The Administration of Estates Act

being

Chapter A-4.1 of the *Statutes of Saskatchewan, 1998* (effective July 1, 1999) as amended by the *Statutes of Saskatchewan*, 1999, c.2; 2000, c.70; 2001, c.34; 2004, c.3; 2008, c.2; 2012, c.C-43.101; 2015, c.22; 2018, c.43; 2020, c.16; and 2023, c.28.

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CHAPTER A-4.1

An Act respecting the Administration of Estates

NOTE: This Act was Schedule B of *The Queen's Bench Revision Act*, being chapter Q-1.1 of the *Statutes of Saskatchewan, 1998*. That Act was assented to on June 11, 1998. (See Chapter Q-1.1, s.7)

PART I

Preliminary Matters

Short title

1 This Act may be cited as *The Administration of Estates Act*.

Interpretation

2 In this Act:

"action" means:

(a) a civil proceeding commenced by statement of claim or in any other manner authorized or required by *The King's Bench Act* or the rules of court; or

(b) any other original proceeding between a plaintiff and a defendant; *(«action»)*

"capacity" means the ability:

(a) to understand information relevant to making decisions with respect to property and financial affairs; and

(b) to appreciate the reasonably foreseeable consequences of making or not making a decision mentioned in clause (a); (« *capacité* »)

"court" means the Court of King's Bench; (« *Cour* »)

"judge" means a judge of the court, and includes a supernumerary judge; *(«juge»)*

"judicial centre" means a judicial centre continued or established pursuant to section 5-1 of *The King's Bench Act*; *(«centre judiciaire»)*

"letters of administration" means all letters of administration of the property of a deceased person, with or without the will annexed and whether granted for general, special or limited purposes; *(«lettres d'administration»)*

"local registrar" means a local registrar of the court appointed pursuant to section 3 of *The Court Officials Act, 2012*, and includes a deputy local registrar appointed pursuant to that section; (« *registraire local* »)

"matter" means every proceeding in the court that is not an action; *(«affaire»)*

"minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned; *(«ministre»)*

"public guardian and trustee" means the corporation sole of the Public Guardian and Trustee of Saskatchewan continued pursuant to section 3 of *The Public Guardian and Trustee Act*; («*tuteur et curateur public*»)

"registrar" means the Registrar of the Court of King's Bench appointed pursuant to section 3 of *The Court Officials Act, 2012*; (« *registraire* »)

"rules of court" means the rules of court made pursuant to section 50, and includes rules of court made by the judges of the court pursuant to any other Act; *(«règles de procédure»)*

"will" includes:

(a) a testament;

(b) a codicil;

(c) an appointment by will or by writing in the nature of a will in the exercise of a power; and

(d) any other testamentary disposition. *(«testament»)*

1998, c.A-4.1, s.2; 2008, c.2, s.4; 2012, c.C-43.101, s.26; 2020, c16, s.3; 2023, c28, s.17-1.

Powers of the court

3(1) The court may:

(a) grant and revoke letters probate and letters of administration;

(b) hear and determine all actions and matters relating to:

(i) the granting and revoking of letters probate and letters of administration; and

(ii) the interpretation of wills;

(c) require an executor or administrator to bring in his or her accounts of the administration of an estate with respect to which letters probate or letters of administration have been granted and examine and pass those accounts; and

(d) on passing the accounts of an executor or administrator or on dispensing with the passing of those accounts:

(i) order that the executor or administrator be discharged; and

(ii) in the case of an administrator, order that the bond be cancelled or delivered to the administrator.

(2) On an application to pass the accounts of an executor or administrator, a judge may conduct a full inquiry concerning, and a full accounting of, all property that the deceased was possessed of or entitled to and the administration and disbursement of that property.

(3) An inquiry and accounting pursuant to subsection (2):

(a) may include an inquiry and accounting on the basis of wilful default and neglect; and

(b) may be conducted in as full a manner as can be done in an action for administration.

(4) For the purposes of subsection (2), a judge may take evidence and decide all disputed issues arising in the inquiry and accounting.

1998, c.A-4.1, s.3.

PART II

Procedure on Application for Probate or Administration

Application for probate or administration

4(1) Letters probate or letters of administration may be granted under the seal of the court on proof:

(a) that the deceased:

(i) resided in Saskatchewan at the time of death;

(ii) resided outside of Saskatchewan at the time of death and left property within Saskatchewan; or

(iii) resided outside of Saskatchewan at the time of death but the executor or administrator will be a party to an action within Saskatchewan; and

(b) of the will or of the fact that the deceased died intestate.

(2) On the request of the applicant, where the local registrar is satisfied that no minors are interested in the estate of the deceased, the local registrar shall provide the applicant with a certificate to that effect, together with the letters probate or letters of administration.

(3) An executor or administrator may apply to the public guardian and trustee for a certificate stating that no minors are interested in the estate of the deceased:

(a) where the local registrar does not issue a certificate stating that no minors were interested in the estate at the time when the letters probate or letters of administration were granted; or

(b) where letters probate or letters of administration were granted by the Surrogate Court for Saskatchewan before November 15, 1992.

1998, c.A-4.1, s.4; 2001, c.34, s.2; 2008, c.2, s.6.

Notice required if an adult who lacks capacity or a minor has an interest in the estate

4.1(1) On every application made pursuant to this Act for a grant of letters probate or letters of administration, or for resealing of letters probate or letters of administration, a notice in the form prescribed in the regulations shall be filed in duplicate with the local registrar at the judicial centre at which the application is made if an adult who lacks capacity or appears to lack capacity or a minor has an interest in, or may have a claim against, the estate of the deceased person pursuant to:

(a) *The Dependants' Relief Act, 1996*; or

(b) *The Family Property Act*.

(2) On letters probate or letters of administration being granted in the estate of the deceased person, the local registrar shall:

(a) certify on the notice mentioned in subsection (1) the date on which letters were granted; and

(b) forward to the persons mentioned in subsection (3) or (4), as the case requires, a copy of each of the following:

(i) the notice certified in accordance with clause (a);

(ii) the will, in the case of a grant of letters probate or a grant of letters of administration with will annexed.

(3) If an adult who lacks capacity or appears to lack capacity is named in the notice mentioned in subsection (1) as having an interest in or a potential claim against the estate, copies of the documents mentioned in clause (2)(b) are to be forwarded to the following:

(a) the adult's property guardian if a property guardian has been appointed pursuant to *The Adult Guardianship and Co-decision-making Act*;

(b) the adult's property attorney if a property attorney is acting under the terms of an enduring power of attorney pursuant to *The Powers of Attorney Act, 2002*;

(c) the public guardian and trustee.

(4) If a minor is named in the notice mentioned in subsection (1) as having an interest in or a potential claim against the estate, copies of the documents mentioned in clause (2)(b) are to be forwarded to the public guardian and trustee.

2020, c 16, s.4.

Notice of application

5(1) Where an application is made for letters probate or letters of administration, the local registrar shall immediately send notice of the application to the registrar.

(1.1) When a person dies intestate, leaving no known next of kin living in Saskatchewan, and no known next of kin living elsewhere who can be readily communicated with, and an application for letters of administration or an application pursuant to section 9 is received by the local registrar, the local registrar shall immediately send notice of the application to the public guardian and trustee.

(2) The registrar shall file and keep notices of applications received by the registrar from all judicial centres pursuant to this section.

1998, c.A-4.1, s.5; 2008, c.2, s.7; 2020, c 16, s.5.

Duty of registrar re notices

6(1) Where the registrar receives a notice mentioned in subsection 5(1), the registrar shall:

(a) examine the notices filed pursuant to subsection 5(2) to determine whether or not another application for letters probate or letters of administration has been made with respect to the same deceased person; and

(b) provide a certificate to the local registrar stating that:

(i) no other application for letters probate or letters of administration appears to have been made with respect to the same deceased person; or

(ii) an application for letters probate or letters of administration has been made at more than one judicial centre.

(2) Except on an order granted in exceptional circumstances, no letters probate or letters of administration shall be granted until the local registrar has received a certificate from the registrar stating that no other application appears to have been made with respect to the same deceased person.

(3) Where the registrar's certificate states that an application for letters probate or letters of administration has been made at more than one judicial centre:

(a) all of the proceedings with respect to those applications are stayed; and

(b) one or more of the parties shall apply to the court for directions at the judicial centre at which the first application was filed.

(4) On an application pursuant to subsection (3), a judge shall inquire into the circumstances in a summary way and determine which application for letters probate or letters of administration shall proceed.

1998, c.A-4.1, s.6.

Duty of local registrar re documents

7(1) On the request of an individual described in clause (b), the local registrar shall prepare the necessary papers leading to a grant of letters probate or letters of administration, as the case may require, and the bond required, if any, and administer the oaths where:

(a) the value of the estate of the deceased person does not exceed the amount prescribed in the regulations;

(b) letters probate or letters of administration are sought by an individual who:

(i) is a resident of Saskatchewan; and

(ii) is a person, other than a creditor, entitled to seek letters probate or letters of administration; and

(c) the individual who makes the request provides the material required by the local registrar and pays the fee prescribed in the regulations.

(2) When letters probate or letters of administration are granted in an estate where the value of the estate of the deceased person does not exceed the amount prescribed in the regulations, the local registrar shall endorse the letters probate or letters of administration with the notation prescribed in the regulations.

1998, c.A-4.1, s.7; 2008, c.2, s.8.

Proof of execution of will

8(1) The due execution of a will is to be proved in the form and manner prescribed in the rules of court.

(2) In addition to the proof mentioned in subsection (1), a judge may require:

(a) an affidavit of plight and condition;

(b) any further or other proof that the judge considers necessary; or

(c) proof in solemn form.

1998, c.A-4.1, s.8.

Disposal of property under certain amount without grant

9(1) On the application of any person interested, which may be made without notice unless a judge orders otherwise, a judge may, without granting letters probate or letters of administration, order that the personal property of a deceased person be paid or delivered to a person named by the judge to be disposed of by that person as the judge directs and in accordance with subsection (2), where:

(a) the deceased owned no real property in Saskatchewan that will pass through the estate; and

(b) the value of the personal property of the deceased does not exceed the amount prescribed in the regulations.

(2) The person named in an order made pursuant to subsection (1) shall, in accordance with the order:

(a) pay out of the personal property of the deceased the reasonable funeral expenses of the deceased and the debts of the deceased; and

(b) pay over any balance to the beneficiaries or next of kin.

(3) A receipt given by a person for personal property received by that person pursuant to an order made pursuant to subsection (1) discharges the person who pays over or delivers the property from liability with respect to that payment or delivery.

(4) The provisions of this Act with respect to the grant of letters probate or letters of administration and with respect to bonds on administration do not apply to cases in which an order is made pursuant to subsection (1).

1998, c.A-4.1, s.9; 2008, c.2, s.9; 2018, c43, s.2.

Priority to apply – will

10 Where a person dies leaving a will, the persons entitled to apply for letters probate or letters of administration with the will annexed are the following, in order of priority:

(a) executors;

(b) residuary beneficiaries in trust;

(c) residuary beneficiaries for life;

(d) ultimate residuary beneficiaries or, where the residue is not wholly disposed of, persons entitled on an intestacy;

(e) executors and administrators of persons mentioned in clause (d);

(f) beneficiaries and creditors;

(g) contingent residuary beneficiaries, contingent beneficiaries and persons having no interest in the estate who would have been entitled to a grant if the deceased had died wholly intestate;

(h) the public guardian and trustee.

1998, c.A-4.1, s.10; 2008, c.2, s.10; 2020, c 16, s.6.

Priority to apply – intestacy

11 Where a person dies intestate, the persons entitled to apply for letters of administration are the following, in order of priority:

(a) spouse;

(b) children;

(c) grandchildren and other issue of the deceased taking *per stirpes*;

(d) parents;

(e) siblings;

(f) nephews and nieces;

(g) next of kin of equal degree of consanguinity;

(h) creditors;

(i) the public guardian and trustee.

1998, c.A-4.1, s.11; 2008, c.2, s.11; 2020, c 16, s.7.

PART III

Renunciation

Renouncing probate

12 Where a person who is named as an executor by a will renounces probate of the will:

(a) the person's rights with respect to the executorship and any trusteeship pursuant to the will cease; and

(b) the representation of the deceased and the administration of the property of the deceased, without any further renunciation, passes to another executor or may be granted to an administrator as if the person had not been named as executor.

1998, c.A-4.1, s.12.

Renouncing right to administration

13(1) Subject to subsection (2), no letters of administration shall be granted to any person unless:

(a) all persons with a prior or equal right have renounced their right to administration; or

(b) a judge has made an order dispensing with the requirement to obtain the renunciation of the right to administration of persons mentioned in clause (a).

(2) Subsection (1) does not apply to an application by the public guardian and trustee for letters of administration.

2020, c 16, s.8.

Failure to apply for probate

14(1) Where a person named as an executor by a will fails to apply for letters probate within 60 days after the death of the testator:

(a) any person interested in the estate may, by notice of motion, require the executor to appear and produce the will; and

(b) a judge may require the executor:

(i) within any time specified by the judge, to apply for letters probate or to renounce probate; or

(ii) to show cause why letters of administration with will annexed should not be granted to the person interested in the estate or to any other person who is entitled to a grant of administration and is willing to accept the grant.

(2) Where a person named as an executor by a will fails to apply for letters probate or to renounce probate within the time specified by a judge pursuant to subsection (1):

(a) the person's rights with respect to the executorship and any trusteeship pursuant to the will cease; and

(b) any subsequent application by the person must be made and dealt with as if the person had not been named as an executor or trustee.

1998, c.A-4.1, s.14.

Removal of executor or administrator

14.1(1) On the application of a person having an interest in the estate, the court may remove an executor or administrator if the court is satisfied that:

(a) the executor or administrator:

(i) has failed to comply with an order of the court;

(ii) refuses to administer or settle the estate;

(iii) has failed to administer the estate in a reasonable and prudent manner;

(iv) lacks capacity to act as an executor or administrator;

(v) has been convicted of an offence involving dishonesty; or

(vi) is an undischarged bankrupt; and

(b) the removal of the executor or administrator would be in the best interests of those persons interested in the estate.

(2) If the court removes an executor pursuant to subsection (1), the court may grant letters probate or letters of administration with will annexed to another person in accordance with this Act.

(3) If the court removes an administrator pursuant to subsection (1), the court may grant letters of administration *de bonis non* to another person in accordance with this Act.

2020, c 16, s.9.

PART IV

Granting Letters of Administration in Certain Circumstances

Temporary administration

15(1) If the next of kin usually residing in Saskatchewan and regularly entitled to administer an estate is absent from Saskatchewan, a judge, on the application of any person interested, may:

(a) grant temporary letters of administration of the property of the deceased person that are:

(i) for a limited period; or

(ii) to be revoked on the return of the next of kin; and

(b) appoint the applicant or any other person that the judge considers appropriate to be the administrator.

(2) Where a minor is named as the sole executor by a will:

(a) a judge may grant letters of administration with the will annexed to any other person that the judge considers appropriate; and

(b) when the minor attains the age of majority, the minor is entitled to apply for letters probate.

(3) An administrator appointed pursuant to subsection (1) or (2):

(a) shall give the security directed by the judge;

(b) has all the rights and powers of a general administrator; and

(c) is subject to the immediate control of the court.

1998, c.A-4.1, s.15.

Grant of administration to attorney

16(1) The next of kin regularly entitled to administer an estate may appoint an individual or a trust corporation within the meaning of *The Trust and Loan Corporations Act, 1997* as his or her attorney to apply for and receive a grant of letters of administration.

(2) A judge may grant letters of administration to an attorney appointed pursuant to subsection (1).

1998, c.A-4.1, s.16; 2008, c.2, s.14.

Appointment of administrator in special circumstances

17(1) A judge may appoint any person that the judge considers appropriate to be the administrator of an estate:

(a) where:

(i) a person dies intestate;

(ii) a person dies leaving a will without having appointed an executor who is willing and competent to take probate; or

(iii) the executor is, at the time of the death of the deceased, resident outside Saskatchewan; and

(b) where, by reason of the insolvency of the estate or other special circumstances, it appears to the judge to be necessary or convenient to appoint as administrator, of all or part of the property of the deceased, some person other than the person who, by law, is entitled to a grant of letters of administration.

(2) Letters of administration granted pursuant to subsection (1) may be as limited as the judge considers appropriate.

(3) An administrator appointed pursuant to subsection (1) shall give any security that the judge directs.

1998, c.A-4.1, s.17.

Death of executor or administrator

18 Where two or more persons are granted letters probate or letters of administration with respect to an estate and one of the persons dies, the powers granted vest in the survivors.

1998, c.A-4.1, s.18.

Executors of executors

18.1 An executor of a testator who was an executor has all the powers, rights, rights of action and liabilities of that immediate testator with respect to the estate of the first testator.

2008, c.2, s.16.

Administration pending litigation

19(1) Where an action or matter respecting the validity of the will of a deceased person or for obtaining or revoking letters probate or letters of administration is pending, a judge may appoint an administrator of the property of the deceased person.

(2) An administrator appointed pursuant to subsection (1) has all the rights and powers of a general administrator other than the right to distribute the residue of the property.

(3) An administrator appointed pursuant to subsection (1) is subject to the immediate control of the court and shall act under its direction.

(4) A judge may direct that an administrator appointed pursuant to subsection (1) shall receive, out of the property of the deceased, the remuneration that the judge considers appropriate.

1998, c.A-4.1, s.19.

PART V

Security

Bond required

20(1) In this section:

"property guardian" means a property guardian:

(a) as defined in *The Adult Guardianship and Co-decision-making Act*; or

(b) who is appointed pursuant to section 29 of *The Public Guardian and Trustee Act*. («*tuteur aux biens*»)

(2) Except if otherwise provided by law, a person to whom letters of administration are granted shall give a bond to the local registrar at the judicial centre at which the grant is made, for the due collecting, getting in and administering of the property of the deceased.

(3) A bond mentioned in subsection (2) must be in the form prescribed in the rules of court or in a form that a judge may direct, with one or more sureties as the judge may require.

(4) A judge may dispense with the giving of a bond if there are no debts for which the estate is or may be liable and:

(a) the value of the estate does not exceed the amount prescribed in the regulations for the purposes of clause 9(1)(b);

(b) the administrator is the beneficiary; or

(c) all of the following persons consent in writing:

(i) persons, other than minors or adults who appear to lack capacity, who are or may be beneficially interested in the estate;

(ii) the public guardian and trustee, on behalf of a minor who is or may be beneficially interested in the estate; and

(iii) the public guardian and trustee or the property guardian, on behalf of an adult who appears to lack capacity who is or may be beneficially interested in the estate.

(5) If there are debts for which an estate is or may be liable, a judge may dispense with the giving of a bond if the creditors and all persons mentioned in clause (4)(c) consent in writing.

2008, c.2, s.18; 2020, c 16, s.10.

Amount of bond

21(1) Unless a judge directs that the amount be reduced, the bond required by section 20 is to be in an amount that is:

(a) double the sworn value of the property of the deceased; or

(b) equal to the sworn value of the property of the deceased where the bond is given by a guarantee company as defined in *The Guarantee Companies Securities Act*.

(2) A judge may direct that more than one bond be given in order to limit the liability of a surety to an amount that the judge considers reasonable.

(3) For the purposes of subsection (1), the sworn value of the property of the deceased is to be decreased:

(a) in the case of real property, by the amount of:

(i) any mortgage or other encumbrance registered against it; and

(ii) the unpaid balance of any purchase price due with respect to it; and

(b) in the case of personal property, by the amount of:

(i) any security interest registered against the personal property; and

(ii) any liens or charges against the personal property created by any statute.

(4) In the case of letters of administration with the will annexed, for the purposes of subsection (1), the sworn value of the property of the deceased includes the value of:

(a) all real property and interests in real property over which the executor named in the will is given a power of disposition; and

(b) all real property that is, by the will, directed to be disposed of.

1998, c.A-4.1, s.21; 2008, c.2, s.19.

Assignment of bonds

22(1) On the application of a person interested and on being satisfied that a condition of a bond has been broken, a judge may order the local registrar to assign the bond to a person named in the order.

(2) A person to whom a bond is assigned is entitled:

(a) to sue on the bond in his or her name as if the bond had been given to the person; and

(b) to recover on the bond, as trustee for all persons interested, the full amount recoverable for any breach of a condition of the bond.

1998, c.A-4.1, s.22.

New or additional security

23(1) Where a surety for an administrator dies or becomes insolvent or where for any other reason the security furnished by an administrator becomes inadequate or insufficient, a judge may, by order, require other or additional security to be furnished.

(2) Where security ordered pursuant to subsection (1) is not furnished as directed, a judge may revoke the letters of administration.

(3) An order pursuant to this section may be made on the application of any person interested.

1998, c.A-4.1, s.23.

Substituting security

24(1) A judge may, by order, allow security other than the security previously given by an administrator to be furnished, on any terms that the judge considers necessary, where:

(a) a surety for an administrator wishes to be discharged; or

(b) an administrator wishes to substitute other security for the security furnished by the administrator.

(2) Where an order is made pursuant to subsection (1), a judge may direct that the previous surety be discharged:

(a) on the substituted security being furnished; and

(b) if the judge considers it advisable, on the accounts of the administrator being passed.

(3) An application for an order pursuant to subsection (1) may be made without notice or on any notice that the judge may direct.

1998, c.A-4.1, s.24; 2018, c43, s.2.

Reduction of security

25 A judge may, from time to time, reduce the amount of the security furnished by an administrator to an amount that will secure the due collecting, getting in and administering of the property of the deceased that is shown to be in the hands of the administrator after the passing of the administrator's accounts.

1998, c.A-4.1, s.25; 2008, c.2, s.20.

PART VI

Administration of Estates

DIVISION 1

Generally

Effect of grant on subsequent proceedings

26(1) After letters probate or letters of administration are granted, all actions or matters with respect to the estate shall be carried on at the judicial centre where the grant is made, unless otherwise ordered by a judge.

(2) An application for a transfer of the records with respect to an estate from one judicial centre to another may be made without notice or on any notice that a judge may direct.

1998, c.A-4.1, s.26; 2018, c43, s.2.

Payments pursuant to grant

27 A person who, in good faith, makes or permits to be made any payment or transfer pursuant to letters probate or letters of administration is not liable for so doing, notwithstanding any defect or circumstance that affects the validity of the letters probate or letters of administration.

1998, c.A-4.1, s.27.

Effect of grant of administration on executor

28 After letters of administration are granted, no person shall commence or conduct any action or matter or otherwise act as executor of the deceased as to the property to which the letters of administration apply, unless the letters of administration are revoked.

1998, c.A-4.1, s.28.

Payments before revocation

29 Where letters probate or letters of administration are revoked:

(a) all payments made in good faith to an executor or administrator pursuant to the letters probate or letters of administration before the revocation are a legal discharge to the persons who made the payments; and

(b) an executor or administrator who has acted pursuant to the letters probate or letters of administration before the revocation is not liable with respect to payments made by the executor or administrator that the person to whom letters probate or letters of administration are afterwards granted might have lawfully made.

1998, c.A-4.1, s.29.

Effect of revocation on pending actions or matters

30(1) Where an action or matter is commenced by or against the administrator before the revocation of temporary letters of administration, a judge may, on application, order that a notation be made by the local registrar on the record of the revocation of the temporary letters of administration and the subsequent grant of letters probate or letters of administration.

(2) After a notation is made pursuant to subsection (1), the action or matter shall be continued in the name of the new executor or administrator as if the action or matter had been commenced by or against the new executor or administrator, but subject to any conditions and variations that a judge directs.

(3) An application pursuant to subsection (1) must be made at the judicial centre at which the action or matter is pending.

1998, c.A-4.1, s.30.

Caveats

31(1) A caveat against a grant of letters probate or letters of administration may be filed with the registrar or with the local registrar at any judicial centre.

(2) Where a caveat is filed with a local registrar, the local registrar shall immediately send a copy of the caveat to the registrar.

(3) On receiving notice from a local registrar pursuant to section 5 of an application for letters probate or letters of administration, the registrar shall forward to the local registrar notice of any caveat that has been filed that affects the application.

(4) A notice of caveat mentioned in subsection (3) must accompany or be embodied in the certificate mentioned in section 6.

1998, c.A-4.1, s.31.

Notice to claimants

32(1) Subject to subsection (3), an executor or administrator may cause a notice to claimants in the form prescribed in the rules of court to be published in the manner prescribed in the regulations.

(2) **Repealed.** 2020, c 16, s.11.

(3) By an order that may be obtained on an application without notice, a judge may dispense with publication of the notice in the case of:

(a) an original grant of letters probate or letters of administration, where the value of the estate does not exceed the amount prescribed in the regulations for the purposes of clause 9(1)(b); or

(b) letters probate, letters of administration or other legal documents purporting to be of the same nature that are duly resealed in Saskatchewan.

1998, c.A-4.1, s.32; 2008, c.2, s.22; 2018, c 43, s.2; 2020, c 16, s.11.

Distribution of assets

33(1) At the expiration of the time fixed in the notice mentioned in subsection 32(1), the executor or administrator may, unless otherwise ordered, distribute the assets of the deceased, or any part of the assets of the deceased, among the persons entitled to them, having regard only to the claims of which the executor or administrator then has notice.

(2) An executor or administrator who distributes assets pursuant to subsection (1) is not liable for the assets so distributed to a person of whose claim the executor or administrator did not have notice at the time of distribution.

(3) Nothing in this section prejudices the right of a claimant to follow the assets into the hands of the person who receives them.

1998, c.A-4.1, s.33.

Verification of claims and valuation of securities

34(1) A creditor who presents a claim to an executor or administrator must verify the claim by a statutory declaration in which the creditor:

(a) states whether the creditor holds any security for the claim or part of the claim; and

(b) gives full particulars of the security.

(2) Whether the security mentioned in subsection (1) is on the property of the deceased or on the property of a third party for whom the deceased is only secondarily liable, the creditor must put a specified value on the security.

(3) An executor or administrator may:

(a) consent to the right of the creditor to rank for the claim, after deducting the specified value of the security; or

(b) require from the creditor an assignment of the security at the specified value to be paid out of the estate when sufficient money is realized from the estate.

(4) Where an assignment of security is required pursuant to clause (3)(b), the amount for which the creditor ranks with respect to the estate is the difference between:

(a) the specified value of the security; and

(b) the amount of the gross claim.

(5) Where an assignment of security is required pursuant to clause (3)(b), the creditor shall assign the security to the executor or administrator on payment to the creditor of the specified value of the security, together with interest to the date of payment where the indebtedness bears interest.

(6) Until payment is made in accordance with subsection (5), nothing in this section limits the rights or remedies of the creditor with respect to the security.

(7) Where the executor or administrator is not prepared to accept an assignment of a security at the specified value, the executor or administrator may release the security to the creditor.

(8) Where a security is released pursuant to subsection (7), the creditor:

(a) must take the security at the specified value; and

(b) is entitled to rank with respect to the estate for the balance, if any, of the creditor's claim.

(9) If the executor or administrator has not required an assignment of a security and has not released the security within one year after the creditor has valued the security, or within any further time that a judge may allow:

(a) the creditor may, by notice in writing, require a release of the security; and

(b) on receiving a notice pursuant to clause (a), the executor or administrator must release the security to the creditor at the specified value.

(10) Where a security is released pursuant to subsection (9), the creditor ranks with respect to the estate for the balance, if any, of the creditor's claim.

(11) Where a creditor holds a claim that is based on negotiable instruments on which the deceased is only indirectly or secondarily liable, and that is not mature or exigible, the creditor:

(a) is considered to hold security within the meaning of this section; and

(b) shall put a value on the liability of the person who is primarily liable on the negotiable instrument as being the creditor's security for the payment of the claim.

(12) After the maturity of the liability mentioned in subsection (11) and its nonpayment, the creditor is entitled to amend and revalue his or her claim.

(13) Where a creditor fails to value the security that the creditor holds on a claim against an estate, a judge may, on an application by the executor or administrator, order that the creditor shall be wholly barred of any right to share in the proceeds of the estate with respect to the claim or the part of the claim for which the security is held unless the creditor places a specified value on the security and notifies the executor or administrator in writing of that value within a time specified in the order.

(14) If a creditor does not comply with an order made pursuant to subsection (13) within the time specified in the order, the claim or the part of the claim is wholly barred as against the estate.

1998, c.A-4.1, s.34.

Limitation period for disputed claims against estate

34.1(1) An executor or administrator may give notice of his or her intention to rely on the limitation period provided by this section to:

(a) a creditor or any other person with a claim against the estate; or

(b) the lawyer or agent of the creditor, or other person, mentioned in clause (a).

(2) The notice mentioned in subsection (1) must:

(a) be in writing;

(b) state that the executor or administrator disputes the claim; and

(c) refer to this section and state that the executor or administrator intends to rely on the limitation period provided by subsection (3).

(3) Notwithstanding *The Limitations Act*, if the executor or administrator gives a notice in accordance with this section, the creditor or other person mentioned in clause (1)(a) must commence an action with respect to the claim within:

(a) six months after the notice is given, if the debt, or part of it, is due at the time the notice is given; or

(b) three months after the debt, or part of it, falls due, if no part of it is due at the time the notice is given.

(4) If the creditor or other person mentioned in clause (1)(a) does not commence an action with respect to the claim within the time limited by subsection (3), the claim is barred.

(5) Notwithstanding subsection (3), an executor or administrator may apply to the court for an order barring the claim unless the creditor or other person mentioned in clause (1)(a) notifies the executor or administrator, within 10 days after receiving the notice mentioned in subsection (1), that he or she is withdrawing the claim.

(6) On an application pursuant to subsection (5), the judge may make any order the judge considers necessary or appropriate.

2008, c.2, s.23.

DIVISION 2

Accounting

Duty to account

35(1) An executor or an administrator must render a just and full account of the executorship or administration within two years after the grant of letters probate or letters of administration.

(2) The oaths to be taken by executors and administrators, the bonds or other security to be given by administrators, and the letters probate and letters of administration must set out the duty of the executor or administrator described in subsection (1).

(3) An executor who is also a trustee under the will must account for the trusteeship in the same manner as the executor must account with respect to the executorship.

1998, c.A-4.1, s.35.

Discharge without passing of accounts

36(1) An executor or administrator may apply without notice for an order discharging the executor or administrator without passing the accounts.

(2) On an application pursuant to subsection (1), the executor or administrator must file:

(a) a release or consent from each beneficiary; and

(b) proof that all debts of the estate are paid.

(3) The public guardian and trustee may sign a release or consent on behalf of a beneficiary who is a minor.

(4) On an application pursuant to subsection (1), a judge may make an order fixing the compensation payable to the executor or administrator, cancelling the security and dealing with other business necessary to wind up the estate.

1998, c.A-4.1, s.36; 2001, c.34, s.2; 2018, c43, s.2.

Approval of accounts binding

37 Except to the extent that mistake or fraud is shown, the approval by the court of the accounts of an executor or an administrator with respect to the dealings of the executor or the administrator with the estate is binding on:

(a) each person who was notified of the proceedings, present at the proceedings, or represented at the proceedings; and

(b) each person who claims through a person described in clause (a).

1998, c.A-4.1, s.37.

PART VII

Resealing

Application for resealing

38(1) A person who has been granted letters probate, letters of administration or another document purporting to be of the same nature by a court of competent jurisdiction in any province or territory of Canada, in the United Kingdom, in any other member of the Commonwealth or in any of the states of the United States of America may apply for resealing pursuant to this section.

(2) An applicant for resealing shall:

(a) produce the document to be resealed to a local registrar and deposit a copy of it with the local registrar; and

(b) pay the fees prescribed in the regulations for a grant of letters probate or letters of administration.

(3) Subject to section 39, under the direction of the court, the letters probate, letters of administration or other document shall be resealed by the local registrar with the seal of the court.

(4) A document resealed pursuant to subsection (3):

(a) has the same effect in Saskatchewan as if it had been granted by the court; and

(b) is subject to any orders of the court or the Court of Appeal as if letters probate or letters of administration had been granted in Saskatchewan.

(5) For the purposes of this section, the following have the same effect as an original:

(a) a duplicate or an exemplification of letters probate, letters of administration or other document purporting to be of the same nature that is sealed with the seal of the court that granted it;

(b) a copy of letters probate, letters of administration or other document purporting to be of the same nature that is certified as correct by or under the authority of the court that granted it.

1998, c.A-4.1, s.38.

Security required on resealing

39(1) Letters of administration must not be resealed pursuant to section 38 until:

(a) a certificate of the clerk or registrar of the court that issued the letters is filed, stating that security has been given in that court in an amount that is sufficient to cover the assets within the jurisdiction of that court and the assets within Saskatchewan; or

(b) in the absence of a certificate described in clause (a), security is given to the court that covers the assets in Saskatchewan in the same manner as for an original grant of letters of administration.

(2) Notwithstanding that a certificate has been filed pursuant to clause (1)(a), the court may refuse to reseal letters of administration until security is given in an amount that is sufficient to cover the assets in Saskatchewan.

1998, c.A-4.1, s.39.

PART VIII

Official Administrator

40 to 46.1 Repealed. 2020, c16, s.12.

PART IX

Rights and Liabilities of Executors and Administrators

Ranking of debts

46.2(1) When the assets of an estate are not sufficient to pay all the debts of an estate, the following debts shall be paid proportionately and without any preference or priority of debts of one rank or nature over those of another:

(a) debts due to the Crown in right of Saskatchewan and to the executor or administrator of the deceased person; and

(b) unsecured debts.

(2) Reasonable funeral, testamentary and administration expenses are to be paid in priority to the claims mentioned in subsection (1).

(3) Nothing in this section prejudices any lien or charge existing during the lifetime of the deceased on any of the deceased's property.

2008, c.2, s.26; 2020, c 16, s.13.

Relief of executor or administrator from liability under contract of deceased

46.3 An executor or administrator ceases to be liable with respect to a contract that was not fully performed by the deceased prior to death, including a lease, if the executor or administrator:

(a) satisfies all liabilities that have accrued and are claimed under the contract until the time of the assignment mentioned in clause (b);

(b) validly assigns the contract to a purchaser; and

(c) sets aside a reserve from the assets of the estate in an amount fixed by agreement, or by the court on the application of the executor or administrator, to meet future claims that may be made with respect to a fixed or ascertained sum that the deceased agreed to pay or for which the deceased was liable under the contract.

2008, c.2, s.26.

Application for direction

46.4(1) An executor or administrator may make an application for the opinion, advice or direction of the court on any question respecting the management or administration of the estate.

(2) The executor or administrator acting on the opinion, advice or direction given by the court is deemed, so far as regards the executor's or administrator's own responsibility, to have discharged his or her duty as executor or administrator with respect to the subject-matter of the opinion, advice or direction.

(3) Subsection (2) does not indemnify an executor or administrator with respect to an act done in accordance with the opinion, advice or direction if the executor or administrator has been guilty of any fraud, wilful concealment or misrepresentation in obtaining the opinion, advice or direction.

2008, c.2, s.26.

PART X

Procedure and Evidence

Production of testamentary documents

47(1) Whether or not an action or matter governed by this Act is pending in the court, a judge may, on application, order any person to produce and bring before the local registrar, or otherwise as the judge directs, any document that is or purports to be testamentary and that is shown to be in the possession or under the control of that person.

(2) If it is not shown that a document described in subsection (1) is in the possession or under the control of the person mentioned in that subsection, but it appears that there are reasonable grounds for believing that the person has knowledge of it, a judge may direct the person to attend for the purpose of being examined before the local registrar or in open court respecting the document.

(3) A person described in subsection (1) or (2):

(a) must answer all questions and, if so ordered, must produce and bring in the document; and

(b) is subject to the same process of contempt, in case of default in not attending, in not answering the questions or in not bringing in the document, as the person would have been subject to if the person had been a party to an action in the court and had made the same default.

1998, c.A-4.1, s.47.

Jury trials

48(1) A judge may, on application, order that a question of fact arising in an action or matter governed by this Act be tried by a jury before a judge.

(2) Where a question of fact is to be tried by a jury before a judge pursuant to subsection (1):

(a) the question must be in writing; and

(b) at the trial, the jury must be sworn to try the question and give a true verdict on it according to the evidence.

1998, c.A-4.1, s.48.

Deposit of wills

49(1) The local registrar may accept for safekeeping the wills of living persons deposited with the local registrar pursuant to this section.

(2) If the local registrar accepts wills for safekeeping, all persons may deposit their wills with the local registrar in accordance with the rules of court and on payment to the local registrar of the fee prescribed in the regulations.

(3) If the local registrar accepts wills for safekeeping, the following persons may deposit with the local registrar any wills in their custody without specific authority from the testators:

(a) lawyers retiring from practice;

(b) executors or administrators of deceased lawyers;

(c) trust corporations that have ceased to be licensed pursuant to *The Trust and Loan Corporations Act, 1997*;

(d) liquidators or receivers of trust corporations.

(4) When a will that is deposited pursuant to subsection (3) is withdrawn from the custody of the local registrar, the person who withdraws the will shall pay to the local registrar the fee prescribed in the regulations.

2020, c 16, s.14.

Rules of court

50 The judges may make rules of court:

(a) prescribing the form and manner of proving the execution of a will;

(b) prescribing the form of a bond required for the purposes of section 20;

(c) prescribing the form of a notice to claimants required for the purposes of section 32;

(d) requiring local registrars to provide the registrar with:

(i) information respecting grants and revocations of letters probate and letters of administration; and

(ii) copies of wills to which grants of letters probate and letters of administration relate;

(e) prescribing the manner and form in which the information and wills mentioned in clause (d) are to be provided and the particulars to be provided;

(f) respecting the deposit of wills of living persons at the local registrar's office for safekeeping;

(g) respecting the filing, preservation and inspection of original wills, testamentary instruments and other related documents;

(h) prescribing anything required or authorized by this Act to be prescribed in the rules of court;

(i) in relation to any actions or matters governed by this Act, respecting:

(i) procedure in the court;

(ii) the duties of officers of the court; and

(iii) the cost of proceedings in the court.

1998, c.A-4.1, s.50; 2015, c.22, s.2.

PART XI

Devolution of Real Property

Interpretation of Part

50.1 In this Part:

"property attorney" means a property attorney as defined in *The Powers of Attorney Act, 2002* who has the authority to act with respect to the property in question on behalf of a beneficiary; (*«fondé de pouvoir concernant les biens»*)

"property guardian" means a property guardian:

(a) as defined in *The Adult Guardianship and Co-decision-making Act*; or

(b) who is appointed pursuant to section 29 of *The Public Guardian and Trustee Act*;

who has the authority to act with respect to the property in question on behalf of a beneficiary. (*«tuteur aux biens»*)

2008, c.2, s.29; 2020, c16, s.15.

Application of Part

50.2 This Part applies only in cases of deaths occurring after August 31, 1928.

2008, c.2, s.29.

Devolution of real property

50.3 Real property in which a deceased person has an interest, not ceasing on death, devolves to and is vested in the executor or administrator in the same manner as personal property.

2008, c.2, s.29.

Powers of sale

50.4 Subject to section 50.5, the executor or administrator may sell real property for the following purposes:

(a) paying debts;

(b) distributing the estate among the persons beneficially entitled to it.

2008, c.2, s.29.

Sale for distribution only

50.5(1) The executor or administrator shall not sell real property for the sole purpose of distributing the estate among the persons beneficially entitled to it unless those persons concur in the sale.

(2) Subject to subsections (4) to (6), any sale of real property in contravention of subsection (1) is invalid with respect to any person beneficially interested who did not concur in the sale.

(3) If an adult beneficiary accepts a share of the purchase money from a sale of real property for the sole purpose of distributing the estate, knowing it to be such, the adult beneficiary is deemed to have concurred in the sale.

(4) The executor or administrator may apply to the court for an order approving the sale of real property when any of the following circumstances exists:

(a) an adult beneficially interested in the real property appears to lack capacity and is not represented by a property guardian or a property attorney;

(b) an adult beneficiary does not concur in the proposed sale of the real property;

(c) under a will:

(i) there are contingent interests or interests not yet vested; or

(ii) the persons who may be beneficiaries are not yet ascertained.

(5) On application pursuant to subsection (4), the court may make an order approving the sale of the real property if the court is satisfied that it is in the interest and to the advantage of the estate of the deceased and the persons beneficially interested in it.

(6) When the court has made an order approving a sale pursuant to this section, the sale is:

(a) valid with respect to the contingent interests and interests not yet vested; and

(b) binding on the adults mentioned in clause (4)(a), the non-concurring adult beneficiaries and any beneficiaries not yet ascertained.

2008, c.2, s.29.

When a minor is interested

50.6 If a minor has a beneficial interest in real property of a deceased, no sale of that real property by an executor or administrator is valid without:

(a) the written consent of the public guardian and trustee; or

(b) an order of the court.

2008, c.2, s.29.

Power to divide or partition real property

50.7 The executor or administrator may divide, or partition, and convey the real property of a deceased person, or any part of it, to or among the persons beneficially interested in it:

(a) if the adult persons beneficially interested in the real property concur with the division, or partition, and distribution;

(b) if any minor is beneficially interested in the real property, with the approval of the public guardian and trustee on behalf of the minor; and

(c) if any adult beneficially interested in the real property appears to lack capacity and is not represented by a property guardian or a property attorney, with the approval of the public guardian and trustee on behalf of the adult.

2008, c.2, s.29.

Other powers of executor or administrator

50.8(1) The executor or administrator may, subject to the provisions of the will affecting the property:

(a) lease or otherwise dispose of the real property, or any part of it, for any term not exceeding one year;

(b) lease or otherwise dispose of the real property, or any part of it, for a longer term:

(i) with the approval of the court; or

(ii) with the concurrence of:

(A) the adult persons beneficially interested in the real property;

(B) if any minor is beneficially interested in the real property, the public guardian and trustee on behalf of the minor; and

(C) if any adult beneficially interested in the real property appears to lack capacity and is not represented by a property guardian or a property attorney, the public guardian and trustee on behalf of the adult;

(c) lease, grant a *profit à prendre* with respect to, or otherwise deal with or dispose of mines and minerals or sand and gravel forming part of the real property whether they have already been worked or not and either with or without the surface or other real property, or grant any easement, right or privilege of any kind over or in relation to the real property:

(i) with the approval of the court; or

(ii) with the concurrence of:

(A) the adult persons beneficially interested in the real property;

(B) if any minor is beneficially interested in the real property, the public guardian and trustee on behalf of the minor; and

(C) if any adult beneficially interested in the real property appears to lack capacity and is not represented by a property guardian or a property attorney, the public guardian and trustee on behalf of the adult; or

(d) raise money by way of mortgage of the real property, or any part of it, for the payment of debts, or for payment of taxes on the real property to be mortgaged, and, with the approval of the court, for the payment of other taxes, the erection, repair, improvement or completion of buildings or the improvement of lands, or for any other purpose beneficial to the estate.

(2) If a minor, or an adult mentioned in clause 50.5(4)(a), has a beneficial interest in real property of a deceased, the concurrences, consents, approvals or orders required by sections 50.5 and 50.6 in case of a sale are required in the case of a mortgage pursuant to clause (1)(d), for payment of debts or payment of taxes on the real property to be mortgaged.

2008, c.2, s.29.

Real property sold or distributed

50.9(1) A person purchasing real property in good faith and for value from the executor or administrator or a person beneficially entitled to the real property to whom that real property has been conveyed by the executor or administrator holds the property freed and discharged:

(a) from all debts or liabilities of the deceased owner except those that are specifically charged on the property otherwise than by the deceased owner's will; and

(b) if the purchase is from the executor or administrator, from all claims of the persons beneficially interested.

(2) Real property that has been conveyed by the executor or administrator to a person beneficially entitled to it continues to be liable for the debts of the deceased owner so long as it remains vested in that person, or in any person claiming under him or her not being a purchaser in good faith and for value, to the same extent as if it had remained vested in the executor or administrator.

(3) In the event of a sale or mortgage of the real property mentioned in subsection (2) in good faith and for value by the person beneficially entitled to it, he or she is personally liable for those debts to the extent to which the real property was liable when vested in the executor or administrator.

2008, c.2, s.29.

Concurrence of executor or administrator

50.91(1) Subject to subsection (2), if there are two or more executors or administrators, a conveyance, mortgage, lease or other disposition of real property shall not be made without:

(a) the concurrence of all of the executors or administrators; or

(b) an order of the court.

(2) If two or more persons are named as executors and probate is granted to one or more of those persons, whether or not power is reserved to the others to prove, any conveyance, mortgage, lease or other disposition of the real property may be made by the proving executors for the time being, without an order of the court, and shall be as effectual as if all the persons named as executors had concurred.

2008, c.2, s.29.

PART XII

General

Fees

51(1) On every application made pursuant to this Act for a grant of letters probate or letters of administration or for resealing of letters probate or letters of administration, the applicant shall pay the application fee prescribed in the regulations.

(2) In addition to the application fee payable pursuant to subsection (1) but subject to subsection (3), on every application made pursuant to this Act for a grant of letters probate or letters of administration or for resealing of letters probate or letters of administration, a levy is payable to the court in an amount equal to $7 on each $1,000 of sworn value of the estate or fraction of $1,000 of the sworn value of the estate.

(3) No levy is payable to the court pursuant to subsection (2) in any of the following circumstances:

(a) in the case of an application for a grant of letters of administration *de bonis non*, for double probate or for a cessate grant;

(b) in any other case in which a second or subsequent application for letters is made to the court in an estate and full levies were paid pursuant to subsection (2) on the initial application.

2020, c 16, s.16.

Regulations

52 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(b) for the purposes of section 4.1, prescribing the form of the notice to be given;

(c) prescribing an amount for the purposes of sections 7 and 9;

(d) for the purposes of subsection 7(2), prescribing the notation to be endorsed on letters probate and letters of administration by the local registrar;

(e) prescribing the manner in which the notice to claimants mentioned in subsection 32(1) is to be published;

(f) prescribing fees to be paid pursuant to this Act;

(g) respecting the manner in which the value of an estate is to be calculated for the purposes of subsection 51(2);

(h) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;

(i) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2020, c 16, s.16.

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