

1937

## c 167 Charities Accounting Act

Ontario

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## CHAPTER 167.

## The Charities Accounting Act.

Notice of  
bequest or  
donation to  
be given to  
Public  
Trustee.

**1.**—(1) Where under the terms of a will or of any instrument in writing real or personal property or any right or interest therein or the proceeds thereof, have heretofore been or are hereafter given to or vested in any person as executor or trustee for any religious, educational, charitable or public purpose, or are to be applied by him to or for any such purpose, such person shall give written notice thereof, personally or by registered post, to the Public Trustee, and to the person, if any, designated in the will or instrument as the beneficiary under the bequest or gift, or as the person to receive the same from the executor or trustee.

Time for  
giving  
notice.

(2) The notice shall be given in the case of an instrument other than a will within one month after it shall have been executed and in the case of a will within the same period after the death of the testator.

When  
notice  
not  
necessary.

(3) No notice under this section shall be necessary where the trust has been completely executed before the 31st day of March, 1914, but the remaining sections of this Act shall nevertheless apply to every such trust. R.S.O. 1927, c. 152, s. 1.

Contents of  
notice.

**2.** The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee and the notice to the Public Trustee shall be accompanied by an attested or notarial copy of the will or other instrument. R.S.O. 1927, c. 152, s. 2; 1930, c. 33, s. 2.

Executor or  
trustee to  
furnish in-  
formation  
to Public  
Trustee.

**3.** Every such executor or trustee shall furnish to the Public Trustee from time to time such information as to the condition or disposition of the property devised, bequeathed or given, and such other particulars, and in such form as may be required by the rules made under this Act. R.S.O. 1927, c. 152, s. 3.

Auditing  
accounts as  
to charit-  
able legacies  
or grants.

**4.** Whenever required so to do by the Public Trustee, the executor or trustee shall submit the accounts of his dealings with all the property coming to his hands or under his control under the terms of the disposition, bequest or gift, to be

passed and examined and audited by the judge of the surrogate court of the county or district in which he resides or in which probate was granted. R.S.O. 1927, c. 152, s. 4.

5. If any such executor or trustee,—

- (a) refuses or neglects to comply with any of the provisions of sections 1 to 4, or with any of the rules made under this Act;
- (b) is found to have misapplied or misappropriated any property or fund coming to his hands for the purposes mentioned in section 1;
- (c) has made any improper or unauthorized investment of any moneys forming part of the proceeds of any such property or fund; or
- (d) is not applying any property, fund or moneys in the manner directed by the will or instrument;

Application to Supreme Court where executor or trustee in default.

a judge of the Supreme Court sitting in Chambers upon the application of the Public Trustee made by way of originating notice according to the practice of the Court, may make an order,—

- (e) directing the executor or trustee to do forthwith or within the time stated in the order anything which he has refused or neglected to do in compliance with sections 1 to 4, or with the rules made under this Act;
- (f) requiring the executor or trustee to pay into court any funds in his hands and to assign and transfer to the Accountant of the Supreme Court or to a new trustee appointed under clause g, any property or securities in his hands or under his control, for any of the purposes mentioned in section 1;
- (g) removing such executor or trustee and appointing some other person to act in his stead;
- (h) directing the issue of an attachment against the executor or trustee to the amount of any property or funds as to which he is in default;
- (i) fixing the costs of the application and directing how and by whom they shall be payable;
- (j) giving such directions as to the future investment, disposition and application of any such property, funds or moneys as he may deem just and best calculated to carry out the intentions of the testator or donor;

Order—contents of.

- (k) imposing such penalty by way of fine, or imprisonment not exceeding twelve months, upon the executor or trustee for any such default or misconduct, or for disobedience to any order made under this section;
- (l) appointing an executor or trustee in place of any executor or trustee who has died, or has ceased to act, or has been removed, or has gone out of Ontario, notwithstanding that the will or other instrument creating the trust confers the power to make such an appointment upon another executor or trustee or upon any other person. R.S.O. 1927, c. 152, s. 5.

Rules.

6.—(1) The Lieutenant-Governor in Council may make rules,—

- (a) prescribing forms of notices and returns to be made under this Act;
- (b) respecting the practice and procedure upon passing the accounts of an executor or trustee under this Act and the tariff of fees and costs to be applicable thereto;
- (c) requiring returns to be made by any such executor or trustee to any department of the Government and the form of such returns;
- (d) regulating the practice and procedure upon any application under section 5;
- (e) generally for the better carrying out of the provisions of this Act.

Promulgation of rules.

(2) The rules shall be published in the *Ontario Gazette* and shall come into force and take effect from a date to be fixed by the Lieutenant-Governor in Council.

Practice.

(3) Except as otherwise provided by the rules, the practice and procedure of the Supreme Court and of the surrogate courts shall respectively apply to proceedings under this Act.

When surrogate registrar to transmit copy of will to Public Trustee.

(4) Where an application is made for letters probate of any will or other testamentary instrument whereby real or personal property or any right or interest therein or proceeds therefrom are given to or vested in any person as executor or administrator for any religious, educational, charitable or other purpose or are to be applied by him to or for any such purpose, the surrogate registrar shall transmit a copy of such will or other instrument to the Public Trustee.

(5) Where an action or other proceeding is brought to set aside, vary or construe any such will or other instrument, written notice thereof shall be served upon the Public Trustee, and if no one appears as representing the religious, educational, charitable or other public institution, or if there is no named beneficiary, or a discretion is given to the executor or trustee as to a choice of beneficiaries, the Public Trustee may intervene in such proceedings and shall have the right to object or consent and to be heard upon any argument as a party to such action or proceeding. R.S.O. 1927, c. 152, s. 6.

Notice of  
action to  
set aside  
will to be  
served on  
Public  
Trustee.

7. This Act shall apply notwithstanding any provision in any will or other instrument excluding such application, or giving to an executor or trustee any discretion as to the application of property, funds or the proceeds thereof to religious, educational, charitable or public purposes. R.S.O. 1927, c. 152, s. 7.

Application  
of Act.

8. This Act shall not apply to or affect or in any way interfere with any right or remedy which any person may have under any other Act or in equity or at common law or otherwise. R.S.O. 1927, c. 152, s. 8.

Other rights  
and remedies  
not affected