

The Dependent Adults Act

Repealed by

Chapter A-5.3 of the *Statutes of Saskatchewan, 2000*
(effective July 15, 2001)

Formerly

Chapter D-25.1 of the *Statutes of Saskatchewan, 1989-90*
(effective March 1, 1990) as amended by the *Statutes of
Saskatchewan, 1990-91, c.28; 1992, c.62; 1993, c.17; 1998, c.48;*
and *2000, c.L-5.1.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

	PART I	
	Short Title and Interpretation	
1	Short title	
2	Interpretation	
	PART II	
	Personal Guardianship	
3	Application	28 Application for direction
4	Service	29 Notice to Registrar of Titles
5	Conditions for order	30 Withdrawal or amendment of notice
6	Appointment of personal guardian	31 Letters of administration
7	Extent of personal guardian's authority	32 Exchange or renewal of lease
8	Compliance required	33 Will of dependent adult
9	Effect of decision by personal guardian	34 Interest in disposition of property
10	Effect of order on dependent adult	35 Land subject to trust
11	Duties of personal guardian	36 Property subject to trust
12	Orders re expenses, fees	37 Orders re sections 34 to 36
13	Orders for access	38 Act is indemnity
14	Limitations on orders	39 Notice of action, suit or proceeding
15	Order for directions	
	PART III	PART IV
	Property Guardianship	Testamentary Nomination and Review
16	Application	40 Testamentary nomination
17	Service	41 Review and discharge
18	Conditions for order	
19	Appointment of property guardian	PART V
20	Extent of property guardian's authority	General
21	Compliance required	42 Appeal
22	Effect of decision by property guardian	43 Immunity
23	Effect of order on dependent adult	44 Notice of prior judgments, writs of execution
24	Duties of property guardian	45 Copies of orders to public trustee
25	Order re fees	46 Regulations
26	Inventory of estate	47 Crown bound
27	Security	48 Payment of moneys
		49 Order as to costs
		50 Rules
		51 Order re examinations
		PART VI
		Transitional
		52 R.S.S. 1978, c.M-14 amended
		53 Transitional

CHAPTER D-25.1

An Act respecting Certain Adults Requiring Guardianship

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Dependent Adults Act*.

Interpretation

2(1) In this Act:

- (a) **“adult”** means an individual 16 years of age or more;
- (b) **“applicant”** means a person or agency who is entitled to bring and brings an application pursuant to this Act;
- (c) **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan;
- (d) **“dependent adult”** means a person with respect to whom an order has been made appointing a personal guardian or property guardian;
- (e) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (f) **“personal guardian”** means a person appointed by the court pursuant to section 6;
- (g) **“property guardian”** means a person appointed by the court pursuant to section 19;
- (h) **“public trustee”** means the public trustee established pursuant to *The Public Trustee Act*;
- (i) **“relative”**, with respect to a person, means the following relatives of the person who are at least 18 years of age:
 - (i) spouse;
 - (ii) son or daughter;
 - (iii) parent;
 - (iv) brother or sister;
 - (v) grandparent;
 - (vi) grandchild;
 - (vii) uncle or aunt;
 - (viii) nephew or niece.

c. D-25.1**DEPENDENT ADULTS**

(2) In this Act, when the court is called on to determine who is the nearest relative of a person, it shall prefer:

- (a) relatives in the order mentioned in clause (1)(i);
- (b) relatives of the whole blood to relatives of the half-blood; and
- (c) the elder or eldest of two or more relatives of the same category to the younger relatives.

1989-90, c.D-25.1, s.2.

PART II
Personal Guardianship

Application

3(1) An application for an order pursuant to this Part may be made by:

- (a) any person who, in the opinion of the court, has a sufficient interest in the personal affairs of the person with respect to whom the application is made; or
- (b) an individual, corporation or agency designated pursuant to subsection (2).

(2) In accordance with any terms and conditions that may be prescribed in the regulations, the minister may designate an individual, corporation or agency or a category of individuals, corporations or agencies who may make an application pursuant to this Part.

1989-90, c.D-25.1, s.3.

Service

4(1) On an application for an order pursuant to this Part, the applicant shall serve a copy of the application on:

- (a) the person with respect to whom the application is made;
- (b) the nearest relative of the person mentioned in clause (a);
- (c) if the nearest relative mentioned in clause (b) is the applicant, the next nearest relative of the person mentioned in clause (a);
- (d) the personal guardian or proposed personal guardian if the personal guardian or proposed personal guardian is not the applicant or a person served pursuant to this subsection;
- (e) the property guardian of the person mentioned in clause (a) if the property guardian is not the applicant or a person served pursuant to this subsection; and
- (f) any other person having an interest in the personal care and welfare of the person mentioned in clause (a) that the court considers appropriate under the circumstances.

DEPENDENT ADULTS

c. D-25.1

- (2) The court may dispense with service:
- (a) on all or any of the persons mentioned in clauses (1)(b) to (f) if it considers it appropriate to do so; and
 - (b) on the person mentioned in clause (1)(a) if the court is satisfied that service would be injurious to that person and would not be in that person's best interests.

1989-90, c.D-25.1, s.4.

Conditions for order

5(1) Where an application is made for an order pursuant to this Part, the court shall inquire into:

- (a) the extent to which the person with respect to whom the application is made is in need of a personal guardian and for that purpose may consider the physical, psychological, emotional, social, health, residential, vocational, economic and other needs of that person; and
 - (b) the wishes of that person to the extent that the court considers appropriate, having regard to the capacity of the person.
- (2) The Lieutenant Governor in Council may prescribe by regulation forms which may be used in providing evidence required pursuant to this section.
- (3) An applicant seeking an order pursuant to this Part to appoint the applicant as a personal guardian shall:
- (a) disclose in the application whether he or she has been appointed as a personal or property guardian for any other dependent adult; and
 - (b) if the applicant has been appointed as a personal or property guardian for any other dependent adult, provide details respecting each guardianship, including any fees for services being paid to the applicant, that the court may require.
- (4) The court may make an order pursuant to this Part if the court is satisfied based on the evidence submitted to it that the person with respect to whom the application is made is:
- (a) an adult, whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity:
 - (i) to care for himself or herself; or
 - (ii) to make reasonable judgments with respect to matters relating to his or her person; and
 - (b) in need of a personal guardian.
- (5) The court shall not make an order pursuant to this Part unless it is satisfied that it is in the best interests of the person with respect to whom the application is made to grant the order.

1989-90, c.D-25.1, s.5.

Appointment of personal guardian

6(1) Subject to subsections (2) to (5), where the court is satisfied that the conditions described in section 5 are met, the court may appoint any person as a personal guardian for the person with respect to whom the application is made.

(2) No person shall be appointed a personal guardian without his or her consent.

(3) No individual shall be appointed a personal guardian unless the individual is 18 years of age or older.

(4) No person shall be appointed a personal guardian unless the court is satisfied that the person is capable of carrying out the duties of a personal guardian in a satisfactory manner, having regard to:

- (a) the needs of the dependent adult; and
- (b) the relationship between the person and the dependent adult.

(5) No person shall be appointed a personal guardian who will be in a position where the person's interests will conflict with the dependent adult's interests.

(6) For the purposes of subsection (5), no person shall be considered to be in a position described in that subsection only by reason of the fact that the person is a potential beneficiary or a relative of the dependent adult.

(7) The court may appoint two or more persons as personal guardians.

1989-90, c.D-25.1, s.6.

Extent of personal guardian's authority

7(1) Subject to subsections (2) to (5), where the court makes an order appointing a personal guardian, the court shall specify whether all or any one or more of the following matters relating to the dependent adult's personal care and welfare are to be subject to the authority of the personal guardian:

- (a) the authority to decide where, with whom and under what conditions the dependent adult is to live;
- (b) the authority to decide whether the dependent adult should work, and if so:
 - (i) the nature or type of work;
 - (ii) for whom the dependent adult is to work; and
 - (iii) other related matters;
- (c) the authority to decide whether the dependent adult should take part or participate in any educational, vocational or other training, and if so:
 - (i) the nature and extent of that training; and
 - (ii) other related matters;
- (d) the authority to decide whether the dependent adult should apply for or give any licence, permit, approval or other consent or authorization that:
 - (i) is required by law;

DEPENDENT ADULTS

c. D-25.1

- (ii) is not otherwise mentioned in this subsection; and
 - (iii) does not relate to the estate of the dependent adult;
 - (e) the authority to commence, defend, compromise or settle any civil legal proceeding that does not relate to the estate of the dependent adult;
 - (f) the authority to sign and do all things necessary to give effect to any power or authority vested in the personal guardian;
 - (g) the authority to consent to any health care including:
 - (i) admission to a health care facility; and
 - (ii) the method of treatment of the dependent adult;
 - (h) the authority to consent to the restraint of the dependent adult where necessary to protect the health or safety of the dependent adult or others; and
 - (i) the authority to make normal day-to-day decisions on behalf of the dependent adult, including decisions regarding diet and dress, that:
 - (i) a guardian would reasonably be expected to make; and
 - (ii) are not specified or mentioned in clauses (a) to (h).
- (2) The court shall not make an order giving a personal guardian all guardianship powers mentioned in subsection (1) unless it is satisfied that an order providing particular powers would be insufficient to meet the needs of the dependent adult.
- (3) In making an order appointing a personal guardian, the court may:
- (a) make its order subject to any conditions and restrictions that it considers necessary; and
 - (b) require the personal guardian to have the order reviewed by the court within a specified period of time, if it is in the best interests of the dependent adult.
- (4) Where the court makes an order pursuant to clause (3)(b), section 41 applies, with any necessary modification, to the review.
- (5) On an application by the personal guardian or any person having, in the opinion of the court, a sufficient interest, the court may vary an order made pursuant to subsection (1) by adding to or removing powers granted in the order.
- (6) No authority granted pursuant to subsections (1) and (5) includes the authority to:
- (a) consent to the withdrawal of life-support systems used for the dependent adult;
 - (b) consent on behalf of the dependent adult to a donation for the purposes of *inter vivos* transplant under *The Human Tissue Gift Act*;
 - (c) consent on behalf of the dependent adult to a procedure, the sole purpose of which is sterilization;

c. D-25.1**DEPENDENT ADULTS**

- (d) consent on behalf of the dependent adult to an abortion authorized by law except where the continuation of the pregnancy of the dependent adult would be likely to cause imminent danger to the life or health of the dependent adult;
 - (e) consent on behalf of the dependent adult to the termination of the dependent adult's parental rights;
 - (f) commence divorce proceedings on behalf of the dependent adult; or
 - (g) interfere with the dependent adult's exercise of religious practices except to the extent that those practices threaten the dependent adult's health or safety.
- (7) The personal guardian may apply to the court for an order authorizing any of the matters mentioned in clauses (6)(a) to (g).
- (8) A personal guardian may do whatever is necessarily incidental in the exercise of any authority conferred by the court pursuant to this section.

1989-90, c.D-25.1, s.7.

Compliance required

- 8** Where an order pursuant to this Part directed at a personal guardian is made subject to conditions or restrictions, the personal guardian shall comply with those conditions or restrictions.

1989-90, c.D-25.1, s.8.

Effect of decision by personal guardian

- 9(1)** Any decision made, action taken, consent given or thing done by a personal guardian in good faith with regard to any matter with respect to which the personal guardian is appointed personal guardian is deemed for all purposes to have been decided, taken, given or done by the dependent adult as though the dependent adult were an adult capable of giving consent.

- (2) When a personal guardian enters into a contract on behalf of the dependent adult pursuant to the authority granted pursuant to this Part, the contract is binding on the dependent adult after the personal guardianship order is terminated:

- (a) in the same manner; and
- (b) to the same extent;

as if the dependent adult had made the contract and had been an adult capable of making the contract.

1989-90, c.D-25.1, s.9.

Effect of order on dependent adult

- 10** When a personal guardian has been given authority pursuant to this Part, the dependent adult ceases to have that authority.

1989-90, c.D-25.1, s.10.

Duties of personal guardian

11 A personal guardian shall exercise the duties and powers assigned by the court:

- (a) diligently;
- (b) in good faith;
- (c) in the best interests of the dependent adult; and
- (d) in a manner so as to:
 - (i) ensure that the dependent adult's civil and human rights are protected;
 - (ii) encourage the dependent adult to:
 - (A) participate to the maximum extent in all decisions affecting the dependent adult; and
 - (B) act independently in all matters in which the dependent adult is able; and
 - (iii) limit the personal guardian's interference in the life of the dependent adult to the greatest extent possible.

1989-90, c.D-25.1, s.11.

Orders re expenses, fees

12(1) On the application of a person having, in the opinion of the court, a sufficient interest, the court may make an order directing that the personal guardian shall receive a specified sum of money per month or any other period out of the estate of the dependent adult for the purpose of sheltering, supporting and caring for the dependent adult, without the consent of:

- (a) the dependent adult; or
- (b) the dependent adult's property guardian, if one exists.

(2) The court may make an order setting a fee for services rendered by the personal guardian by payment from time to time out of the estate of the dependent adult.

1989-90, c.D-25.1, s.12.

Orders for access

13 On application, the court may make an order providing for access to the dependent adult by a person other than the personal guardian if the court is satisfied that it is in the best interests of the dependent adult to make the order.

1989-90, c.D-25.1, s.13.

Limitations on orders

14(1) Nothing in this Act shall be construed as derogating from the authority of any person under any other Act or law with respect to a person for whom a personal guardian might be appointed under this Act.

c. D-25.1**DEPENDENT ADULTS**

- (2) Nothing in this Act limits the *parens patriae* jurisdiction of the court.

1989-90, c.D-25.1, s.14.

Order for directions

- 15** A personal guardian may apply to the court for advice or directions.

1989-90, c.D-25.1, s.15.

PART III
Property Guardianship

Application

- 16(1)** An application for an order pursuant to this Part may be made by:

- (a) any person who, in the opinion of the court, has a sufficient interest in the financial affairs of the person with respect to whom the application is made; or
- (b) an individual, corporation or agency designated pursuant to subsection (2).

- (2) In accordance with any terms and conditions that may be prescribed in the regulations, the minister may designate an individual, corporation or agency or a category of individuals, corporations or agencies who may make an application pursuant to this Part.

1989-90, c.D-25.1, s.16.

Service

- 17(1)** On an application for an order pursuant to this Part, the applicant shall serve a copy of the application on:

- (a) the person with respect to whom the application is made;
- (b) the nearest relative of the person mentioned in clause (a);
- (c) if the nearest relative mentioned in clause (b) is the applicant, the next nearest relative of the person mentioned in clause (a);
- (d) the property guardian or proposed property guardian if the property guardian or proposed property guardian is not the applicant or a person served pursuant to this subsection;
- (e) the personal guardian of the person mentioned in clause (a) if the personal guardian is not the applicant or a person served pursuant to this subsection; and
- (f) any other person having an interest in the estate of the person mentioned in clause (a) that the court considers appropriate under the circumstances.

- (2) The court may:

- (a) dispense with service on all or any of the persons mentioned in clauses (1)(b) to (f) if it considers it appropriate to do so; and

DEPENDENT ADULTS

c. D-25.1

(b) dispense with service on the person mentioned in clause (1)(a) if the court is satisfied that service would be injurious to that person and would not be in that person's best interests.

1989-90, c.D-25.1, s.17.

Conditions for order

18(1) Where an application is made for an order pursuant to this Part, the court shall inquire into:

(a) the extent to which the person with respect to whom the application is made is in need of a property guardian, and for that purpose:

(i) may consider the physical, psychological, emotional, social, health, residential, vocational and other needs of that person; and

(ii) shall consider the extent, nature and complexity of that person's estate, that person's economic needs, and the existence of any alternative means of managing the estate; and

(b) the wishes of the person to the extent that the court considers appropriate having regard to the capacity of that person.

(2) The Lieutenant Governor in Council may prescribe by regulation forms which may be used in providing evidence required under this section.

(3) An applicant seeking an order pursuant to this Part to appoint the applicant as a property guardian shall:

(a) disclose in the application whether he or she has been appointed as a personal or property guardian for any other dependent adult; and

(b) if the applicant has been appointed as a personal or property guardian for any other dependent adult, provide details respecting each guardianship, including any fees for services being paid to the applicant, that the court may require.

(4) The court may make an order pursuant to this Part if the court is satisfied based on the evidence submitted to it that the person with respect to whom the application is made is:

(a) an adult, whose ability to:

(i) receive and evaluate information effectively; or

(ii) communicate decisions;

is impaired to such an extent that the person lacks the capacity to make reasonable judgments with respect to matters relating to all or any of his or her estate; and

(b) in need of a property guardian.

(5) The court shall not make an order pursuant to this Part unless it is satisfied that it is in the best interests of the person with respect to whom the application is made to grant the order.

1989-90, c.D-25.1, s.18.

c. D-25.1**DEPENDENT ADULTS****Appointment of property guardian**

19(1) Subject to subsections (2) to (5), where the court is satisfied that the conditions described in section 18 are met, the court may appoint any person as a property guardian for the person with respect to whom the application is made.

(2) No person shall be appointed a property guardian without his or her consent.

(3) No individual shall be appointed a property guardian unless the individual is 18 years of age or older.

(4) No person shall be appointed a property guardian unless the court is satisfied that the person is capable of carrying out the duties of a property guardian in a satisfactory manner, having regard to:

(a) the needs of the dependent adult; and

(b) the relationship between the person and the dependent adult.

(5) No person shall be appointed a property guardian who will be in a position where the person's interests will conflict with the dependent adult's interests.

(6) For the purposes of subsection (5), no person shall be considered to be in a position described in that subsection only by reason of the fact that the person is a potential beneficiary or a relative of the dependent adult.

(7) The court may appoint two or more persons as property guardians.

1989-90, c.D-25.1, s.19.

Extent of property guardian's authority

20(1) Subject to subsections (2) to (5) and subsection 29(6) of *The Public Trustee Act*, where the court makes an order appointing a property guardian, the court shall specify whether all or any one or more of the following matters relating to the dependent adult's estate are to be subject to the authority of the property guardian:

(a) the authority to receive any or all income due to the dependent adult from any source;

(b) the authority to make any or all payments on behalf of the dependent adult;

(c) subject to section 12, the authority to perform any obligation of the dependent adult respecting maintenance of the dependent adult or the dependent adult's dependents or any other person;

(d) the authority to take possession and control of any or all of the real and personal property belonging to the dependent adult;

(e) the authority to commence, defend, compromise or settle any legal proceeding relating to the estate of the dependent adult;

(f) the authority to invest any money in investments in which trustees are authorized to invest trust money under *The Trustee Act* and to dispose of those investments and invest the proceeds of disposition in like investments;

(g) the authority to sell, transfer or otherwise dispose of any real or personal property belonging to the dependent adult;

DEPENDENT ADULTS

c. D-25.1

- (h) the authority to:
 - (i) draw, accept and endorse bills of exchange and promissory notes;
 - (ii) endorse bonds, debentures, coupons and other negotiable instruments and securities; and
 - (iii) assign choses in action;
 - (i) the authority to exchange or partition any property belonging to the dependent adult, or in which the dependent adult is interested, and give or receive any money for equality of exchange or partition;
 - (j) the authority to apply on behalf of the dependent adult as surviving joint tenant to the Registrar of Titles to enable the dependent adult to be registered as owner;
 - (k) the authority to execute any documents on behalf of a dependent adult that are necessary to comply with *The Homesteads Act, 1989*;
 - (l) the authority to grant or accept a lease of real or personal property on behalf of the dependent adult;
 - (m) the authority to surrender or accept a surrender of a lease of real or personal property on behalf of the dependent adult;
 - (n) the authority to perform a contract relating to the property of the dependent adult entered into by the dependent adult;
 - (o) the authority to exercise a power or give a consent required for the exercise of a power, vested in the dependent adult;
 - (p) the authority to give or receive a notice on behalf of the dependent adult that relates to the dependent adult's estate;
 - (q) the authority to exercise:
 - (i) a right to elect belonging to; or
 - (ii) an obligation to elect imposed on;
 the dependent adult;
 - (r) the authority to consent to the transfer or assignment of a lease where the consent of the dependent adult is required;
 - (s) the authority to compromise or settle a debt owing by or to the dependent adult;
 - (t) the authority to carry on the trade or business of the dependent adult;
 - (u) the authority to do anything, other than those things mentioned in clauses (a) to (t), with respect to the property of the dependent adult.
- (2) The court shall not make an order giving a property guardian all powers mentioned in subsection (1) unless it is satisfied that an order providing particular powers would be insufficient to meet the needs of the dependent adult.

c. D-25.1**DEPENDENT ADULTS**

- (3) In making an order appointing a property guardian, the court may:
- (a) make its order subject to any conditions and restrictions that it considers necessary;
 - (b) require the property guardian to have the order reviewed by the court within a specified period of time, if it is in the best interests of the dependent adult;
 - (c) require the property guardian to pass the property guardian's accounts within a specified period of time; or
 - (d) do all or any combination of the things mentioned in clauses (a) to (c).
- (4) Where the court makes an order pursuant to clause 3(b), section 41 applies, with any necessary modification, to the review.
- (5) On application by the property guardian or any person having, in the opinion of the court, a sufficient interest, the court may vary an order made pursuant to subsection (1) by adding to or removing powers granted in the order.
- (6) A property guardian may do whatever is necessarily incidental in the exercise of any authority conferred by the court pursuant to this section.

1989-90, c.D-25.1, s.20; 1990-91, c.28, s.2; 1993, c.17, s.7; 2000, c.L-5.1, s.242.

Compliance required

21 Where an order pursuant to this Part directed at a property guardian is made subject to conditions or restrictions, the property guardian shall comply with those conditions or restrictions.

1989-90, c.D-25.1, s.21.

Effect of decision by property guardian

22(1) Any decision made, action taken, consent given or thing done by a property guardian in good faith with regard to any matter with respect to which the property guardian is appointed property guardian is deemed for all purposes to have been decided, taken, given or done by the dependent adult as though the dependent adult were an adult capable of giving consent.

(2) When a property guardian enters into a contract on behalf of a dependent adult pursuant to the authority granted pursuant to this Part, the contract is binding on the dependent adult after the order is terminated:

- (a) in the same manner; and
- (b) to the same extent;

as if the dependent adult had made the contract and had been an adult capable of making the contract.

1989-90, c.D-25.1, s.22.

DEPENDENT ADULTS

c. D-25.1

Effect of order on dependent adult

23 When a property guardian has been given authority pursuant to this Part, the dependent adult ceases to have that authority.

1989-90, c.D-25.1, s.23.

Duties of property guardian

24(1) A property guardian shall exercise the duties and powers assigned by the court:

- (a) diligently;
- (b) in good faith;
- (c) in the best interests of the dependent adult and the dependent adult's estate; and
- (d) in a manner so as to:
 - (i) ensure that the dependent adult's civil and human rights are protected;
 - (ii) encourage the dependent adult to:
 - (A) participate to the maximum extent in all decisions affecting the dependent adult's estate; and
 - (B) act independently in all matters in which the dependent adult is able; and
 - (iii) limit the property guardian's interference in the life of the dependent adult to the greatest extent possible.

1989-90, c.D-25.1, s.24.

Order re fees

25 The court may make an order setting a fee for services rendered by the property guardian by payment from time to time out of the estate of the dependent adult.

1989-90, c.D-25.1, s.25.

Inventory of estate

26 Where a property guardian has been appointed for a dependent adult:

- (a) the property guardian shall, at the time of the application or within six months after being appointed, file in the office of the local registrar of the court a true inventory of the whole real and personal estate of the dependent adult:
 - (i) stating the income and profits of the estate; and
 - (ii) setting forth the debts, credits and effects of the dependent adult;
- so far as the information described in subclauses (i) and (ii) has come to the knowledge of the property guardian;

c. D-25.1**DEPENDENT ADULTS**

- (b) if any property belonging to the estate is discovered after the filing of an inventory pursuant to clause (a), the property guardian shall file a true account of the property immediately on its being discovered; and
- (c) the property guardian shall verify, on oath, every inventory and account required pursuant to this section.

1989-90, c.D-25.1, s.26.

Security

27(1) Unless otherwise ordered by the court, the property guardian shall give security in any amount that the court may direct and with those sureties that the judge may approve, for:

- (a) duly accounting once in every year, or more often if required by the court; and
 - (b) filing the inventory required pursuant to section 26.
- (2) The property guardian shall:
- (a) cause the security required by subsection (1) to be taken by bond in the name of the dependent adult; and
 - (b) file the security mentioned in clause (a) in the office of the local registrar.
- (3) On the application by the property guardian or any person having, in the opinion of the court, a sufficient interest, the court may reduce or increase the amount of security to be given by the property guardian.

1989-90, c.D-25.1, s.27.

Application for direction

28 A property guardian may apply to the court for advice or directions.

1989-90, c.D-25.1, s.28.

Notice to Registrar of Titles

29(1) A property guardian shall notify the Registrar of Titles, in accordance with section 40 of *The Land Titles Act, 2000*, of the property guardian's authority to act, accompanied by the form prescribed in the regulations, and the notice shall set out the titles and interests in which the dependent adult has an interest.

(2) After the Registrar of Titles has been notified in accordance with subsection (1), any application for a transfer of title or an assignment of an interest to which the property guardian's notice applies must be authorized by the property guardian.

(3) Subsection (2) does not apply to:

- (a) an application for a transfer of title or for an assignment of an interest based on a court order; or
- (b) an application for registration of a transfer of title where the registered owner's consent is not required pursuant to *The Land Titles Act, 2000*.

2000, c.L-5.1, s.243.

Withdrawal or amendment of notice

30(1) In any of the circumstances mentioned in subsection (2), the property guardian shall, as the case may require:

- (a) notify the Registrar of Titles, in the form prescribed in the regulations of the withdrawal of the notice mentioned in subsection 29(1); or
 - (b) send an additional notice to the Registrar of Titles, setting out the titles and interests affected.
- (2) The property guardian shall notify the Registrar of Titles pursuant to subsection (1) where:
- (a) the appointment of the property guardian for which notice was sent pursuant to subsection 29(1) has been superseded, vacated or set aside;
 - (b) the dependent adult with respect to whom the notice was sent pursuant to subsection 29(1) does not have an interest in the title or interest described in the notice;
 - (c) an error has been made in the notice sent pursuant to subsection 29(1); or
 - (d) the dependent adult with respect to whom the notice was sent pursuant to subsection 29(1) dies.
- (3) Where a title or interest to which the property guardian's notice applies is transferred or assigned and the transfer or assignment is signed by the property guardian, the registration of the transfer of title or the assignment of the interest in the Land Titles Registry is deemed to be a withdrawal of the notice mentioned in subsection 29(1).
- (4) Where the property guardian applies to the Registrar of Titles to withdraw the notice mentioned in subsection 29(1) on the grounds stated in clause (2)(d), the property guardian shall attach to the application a death certificate indicating the death of the dependent adult.

2000, c.L-5.1, s.243.

Letters of administration

31(1) In addition to the powers granted under section 20, the court may authorize the property guardian to apply to the court for letters of administration with respect to the estate of a deceased person where the dependent adult is:

- (a) a beneficiary under a will and there is no executor or the executor has renounced probate;
 - (b) entitled to the estate or a portion of the estate under *The Intestate Succession Act*; or
 - (c) the executor or administrator of the deceased person's estate.
- (2) Where a property guardian applies for letters of administration pursuant to subsection (1), the property guardian has the same priority of right to a grant as the dependent adult would have if the dependent adult were not a dependent adult.

c. D-25.1**DEPENDENT ADULTS**

- (3) A property guardian may take any steps that the property guardian:
- (a) could have taken while the dependent adult was alive; and
 - (b) considers necessary for the prudent management of the property of the dependent adult;
- after the death of the dependant adult pending a grant of letters probate or of administration.

1989-90, c.D-25.1, s.31; 1992, c.62, s.24.

Exchange or renewal of lease

32 Where a property guardian:

- (a) takes property in exchange for property owned by a dependent adult; or
- (b) renews a lease on behalf of a dependent adult;

the property taken or the lease is subject to the same uses, trusts, charges, encumbrances, dispositions, devises and conditions that the original property or lease would have been subject to, but for the exchange or renewal.

1989-90, c.D-25.1, s.32.

Will of dependent adult

33 Where a property guardian has been appointed, the property guardian:

- (a) shall determine whether the dependent adult has a will; and
- (b) if the dependent adult has a will, may take into account the provisions of the will in managing the estate of the dependent adult.

1989-90, c.D-25.1, s.33.

Interest in disposition of property

34(1) The dependent adult and the dependent adult's heirs, executors, administrators, next of kin, devisees, legatees and assigns have the same interest in proceeds of any sale, mortgage or other disposition of property that they would have had in the property if no sale, mortgage or other disposition had been made.

(2) Any surplus proceeds from the sale, mortgage or disposition of property mentioned in subsection (1) are deemed to be of the same nature as the property sold, mortgaged or disposed of.

(3) The court may direct that any proceeds identified in this section be maintained by the property guardian in a separate account.

1989-90, c.D-25.1, s.34.

DEPENDENT ADULTS

c. D-25.1

Land subject to trust

35(1) Where a dependent adult owns land on trust, either solely or jointly, the court may by order vest the land in any person or persons:

- (a) for whatever estate; and
- (b) in whatever manner;

it considers proper.

(2) Where a dependent adult has a contingent interest in land, either solely or jointly, the court may release the land from the contingent interest in whatever manner it considers appropriate.

1989-90, c.D-25.1, s.35.

Property subject to trust

36(1) Where a dependent adult is entitled to any stock or chose in action:

- (a) on trust; or
- (b) as a personal representative of a deceased person;

the court may vest in any person the rights and obligations of the dependent adult respecting the stock or chose in action.

(2) Where a person is entitled jointly with a dependent adult to any stock or chose in action on trust, the court may make an order mentioned in subsection (1) in favour of either that person alone or jointly with any other person.

1989-90, c.D-25.1, s.36.

Orders re sections 34 to 36

37 The court may:

- (a) make any order; or
- (b) give any direction;

that may be necessary to carry out the orders made in sections 34 to 36.

1989-90, c.D-25.1, s.37.

Act is indemnity

38(1) This Act and every order made pursuant to this Act are deemed to be full indemnities and discharges to:

- (a) any bank, credit union or other company or society and its respective officers and servants; and
- (b) all persons other than those mentioned in clause (a);

for all acts and things done or permitted to be done pursuant to this Act or the order in so far as those acts or things relate to any property in which a dependent adult is interested, either in the dependent adult's own right or on trust.

c. D-25.1**DEPENDENT ADULTS**

- (2) It is not necessary for the persons mentioned in subsection (1) to inquire into:
- (a) the propriety of an order; or
 - (b) the jurisdiction to make an order;

purporting to be made pursuant to this Act and relating to the property mentioned in subsection (1).

1989-90, c.D-25.1, s.38.

Notice of action, suit or proceeding

39(1) During the period commencing on the date of the order made under section 19 and ending on the date of an order superseding, vacating or setting aside the order:

- (a) no action, suit or proceeding, whether judicial or extra-judicial, shall be brought or taken against a dependent adult; and
- (b) no action, suit or proceeding that affects or may affect the estate of a dependent adult shall be brought or taken;

unless 30 days' written notice of intention to do so has been given to the property guardian.

(2) The notice required by subsection (1) shall set out the full particulars of the proposed action, suit or proceeding.

(3) The property guardian may in any particular case, either before or after an action, suit or proceeding is brought or taken, waive the notice required by subsection (1).

1989-90, c.D-25.1, s.39.

PART IV**Testamentary Nomination and Review****Testamentary nomination**

40(1) A personal guardian or a property guardian may nominate by will any person to act in the guardian's place as personal guardian or property guardian, as the case may be, of the dependent adult on the death of the personal guardian or property guardian named in the order.

(2) On the death of a personal guardian or property guardian who has made a testamentary nomination pursuant to subsection (1), the testamentary nominee becomes the personal guardian or property guardian as though the nominee had been named as personal guardian or property guardian in the order appointing the deceased as guardian.

(3) A person who becomes personal guardian or property guardian pursuant to subsection (2) shall:

- (a) immediately notify the public trustee; and
- (b) apply to the court for confirmation of the nomination within six months of the death of the testator.

DEPENDENT ADULTS

c. D-25.1

(4) A person who is required to make an application pursuant to clause (3)(b) shall serve notice of the application on the persons mentioned in section 4 or 17, as the case may be.

(5) Subsections 4(2) and 17(2) apply, with any necessary modification, to service pursuant to subsection (4).

(6) On confirmation of a nomination made pursuant to subsection (1), the court shall specify whether all or any of the matters mentioned in section 7 or 20, as the case may be, are to be subject to the authority of the personal guardian or property guardian.

(7) Where the person required to apply to the court for the confirmation pursuant to subsection (3) fails to do so, the public trustee shall make the application for confirmation.

1989-90, c.D-25.1, s.40.

Review and discharge

41(1) On the application of:

- (a) the dependent adult;
- (b) the personal guardian or property guardian; or
- (c) a person having, in the opinion of the court, a sufficient interest;

the court may review the appointment of a personal guardian or property guardian or testamentary nomination of the guardian pursuant to this Act.

(2) The person making an application pursuant to subsection (1) shall serve a copy of the application on:

- (a) in the case of a review of a personal guardianship order, the persons mentioned in subsection 4(1); and
- (b) in the case of a review of a property guardianship order, the persons mentioned in subsection 17(1).

(3) If the court is satisfied that:

- (a) a dependent adult is no longer in need of a personal guardian or property guardian, as the case may be; or
- (b) a personal guardian or property guardian:
 - (i) is unable or unwilling to continue to act as personal guardian or property guardian;
 - (ii) refuses to act or to continue to act as personal guardian or property guardian;
 - (iii) fails to act as personal guardian or property guardian or fails to act in accordance with a guardianship order;

c. D-25.1**DEPENDENT ADULTS**

- (iv) acts in an improper manner or in a manner that has endangered or that may endanger the well-being or the estate of the dependent adult; or
- (v) is no longer a suitable person to act as personal guardian or property guardian;

the court may make an order discharging the personal guardian or property guardian from office or make any other order it considers appropriate in the circumstances.

(4) The court may make an order requiring a property guardian to file and pass the guardian's accounts.

(5) Before making an order discharging a personal guardian or property guardian under subsection (3), the court shall consider whether:

- (a) suitable arrangements have been made for the care of the dependent adult or the dependent adult's estate; or
- (b) an application for another personal guardianship or property guardianship order will be made.

(6) If, in the opinion of the court:

- (a) the dependent adult is still in need of a property guardian; and
- (b) no application for another property guardianship order will be made;

the court may appoint the public trustee as the property guardian for the dependent adult.

1989-90, c.D-25.1, s.41.

PART V
General

Appeal

42 A person who is aggrieved or affected by an order of the court may appeal the order to the Court of Appeal:

- (a) within the time; and
- (b) in accordance with the practices and procedures;

established in the rules of the Court of Appeal.

1989-90, c.D-25.1, s.42.

Immunity

43 No action or other proceeding for damages lies against any person for any act done in good faith in:

- (a) the exercise or intended exercise; or
- (b) reliance on the exercise or intended exercise;

of any authority conferred by this Act.

1989-90, c.D-25.1, s.43.

Notice of prior judgments, writs of execution

44 Where a personal guardian or property guardian has been appointed pursuant to this Act, during the period commencing on the date of the order and ending on the date of an order superseding, vacating or setting aside the order appointing the personal guardian or property guardian:

- (a) no judgment shall be entered against the dependent adult in an action or proceeding brought or taken against the dependent adult before the date of the appointment; and
- (b) no execution shall be issued upon a judgment obtained against that person before the date of the appointment;

unless 30 days' written notice of intention to do so has been given to the property guardian or, if no property guardian has been appointed, to the personal guardian.

1989-90, c.D-25.1, s.44.

Copies of orders to public trustee

45 The local registrar of the court shall transmit to the public trustee, without charge, a certified copy of every order:

- (a) appointing a person as a personal guardian;
- (b) appointing a person as a property guardian;
- (c) made pursuant to section 41 superseding, vacating or setting aside an order; and
- (d) made pursuant to subsection 7(5) or 20(5) varying an order.

1989-90, c.D-25.1, s.45.

Regulations

46 The Lieutenant Governor in Council may make regulations:

- (a) prescribing any forms required under this Act;
- (b) prescribing the terms and conditions for making a designation pursuant to subsection 3(2) or 16(2);
- (c) respecting any other matter or thing that is required or authorized to be prescribed in the regulations.

1989-90, c.D-25.1, s.46.

c. D-25.1**DEPENDENT ADULTS****Crown bound**

47 The Crown is bound by this Act.

1989-90, c.D-25.1, s.47.

Payment of moneys

48 Where:

- (a) there is money in court to the credit of a person who is or who is alleged to be a dependent adult;
- (b) the person mentioned in clause (a) is resident in:
 - (i) any part of Canada other than Saskatchewan; or
 - (ii) in a jurisdiction prescribed in the regulations; and
- (c) an order made by a superior court exercising jurisdiction where that person is resident authorizing any person to receive the money mentioned in clause (a) is submitted to the court;

the court may make an order for payment of the money to the person designated to receive it in the order mentioned in clause (c).

1989-90, c.D-25.1, s.48.

Order as to costs

49 The court may order the costs, charges and expenses of, and incidental to, orders, issues, directions, conveyances, transfers and all proceedings of whatever nature pursuant to this Act to be paid:

- (a) by any party to the application, issue or proceeding;
- (b) out of the estate of the dependent adult or alleged dependent adult; or
- (c) partly by the party mentioned in clause (a) and partly by the estate mentioned in clause (b).

1989-90, c.D-25.1, s.49.

Rules

50(1) The court may make rules for carrying this Act into effect and for regulating the costs in relation to proceedings pursuant to this Act.

(2) Except where inconsistent with this Act or the rules, *The Queen's Bench Act* and rules made under that Act apply to proceedings under this Act.

(3) The provisions of *The Queen's Bench Act* governing:

- (a) the promulgation of rules made pursuant to that Act; and
- (b) the effect of rules made pursuant to that Act;

apply to rules made pursuant to the authority of this section.

1989-90, c.D-25.1, s.50.

Order re examinations

51 For the purposes of this Act, the court may by order require a person with respect to whom an application pursuant to this Act is made to submit to an examination by one or more duly qualified medical practitioners at any time and place that the court in the order may direct.

1989-90, c.D-25.1, s.51.

PART VI
Transitional

R.S.S. 1978, c.M-14 amended

52 *The Mentally Disordered Persons Act* is amended:

- (a) by repealing clauses 2(a) and (b);
- (b) by repealing clauses 2(d) to (k);
- (c) by repealing sections 3 to 38; and
- (d) by repealing sections 39 to 42.

1989-90, c.D-25.1, s.52.

Transitional

53 Notwithstanding the repeal of any provisions of *The Mentally Disordered Persons Act* pursuant to section 52:

- (a) any order made pursuant to *The Mentally Disordered Persons Act* appointing a committee of a mentally disordered person or a mentally infirm person is continued pursuant to this Act as if it had been made pursuant to section 19;
- (b) a person appointed as a committee pursuant to an order described in clause (a):
 - (i) is deemed to be a property guardian; and
 - (ii) is subject to and may exercise the powers given by the provisions of *The Mentally Disordered Persons Act* relating to the management of estates of mentally disordered persons or mentally infirm persons, as those provisions existed on the day before coming into force of this section;
- (c) any order made pursuant to *The Mentally Disordered Persons Act* committing the custody of a mentally disordered person is continued pursuant to this Act as if it had been made pursuant to section 6;
- (d) a person to whom an order described in clause (c) is granted:
 - (i) is deemed to be a personal guardian; and
 - (ii) is subject to and may exercise the powers given by the provisions of *The Mentally Disordered Persons Act* relating to the custody of mentally disordered persons or mentally infirm persons, as those provisions existed on the day before the coming into force of this section;

- (e) a mentally disordered person or a mentally infirm person with respect to whom an order is continued pursuant to clause (a) or (c) is deemed to be a dependent adult;
- (f) without limiting the generality of clauses (a) to (e):
 - (i) the provisions mentioned:
 - (A) in subclause (b)(ii) are deemed to be included in an order described in clause (a);
 - (B) in subclause (d)(ii) are deemed to be included in an order described in clause (c); and
 - (ii) an order continued pursuant to clause (a) or (c) is subject to all the provisions of this Act and may be reviewed, varied or otherwise dealt with as if it had been made pursuant to this Act.

1989-90, c.D-25.1, s.53.