

1937

## c 166 Public Trustee Act

Ontario

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## CHAPTER 166.

## The Public Trustee Act.

Office of  
Public  
Trustee

1. There shall be a Public Trustee who shall be a corporation sole under that name with perpetual succession and an official seal, who may sue and be sued under his corporate name. R.S.O. 1927, c. 151, s. 1.

Qualification.

2. The Lieutenant-Governor in Council may appoint a member of the Bar of Ontario of not less than five years' standing, to be the Public Trustee, and may appoint such persons as officers, clerks and servants in the office of the Public Trustee, as may be necessary for the purposes of this Act. R.S.O. 1927, c. 151, s. 2.

Appoint-  
ment of  
deputy.

3.—(1) In the case of the illness or absence of the Public Trustee, or for any other cause, the Lieutenant-Governor in Council may appoint a person to act as the deputy *pro tempore* of the Public Trustee and such deputy, while so acting, shall have all the powers of the Public Trustee.

Permanent  
appointment  
of deputy.

(2) A person may be appointed under this section who shall have power to act from time to time.

Vacancy in  
office.

(3) In case of the death of the Public Trustee the deputy may act until his authority is revoked or until a Public Trustee is appointed and assumes the duties of his office.

When  
Attorney-  
General  
to act.

(4) In the case of the illness or absence of the Public Trustee or if the office shall become vacant and no deputy has been appointed, the Attorney-General shall be *ex officio* Public Trustee until another appointment is made. 1930, c. 32, s. 2.

Salaries.

4. The salaries or other remuneration of the Public Trustee and of the officers, clerks and servants in his office shall be fixed by the Lieutenant-Governor in Council and may be payable out of such moneys as may be appropriated by the Legislature for that purpose, or out of any fund established under this Act, as the Lieutenant-Governor may from time to time direct. R.S.O. 1927, c. 151, s. 4.

Duties.

5. The Public Trustee shall discharge the duties imposed upon him by *The Crown Administration of Estates Act*, *The Charities Accounting Act* and any other Act of the Legislature

Rev. Stat.  
cc. 116, 167.

of this Province, or by any order of the Lieutenant-Governor in Council, and it shall also be his duty to make inquiries from time to time as to property which has escheated, or become forfeited for any cause to the Crown, or in which the Crown, as represented by the Province of Ontario, may be interested, and all persons shall furnish to the Public Trustee such information as he may require, and in default of so doing shall be liable to a penalty not exceeding \$100. R.S.O. 1927, c. 151, s. 5.

**6.** For the purposes of any inquiry under section 5 the Public Trustee shall have all the powers which may be conferred upon a commissioner under *The Public Inquiries Act*. Powers in conducting inquiry. Rev. Stat. c. 19. R.S.O. 1927, c. 151, s. 6.

**7.**—(1) The Public Trustee, with his consent in writing, may be appointed trustee of any will or settlement or other instrument creating a trust or duty, in the same manner as if he were a private trustee. Acceptance and execution of trusts.

(2) The Public Trustee may be appointed sole trustee although the trust instrument contemplates two or more trustees, and any person who is a trustee with the Public Trustee may at any time retire from the trust upon passing his accounts and paying over the balance. R.S.O. 1927, c. 151, s. 7. May be appointed sole trustee.

**8.**—(1) Subject to the regulations, the Public Trustee shall make a charge for his services against every estate which shall come to his hand to be dealt with. Fees and charges.

(2) All fees, charges, and expenses which would be allowed to a private trustee shall be allowed to the Public Trustee and shall be collected and accounted for in such manner as may be prescribed by the regulations. R.S.O. 1927, c. 151, s. 8. To be allowed same fees as private trustee.

**9.**—(1) The fees, charges, and remuneration and refunds of all expenses and all income of the office of every description shall be paid by the Public Trustee into a separate account approved by the Lieutenant-Governor in Council and as prescribed by the regulations. Fees, charges, etc., to be paid into separate account.

(2) There shall be paid out of such fund the salaries or other remuneration, and the expenses of the Public Trustee and the officers, clerks and servants in his office. Payments out of fund.

(3) From any surplus in such fund there may be established an assurance fund as may be provided by the regulations. Establishment of assurance fund.

(4) Notwithstanding anything contained in *The Crown Administration of Estates Act*, the Lieutenant-Governor in Council may direct that moneys coming to the hand of the Moneys received under Rev. Stat. c. 116.

Public Trustee under that Act or any part of the same, shall be placed to the credit of the special fund and applied to the purposes of subsection 2.

Payment  
over of  
balances.

(5) The Lieutenant-Governor in Council may from time to time direct the payment into the Consolidated Revenue Fund of any balance at the credit of the said fund.

Manner of  
paying into  
and out of  
fund.

(6) Payments into and out of the said fund shall be made in such manner and subject to such conditions as may be prescribed in the regulations. R.S.O. 1927, c. 151, s. 9.

Losses—  
how to be  
made good.

**10.** All sums required to discharge any liability for a loss which the Public Trustee, if he were a private trustee, would be personally liable to discharge, shall be made good out of the assurance fund or out of the Consolidated Revenue Fund, but neither the Public Trustee nor any of his officers nor the said fund shall be liable for any loss which would not have imposed liability upon a private trustee. R.S.O. 1927, c. 151, s. 10.

Charitable  
and public  
trusts.

**11.** The Public Trustee may accept and administer any charitable or public trust. R.S.O. 1927, c. 151, s. 11.

Regulations.

**12.** The Lieutenant-Governor in Council may make regulations,—

- (a) respecting the office of Public Trustee, and prescribing the trusts or duties he is authorized to accept or undertake under the provisions of this Act, and the security, if any, to be given by the Public Trustee and his officers;
- (b) for fixing the fees and charges in the office of the Public Trustee and the application and disposal of the same;
- (c) respecting the transfer to and from the Public Trustee of any property;
- (d) respecting the accounts to be kept and the auditing thereof;
- (e) for the establishment of an assurance fund for the purpose of meeting any losses for which the office of Public Trustee may be liable;
- (f) fixing the rate of interest to be allowed upon money in the hands of the Public Trustee and fixing the amount of interest to be charged upon advances made on behalf of any estate and concerning the investment of money held by him and the custody

and control of security held by him for such investments;

(g) for constituting a committee or board for the supervision of the investments or other dealings with property by the Public Trustee, and for providing for the remuneration by fees, or otherwise, of the members of such committee;

(h) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 151, s. 12.

**13.**—(1) The committee or board constituted for the supervision of investments or other dealings with property by the Public Trustee under clause g of section 12 shall be visitors of the office of the Public Trustee. Committee to be visitors of office of Public Trustee.

(2) The visitors may make such suggestions and recommendations with regard to the management and conduct of the office of Public Trustee as they may deem advisable, with regard to the general policy of the office. Visitors may make suggestions

(3) The Public Trustee may consult with the visitors from time to time as to methods of administration, staff and other matters relating to the office. Consultations as to method of administration.

(4) The visitors shall make an annual report to the Lieutenant-Governor in Council respecting the performance of their duties and the exercise of their powers under this section. R.S.O. 1927, c. 151, s. 13. Annual report of visitors.

**14.** Notwithstanding any rule or practice or any provision of any Act requiring security, it shall not be necessary for the Public Trustee to give any security for the due performance of his duty as executor, administrator, trustee, committee, or in any other office to which he may be appointed by order of the court or under the provisions of any statute. 1930, c. 32, s. 3. Security by Public Trustee not necessary.

(NOTE.—As to the duties of the Public Trustee with respect to the estates of patients in mental hospitals, see *Mental Hospitals Act*. Rev. Stat. c. 392).