

1950

c 319 Public Trustee Act

Ontario

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CHAPTER 319

The Public Trustee Act

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. 1937, c. 166, s. 1. Office of
Public
Trustee.

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. 1937, c. 166, s. 2. Qualification
and staff.

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 the deputy while so acting shall have all the powers of the Public Trustee. Deputy
Public
Trustee.

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

(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. Idem.

(4) In the case of the illness or absence of the Public Trustee or if the office becomes vacant and no deputy has been appointed, the Attorney-General shall be *ex officio* Public Trustee until another appointment is made. R.S.O. 1937, c. 166, s. 3. When
Attorney-
General
to act.

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 paid 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. 1937, c. 166, s. 4. Salaries.

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 Duties.
Rev. Stat.,
cc. 80, 50.

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 in right 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. 1937, c. 166, s. 5.

Powers in conducting inquiry.

Rev. Stat., c. 308.

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*. R.S.O. 1937, c. 166, s. 6.

Acceptance and execution of trusts.

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.

May be appointed sole trustee.

(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. 1937, c. 166, s. 7.

Fees and charges.

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

To be allowed same fees as private trustee.

(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. 1937, c. 166, s. 8.

Services of staff may be charged for.

(3) Notwithstanding anything in this or any other Act, the Public Trustee may in connection with any estate or trust administered or managed by him make a reasonable charge for any service performed by a member of the staff of his office where the service is one for which a charge would be allowed as a disbursement against the estate or trust if performed by a person retained, engaged or employed to perform such service by a private trustee, and every such charge shall for the purpose of such estate or trust be deemed to be a disbursement. 1941, c. 55, s. 27.

Fees, charges, etc., to be paid into separate account.

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.

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

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

(4) Notwithstanding anything in *The Crown Administration of Estates Act*, the Lieutenant-Governor in Council may direct that moneys coming to the hand of the Public Trustee under that Act shall be placed to the credit of such account and applied to the purposes of subsection 2. Moneys received under Rev. Stat., c. 80.

(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 such account. Payment over of balances.

(6) Payments into and out of such account shall be made in such manner and subject to such conditions as may be prescribed in the regulations. R.S.O. 1937, c. 166, s. 9. Manner of paying into and out of account.

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 assurance fund shall be liable for any loss which would not have imposed liability upon a private trustee. R.S.O. 1937, c. 166, s. 10. Losses, how to be made good.

11. The Public Trustee may accept and administer any charitable or public trust. R.S.O. 1937, c. 166, s. 11. Charitable and public trusts.

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

- (a) respecting the office of Public Trustee, and prescribing the trusts or duties he is authorized to accept or undertake under 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 the committee or board;
- (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 166, s. 12.

Committee to be visitors.

13.—(1) The committee or board constituted for the supervision of investments or other dealings with property by the Public Trustee shall be visitors of the office of the Public Trustee.

Visitors may make suggestions.

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

Consultations as to administration.

(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.

Annual report of visitors.

(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. 1937, c. 166, s. 13.

Security by Public Trustee not necessary.

14. Notwithstanding any rule or practice or 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 any statute. R.S.O. 1937, c. 166, s. 14.