

6. Is the person applying to transfer the brand the Personal Representative named in the Will?
- Yes (go to question 7)
- No The *Renunciation of Right to Transfer Brand* form must be completed by the Personal Representative and every person having priority over the applicant. (See Information Sheet)
7. Is the transferee the beneficiary of the brand in the deceased Will?
- Yes (go to question 11)
- No The following document must be provided with this Estate Transfer form
- a *Renunciation of Brand by Beneficiary* must be completed by each beneficiary of the brand who is not a transferee

**Where there is no Will**

8. If the deceased does not have a Will, is there a Grant of Administration without Will?
- Yes Documents to be provided with this Estate Transfer Form
- copy of the Grant of Administration without Will Annexed
  - copy of Surrogate Court Form NC6 (Schedule 4 Beneficiaries) that was filed with the Application for Grant of Administration
- No Documents to be provided with this Estate Transfer Form
- *Statutory Declaration to Transfer Brand from Deceased without Will and without Grant*
  - copy of the Death Certificate or Funeral Director's Statement of Death
9. Does the person applying to transfer the brand have priority to apply? (see Information Sheet)
- Yes (go to questions 10)
- No *Renunciation of Right to Transfer Brand* form must be completed by every person having priority over the applicant.
10. Is the transferee the person entitled to the brand under the *Intestate Succession Act*? (see Information Sheet for list priority of entitlement under the Act)
- Yes (go to questions 11)
- No *Renunciation of Brand* form must be completed by all persons having priority to the brand under the *Intestate Succession Act* over the transferee

**In both circumstances**

11. Is every person named on this Estate Transfer form and all additional forms over 18 years of age?
- Yes
- No Contact the Brand Registrar for information as to what additional forms are required to be completed and submitted with this Estate Transfer Form.

## Special Circumstances

If the brand is an **Honorary Brand** – please contact LIS for information on how to transfer an Honorary Brand.

If the deceased brand owner was **under 18** years of age at the time of his/her death – please contact LIS for information with respect to the additional documents that will be required to transfer the brand.

## Status of the Transferor(s) and Transferee(s)

Brands are owned by and can be transferred to individuals, partnerships or corporations.

### Co-ownership and Joint Ownership

Up to January 1, 2009, all brands owned by more than one person were co-owned. The Brand Registry now recognizes joint ownership of brands.

If two or more persons are **joint owners** of a brand, each person owns an undivided interest in the brand and has a “right of survivorship”. Upon the death of one joint owner, the other owner(s) has ownership of the brand. On the death of one joint owner, the brand can be transferred to the survivor(s) by the surviving joint owner(s) filing with the Brand Registrar a Statutory Declaration of Surviving Joint Brand Owner along with satisfactory proof of death of the deceased joint owner. If the transferees do not want title to the brand and, potentially, the livestock bearing the brand to pass to the survivor(s), then joint ownership should not be used.

If two or more persons are **co-owners** of a brand, each person owns an undivided interest in the brand and, upon the death of one of the co-owners, the legal requirements governing wills and estates must be followed to transfer the deceased’s interest (ownership) in the brand. Whether the deceased’s interest in the brand will go to the co-owner or to another person will be determined by any Designation of Beneficiary Form filed with the Brand Registrar, the deceased’s Will or, if there is no Designation of Beneficiary Form or Will, on the laws governing intestate succession.

If either Joint Owners or Co-Owners is not checked off on the Transfer, any brand owned by two or more owners will be co-owned. The election of joint ownership or co-ownership can be changed by the owners at any time.

Regardless of how two or more individuals own a brand, whether as joint owners or as co-owners:

- Any livestock bearing the above brand must be sold in the names of, or on behalf of, all of the owners of the brand. If not, the livestock or the sale proceeds may be held pending the livestock inspector being satisfied that the person in possession of the livestock is the owner of the livestock, the owner’s agent or otherwise lawfully entitled to be in possession of the livestock or entitled to the sale proceeds.
- The sale proceeds must be payable to all of the owners of the brand and the holder of any livestock security interest in the livestock or the dam of the livestock being sold.
- If the livestock is being transported for sale and the livestock manifest does not direct payment to all of the owners of the brand, the livestock inspector will hold the livestock or the sale proceeds until all of the owners of the brand sign the livestock manifest.

The ability to own a brand jointly or as co-owners was implemented for the sole purpose of simplifying the transfer of the brand on death of one of the brand owners. If all of the individuals owning the brand will not or do not own the livestock being branded then do not register the brand in the names of more than one individual.

### **Trade names**

If the brand is being transferred to an individual, not associated in partnership with any other person, in a name other than his or her own name, he or she will be operating under a “trade name” and will be required to provide a copy of a *Declaration of Trade Name* that has been filed with the Registrar of Corporations under section 110 of the *Partnership Act*. The Declaration of Trade Name form can be obtained from Service Alberta at <http://www.servicealberta.gov.ab.ca> under Corporate Registries, Business names. If a brand is owned by two or more individuals under a name other than their own names, they are deemed to be a partnership for the purposes of owning the brand.

### **Partnerships**

If the brand is being transferred to two or more persons in a name other than their own names, they will be operating as a partnership and will be required to provide a copy of a *Declaration of Partnership* that has been filed with the Registrar of Corporations under section 106 of the *Partnership Act*. The Declaration of Partnership form can be obtained from Service Alberta at <http://www.servicealberta.gov.ab.ca> under Corporate Registries, Business names. All of the names of the partners must be provided on the Transfer.

### **Corporations**

Proof of registration as a corporation in Alberta and a copy of the last annual return filed are required in order to transfer a brand into the name of a corporation.

If the brand being transferred to a corporation, not associated in partnership with any other person, and in a name other than its legal corporate name, the company is operating under a “trade name” and will be required to provide a copy of a *Declaration of Trade Name* that has been filed with the Registrar of Corporations under section 110 of the *Partnership Act*. The Declaration of Trade Name form can be obtained from Service Alberta at <http://www.servicealberta.gov.ab.ca> under Corporate Registries, Business names.

### **Transferees under 18 years of age**

When a brand is transferred to a person under 18 years of age, the parent or guardian of the child is required to sign a Guardian’s Acknowledgment of Responsibility under the *Minors’ Property Act*. If the minor transferee is 14 to 17 years of age, the minor transferee will be required to sign the brand Transfer and consent to the guardian receiving the brand certificate on the minor’s behalf.

<b>Transfer Fee</b>
---------------------

Please ensure that the transfer fee of **\$52.50** (GST included) for each brand being transferred accompanies the Transfer.

The transfer fee can be paid by cheque, VISA or MasterCard. Please note that the transfer fee is **not refundable** once the Brand Registrar has issued a Brand Certificate in the name of the transferee(s).

<b>Other Information</b>
--------------------------

**Publication of brand information**

Livestock Identification Services Ltd. maintains a registry of brands. The information provided on the Transfer is entered in the registry. Any person may, on payment of \$25.00, have the registry searched and obtain an extract from the registry. Livestock Identification Services Ltd. publishes a Brand Book containing all of the registered brands and also posts all brands on its website. The name of the owner of the brand and the owner's town/city along with a picture of the brand and the description of the brand is published in the Brand Book and on the website.

**Change of Address and contact information**

In order for LIS to keep its brand registry up to date, owners of brands are required to notify LIS, in writing, of any change in their address and contact information.

**Brand Registrar Contact Information**

Livestock Identification Services Ltd.  
#109, 264 Midpark Way SE  
Calgary, AB T2X 1J6  
www.lis-alberta.com

Phone: 403-740-4105  
Toll Free: 866-740-4105  
Fax: 403-740-4124  
E-mail: [brands@lis-alberta.com](mailto:brands@lis-alberta.com)