

PROVINCE OF SASKATCHEWAN



07-08

**ANNUAL REPORT**

**MINISTRY OF JUSTICE AND  
ATTORNEY GENERAL**

Public Guardian and Trustee  
of Saskatchewan



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This annual report is also available in electronic form from the Ministry's web site at  
<http://www.justice.gov.sk.ca>

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## Letters of Transmittal



His Honour the Honourable Dr. Gordon L. Barnhart  
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

I have the pleasure to transmit the Annual Report of the Public Guardian and Trustee of Saskatchewan for the year ending March 31, 2008.

I am pleased to report that the financial statements for the above fiscal year have now been finalized and audited.

The staff of the Public Guardian and Trustee are to be commended for their hard work and commitment to their clients.

Respectfully submitted,



Don Morgan, Q.C.  
Minister of Justice and Attorney General

The Honourable Don Morgan, Q.C.  
Minister of Justice and Attorney General

Dear Sir:

I have the pleasure to submit for your consideration the Annual Report of the Public Guardian and Trustee of Saskatchewan for the year ending March 31, 2008.

The Office has made major progress in a number of areas. I refer you to the goals and the planned actions in this report. I would like to thank the staff of the Office for their hard work and their efforts in accomplishing many of the goals for the year.

Respectfully submitted,



Ronald J. Kruzeniski, Q.C.  
Public Guardian and Trustee

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# Mandate

## Vision

A society where the interests of vulnerable people are protected

## Mandate

The mandate of the Office of the Public Guardian and Trustee is to:

- protect the property rights of children under the age of 18;
- administer the property and finances of adults who are incapable of managing their financial affairs, monitor other property guardians and investigate allegations of financial abuse;
- administer the estates of deceased persons;
- administer the estates of missing persons, and
- hold and administer unclaimed property.

## Guiding Principles

- Clients are entitled to a continuum of services from the Public Guardian and Trustee.
- Clients of the Public Guardian and Trustee should be able to obtain service in the simplest way possible.
- The Public Guardian and Trustee, although being easily accessible, should be the appointment of last resort.
- Every client is entitled to quality and timely service.
- The Public Guardian and Trustee will protect the assets of each client and attempt to maximize the rate of return.
- To the extent possible, every service of the Public Guardian and Trustee should be charged for on a cost-recovery basis.

## Goals and Objectives

### Goal 1: Greater security and safety for the affairs of vulnerable people

- Objective 1: Intervene to secure the interests of vulnerable adults, children and deceased persons where permitted or directed by law
- Objective 2: Where possible, protect the estates of vulnerable adults and children from financial abuse and enhance the protection of their personal affairs where appropriate and permitted by law

### Goal 2: Quality management of clients' assets and protection of their interests

- Objective 1: Identify, secure and manage clients' property and assets in a timely, prudent manner and maximize the rate of return
- Objective 2: Maintain accurate records of clients' property, assets, incomes and payments
- Objective 3: Make decisions regarding disbursement of clients' property in a timely and prudent manner
- Objective 4: Manage costs to clients and to the Office effectively

### Goal 3: Knowledge and expertise around policy issues and law reform initiatives that affect clients' interests or the protection of vulnerable people

- Objective 1: Work with others in government to develop common approaches to legal and policy issues of concern to the Office
- Objective 2: Work with other Public Guardians and Trustees to develop common approaches to legal and policy issues of concern to the Office
- Objective 3: Develop a research basis for understanding the legal and policy issues of concern to the Office
- Objective 4: Promote public knowledge of the abuse of vulnerable people and develop potential tools for their protection

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**Goal 4: A high quality of work life, where all members of the Office develop and use their skills, take leadership and share in decision-making as part of a team**

- Objective 1: Encourage leadership through staff skills development
- Objective 2: Recognize the achievements and accomplishments of employees
- Objective 3: Support a balance between work and family life

**Workplace Values**

The Public Guardian and Trustee and its staff believe in high quality services provided in a knowledgeable, courteous and professional manner. This service:

- contributes to the public's confidence in and understanding of the Public Guardian and Trustee;
- is responsive and sensitive to people's needs;
- is open, honest and candid while respecting legitimate rights to privacy; and
- is accessible.

The Public Guardian and Trustee and its staff value a high quality of work life where all members:

- share in decision making;
- demonstrate leadership;
- respect and communicate with each other;
- take personal initiative;
- have pride in their work;
- develop individual skills and abilities;
- develop team building skills; and
- work in a safe, healthy and adequately resourced work environment.

The Public Guardian and Trustee and its staff are accountable to clients and to the taxpayers of Saskatchewan for the wise, innovative and effective use of resources.

The Public Guardian and Trustee and its staff believe in working together as a team through negotiations and partnership with others for mutually acceptable outcomes. The Public Guardian and Trustee and its staff respect and value diversity and equality among clients and employees by recognizing, encouraging and understanding the individuality of each person.

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## What does the Office do?

### For children under the age of 18

- Holds funds for children under the age of 18.
- Monitors the actions of executors and trustees managing property for children.
- Manages children's interests in estates, lotteries, insurance policies and permanent impairment benefits.
- Approves settlements for personal injury claims and fatal accident claims and manages the proceeds of those claims.
- Approves legal fees for settlements of personal injury claims or fatal accident claims.
- Consents to the sale, transfer or lease of real estate where children have an interest.
- Acts as property guardian for permanent wards of the province.

### For persons who are not capable of managing their own financial affairs

- The Public Guardian and Trustee can be appointed as property guardian in two different ways:

A Certificate of Incompetence under *The Mentally Disordered Persons Act*.

- A medical doctor issues a Certificate of Finding of Incompetence;
- A chief psychiatrist issues a Certificate of Incompetence;
- The Public Guardian and Trustee issues an Acknowledgement to act;
- The Public Guardian and Trustee has up to one year to issue an Acknowledgement after the date of the Certificate of Incompetence.

A court order under *The Adult Guardianship and Co-decision-making Act*

- Under *The Adult Guardianship and Co-decision-making Act*, the court can appoint the Public Guardian and Trustee as property guardian, if no one else wants to act or a family is in dispute.
- When the Public Guardian and Trustee acts as property guardian, the Office is responsible for managing all the financial affairs of the person and does some or all of the following:
  - ascertains the assets and debts of the person;

- determines the monthly income and expenses of the person;
- manages any personal property or real estate for the person;
- places funds of the person in the common fund;
- makes any claims to recover funds on behalf of the person and, if necessary, commences a legal action;
- defends or settles claims against the person;
- arranges for the preparation of income tax returns.

- The Public Guardian and Trustee may also act as temporary property guardian, if appointed by the court.
- Where an adult is mentally incapable, the Public Guardian and Trustee may require the attorney under a power of attorney to provide an accounting.

- The Public Guardian and Trustee may investigate an allegation that a vulnerable person is being subjected to financial abuse.
- The Public Guardian and Trustee may require a financial institution to suspend the withdrawal or payment of funds from a person's account for up to 30 days, where the Public Guardian and Trustee has reasonable grounds to believe that the person is a vulnerable adult and the Public Guardian and Trustee has received an allegation that the person is being subjected to financial abuse.

### For deceased persons

- Usually the family will administer the estate of a deceased person but sometimes there is no one to act as administrator or the family is in dispute.
- In these instances, the Public Guardian and Trustee can apply as Official Administrator.
- If family members are disputing the validity of a will, the Public Guardian and Trustee can be appointed as administrator pending the outcome of the litigation.
- When the Public Guardian and Trustee is appointed administrator, the Office is responsible for dealing with all the financial affairs of the deceased and does the following:
  - ascertains all the assets and liabilities of the deceased;



- determines the beneficiaries of the deceased estate;
- pays all income taxes owed by the deceased if there are sufficient funds;
- pays all liabilities of the deceased if there are sufficient funds;
- distributes the estate to the beneficiaries according to the will or *The Intestate Succession Act*.

### **For missing persons**

- The Public Guardian and Trustee can act as committee under *The Absentee Act* for missing persons and while it is acting as committee, it may do the following:
  - determine the property of the missing person;
  - hold, manage or sell the property of the missing person;
  - search for the missing person;
  - advertise in an attempt to locate the missing person;
  - hire an heir locator to attempt to locate the missing person;
  - after six years and the person still can not be found, pay the funds to the Crown.

### **For unclaimed property**

- The Public Guardian and Trustee can hold funds for persons whose whereabouts are unknown and while it is holding those funds, it may do the following:
  - search for the missing person;
  - advertise in an attempt to locate the missing person;
  - hire an heir locator to attempt to locate the missing person;
  - after six years and the person still can not be found, pay the funds to the Crown.

### **For the Common Fund**

Pursuant to section 47 of *The Public Guardian and Trustee Act*, all funds received by the Office are to be placed in the Common Fund. Section 47 allows the Office to invest a portion of those funds. This investment activity is governed by an Investment Policy. A summary of the policy is provided in this report. This policy was last updated in November 2007 and the complete policy can be found at <http://www.justice.gov.sk.ca/InvestmentPolicyNovember2006.pdf>

An investment manager, Greystone Managed Investments Inc., makes the investment decisions. The investment manager is required to comply with the Investment Policy. Regular compliance reports are provided and any deviations from policy are reported to the Public Guardian and Trustee.

An investment consultant, James P. Marshall of Hewitt Associates, monitors the actions and performance of the investment manager. The investment consultant meets with the Investment Advisory Committee on a periodic basis to review the performance of the Common Fund and more particularly, the investment manager.

The custodian of the Common Fund is RBC Dexia Investor Services. The custodian is responsible for safekeeping of the assets, income collection, settlement of investment transactions, and accounting for the investment transactions and related holdings.

The Investment Policy provides that investments can be made in different asset classes, which are as follows:

## Common Fund Benchmark and Asset Component Ranges

	Minimum Per cent	Benchmark Per cent	Maximum Per cent
Equities			
Canadian equities	5.0	14.0	25.0
U.S. equities	5.0	13.0	25.0
Non-North American equities	5.0	13.0	25.0
Total Foreign equities	10.0	26.0	40.0
Total equities	20.0	40.0	50.0
Total Fixed Income			
Bonds	40.0	59.0	70.0
Short-term investments	3.0	1.0	30.0
<b>Total Fund</b>		<b>100.0</b>	

Each asset class has a minimum percentage that can be invested in that class and a maximum amount that can be invested in that class. Each asset class also has a benchmark percentage. The performance of the investment manager is monitored against market rates of return in each asset class. Total Fund performance is measured against a benchmark portfolio return, which is calculated by applying market rates of return to the benchmark portfolio weights.

The Common Fund is invested in a manner that reflects the highest standard of prudence in investment management and the high duty of care required to fulfill the responsibilities of the Office of the Public Guardian and Trustee. Accordingly, the Common Fund is invested in a prudently diversified portfolio of high quality securities, with an overall conservative orientation. The Common Fund objective is to minimize the risk of a loss of capital, while providing current income sufficient to meet ongoing cash needs and to provide potential for capital appreciation over time to meet the needs of the clients with higher risk tolerances and longer investment time horizons.

As of March 31, 2008, the following amounts were invested in each asset class:

	(000's)	
Canadian equities	\$ 16,397	13%
U.S. equities	\$ 16,832	14%
Non-North American equities	\$ 16,352	13%
Bonds	\$ 66,360	53%
Short-Term investments	\$ 9,088	7%
<b>Total</b>	<b>\$125,029</b>	<b>100.0%</b>

*The Public Guardian and Trustee Regulations* require that earnings be distributed quarterly. Earnings are distributed in accordance with sections 4 to 7 of the Regulations. These regulations can be found at <http://www.qp.gov.sk.ca/documents/english/Regulations/Regulations/p36-3r1.pdf>

Distribution of earnings takes place after March 31, June 30, September 30 and December 31 of each year. Each distribution involves interest, dividends and capital gains or losses.

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## 2007-08 Information

As of March 31, 2008 the Public Guardian and Trustee provided services to:

Adults where we are acting as property guardian	1,051
Adults where we review property guardians' accounting	342
Adults where we monitor property guardians	61
Adults where we have a notice of an interest in an estate	42
Adults where we are carrying out investigations	11
Adults where we are acting as litigation guardian	2
Adults where we act as power of attorney	2
Children for whom we hold funds	2,020
Children whose property rights we may monitor	1,516
Estates where we have letters of administration	325
Estates 24 months	43
Estates where the value is less than \$10,000	656
Estates where we are monitoring activities	21
Estates where we have notice of tax enforcement	46
Estates where we are acting as administrator ad litem	2
Estates where we have unclaimed funds	7
Estates where we act as trustee	3
<b>Total</b>	<b>6,150</b>

As of March 31, 2008, the Office held assets in trust for clients in the amount of approximately \$156 million.

The annualized average rate of return realized for clients with money in the common fund for the twelve months ended March 31, 2008 was 6.86 per cent.

The annualized rates of return over the past number of years are as follows:

- The 4-year average was 6.25 per cent
- The 5-year average was 5.82 per cent
- The 10-year average was 7.35 per cent
- The 15-year average was 8.63 per cent

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## 2007-08 Planned Actions

- Propose and promote amendments to *The Administration of Estates Act* and merge *The Crown Administration Act* and *The Devolution of Real Property Act* into *The Administration of Estates Act*.
- Propose and promote amendments to *The Trustee Act*.
- Propose, promote and participate in the development of a *Co-ownership Act*.
- Propose, promote and participate in the development of amendments to *The Dependants' Relief Act*, *The Wills Act* and *The Intestate Succession Act*.
- Propose a program of Personal Guardianship.
- Work towards the provision of additional legal services in the Office, more particularly, a third lawyer to ensure children are represented in injury claims and other civil litigation.
- Develop case law in the dependants' relief area.
- Develop case law with respect to distributing or administering an estate where not all beneficiaries can be located or ascertained.
- Develop case law as to the property guardian's right to withdraw all funds from a joint bank account.
- Introduce three releases (8.0, 8.1 & 8.2) of Guardian with enhancements in the work queue, assets, payments, incomes, expenses and reports areas.
- Increase the number of staff in the Adults unit to two, to manage the increased workload and proposed staffing increases in the 2008-09 budget process.
- Develop policies and practices that ensure the Office is the property guardian of last resort and propose and promote a service where the Public Guardian and Trustee assists applicants in their applications to court to be appointed property guardian.
- Update the Public Guardian and Trustee's web site giving it a new look and ensuring additional information is given to the public so that they understand the role of the Public Guardian and Trustee and are able to determine what they can do for themselves. Review and update all materials provided to the public.
- Partner with the Regina Qu'Appelle Health Region to deliver a conference on capacity in April 2008.

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## 2007-08 Activities and Results

- *The Administration of Estates Amendment Act, 2008* was introduced in the Legislative Assembly, passed and received royal assent. The amendment Act incorporated provisions of *The Crown Administration of Estates Act* and *The Devolution of Real Property Act*. The amendment Act comes into force on proclamation.
- The Office has proposed amendments to *The Trustee Act* and the Ministry of Justice has been consulting the public on amendments to this Act.
- Requests have been made to review the issue of a *Co-ownership Act*.
- A project has been proposed to review *The Dependants' Relief Act, 1996*, *The Wills Act* and *The Intestate Succession Act*.
- A program of personal guardianship has been proposed but no resources have been allocated for such a program.
- A need still exists for an additional lawyer to ensure children are represented in injury claims and other civil litigation.
- There continues to be a need to develop case law under *The Dependants' Relief Act*. Many cases are settled, but it would be of assistance to lawyers and clients if there were additional principles established to determine the amount a dependant should receive to compensate for anticipated needs.
- The Office has made progress in establishing principles of distributing an estate when all beneficiaries cannot be located or ascertained. After an exhaustive search and an heir locator indicates that no further research can be done, the Office makes an application to court for directions as to how to distribute the estate when certain beneficiaries cannot be located.
- A need still exists to establish a principle that a property guardian can withdraw funds from a joint bank account. The Office first tries to obtain the consent of the other joint holder, but failing that, takes the position that as one of the joint holders and property guardian, it can demand withdrawal of the funds.
- The Office implemented two releases of Guardian (the Office's computer system).
- Workload continues to be an issue in the Office and additional staff are required to continue to provide quality service. The Office continues to prefer that family be the property guardian and that the Office be the place of last resort. Booklets were developed for distribution outlining the duties and obligations of an attorney and a property guardian. These booklets are available on request and can be viewed at <http://www.justice.gov.sk.ca/pgtpubs>
- The Office's web site was updated in a major way and more information was provided for use by the public. In many instances, a question and answer format was used. Many forms have been updated in co-operation with the Queen's Printer and these forms can now be filled in online.
- The Office spent the year working with the Regina Qu'Appelle Health Region to organize a conference on "Competency and Decision Making", to be delivered in April 2008.
- The Office returned to a renovated 1871 Smith Street. This building has been named Dunning Place after the Honourable Charles Dunning, Premier of the province 1922 to 1926.
- The Office produced a booklet briefly outlining what the Office does and answering some frequently asked questions. This booklet is available on request and can be viewed at <http://www.justice.gov.sk.ca/pgtpubs>
- The Office continues to develop policies and practices regarding children who are wards of the province for whom the Office is the property guardian. These children need to be represented when they sustain serious personal injury and are eligible to claim compensation for that injury.
- The Office continues to receive approximately 500 new deceased estate files in a year. As a result, as of March 31, 2008, it had over 1,100 deceased estate files opened. This has created a workload and efficiency pressure.
- The Office has been very involved in preparing and filing claims under the Indian Residential Schools Program for its clients. Approximately 66 claims have been filed.

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## 2008-09 Planned Actions

- Implement amendments to *The Administration of Estates Act*, and propose and implement amendments to *The Administration of Estates Regulations*.
- Propose and promote further consolidation of *The Administration of Estates Act* as part of the revision of Statutes project.
- Propose and review amendments to *The Trustee Act*.
- Participate in the consultation process to develop *The Co-ownership Act*.
- Participate in a Uniform Law Conference project to review *The Dependants' Relief Act*, *The Wills Act* and *The Intestate Succession Act*.
- Propose and recommend amendments to *The Adult Guardianship and Co-decision-making Act* and propose and implement amendments to *The Adult Guardianship and Co-decision-making Regulations* and forms.
- Propose and promote amendments to *The Absentee Act*.
- Propose a program of personal guardianship and, if approved, begin to develop resource plans, financial plans, policies and procedures.
- Work towards the provision of additional legal services in the Office, more particularly, a third lawyer to ensure children are represented in injury claims and other civil litigation.
- Introduce two releases of Guardian with enhancements in the work queue, assets, payments, budgets, incomes, expenses and reports areas.
- Work in partnership with the Regina Qu'Appelle Health Region to organize a conference on "Competency and Decision Making", to be delivered in April 2008.
- Propose and promote a small value bond, which applicants for property guardianship can usually obtain.
- Implement tracking for 12 performance measures in the Office.
- Develop six information booklets regarding how the office administers an adult's estate, how the office administers a deceased estate, children's trust funds, a booklet on how to do an accounting, how to apply for property guardianship and the risk of financial abuse.
- Develop and deliver a seminar for guardians and proposed guardians regarding their duties and obligations.
- Develop policies and practices in relation to minors who are wards and their money, property and legal claims.

## Performance Measures

The Public Guardian and Trustee has developed a series of performance measures to assist the Office in determining how well it is carrying out its obligations. The performance measures will assist in determining efficiency and workload pressures. 2008-09 is the first year for implementation of these measures (except for the measure on

return on the Common Fund, which has been in place for three years.) The baseline information was developed by taking full or partial data from 2007-08. The actual results for 2008-09 will be reported upon in the next annual report and those actuals will become the baseline for the 2009-10 fiscal year.

### Deceased Estates Unit

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of files that are closed within two years (#of days, months, years) of being opened.	47%	50%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of beneficiaries who had average, above average or excellent service with the Estate Unit.	91%	91%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of estates where Letters of Administration issued in 6 months.	41%	50%

### Children's Unit

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of files where a child's account is released within 7 days of receiving a signed release.	73%	80%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of files where payments are made within 7 days of receiving the request.	80%	80%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of clients and parents who had average, above average or excellent service with the Children's Unit.	92%	92%

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## Adults Unit

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of clients or personal representatives who had average, above average or excellent service with the Adults Unit.	58%	75%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of files when Acknowledgement is signed within 90 days from the date that the Certificate of Incompetence is received.	87%	90%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of files where the request for an investigation or inventory is made within 30 days from the date that the Acknowledgement is signed.	74%	80%

## Accounting and Administration Unit

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of files where the investigative action relating to assets completed within 14 days of receiving the request.	55%	60%

Measure	March 31, 2008 Actual	March 31, 2009 Target
Percentage of invoices that are approved within 7 days.	65%	70%



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Measure	March 31 Year	Target	Actual
Per cent difference between the 4-year average rate of return on client assets invested by the Office of the PGT and the benchmark identified in the investment policy.	2006	0.0%	0.5%
	2007	0.0%	0.5%
	2008	0.0%	0.9%
	2009	0.0%	

# Important Issues

## Aging Population

Saskatchewan’s population is aging. According to the 2006 Census, just over 15 per cent of Saskatchewan’s citizens were 65 or older. The population 65 and older is expected to continue to increase as the baby boomer generation matures, potentially to almost one in five Saskatchewan people by 2021. Meanwhile, the number of those over 80 (the citizens with the greatest need for guardianship and estate management) has increased dramatically. According to the 2006 Census, about one in 20 people in Saskatchewan were aged 80 or above, higher than the Canadian average of one in 27 and much higher than Alberta, where only one in 36 residents were 80 or older in 2006.

It is difficult to predict, but our aging population will probably result in the Public Guardian and Trustee being appointed as property guardian for more and more senior citizens. We know that as people age, they are most likely to have a disability that affects their capacity. Statistics Canada’s 2006 Participation and Activity Limitation Survey found that 48 per cent of those aged 65 or older in Saskatchewan (60 per cent of those aged 75 or older) have some form of disability, as

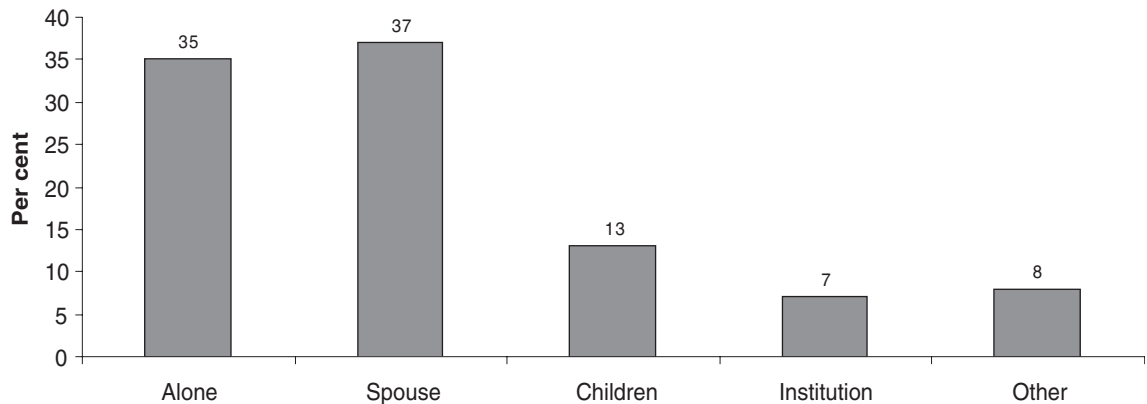
opposed to 16 per cent of the population of the province as a whole. In addition, we know that the prevalence of the types of disability associated with adult guardianship, such as memory, learning and speech loss, increase with age. There may, therefore, be more need for adult guardianship in the coming years. As well, seniors may also live longer under guardianship. The workload of the Office, and, hence, the need for additional resources and for qualified staff, will increase as a result. At the same time, the Office’s ability to meet its fiduciary and other obligations for each and every file and for every decision will be stretched.

## Living in the Community

Only seven per cent of seniors in Canada lived in institutions in 2001 (see Figure 1). Thirty-five per cent of seniors lived alone in a domestic setting, 37 per cent with a spouse and 13 per cent with children. The number of seniors with serious and chronic health conditions living in institutions may rise, however, in the near future. The majority of persons with disabilities also now live in the community.

Many of the Public Guardian and Trustee’s clients, therefore, live in the community. This increases the need for personal guardians to assist vulnerable adults with personal decisions, and to be aware of the personalized needs of each client and seek ways to preserve their independence.

Figure 1: Living Arrangements of Canadian Seniors - 2001 Census



Source: Statistics Canada, 2001 Census

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## **Abuse of Senior Citizens**

If you talk to doctors, lawyers, police officers, nurses, psychologists, social workers and other human service providers, they will probably be able to tell you of at least one case of physical, mental or financial abuse of a senior citizen. Physical and sexual abuses are obviously very serious, but financial abuse is also harmful to a senior citizen.

Financial abuse results in lost savings. It can mean that a nest egg set aside for retirement is gone. Once it occurs, it is difficult to get the lost property or money back. The Public Guardian and Trustee has published a booklet “The Risk of Financial Harm”, setting out steps to reduce the risk of financial harm. This booklet can be obtained upon request or viewed at <http://www.justice.gov.sk.ca/pgtpubs>

## **Joint Ownership**

Many people in Saskatchewan place property in joint names as part of estate planning. They want to reduce their estate costs when they die.

The problem with joint tenancy is that both joint tenants can do anything they want with the property, short of selling it. A son or daughter may put their parent in a home and then rent out the jointly-held property for their own profit. If it is a bank account, one joint owner may withdraw most or all of the funds from the account.

In most instances, joint tenants have a right of survivorship, so that the last surviving joint tenant takes it all. One child who is in a joint tenancy with his or her parent may become the sole owner, supplanting any other children and, potentially, the wishes of the parent. A bank account set up for the convenience of an older person may result in the surviving joint owner taking the entire contents of the account on the older person's death. Senior citizens should be extremely cautious about placing property in joint names with the right of survivorship. Where the senior is using joint tenancy for convenience or to reduce estate costs, they should insist upon the other joint owner signing a Declaration of Trust. There is a need to educate senior citizens, bankers, accountants, social workers and police officers on the dangers of joint bank accounts and the importance of a Declaration of Trust.

The Public Guardian and Trustee is proposing a comprehensive review of the law of co-ownership

in the province, so that legislation could be formulated that would better protect vulnerable adults or others from abuse connected with joint tenancy.

## **Property Guardianship**

### **Duties and Obligations**

People who are mentally incapable of handling their own finances are unable to look after their own welfare by looking after the basic financial transactions that adults normally carry out for themselves. They may be unable to do their own banking, look after day-to-day bills, buy personal items, buy food, shelter and services, and collect payments to which they are entitled or deal with assets they own, such as a house or investments. This makes them extremely vulnerable. It also affects other people, such as dependants, service providers and those who own property together with the incapable person. The role of a property guardian is to step into the shoes of the incapable person for the purpose of financial decisions and transactions on the person's behalf. This serves to protect the welfare of the incapable person. It also indirectly benefits others whose own financial interests are connected to those of the incapable person.

This obligation is a very serious one. Almost every aspect of the incapable person's life is affected – directly or indirectly – by the guardian's actions. By performing the role diligently and sensitively, the guardian will give the incapable person the most comfortable, enjoyable and safe life that the incapable person can afford. On the other hand, extreme harm can result to the incapable person and to others if the guardian does not act diligently and honestly. Therefore, the highest standards of honesty, integrity and trust are demanded from the guardian.

Passing control of an incapable person's income and assets to a property guardian does not mean that the guardian assumes ownership of the income and assets. Ownership remains in the name of the incapable person. He or she is simply responsible for managing, in the best way possible, what the incapable person has.

The Public Guardian and Trustee published a booklet “Duties and Obligations of a Property Guardian.” To understand this role, this booklet can be obtained upon request or viewed at <http://www.justice.gov.sk.ca/pgtpubs>

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## Security

*The Adult Guardianship and Co-decision-making Act* requires that all property guardians furnish security in the form of a bond equal to the value of the vulnerable person's estate. Security is a way to protect the estate of an infant or vulnerable adult. It offers some assurance that the infant or vulnerable adult will be able to recoup some of the value of the estate should anything happen to the estate.

The Public Guardian and Trustee views the provision of security as an essential part of adult guardianship, and has had good success in convincing the courts and lawyers that security should be provided in most cases. The Office now requests bonds on most property guardianship applications. In many cases, a personal bond will be acceptable. Sometimes, the applicant requires one or two sureties. Occasionally, the applicant requires a commercial bond.

In reviewing applications for property guardians, the Public Guardian and Trustee has observed that applicants apply for property guardianship when they have a conflict of interest in relation to the adult's financial affairs. A conflict of interest can be defined as a situation where if one makes a decision regarding someone else's property, he or she will benefit or lose financially depending on what that decision is.

### Conflict of Interest

It is not advisable that a person be appointed property guardian for an adult if there exists a notable conflict of interest. Where the Public Guardian and Trustee detects such conflict, it will advise the applicant or the applicant's lawyer of the existence of the conflict. The Office will encourage the applicant to resolve the conflict before proceeding further with the application. If the applicant continues with the application in the face of the conflict, the Office will advise the court of that conflict of interest and recommend against appointment.

An example of a conflict of interest is where a proposed grantor has obtained loans from the adult. Loans need to be repaid. The issue arises as to when repayment will occur and what interest rate will be charged. The issue of the loan needs to be resolved before the proposed property guardian is appointed.

## Bankruptcy

The Public Guardian and Trustee has also noted that individuals who have declared or been petitioned into bankruptcy are applying for property guardianship. Subsection 39(f)(vi) of *The Adult Guardianship and Co-decision-making Act* requires the court to inquire into the suitability of the applicant and can take into account the applicant's history in relation to bankruptcy. The Public Guardian and Trustee will point out to the court the fact that the applicant was bankrupt or is in the process of being discharged from bankruptcy. In some instances, the Office will recommend against appointment of the applicant.

## Accountings

*The Adult Guardianship and Co-decision-making Act*, section 54 requires a property guardian to provide an accounting annually to the court and the Public Guardian and Trustee. An accounting is a report showing the assets managed, and the receipts and payments made during the year. The Office has noticed that some property guardians fail or are reluctant to provide this accounting. The Office has also noted that some of the accountings are difficult to understand and lack basic information. The Public Guardian and Trustee takes the position that failure to account is justification to request the court to remove the property guardian.

In an attempt to improve the quality of accounting, the Office has published a booklet "Accountings." This booklet sets out the basic requirements of an accounting. It can be obtained on request or viewed at <http://www.justice.gov.sk.ca/pgtpubs>

The Public Guardian and Trustee has also begun planning to hold accounting workshops to assist proposed guardians and existing property guardians to provide better accountings.

## Removal

In Saskatchewan, *The Adult Guardianship and Co-decision-making Act*, S.S. 2000, c.A-5.3, governs the appointment of property guardians for adults who no longer have the capacity to make decisions with respect to their property and sets out the powers and duties of a property guardian. A property guardian acts as a fiduciary and owes a duty of good faith to the adult for whom they are property guardian. As in all areas of life, however, where someone is in a position of trust, there is the potential for abuse of that position. Areas of common concern to the Public Guardian and Trustee's Office include the making of improper

gifts, failure to provide an accounting, improper taking of fees and improper choice of investments. If these improper actions are discovered, the Office will consider an application to the court to remove the property guardian.

### **Children under age 18**

*The Children's Law Act* requires that, before a property guardian has authority to receive and administer funds on behalf of a child, security must be furnished or the court must dispense with the need for security.

This is a way to protect the estate of the child and offers some assurance that the child will be able to recoup some of the value of the estate should anything happen to the estate.

The Public Guardian and Trustee views the provision of security as an essential part of property guardianship for children and will not usually consent to an order dispensing with the need for security.

### **Powers of Attorney**

People who are growing older may be unable to look after their basic financial transactions. They may be unable to do their own banking, look after day-to-day bills, buy personal items, buy food, shelter and services, and collect payments to which they are entitled or deal with assets they own, such as a house or investments. This makes them extremely vulnerable. It also affects other people, such as dependants, service providers and those who own property together with the grantor. The role of an attorney is to step into the shoes of the grantor for the purpose of financial decisions and transactions on the person's behalf. This serves to protect the welfare of the grantor. It also indirectly benefits others whose own financial interests are connected to those of the grantor.

This obligation is a very serious one. Almost every aspect of the grantor's life is affected – directly or indirectly – by the attorney's actions. By performing the role diligently and sensitively, the attorney will give the grantor the most comfortable, enjoyable and safe life that the grantor can afford. On the other hand, extreme harm can result to the grantor and to others if the attorney does not act diligently and honestly. Therefore, the highest standards of honesty, integrity and trust are demanded from the attorney.

Passing control of a grantor's income and assets to an attorney does not mean that the attorney

assumes ownership of the income and assets. Ownership remains in the name of the grantor. He or she is simply responsible for managing, in the best way possible, what the grantor has.

The Public Guardian and Trustee published a booklet "Duties and Obligations of a Property Attorney." To understand this role, this booklet can be obtained upon request or viewed at <http://www.justice.gov.sk.ca/pgtpubs>

### **Dependants' Relief Applications**

The Public Guardian and Trustee receives many calls from lawyers regarding *The Dependants' Relief Act, 1996* ("Act") and its application.

#### **Application for Administration**

In the application for probate or administration, Rule 699(2) of *The Queen's Bench Rules* requires the applicant to specify those who are dependent adults. The definition of "dependent adult" in Rule 689(b) in effect requires the lawyer to list dependent adults who have a disability and who have a property guardian. The Public Guardian and Trustee suggests that the Notice should specify anyone who is a dependent adult whether he or she has a property guardian or not.

#### **Dependants' Relief Claim**

When this Office receives a Notice that shows a dependent adult without a property guardian, our Office will write the estate lawyer and indicate that the dependent adult may have a dependants' relief claim and may need to be represented. The Office requests the estate lawyer to assist in getting the person represented by a property guardian or litigation guardian. The Public Guardian and Trustee will not represent the person unless it has the authority either as property guardian or as litigation guardian. The first preference is for a family member, with no conflict of interest, to be the property guardian or litigation guardian. Failing this, the Public Guardian and Trustee will attempt to become appointed as property guardian or litigation guardian.

If the Public Guardian and Trustee is not a property guardian or litigation guardian, the Office will not negotiate a settlement because it has no authority to act on behalf of the dependent adult until appointed. Also, at the early stages, the Public Guardian and Trustee does not have all the facts to formulate an opinion as to what would be a reasonable settlement.



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If a property guardian has already been appointed, the property guardian should not act if a conflict of interest exists. In those circumstances, a litigation guardian needs to be appointed.

If appointed, the Office will apply the following policies:

1. If the testator has gifted all or substantially all of the estate to his or her adult children, then the dependent adult should, at minimum, receive an equal share with his or her siblings.
2. The Act and case law indicate that a dependent adult's needs are critical in determining an award or settlement. If the estate is over \$100,000, the Office will engage a qualified health professional (possibly an occupational therapist) to conduct a needs assessment. The Office will also then attempt to obtain a report on present value for the future costs of care. The Public Guardian and Trustee will ask the executor or administrator to pay for both reports. Unless the needs assessment supports a larger claim, the minimum claim will be a share equal to what other brothers and sisters are receiving under the will. If the needs assessment is higher, then the higher amount will be claimed.

The Act and case law also enumerate other factors to be considered in quantifying a claim, and where applicable, these factors would also receive consideration (See, for example, section 8 of the Act).

3. If the estate is under \$100,000, the dependent adult should receive an equal share with his or her siblings. If the will provides less than an equal share, the Office will claim an amount that results in an equal share to the dependent adult.
4. If the dependent adult is the only child of the deceased parent and the will provides others with a share of the estate, the Office will employ a needs-based test to determine the adequacy of the dependent adult's bequest. This approach will also be used where the testator has disinherited the adult children.
5. Once a settlement is reached, attempts will be made to put the funds in a section 9 trust under the Act (current limit by regulation is \$100,000), with our Office as trustee. The purpose of a section 9 trust fund is to enhance the dependent adult's quality of

life without affecting his or her entitlement to social assistance. Upon the dependent adult's death, the residual beneficiaries of the trust are the same people who would take under the will or *The Intestate Succession Act*.

If the settlement exceeds \$100,000 and a discretionary trust also exists under the will, the excess will be placed in the discretionary trust. The Public Guardian and Trustee will be the trustee under the section 9 trust and the executor/trustee will be the trustee under the discretionary trust. The variation of the discretionary trust may be accomplished by agreement or possibly an application under *The Variation of Trusts Act*. Consent orders will be required under *The Dependents' Relief Act, 1990* and *The Variation of Trusts Act*. Of course, all consent orders are subject to the approval of the court.

### Drafting Wills

When drafting a will for parents who have a dependent adult with a disability, it is necessary to consider the following:

- Is the dependent adult receiving an equal share under the will similar to the other siblings?
- Will the dependent adult's share meet his or her needs for his or her expected lifetime?
- Can his or her share be set up in a discretionary trust so that it is protected from financial abuse?

The Office encourages the use of discretionary trusts. These trusts are not limited to the \$100,000 cap as is required for section 9 trusts. A discretionary trust can be for any amount. Case law indicates that social assistance payments cannot be reduced because of the existence of a discretionary trust. If the executor/trustee will have a perceived conflict, then someone else should be appointed trustee of the discretionary trust.

### Approval of Injury and Fatal Accident Claims on Behalf of Minors

Section 25 of *The Public Guardian and Trustee Act* provides the authority for the Public Guardian and Trustee to approve a settlement reached on behalf of a child, to release a defendant, and to receive the net settlement proceeds on behalf of a child. This authority is limited to claims for injuries

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suffered by the child and claims made under *The Fatal Accidents Act*. Other types of claims require the approval of the court.

The Public Guardian and Trustee will accept a request to approve a settlement from the child, the child's parent and/or litigation guardian, or the child's solicitor.

Unless there are extremely unusual circumstances, the Public Guardian and Trustee will not accept a request to approve a settlement if that request is from the defendant, the defendant's solicitor or the defendant's insurer. In these circumstances, the Public Guardian and Trustee will contact the parents, the child, and/or their solicitor to ensure that they are aware of and in agreement with the proposed settlement.

The Public Guardian and Trustee has developed forms that outline the information required when asked to approve a settlement. These forms are available on request, and can also be obtained from the Public Guardian and Trustee web site: <http://www.justice.gov.sk.ca/Children-Forms>

In order to approve the settlement of an injury claim, the Public Guardian and Trustee must be satisfied that the settlement is fair and reasonable and in the best interest of the child. Consideration is given to a number of factors, including:

- the nature and extent of the injury;
- the type of treatment required;
- the activities curtailed or losses suffered during the period of disability;
- the extent of permanent impairment, if any;
- the effect on lifestyle and earning capacity;
- the cost of future care or treatment;
- contributory negligence.

The Public Guardian and Trustee may be asked to approve an arrangement where the net settlement proceeds are used to purchase an annuity that will provide periodic payments, rather than being paid in one lump sum to the Public Guardian and Trustee.

Consideration will be given to a request for a structured settlement if it can be shown that the nature of the injuries are such that the child will require care for the rest of his or her life, and that there will be a cost for the care (i.e., a severe head injury or an injury resulting in quadriplegia or paraplegia). In these circumstances, a structured

settlement provides the best guarantee that the ongoing costs of the child's care will be met and also has income tax advantages.

The Public Guardian and Trustee must approve the proposed structure, including the amount and frequency of the payments, the details of any lump sum payments and the length of time that the payments are guaranteed to continue.

If a request is received to approve a structured settlement for a child whose injuries do not result in the need for life-long care, and the purpose of the structured settlement is simply to delay payment of the settlement proceeds to the child, the Public Guardian and Trustee will not approve the request.

In some cases, the plaintiff's solicitor may ask the Public Guardian and Trustee to approve a settlement of a matter that has already gone to pre-trial. In these cases, it is the Public Guardian and Trustee's position that, since the pre-trial judge would have already reviewed the materials and heard from the parties, it would likely be more expeditious for the approval of the settlement to be dealt with by way of an application to the pre-trial judge.

In these cases, the Public Guardian and Trustee will not approve the settlement and the plaintiff's solicitor should seek the approval of the court, pursuant to section 25(3) of *The Public Guardian and Trustee Act*. This section directs that the Public Guardian and Trustee is to be served with the application.

Section 26 of *The Public Guardian and Trustee Act* provides the authority for the Public Guardian and Trustee to approve solicitor's fees in connection with the approval of an injury or Fatal Accident claim on behalf of a child.

It is the policy of the Office to approve fees at 15 per cent of the settlement amount if the matter is settled prior to pre-trial, 20 per cent if the matter is settled at pre-trial and 25 per cent if the matter goes to trial. Fees at these rates will be approved on request. If the Public Guardian and Trustee is asked to approve fees at rates higher than outlined above, consideration will be given to the following:

- the nature and complexity of the case, (i.e. medical malpractice or multiple defendants);
- the actual time spent by the lawyer;
- the skill and ability displayed by the lawyer;

- whether the lawyer carried the disbursements or spent a lot of time on the file with a minimal possibility of success; and
- the results achieved.

The fee must be both fair and reasonable, and the actual compensation must be commensurate with the work done. It would be exceptional for the fees to exceed 30 per cent, and 15 per cent to 25 per cent is most common.

Contingency fee arrangements entered into by a parent or litigation guardian are not binding on the child, and the Public Guardian and Trustee cannot pre-approve them or enter into a binding agreement on behalf of a child.

### ***The Wills Act, 1997***

This Act has not been updated or reviewed for a long time. Amendments were made in August 1, 1997. The British Columbia Law Institute has done an extensive review of British Columbia's legislation and has made a number of recommendations. Their report can be found at [http://www.bcli.org/pages/projects/succession/Wills\\_Estates\\_and\\_Succession\\_Report.pdf](http://www.bcli.org/pages/projects/succession/Wills_Estates_and_Succession_Report.pdf)

*The Wills Act*, since it affects many Saskatchewan citizens, could only be updated after an extensive consultation process. This process may take as much as two years from start until legislation was passed. The Public Guardian and Trustee does not have to follow the British Columbia Law Institute recommendations but their comments gives the Office a lot of food for thought.

Some of the issues that should be considered, discussed, and, if agreed to, put into legislation are the following:

- Should a will be revoked upon marriage? Now, living together for two years results in one being a spouse. This two-year limit triggers a revocation of a will. This could happen to a person without them giving it conscious thought.
- Review of the formal requirements for execution and our rules where there has not been compliance.
- Do we still require special wills like the military will? Should the age at which a person can make a will be changed to 16?
- Should section 37 be amended to allow electronic wills to be included in the definition of writing?
- Should a will be revoked upon the subsequent marriage of a person?
- Should *The Wills Act* have a provision that would allow an application for rectification and should there be a time limit within which one must bring his or her application?
- Should the rules for determining intent of the testator be amended to allow extrinsic evidence?
- Should *The Wills Act* have a provision that provides that gifts to issue are to be distributed per stirpes to make it consistent with intestate succession?
- Should certain non-statutory presumptions be reviewed and if necessary, changed or eliminated?
- Should section 35 of the Act be extended to encumbered personal property?
- Should the rules relating to lapsed gifts be amended so as to prevent intestacy?
- Should the rules on ademption be amended?
- Should the rules relating to abatement be amended?

Finally, the Public Guardian and Trustee is proposing that the provisions in *The Wills Act* be incorporated into *The Administration of Estates Act* so that the public and lawyers have one reference point for all deceased administration issues.

### ***The Intestate Succession Act, 1996***

Similarly, this Act has not been extensively reviewed for a long time. The last amendments were November 1, 1996. The above comments about *The Wills Act* apply here. Some issues that should be considered are:

- Should the imposed distribution scheme be changed?
- At present, our *Intestate Succession Act* distributes an intestate's estate according to degrees of consanguinity or kinship. The B.C. report has proposed to move towards a parenthetic system of distribution under which "the line of the closest common ancestor must be exhausted before other relatives will share in the estate, subject to



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the rights of the intestate's surviving spouse." Which would be the better system for Saskatchewan?

- Is the spouse's share in the Act appropriate or should it be increased? Should there be a different amount given to the spouse where there is a mixed family? What should the rights on intestacy be for separated spouses?

Finally, the Public Guardian and Trustee is proposing that the provisions in *The Wills Act* and *The Intestate Succession Act, 1996* be incorporated into *The Administration of Estates Act* so that the public and lawyers have one reference point for all deceased administration issues.

### ***The Dependants' Relief Act, 1996***

This Act has not been reviewed since February 21, 1997. The above comments about *The Wills Act, 1997* and *The Intestate Succession Act* also apply here. Some issues requiring consideration are:

- Should the definition of "estate" or the assets that a court order can affect be expanded to include insurance policies? Some provinces, such as Alberta, already provide for this.
- Should we have a provision that assets transferred within the year prior to death are subject to an order for maintenance?

Finally, the Public Guardian and Trustee is proposing that the provisions in *The Wills Act*, *The Intestate Succession Act, 1996* and *The Dependants' Relief Act, 1996* be incorporated into *The Administration of Estates Act*, so that the public and lawyers have one reference point for all deceased administration issues.

### **A need for information**

At present, other human service providers, professionals and the public at large require more information on issues affecting vulnerable adults. This affects their ability to respond to certain issues, such as the abuse of the senior citizens or problems associated with joint ownership. These people generally do want to know more, in order to improve their responses.

As a result, the Public Guardian and Trustee has published a series of booklets on the following topics:

- Public Guardian and Trustee of Saskatchewan
- Duties and Powers of a Property Attorney in Saskatchewan
- Duties and Powers of a Property Guardian in Saskatchewan

These booklets can be obtained upon request or viewed at <http://www.justice.gov.sk.ca/pgtpubs>

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## Confidentiality

The Public Guardian and Trustee is required to account publicly to the Minister of Justice and Attorney General and the Legislative Assembly as evidenced by this Annual Report. The Public Guardian and Trustee is required to have an audit performed by the Provincial Auditor each year. This audit reviews financial information but also involves a review of systems and controls. The Office is subject to all financial controls of the Comptroller's Office. Citizens have the right to contact the Ombudsman who has the authority to do a review of a file. Finally, at some point the Office must always account to a client, his or her property guardian, executor or administrator. These accountability mechanisms are in place to ensure that the Office operates in a lawful and responsible way.

The Public Guardian and Trustee has been in existence since April 1, 1984. The Office and its predecessors, the Administrator of Estates and Official Guardian have always taken the issue of privacy and confidentiality very seriously. As the Office administers the financial affairs of an adult, child or deceased estate, that person is entitled to confidentiality and privacy. When they were managing their own affairs, they had the discretion to disclose what information they wished; when the Office administers their affairs, the Office will always err on the side of disclosing to family or third parties less information rather than more, so that the person's privacy is protected.

*The Freedom of Information and Protection of Privacy Act* reinforces this principle in section 29, which provides as follows:

**29(1)** No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 30.

(2) Subject to any other Act or regulation, personal information in the possession or under the control of a government institution may be disclosed:  
..... (list of exceptions)

*The Health Information Protection Act* further enforces this principle in section 5(2):

**5(2)** A trustee shall use or disclose personal health information about an individual only:

(a) with the consent of the subject individual;  
or

(b) in accordance with a provision of this Act that authorizes the use or disclosure.

To further reinforce this long-standing position of confidentiality, the Office has developed a policy on when information can be released.

### Adults

On a day-to-day basis, the Public Guardian and Trustee staff must disclose information in order to manage the financial affairs of the Office's clients. It is expected they will only release as much information as is necessary to get the job done. The Office will only release that amount of information, which is necessary and in the best interest of the client. The reverse is also true, if releasing information is not in the best interest of the client, then the Office will not release it.

If a neighbor or friend of the client calls asking for information, the Office will, there being no best interest, refuse to provide that information. If a son or daughter calls, the Office takes the same approach. If there is no financial advantage to release the information, then the Office will not release that information. When sons and daughters call, they have an expectation that the Office should release information to them because they are the son or daughter. If the client were competent, he or she would decide whether to give any information to a son or daughter. Some parents do and some parents do not. A son or daughter has no higher right to a parent's financial information than a stranger.

The Public Guardian and Trustee also views the Office as a place of last resort. The Office is property guardian for a client when the family will not or cannot be the property guardian. A family member who wishes more control and more information can always apply to court to be the property guardian. If the court appoints that person, the Office will hand over all information to that property guardian.

In many instances, when the Office is property guardian for a client, it is because some financial abuse has taken place prior to the Office's involvement. In many instances, it is one of the children who have been the abuser. That child has tried to benefit or has benefited from being power of attorney, property guardian or unofficial manager of the parent's affairs. Sometimes there is a major family dispute occurring. The Office is placed between two differing sides of the family. The Public Guardian and Trustee, when faced

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## Risk Management

with an information request, does not want to give information to the abuser and does not want to take sides between family members or prejudice the rights of the client in case there is a claim for restitution. All of this reinforces the importance of a policy of confidentiality and protection of the client's privacy.

For all of the above reasons, the Public Guardian and Trustee has taken the side of protecting a person's privacy and enforcing a strict confidentiality policy.

It should be noted, an adult for whom we are property guardian is always entitled to his or her financial information. Also, a beneficiary is always entitled to financial information from the deceased estate.

### Children

The Public Guardian and Trustee is committed to maintaining the confidentiality of children's records and information. This is an important part of protecting the rights and interests of our clients.

Maintaining confidentiality is one of the reasons that we ask for written requests for withdrawing funds or for inquiries about the amount of money in the child's account. Account balances are not provided over the telephone unless we are certain that the person requesting the information is the child's legal guardian. We will mail a statement upon request.

The Public Guardian and Trustee continues to identify and manage risk.

Market fluctuations could have an adverse impact on the Public Guardian and Trustee's Common Fund. The Public Guardian and Trustee attempts to minimize this impact through:

- a balanced investment policy which is reviewed annually;
- an investment manager who makes all investment decisions;
- an investment consultant who advises on the performance of the investment manager;
- an investment advisory committee that reviews the performance of the investment manager and changes to the investment policy; and
- a policy that provides for the distribution of capital gains over a four-year period.

Other internal risk factors include negligent administration of a client's affairs, breach of the fiduciary obligations, fraud, errors in recording income or expenses and loss of assets.

These are the risks that any organization that holds funds and manages assets has. They are also the risks that every Public Guardian and Trustee in Canada will have. The greatest risk is to ignore these risks and the preferred approach is to recognize them as risks and to take steps to minimize the risk and do all things in one's power to attempt to ensure that such events do not occur. To minimize these risks to the greatest extent possible, the Public Guardian and Trustee does the following:

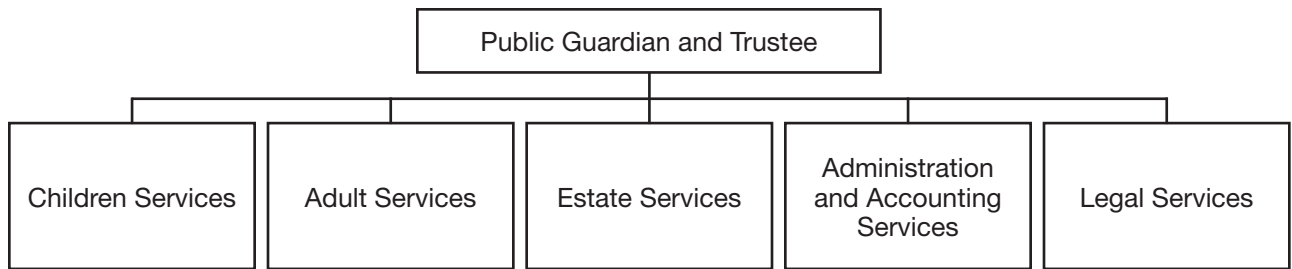
- provides training at monthly meetings;
- ensures that staff attend relevant conferences;
- has legal counsel review actions or decisions;
- maintains a policy manual and a regular updating process;
- conducts an internal review on a monthly basis;
- conducts annual review by the Ministry of Justice and Attorney General's internal auditor;
- establishes a series of tight controls surrounding the issuing of cheques and the processing of expenses;

- 
- created greater physical security in the Office;
  - prescribed procedures for the opening of mail and the handling of cash and other assets;
  - prescribed procedures for the recording of assets on the Office's computer system;
  - maintains and updates controls around the recording of income and expenses;
  - creates rules regarding the taking and recording of inventory;
  - secures personal property when stored at the Office;
  - places insurance on assets; and
  - utilizes the computer system to allow only authorized staff to perform certain functions.

As stated above, the prudent approach is to recognize the risks and then take as many steps as possible to minimize those risks.

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## Management Structure



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## Fees

The Office has a principle of cost recovery in the provision of its services. Where a full cost recovery is not achievable, partial cost recovery is the objective. There are certain situations where clients cannot pay the full or partial fee and the Public Guardian and Trustee has the discretion to reduce those fees in appropriate circumstances. Under *The Public Guardian and Trustee Act* and Regulations and *The Administration of Estates Act and Regulations*, the Public Guardian and Trustee charges fees for services.

### For children

- 1/12<sup>th</sup> of one per cent per month, of the amount held for the child.

### For adults

- Five per cent or seven per cent of income
- 1/12<sup>th</sup> of one per cent per month, of the value of the assets managed for adults.

### For estates

- A percentage of the value of the estate;
  - seven per cent on first \$50,000
  - five per cent on next \$50,000
  - four per cent on excess over \$100,000with a minimum fee of \$900. This fee would apply if the Public Guardian and Trustee acts as administrator pending litigation or acts as administrator to defend a claim.

### For co-decision-makers or temporary guardians

- Where the Public Guardian and Trustee acts as a co-decision maker or a temporary guardian, the fee is \$250 per month.

### For court appearances

- If the Public Guardian and Trustee appears in court, it will ask the court to award it costs on a solicitor/client basis.

### For litigation guardians

- Where the Public Guardian and Trustee acts as a litigation guardian for a child or an adult, the fee is \$500 plus disbursements and legal fees.

### For issuing a certificate

- Consent to Sale of Real Estate – varies, depending on the circumstances and/or the value of the property.
- Certificate of No Infants – \$30.
- Approval of Settlement for an Infant – varies, depending on the amount of the settlement.

### For legal fees

- An hourly rate up to \$150.

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## Relevant Legislation

These Acts and Regulations can be viewed at the Queen's Printer web site at  
<http://www.qp.gov.sk.ca/>

*Absentee Act, 1996* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/absentee.shtml>

*Administration of Estates Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/adminestatesact.shtml>

Administration of Estates Regulations

*Adult Guardianship and Co-decision-making Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/adultguard.shtml>

Adult Guardianship and Co-decision-making Regulations

*Automobile Accident Insurance Act*  
<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/A35.pdf>

*Child and Family Services Act*  
<http://www.qp.gov.sk.ca/documents/english/statutes/statutes/C7-2.PDF>

*Children's Law Act, 1997* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/childrenslawact.shtml>

*Condominium Property Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/condominiumact.shtml>

*Crown Administration of Estates Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/crownadminofestates.shtml>

*Department of Social Services Act*

*Dependants' Relief Act, 1996* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/dependantsreliefact.shtml>

*Devolution of Real Property Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/devolutionact.shtml>

*The Miscellaneous Statutes (Domestic Relations) Amendment Act, 2001*  
<http://www.qp.gov.sk.ca/documents/english/chapters/2001/chap-50.pdf>

*Escheats Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/escheats.shtml>

*Family Maintenance Act, 1997* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/familymaintact.shtml>

*Fatal Accidents Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/fatalaccidentsact.shtml>

*Intestate Succession Act, 1996* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/intestatesuccact.shtml>

*Land Titles Act, 2000* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/landtitles2000act.shtml>

*Limitations Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/limitations.shtml>

*Mentally Disordered Persons Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/mentallydisorderact.shtml>

*Powers of Attorney Act, 2002* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/powerAttorneyact.shtml>

Powers of Attorney Regulations

*Public Guardian and Trustee Act* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/publictrusteeact.shtml>

Public Guardian and Trustee Regulations

*Queen's Bench Act, 1998* – A summary of the legislation can be viewed at  
<http://www.saskjustice.gov.sk.ca/legislation/summaries/queensbenchact.shtml>



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## Acknowledgement

*Saskatchewan Insurance Act* – A summary of the legislation can be viewed at

<http://www.saskjustice.gov.sk.ca/legislation/summaries/saskinsuranceact.shtml>

*Survival of Actions Act* – A summary of the legislation can be viewed at

<http://www.saskjustice.gov.sk.ca/legislation/summaries/survivalact.shtml>

*Survivorship Act, 1993* – A summary of the legislation can be viewed at

<http://www.saskjustice.gov.sk.ca/legislation/summaries/survivorshipact.shtml>

*Tax Enforcement Act*

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/T2.pdf>

*Teachers Superannuation and Disability Benefits Act*

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/T9-1.pdf>

*Trustee Act* – A summary of the legislation can be viewed at

<http://www.saskjustice.gov.sk.ca/legislation/summaries/trusteeact.shtml>

*Variation of Trusts Act* – A summary of the legislation can be viewed at

<http://www.saskjustice.gov.sk.ca/legislation/summaries/variationTrustsact.shtml>

*Wills Act, 1996* – A summary of the legislation can be viewed at

<http://www.saskjustice.gov.sk.ca/legislation/summaries/willsact.shtml>

The Public Guardian and Trustee acknowledges and thanks the many staff members who have continued to provide courteous, effective and efficient service to clients. Without their expertise and commitment, the Office would not have been able to attain our many goals for the 2007-08 fiscal year.

## Contact Information

Public Guardian and Trustee Office  
100 – 1871 Smith Street  
Regina Saskatchewan  
S4P 4W4

Telephone: (306) 787-5424

Toll Free: 1-877-787-5424

Fax: (306) 787-5065

Email: [pgt@justice.gov.sk.ca](mailto:pgt@justice.gov.sk.ca)

Web site: [www.justice.gov.sk.ca/pgt](http://www.justice.gov.sk.ca/pgt)

Office Hours:

Monday through Friday, 8 a.m. to 5 p.m.  
(Closed for the noon hour and holidays)



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## Management's Responsibility for the Financial Statement

Management is responsible for the integrity of the financial information reported by the Public Guardian and Trustee of Saskatchewan. Fulfilling the responsibility requires the preparation and presentation of financial statements and other financial information according to Canadian generally accepted accounting principles. These recommendations are consistently applied, with any exception specifically described in the financial statements.

The accounting systems used by the Public Guardian and Trustee include an appropriate system of internal controls to provide reasonable assurance that:

- transactions are authorized;
- the Public Guardian and Trustee's assets are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other information;
- the accounts are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other financial information.

The Provincial Auditor of Saskatchewan has audited the balance sheet of the Public Guardian and Trustee of Saskatchewan – Estates and Trusts under Administration as at March 31, 2008, and the statements of common fund earnings and undistributed earnings and changes in trust funds for the year then ended. Their responsibility is to express an opinion on the fairness of management's financial statements. The Auditor's Report outlines the scope of their audit and their opinion.

## Financial Statements

The financial statements on the following pages provide an account of the financial activities of the Public Guardian and Trustee of Saskatchewan for the year ended March 31, 2008.

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION**

**FINANCIAL STATEMENTS**

**For the Year Ended March 31, 2008**



## Provincial Auditor Saskatchewan

1500 Chateau Tower  
1920 Broad Street  
Regina, Saskatchewan  
S4P 3V2

Phone: (306) 787-6398  
Fax: (306) 787-6383  
Web site: [www.auditor.sk.ca](http://www.auditor.sk.ca)  
Internet E-mail: [info@auditor.sk.ca](mailto:info@auditor.sk.ca)

SASKATCHEWAN

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### AUDITOR'S REPORT

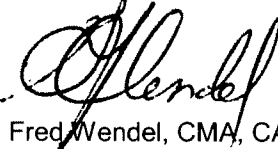
To the Members of the Legislative Assembly of Saskatchewan

I have audited the balance sheet of the Public Guardian and Trustee of Saskatchewan – Estates and Trusts under Administration as at March 31, 2008 and the statements of common fund earnings and undistributed earnings and changes in trust funds for the year then ended. The Public Guardian and Trustee's management is responsible for preparing these financial statements for Treasury Board's approval. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Public Guardian and Trustee of Saskatchewan – Estates and Trusts under Administration as at March 31, 2008 and the results of its operations and changes in trust funds for the year then ended in accordance with Canadian generally accepted accounting principles.

Regina, Saskatchewan  
June 6, 2008

  
Fred Wendel, CMA, CA  
Provincial Auditor

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
BALANCE SHEET  
AS AT MARCH 31**

**STATEMENT 1**

	(in 000's)	
	2008	2007
<b>ASSETS</b>		
Cash and Due from General Revenue Fund (Note 5)	\$ 2,769	\$ 3,343
Interest and Dividends Receivable	876	858
Common Fund Securities (Schedule 1 & Note 4)	125,029	129,318
Individual Trust Assets (Schedule 2)	26,885	22,239
<b>TOTAL ASSETS</b>	<b>\$ 155,559</b>	<b>\$ 155,758</b>
<b>LIABILITIES</b>		
Accounts Payable (Note 7)	\$ 3,836	\$ 2,748
Mortgages and Loans Payable	277	492
	<b>4,113</b>	<b>3,240</b>
<b>Trust Equity</b>		
Trust Equity	138,608	131,983
Undistributed Earnings (Statement 2)	12,838	20,535
	<b>151,446</b>	<b>152,518</b>
<b>TOTAL LIABILITIES AND TRUST EQUITY</b>	<b>\$ 155,559</b>	<b>\$ 155,758</b>

(See Accompanying Notes to the Financial Statements)

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
STATEMENT OF COMMON FUND EARNINGS AND UNDISTRIBUTED EARNINGS  
FOR THE YEAR ENDED MARCH 31**

**STATEMENT 2**

	(in 000's)	
	2008	2007
<b>REVENUE</b>		
Interest and Dividends (Note 3 (ii))	\$ 4,593	\$ 4,948
Common Fund Realized Gains, Losses and Market Value Appreciation	(3,720)	6,640
	873	11,588
Less: Management Fees	(320)	(274)
<b>Earnings Available for Distribution</b>	<b>553</b>	<b>11,314</b>
<b>Distributed Earnings</b> (Note 3 (iii))		
Interest and Dividends	(4,262)	(3,952)
Realized and Unrealized Capital Gains	(3,988)	(3,628)
<b>Undistributed Earnings Previous Year</b>	<b>20,535</b>	<b>16,801</b>
<b>UNDISTRIBUTED EARNINGS, END OF YEAR</b>	<b>\$ 12,838</b>	<b>\$ 20,535</b>

(See Accompanying Notes to the Financial Statements)

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
STATEMENT OF CHANGES IN TRUST FUNDS  
FOR THE YEAR ENDED MARCH 31**

**STATEMENT 3**

	(in 000's)		
		2008	2007
<b>Increase in Trust Funds</b>			
Trust Funds Acquired			
Cash	\$	3,660	\$ 2,581
Common Fund Earnings Available for Distribution		553	11,314
Other Amounts Received on Behalf of Clients		25,024	29,113
Total Increase in Trust Funds		29,237	43,008
<b>Decrease in Trust Funds</b>			
Trust Funds Released			
Cash		14,538	16,328
Payments Made on Behalf of Clients		17,792	17,767
Administration Fees (Note 6)		2,625	2,781
Total Decrease in Trust Funds		34,955	36,876
Net Change in Individual Non-cash Assets		4,646	(204)
Increase/(Decrease) in Trust Funds		(1,072)	5,928
Balance, Beginning of Year		152,518	146,590
<b>TRUST FUNDS, END OF YEAR</b>		\$ 151,446	\$ 152,518

(See Accompanying Notes to the Financial Statements)

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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**1. Authority and Purpose**

Effective April 1, 1984 the Office of the Public Guardian and Trustee of Saskatchewan was established pursuant to *The Public Trustee Act* and continued under *The Public Guardian and Trustee Act*. *The Public Trustee Act* was repealed and *The Public Guardian and Trustee Act* was proclaimed effective May 17, 2002.

Section 3(1) of *The Public Guardian and Trustee Act* states:

3(1) The Public Trustee is continued as a corporation sole under the name of the Public Guardian and Trustee of Saskatchewan.

Section 3(3) of *The Public Guardian and Trustee Act* states:

3(3) The public guardian and trustee is the successor in office to:

- (a) the Official Guardian appointed pursuant to *The Infants Act*; and
- (b) the Administrator of Estates appointed pursuant to *The Administration of Estates of Mentally Disordered Persons Act*.

Effective November 12, 1992, the Public Trustee became the official administrator for each judicial centre pursuant to *The Queen's Bench Act*. (Now *The Administration of Estates Act*)

Effective August 13, 2002, the Public Guardian and Trustee became responsible for holding property for persons whose whereabouts is unknown.

The mandate of the Office of the Public Guardian and Trustee is to:

- (a) protect property rights of children under the age of eighteen;
- (b) administer the property and finances of adults who are incapable of managing their financial affairs, monitor other property guardians and investigate allegations of financial abuse;
- (c) administer the estates of deceased persons;
- (d) administer the estates of missing persons, and
- (e) hold and administer unclaimed property.

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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**2. Scope of the Financial Statements**

These financial statements reflect the assets and liabilities of estates and trusts under the administration of the Public Guardian and Trustee. In addition, these financial statements reflect the annual changes in those assets and liabilities including:

- a) revenue earned on behalf of clients;
- b) income received on behalf of clients;
- c) new client account additions;
- d) released client withdrawals;
- e) payments made on behalf of clients; and
- f) administration fees payable to the Public Guardian and Trustee.

The operating costs of the Office of the Public Guardian and Trustee are included in the appropriation of the Ministry of Justice and Attorney General.

**3. Significant Accounting Policies**

These financial statements are prepared in accordance with Canadian generally accepted accounting principles. The following policies are considered significant.

(i) Common Fund Securities

Common fund securities, primarily bonds, debentures and shares, are stated at market value. Market value is determined with reference to closing year-end sale prices from recognized security dealers. In the absence of recorded sales, market value is determined by reference to closing year-end bid and ask prices.

Short-term investments are stated at cost, which approximates market value.

(ii) Common Fund Income Recognition

Income earned on common fund securities is recorded using the accrual basis of accounting with amounts earned in the fiscal year but not received prior to the year-end reflected as interest receivable.



**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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(iii) Common Fund Distribution

Common fund investments generate interest, dividends, realized and unrealized capital gains (losses) income. Pursuant to section 5, 6 and 7 of *The Public Guardian and Trustee Regulations*, interest, dividends and gains/(losses) income earned on the common fund investments are to be calculated and distributed to client trust accounts after the end of each quarter. Section 6 and 7 outline how interest and dividends shall be calculated. Section 7 allows the Public Guardian and Trustee to set the amount of capital gains (losses) to be distributed.

As the investment accounts are stated at market value, the undistributed interest, dividends and capital gains (losses) for the quarter ended March 31 are included in the financial statements as part of the investment value and the undistributed client equity. These interest, dividends and capital gains (losses) amounts are distributed to the client equity accounts in the following year.

(iv) Individual Trust Assets

Individual trust assets consist of accounts receivable, commodities, individual trust securities, personal property and insurance and real estate. Individual trust securities, primarily term deposits, bonds and RRSP accounts are initially stated at market value at the date the Public Guardian and Trustee assumes control of the securities. For financial statement purposes, these securities are adjusted to the market value annually using the most recent valuation information available. Adjustments between the most recent available information and March 31 of each year for a particular client are likely minimal and would affect the value of the asset and the trust liability equally.

Shares are initially recorded at the market value at the time the Public Guardian and Trustee assumes responsibility for control of the investment. Subsequent increases or decreases in the market value are reflected in the trust accounts annually. Where a market value for a share is not readily available, the shares are recorded for accountability purposes at a nominal value of \$1.

Other individual trust assets consist of commodities, real estate, personal property, life insurance policies, pension plans and annuity contracts and are stated at the following values:

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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- (a) **Commodities** are stated at market value, which is determined annually with reference to the estimated final delivery price for the particular commodity.
- (b) **Real estate**, including real estate holdings for infants where the Public Guardian and Trustee is appointed property guardian, are initially recorded at appraised value at the date the Public Guardian and Trustee assumes control of the asset or at cost if the real estate is purchased on behalf of clients by the Public Guardian and Trustee. Real estate values are adjusted to appraised values annually. If no valuation information is available, these assets are recorded at a nominal value of \$1.
- (c) **Miscellaneous Personal Property** is stated at amounts determined from information available to the Public Guardian and Trustee at the date the Public Guardian and Trustee assumes control of the assets. Subsequent adjustments are made if additional valuation information is received. If no valuation is available, these assets are recorded at a nominal value of \$1.
- (d) **Life Insurance Policies** that carry a cash surrender value are stated at the cash surrender value as determined with reference to the most recent valuation information available prior to March 31. Policies that do not carry a cash surrender value are stated at a nominal value of \$1.
- (e) **Pension Plans and Annuity Contracts** are stated at residual value as determined with reference to the most recent evaluation information available prior to March 31 of each year. Pension plans and annuity contracts with no residual value are stated at a nominal value of \$1.

(v) Use of Estimates

Preparation of financial statements in accordance with Canadian generally accepted accounting principles requires management to make estimates and assumptions in determining the reported amounts for assets and liabilities. Actual results could differ from management's best estimates, as additional information becomes available.

**4. Common Fund Securities**

*The Public Guardian and Trustee Act* provides as follows:

47(1) The Public Guardian and Trustee shall:

- (a) place money received by the Public Guardian and Trustee pursuant to this Act, any other Act or court order in a common fund; and

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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- (b) subject to the approval of the Investment Board, invest in the name of the Public Guardian and Trustee that part of the common fund that in the Public Guardian and Trustee's opinion is not immediately required for persons for whom the Public Guardian and Trustee holds funds.

Common Fund Securities are invested through a single "common" fund to ensure consistency of return among clients. The investment objectives of the common fund are to achieve at least market returns with prudent risk diversification, with the potential for enhanced returns through active investment management for a majority of the portfolio. The Public Guardian and Trustee recognizes that there are diverse time horizons for its clients and that capital preservation is of primary concern. The employed investment objectives include a multiple asset, total return approach which values all types of investment income equally, a moderate income requirement to supplement other liquidity sources, a requirement for stability and maximization of return, and a degree of inflation protection and capital appreciation.

The Public Guardian and Trustee recognizes that, by their nature, investments carry with them certain risks. The investment policy employed by the Public Guardian and Trustee is designed to mitigate these risks as much as possible by placing restrictions on the overall content and quality of the permitted investments. The following describes the risks associated with the investment portfolio, managed through an investment manager, by the Public Guardian and Trustee.

Price Risk

Price risk refers to the potential that the value of investments will fluctuate as a result of foreign currency, interest rate and general market changes.

The value of the common fund investments will fluctuate with changes in foreign currency, interest rate and general market changes. To mitigate these risks the Public Guardian and Trustee works with an investment manager that actively manages asset class allocations through a balanced fund approach. The employed investment policy limits foreign currency exposure by permitting a maximum of 40% foreign investment with a stated benchmark of 26% foreign investment. The policy also limits market risk by permitting a maximum of 50% equity investment, including foreign equities with a benchmark of 40% equity investment. The Public Guardian and Trustee manages interest rate risk by limiting the quantity and quality of interest rate sensitive investments to a maximum of 100% of the portfolio with a benchmark

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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of 57% fixed income securities. Market risk is managed by taking a conservative prudent approach to investment.

Credit and Liquidity Risk

Credit and liquidity risk arises from the potential for an investee to fail or for an issuer to default on its obligations to the common fund. The Public Guardian and Trustee mitigates this risk by limiting the quantity and quality of the permitted investments to high quality, highly rated equity investments and highly rated fixed income securities.

**5. Due from the General Revenue Fund**

The Public Guardian and Trustee's operating and fees bank accounts totalling \$2,715,525 (2007 - \$3,342,379) are included in the Consolidated Offset Bank Concentration arrangement for the Government of Saskatchewan. Interest earned on the balance attributed to the Public Guardian and Trustee is calculated and paid quarterly into the Public Guardian and Trustee's operating account using the Government's thirty day borrowing rate and the Public Guardian and Trustee's average daily bank account balance. The Government's average thirty day borrowing rate for the year-ended March 31, 2008 is 4.17% (For the year-ended 2007 it was 4.09%).

**6. Administration Fees**

Pursuant to the provisions of *The Public Guardian and Trustee Regulations* and *The Administration of Estate Regulations*, the Public Guardian and Trustee may charge a fee for services performed in the management of client accounts. Such fees charged are payable to the General Revenue Fund of the Province of Saskatchewan.

**7. Accounts Payable**

Accounts payable represent encumbrances of client assets that are payable to independent third parties. These client obligations are settled, as client resources become available. In some cases, a client's liabilities exceed the stated value of their assets. These items are included as accounts payable and are paid, as the resources of the client become available to do so.

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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Accounts payable consist of the following balances:

	(in 000's)	
	2008	2007
Accounts Payable to Third Parties	\$ 3,168	\$ 2,078
Administration Fees Payable to the Public Guardian and Trustee	668	670
	<u>\$ 3,836</u>	<u>\$ 2,748</u>

**8. Common Fund Earnings Distributions**

In April 2008, the Public Guardian and Trustee distributed interest, dividends and capital gains (losses) for the quarter ended March 31, 2008, in the amounts as follows (in 000's): interest \$802 (2007 - \$797), dividends \$73 (2007 - \$65), foreign dividends \$50 (2007 - \$61) and capital gain(loss) \$708 (2007 -\$1,176).

**9. Related Party Transactions**

Victim's Fund

The Public Guardian and Trustee holds and invests funds for the Victim's Fund established pursuant to *The Victims of Crime Act, 1995*. Earnings are allocated pursuant to sections 5, 6 and 7 of *The Public Guardian and Trustee Regulations*, but no fee pursuant to those regulations is charged.

The trust equity held on behalf of the Victim's Fund, the amount due to the Victim's Fund, and the Common Fund earnings distributed to the Victim's Fund is as follows:

	(in 000's)	
	2008	2007
Trust Equity at March 31	\$ 750	\$ 359
Common Fund earnings distributed		
During the year	\$ 37	\$ 27
Common Fund earnings to be		
Distributed in April	\$ 11	\$ 7

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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**10. Financial instruments**

Effective, April 1, 2007, the Public Guardian and Trustee adopted the recommendations of the Canadian Institute of Chartered Accountants (CICA) Handbook Section 3855 - Financial Instruments - Recognition and Measurement. Under these new standards, all financial assets and financial liabilities must be identified and classified. This classification determines how each financial instrument is measured. The Public Guardian and Trustee's financial instruments and their classification are as follows:

Financial Instrument	Classification
Cash and Due from General Revenue Fund	Held for trading
Interest and Dividends Receivable	Loans and receivables
Common Fund Securities	Held for trading
Individual Trust Assets	Held for trading
Accounts Payable	Other financial liabilities
Mortgages and Loans Payable	Other financial liabilities

Held for trading financial assets and liabilities are measured at fair value. Changes in the fair value of Common Fund Securities is recognized in the Statement of Common Fund Earnings and Undistributed Earnings. Changes in the fair value of other held for trading financial instruments is recognized in the Statement of Changes in Trust Assets. Transaction costs are expensed as incurred for financial instruments classified as held-for-trading. Loans and receivables and other financial liabilities are measured at amortized cost. Due to their short term nature, the amortized cost of these instruments approximates their fair value.

The Public Guardian and Trustee selected January 1, 2003 as the transition date for embedded derivatives, as such only contracts or financial instruments entered into or modified after the transition date were examined for embedded derivatives. From the period January 1, 2003 to March 31, 2008, the Public Guardian and Trustee had no contracts with embedded derivatives.

This change in accounting policy did not have a significant impact on the Public Guardian and Trustee's financial statements at the time of adoption.

**11. Recent Accounting Pronouncements**

Effective April 1, 2008, the Public Guardian and Trustee will be required to adopt the CICA Handbook Sections 3862 - Financial Instruments - Disclosures, and 3863 -

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED MARCH 31, 2008**

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Financial Instruments - Presentation. Section 3862 provides standards for disclosure of the risks arising from financial instruments to which the Plan is exposed, and how the risks are managed by the Plan. Section 3863 provides standards for the presentation of financial instruments and non-financial instrument derivatives. The Plan does not expect the adoption of these new standards to have a material impact on its financial statements.

**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
SCHEDULE OF COMMON FUND SECURITIES  
FOR THE PERIOD ENDED MARCH 31,**

**SCHEDULE 1**

	(in 000's)			
	2008		2007	
		% of		% of
		Portfolio		Portfolio
<b>Bonds and Debentures</b>				
Government of Canada	\$ 21,559	17%	\$ 37,537	29%
Province of Saskatchewan	927	1%	644	1%
Other Provinces	20,158	16%	17,175	13%
Corporations	23,716	19%	17,703	14%
<b>Total Bonds and Debentures*</b>	66,360		73,059	
<b>EAFE Pooled Equity Fund</b>	16,352	13%	17,414	13%
<b>Other Equities</b>				
Canadian	16,397	13%	15,367	12%
Foreign	16,832	14%	17,659	14%
<b>Short Term Investments*</b>	9,088	7%	5,819	4%
<b>TOTAL COMMON FUND SECURITIES</b>	<b>\$ 125,029</b>		<b>\$ 129,318</b>	
<b>Total Canadian Investments</b>	91,845	73%	94,245	73%
<b>Total Foreign Investments</b>	33,184	27%	35,073	27%
<b>TOTAL COMMON FUND SECURITIES</b>	<b>\$ 125,029</b>		<b>\$ 129,318</b>	

\*All Investments held are Canadian



**PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN  
ESTATES AND TRUSTS UNDER ADMINISTRATION  
INDIVIDUAL TRUST ASSET  
FOR THE PERIOD ENDED MARCH 31,**

**SCHEDULE 2**

(in 000's)

	<u>2008</u>	<u>2007</u>
Accounts Receivable	\$ 2,148	\$ 2,309
Commodities	103	163
Individual Investments	11,011	9,407
Personal Property and Insurance	4,002	3,331
Real Estate	9,621	7,029
Total Individual Trust Assets	<u>\$ 26,885</u>	<u>\$ 22,239</u>