

The Public Trustee Regulations

Repealed

by Chapter P-43.1 Reg 2 (effective October 21, 1999).

Formerly

Chapter P-43.1 Reg 1 (effective April 1, 1984)
as amended by Saskatchewan Regulations
15/89, 9/90, 76/90, 22/92, 26/94 and 36/96.

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.

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CHAPTER P-43.1 REG 1

The Public Trustee Act

Title

- 1 These regulations may be cited as *The Public Trustee Regulations*.

Interpretation

- 2 In these regulations:

- (a) “**Act**” means *The Public Trustee Act*;
- (b) “**account**” means an account held on behalf of a person in the common fund;
- (c) “**common fund**” means the common fund mentioned in section 47 of the Act;
- (c.01) **Repealed.** 31 Mar 94 SR 26/94 s3.
- (c.02) “**cost value**” of an investment means the total of:
 - (i) the price paid for the investment; and
 - (ii) the amount of amortized premium or discount attributed to the investment;
- (c.1) “**fiscal year**” means the period commencing on April 1 in one year and ending on March 31 in the following year;
- (d) “**gross assets**” means with respect to:
 - (i) infants’ property, all property administered by the public trustee on behalf of an infant; or
 - (ii) property of dependent adults, all assets recorded with the public trustee without deduction for debts and liabilities but does not include assets consisting of:
 - (A) grain on hand;
 - (B) the value of standing crops, livestock, farm equipment, household furnishings, clothing, dry goods, vehicles, musical instruments or tools; and
 - (C) personal property that the public trustee considers should, in the best interests of the dependent adult, be exempted from the calculation of fees;
- (e) “**income distribution period**” means the period for which income is distributed that is:
 - (i) set by the public trustee; and
 - (ii) six months or less in duration;

- (f) **“infant’s property”** means all property administered by the public trustee on behalf of an infant;
- (g) **“market value at the end of an income distribution period”** means the market value of an investment in the common fund as determined by the common fund custodian:
- (i) at the end of February in any year, for an income distribution period ending on March 31 in the same year; or
 - (ii) at the end of August in any year, for an income distribution period ending on September 30 in the same year;
- (h) **“realized capital gain or loss”** means the difference between the cost value of an investment in the common fund and its sale price;
- (i) **“unrealized capital gain or loss”** means the difference between the cost value of an investment in the common fund and its market value at the end of an income distribution period.

6 Apr 84 cP-43.1 Reg 1 s2; 14 Apr 89 SR 15/89 s3; 2 Mar 90 SR 9/90 s3; 2 Nov 92 SR 76/90 s3; 3 Apr 92 SR 22/92 s3; 31 Mar 94 SR 26/94 s3; 28 Jun 96 SR 36/96 s3.

Power to charge fees

- 2.1(1)** Where the public trustee performs a service pursuant to the powers or duties prescribed in the Act, the public trustee may charge a fee for that service in the amount prescribed in these regulations.
- (2) Where the public trustee performs a service pursuant to the powers or duties prescribed in the Act on behalf of the estate of a deceased person, the public trustee may charge the same fee that the public trustee may charge for performing the same service for a dependent adult.

14 Apr 89 SR 15/89 s4; 2 Mar 90 SR 9/90 s4.

Income

- 3(1)** At the end of each income distribution period, the public trustee shall distribute the income earned by the common fund among the accounts comprising the common fund on a *pro rata* basis calculated on the average minimum monthly balance in each account.
- (2) Income to be distributed pursuant to subsection (1) is equal to the total of:
- (a) actual income for the income distribution period, calculated in accordance with subsection (2.1);
 - (b) distributable realized and unrealized capital gains or losses, calculated in accordance with subsection (3); and
 - (c) distributable accumulated realized capital gains or losses calculated in accordance with subsection (3.01).

(2.1) Actual income for an income distribution period is the amount I calculated in accordance with the following formula:

$$I = (B + C) - P;$$

where:

B is the amount of actual bank interest received in the income distribution period;

C is the amount of income other than bank interest received from common fund investments during the income distribution period; and

P is the total of the amounts paid as income pursuant to subsection (4.1) during the income distribution period.

(3) Distributable realized and unrealized capital gains or losses for an income distribution period is the amount D calculated in accordance with the following formula:

$$D = U_1 + U_2 + U_3 + U_4 + U_5 + U_6 + U_7 + U_8;$$

where:

U_1 is the value of UC - UP determined for that income distribution period;
8

U_2 to U_8 are the values of UC - UP for each of the seven preceding income
8

distribution periods;

UC, with respect to any income distribution period, is the amount of the realized and unrealized capital gain or loss at the end of that income distribution period; and

UP, with respect to any income distribution period, is the amount of the realized and unrealized capital gain or loss at the end of the previous income distribution period.

(3.01) Accumulated realized capital gains or losses for each of eight distribution periods following the coming into force of this subsection are equal to one-eighth of the total accumulated capital gains and losses from the period of October 1, 1991 to August 31, 1993.

(3.1) The public trustee shall calculate the rate of income payable for an income distribution period, RI, according to the formula:

$$RI = \frac{I}{M};$$

where:

I is the amount I for that income distribution period, calculated pursuant to subsection (2.1); and

M is the total of the average minimum monthly balances in accounts comprising the common fund at the end of that income distribution period.

(4) The public trustee shall calculate the rate of realized and unrealized capital gains or losses for an income distribution period, RU, according to the formula:

$$RU = \frac{D}{M} ;$$

where:

D is the amount D for that income distribution period, calculated pursuant to subsection (3); and

M is the total of the average minimum monthly balances in accounts comprising the common fund at the end of that income distribution period.

(4.01) The public trustee shall:

(a) calculate the rate of accumulated realized capital gains or losses for each income distribution period, RA, in accordance with the following formula:

$$RA = \frac{A}{M} ;$$

where:

A is the actual amount of accumulated realized capital gains or losses distributed during the income distribution period as calculated pursuant to subsection (3.01); and

M is the total of the average minimum monthly balances in accounts comprising the common fund at the end of the income distribution period; and

(b) distribute to each account its proportionate share of the accumulated realized capital gains and losses.

(4.1) Subject to subsection (5), where the public trustee releases an account before the end of an income distribution period, income is payable on the average minimum monthly balance of the account during the current income distribution period, and the rate of income to be paid to the account is the rate of income paid at the end of the preceding income distribution period, calculated in accordance with subsection (3.1).

(5) For the purposes of determining the amount of income payable pursuant to subsection (4.1), the public trustee shall:

(a) pay income for each day of the month in which the balance of the account is paid out, including the day of the pay-out; and

(b) for the month mentioned in clause (a), recalculate the rate of income mentioned in subsection (4.1) to the comparable *per diem* rate and apply that rate to the closing balance payable for each day of that month described in clause (a).

(6) The public trustee shall:

(a) calculate the rate of realized capital gains or losses for each income distribution period, RR, according to the formula:

$$RR = \frac{R}{M} ;$$

where:

R is the actual amount of realized capital gains or losses during the income distribution period; and

M is the total of the average minimum monthly balances in accounts comprising the common fund at the end of the income distribution period;

(b) attribute to each account its proportionate share of the realized capital gains and losses without distributing it to the accounts; and

(c) for the purposes of the *Income Tax Act* (Canada), record the amount attributed to each account.

6 Apr 84 cP-43.1 Reg 1 s3; 14 Apr 89 SR 15/89 s5;
3 Apr 92 SR 22/92 s4; 31 Mar 94 SR 26/94 s4.

Account set-up fee

3.1 A fee of \$20 in the case of an infant and \$200 in the case of a dependent adult is payable to the public trustee for the setting up of an account for the infant or dependent adult.

28 Jun 96 SR 36/96 s4.

Fee for sale of real property

3.2 The following fees are payable to the public trustee for handling a real estate transaction on behalf of an infant or a dependent adult:

(a) where a real estate agent is involved in the transaction, 1% of the purchase price with a minimum fee of \$100 and a maximum fee of \$500; and

(b) where no real estate agent is involved in the transaction, 3% of the purchase price with a minimum fee of \$100 and a maximum fee of \$500.

28 Jun 96 SR 36/96 s4.

Litigation guardian fees

3.3 For acting as litigation guardian, a fee of \$500 is payable to the public trustee.

28 Jun 96 SR 36/96 s4.

Personal income protection program

3.4 The fee for processing the file and providing advice for each infant for which payments are made under the personal injury protection plan pursuant to Part VIII of *The Automobile Accident Insurance Act* is \$50.

28 Jun 96 SR 36/96 s4.

Recovery of disbursements

3.5 The public trustee may recover any actual and reasonable disbursement made on behalf of an infant or dependent adult from that infant or dependent adult, or the estate of that infant or dependent adult.

28 Jun 96 SR 36/96 s4.

Fees

4(1) Subject to subsections (2) and (3) and section 6, the fee payable to the public trustee for each fiscal year that the public trustee administers property of an infant or dependent adult is the greater of:

- (a) the amount equal to 1% of the value of the gross assets of the infant or dependent adult as at March 31 in that year; and
- (b) \$25 in the case of an infant's account and \$50 in the case of a dependent adult's account.

(2) Where the first fiscal year during which the public trustee administers property is less than a complete fiscal year:

- (a) the month in which the public trustee commences the administration of the property is to be counted as a complete month; and
- (b) the fee payable to the public trustee shall be prorated based on the number of months in the fiscal year that the public trustee administers the property.

(3) Where the public trustee pays out property that the public trustee has been administrating:

- (a) the month in which the public trustee pays out the property is not to be included in the calculation made pursuant to clause (c);
- (b) the value of the gross assets of the infant or dependent adult is to be determined as at the date of the pay-out; and
- (c) the fee payable to the public trustee shall be prorated based on the number of months in the fiscal year that the public trustee administers the property.

14 Apr 89 SR 15/89 s6; 2 Nov 90 SR 76/90 s4;
28 Jun 96 SR 36/96 s5.

Fees for dependent adults

5(1) Subject to section 6, where the public trustee administers the property of a dependent adult, the fee payable to the public trustee is, in addition to the fee mentioned in section 4, an annual fee equal to:

- (a) 7% of the income from:
 - (i) agricultural or commercial enterprises;
 - (ii) a lease of residential property; and
 - (iii) real property other than the interest portion of payments received as a vendor pursuant to an agreement for sale or as a mortgagee pursuant to a mortgage; and
 - (b) 5% of the income from:
 - (i) bank deposits;
 - (ii) bonds, debentures and other securities;
 - (iii) the interest portion of payments received as a vendor pursuant to an agreement for sale or as a mortgagee pursuant to a mortgage on real property; and
 - (iv) any other source.
- (2) **Repealed.** 28 Jun 96 SR 36/96 s6.
- (3) **Repealed.** 28 Jun 96 SR 36/96 s6.

6 Apr 84 cP-43.1 Reg 1 s5; 2 Mar 90 SR 9/90 s5;
2 Nov 90 SR 76/90 s5; 28 Jun 96 SR 36/96 s6.

Discretionary fees

6(1) When, in the opinion of the public trustee, the work performed for a dependent adult warrants a fee that is less than the fees mentioned in sections 4 and 5, he may charge a lesser fee.

(2) When, in the opinion of the public trustee, the work performed on an infant's property warrants a fee that is greater than the fee mentioned in section 4, he may, in addition to the fee mentioned in section 4, charge the fee mentioned in clause 5(1)(a).

6 Apr 84 cP-43.1 Reg 1 s6; 2 Mar 90 SR 9/90 s6;
2 Nov 90 SR 76/90 s6.

Fees for certain services

7 The following fees are payable to the public trustee for the following services:

- (a) for a certificate of the public trustee given pursuant to clause 172(1)(a) of *The Land Titles Act* with respect to an estate the gross value of which is \$2,000 or less, \$15;
- (b) for a certificate of the public trustee given pursuant to clause 172(1)(a) of *The Land Titles Act* with respect to an estate the gross value of which exceeds \$2,000, \$30;

- (c) when the material submitted pursuant to clause (a) or (b) is such that further correspondence is necessary, \$15;
- (d) for a duplicate of a certificate mentioned in clause (a) or (b), \$20;
- (e) for a consent pursuant to clause 172(1)(b) of *The Land Titles Act* to:
 - (i) a proposed dealing by a personal representative with respect to land where:
 - (A) the estate's interest in the land is of a sworn value of \$40,000 or less;
 - (B) the land is being transferred pursuant to the terms of a will;
 - (C) the proposed dealing is made pursuant to a court order; or
 - (D) no infant has or could have an interest in the proposed dealing;
 - is \$50; or
 - (ii) a proposed dealing not mentioned in subclause (i), \$50 plus \$1 for each \$1,000 or portion of each \$1,000 by which the sworn value of the estate's interest in the land exceeds \$50,000, to a maximum fee of \$500;
- (f) for a duplicate of a consent mentioned in clause (e), \$20;
- (g) for a consent to a disposition of land not mentioned in clause (e), \$50 plus \$1 for each \$1,000 or portion of each \$1000 by which the sworn value of the land at the time of the disposition exceeds \$50,000 to a maximum fee of \$500;
- (h) for a duplicate of a consent to a disposition of land mentioned in clause (g), \$20;
- (i) for a consent to the withdrawal of any instrument registered against a title, \$30;
- (j) for a general consent given pursuant to subsection 172(2) of *The Land Titles Act*, \$30;
- (k) for a duplicate of a general consent mentioned in clause (i), \$20;
- (l) for signing of any instrument on behalf of an infant, \$50;
- (m) for issuing a consent to a grant of letters of administration of any type without bond, \$50; and
- (n) for consenting, on behalf of an infant, to a settlement of a claim for personal injuries or a claim made pursuant to *The Fatal Accidents Act*:
 - (i) **Repealed.** 28 Jun 96 SR 36/96 s7.
 - (ii) where the damages payable to an infant are \$10,000 or less, \$50;
 - (iii) when the damages payable to an infant are more than \$10,000 but not more than \$25,000, \$100;
 - (iv) when the damages payable to an infant are more than \$25,000 but not more than \$50,000, \$200;

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- (v) when the damages payable to an infant are more than \$50,000 but not more than \$100,000, \$300; and
- (vi) for each additional \$10,000 of damages payable to an infant or portion of each \$10,000 of damages exceeding \$100,000, \$10 to a maximum fee of \$500;
- (o) for authorizing payment of infants' funds to a responsible adult pursuant to section 16 of the Act, \$30;
- (p) for releasing an account, \$20.

6 Apr 84 cP-43.1 Reg 1 s7; 14 Apr 89 SR 15/89 s7;
28 Jun 96 SR 36/96 s7.

Infants' maintenance

8(1) The public trustee may pay on behalf of an infant the following sums of money from the infant's account:

- (a) an annual sum not exceeding:
 - (i) \$2,400 for maintenance;
 - (ii) \$500 for clothing;
 - (iii) the actual cost of tuition at an educational institution; and
 - (iv) the actual cost of glasses, prosthetic devices and orthodontal treatments; and
- (b) a monthly sum not exceeding \$300 for room and board.

(2) When, in the opinion of the public trustee, the best interests of an infant or special circumstances with respect to the infant require that additional expenditures, other than expenditures for room and board, be made, he may make additional expenditures to satisfy those best interests or meet the special circumstances.

6 Apr 84 cP-43.1 Reg 1 s8; 14 Apr 89 SR 15/89 s8.

Payments from public trustee's current account

8.1(1) The public trustee may make the following payments from his or her current account:

- (a) payments to the general revenue fund;
- (b) refunds of fees where overpayments have been made;
- (c) expenditures on behalf of an infant, dependent adult or deceased's estate, where the infant, dependent adult or deceased's estate will reimburse the public trustee when funds become available;
- (d) payments to legal counsel acting on behalf of the public trustee.

(2) Payments made pursuant to clauses (1)(c) and (d) that cannot be recovered by the public trustee are to be recovered through appropriation.

28 Jun 96 SR 36/96 s8.

Closing of accounts

9(1) As soon as practicable after an infant for whom the public trustee has administered an account attains the age of 18, and on receiving a release of administration of the account from the person for whom it was administered, the public trustee shall:

- (a) pay to that person, from the common fund, the balance of that person's account; and
- (b) deliver to that person all documents, titles and securities held on that person's behalf.

(2) As soon as is practicable after the public trustee ceases to act for a dependent adult and on receiving a release of administration from the person or the person's personal representative, the public trustee shall:

- (a) pay to that person or that person's personal representative, from the common fund, the balance of that person's account; and
- (b) deliver to that person or that person's personal representative all documents, titles and securities held on that person's behalf.

2 Mar 90 SR 9/90 s7; 28 Jun 96 SR 36/96 s9.

Forms

10(1) The acknowledgement to act mentioned in section 29 of the Act is to be in Form A in the Appendix.

(2) The notice mentioned in section 42 of the Act is to be in Form B in the Appendix.

6 Apr 84 cP-43.1 Reg 1 s10.

Appendix

Form A
[Subsection 10(1)]

IN THE MATTER OF

_____ of
_____ ,

SASKATCHEWAN AND IN THE MATTER OF *THE PUBLIC TRUSTEE ACT*, R.S.S. c.P-43.1

ACKNOWLEDGEMENT

The Public Trustee for Saskatchewan, pursuant to subsection 29(1) of *The Public Trustee Act*, acknowledges that the Public Trustee is the property guardian for _____ .

DATED at the City of _____ ,in the Province of Saskatchewan, this _____ day of _____ , 19 _____ .

(seal)

PUBLIC TRUSTEE FOR SASKATCHEWAN

Per: _____

2 Mar 90 SR 9/90 s8.

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Form B
[Subsection 10(2)]

IN THE QUEEN'S BENCH
JUDICIAL CENTRE OF _____
IN THE ESTATE OF _____, LATE OF _____
IN THE PROVINCE OF _____, _____,
(occupation)
DECEASED.

NOTICE

TO: PUBLIC TRUSTEE OR PROPERTY GUARDIAN (*as the case may be*)

Take notice that _____, of _____
(mailing address)

(telephone) (fax)

is making application to the court for grant of letters _____ in
the estate of the deceased, who died at _____, on
the _____ day of _____, 19 ____.

And further take notice that the deceased died (in)testate, survived by the following
competent adults entitled to share in the estate:

<i>Name</i>	<i>Address</i>	<i>Relationship to deceased</i>
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and survived by the following persons under the age of 18 years entitled to share in the
estate:

<i>Name</i>	<i>Name & address of guardian</i>	<i>Relationship to deceased</i>	<i>Date of birth</i>
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and survived by the following persons under the age of 18 years who may have a claim
against the estate pursuant to *The Dependants' Relief Act*:

<i>Name</i>	<i>Name & address of guardian</i>	<i>Relationship to deceased</i>	<i>Date of birth</i>
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and survived by the following persons who are dependent adults as defined in *The
Public Trustee Act* and who are entitled to share in the estate:

<i>Name</i>	<i>Address</i>	<i>Relationship to deceased</i>	<i>Date of birth</i>
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and survived by the following persons who are dependent adults as defined in *The Public Trustee Act* and who may have a claim against the estate pursuant to *The Dependants' Relief Act* or *The Matrimonial Property Act*:

<i>Name</i>	<i>Address</i>	<i>Relationship to deceased</i>	<i>Date of birth</i>
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And further take notice that the following are attached to this notice:

- (a) a statement of the assets of the deceased as shown on the application;
- (b) a statement of the debts of the estate; and
- (c) a copy of the Last Will and Testament of the deceased, if applicable.

DATED this _____ day of _____, 19 _____.

This document was delivered by:

(Firm name)

(Address)

Address of Property Guardian

28 Jun 96 SR 36/96 s10.