

1980

c 105 Crown Administration of Estates Act

Ontario

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Bibliographic Citation

Crown Administration of Estates Act, RSO 1980, c 105

Repository Citation

Ontario (1980) "c 105 Crown Administration of Estates Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 2, Article 14.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss2/14>

CHAPTER 105

Crown Administration of Estates Act

1. Where in the case of a person dying intestate or intestate as to some part of his estate it appears that in respect of the interest of Her Majesty administration may be rightfully granted to her nominee, a competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of Her Majesty. R.S.O. 1970, c. 99, s. 1.

Where administration may issue to Public Trustee

2. Where a person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are minors and there is no near relative in Ontario willing and competent to apply for a grant of administration or to nominate some person to apply for such a grant, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and a competent court upon the application may grant administration to the Public Trustee for the use and benefit of Her Majesty or of such persons as ultimately appear to be entitled thereto. R.S.O. 1970, c. 99, s. 2.

Administration where intestate leaves no known adult next of kin in Ontario

3.—(1) Notice of every application for letters of administration of the estate of a person who has died in Ontario intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within thirty days after the receipt of the notice, apply for a grant of letters of administration as provided in section 2.

Notice to Public Trustee

(2) Where the Public Trustee consents, letters of administration may issue to the applicant without waiting for the expiry of thirty days. R.S.O. 1970, c. 99, s. 3.

Letters of administration within 30 days

4. It is not necessary for the Public Trustee to give security for the due administration of the estate, but he has all the rights and powers of and is subject to all the liabilities and duties imposed on an administrator. R.S.O. 1970, c. 99, s. 4.

Security dispensed with

5. Where administration is granted to the Public Trustee, the Lieutenant Governor in Council may direct the sale,

Power to sell the real estate of the intestate

by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee is thereupon authorized to sell in accordance with the directions of the order in council the whole or any part of the real estate or interest and to convey it to the purchaser, and every conveyance by the Public Trustee is as valid and effectual as if the deceased were alive and unmarried at the time of its making and had executed it. R.S.O. 1970, c. 99, s. 5 (1), *revised*.

Rights of relatives after the issue of administration

6. Where after the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and, notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance, and, until the revocation of the letters granted, the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1970, c. 99, s. 6.

Inquiry as to the rights of Her Majesty

7. Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as are necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin or otherwise, and any judgment pronounced upon such inquiry is, unless reversed on appeal or varied upon a substantive application to the court, final and conclusive. R.S.O., 1970, c. 99, s. 7.

Recovery by Crown of real estate of persons dying intestate and without heirs

8. Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs, the Public Trustee without obtaining letters of administration may take possession of such real estate, and if necessary may bring an action, either in his own name, on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of such real estate and is entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1970, c. 99, s. 8.

Application by Public Trustee to compel an account by administrator in certain cases

9. Where a person has died intestate in Ontario and administration has been granted to a person not one of the next of kin and it is doubtful whether the intestate left any next of kin surviving him or there are no known next of kin resident

in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and a competent court may revoke such administration and grant administration to the Public Trustee. R.S.O. 1970, c. 99, s. 9.

10. Money realized from estates to which the Public Trustee is administrator under this Act or that he has recovered under section 8 shall be kept in such bank or invested in such manner as the Lieutenant Governor in Council directs, and all such money that has been unclaimed for ten years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1970, c. 99, s. 10. Disposition of moneys

11. Any person proving title to such money is entitled to receive it with interest at such rate as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 99, s. 11. Interest on money claimed

12. Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights with respect thereto, and the court may direct such inquiries as are necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands security. R.S.O. 1970, c. 99, s. 12. Remedy of persons having claims upon the estate

13. The Public Trustee may deduct from the money received on account of an estate all disbursements made by him in respect of inquiries that he made before taking out letters of administration, as well as disbursements otherwise made by him in respect of the estate, and a commission for his services not exceeding 5 per cent of all moneys received by him as administrator. R.S.O. 1970, c. 99, s. 13. Right of Public Trustee to disbursements and commission

14.—(1) After having given the notice provided for by the *Trustee Act* and notwithstanding that the ten years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining unclaimed in his hands into the Consolidated Revenue Fund, or may pay the money or any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieutenant Governor in Council made under the *Escheats Act*. Distribution of assets by Public Trustee
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(2) In such case, no claim shall be maintained against Her Majesty or the Province in respect of any money or personal Non-liability of Her Majesty and the Province

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property paid over or assigned to any person under the *Escheats Act* or under this Act, but this does not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who has received the same under the authority of an order in council. R.S.O. 1970, c. 99, s. 14.