



Public Guardian and
Trustee of Manitoba

ESTATES ADMINISTRATION

QUESTIONS & ANSWERS

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ESTATES ADMINISTRATION

INTRODUCTION - DEFINITIONS

- **Administrator** is the term describing anyone who is granted legal authority to administer an estate.
- **Executor** is the term describing anyone who is given authority under a will to administer an estate.

Administrators and executors perform similar functions. The difference in their titles is due to the different ways they receive their authority.

ROLE OF THE PGT

What is the role of The PGT in estates administration?

The PGT administers estates of persons who die in Manitoba where there is no one else willing or able to do so. The PGT is an administrator of last resort and does not actively seek to administer estates; in fact, we encourage other appropriate people to serve as administrators.

In what circumstances will The PGT administer an estate?

- a) When the Court orders that The PGT administer an estate. This usually happens because the deceased has no family in Manitoba who is willing or able to act as representative, there is a dispute among various parties as to who should act as representative, or the named executors are unwilling or unable to administer.

- b) Upon the death of a client for whom The PGT acted as Committee or Substitute Decision Maker. The PGT has limited authority to continue acting until an executor or administrator, or The PGT, is appointed by the Court to administer the estate.

- c) When The PGT is named as executor in a deceased person's will. If you are considering naming The PGT as your executor, please consult your lawyer and contact The PGT's Office to discuss the process involved.

Can someone other than The PGT administer these estates?

Yes, in some cases. Certain people such as a creditor or a person living in Manitoba who is nominated by all of the deceased's next-of-kin may apply to Court to be appointed as administrator. The PGT is the administrator of last resort, so steps are taken to actively locate appropriate people to serve as administrators.

REFERRAL TO THE PGT

How do estates get referred to The PGT?

Estates are usually referred to The PGT by:

- the Medical Examiner's Office;
- police officers;
- social workers;
- hospital staff;
- friends;
- funeral homes;
- the deceased's lawyer; or
- family members outside the province.

In addition, many estates are already known to The PGT of Manitoba because it was looking after the deceased's affairs during his or her lifetime.

What happens after a referral is made?

The PGT may gather details about the estate by:

- contacting financial institutions;
- conducting a preliminary search for next-of-kin;
- attending at the deceased's former residence;
- reviewing financial records and personal papers; and
- compiling an inventory of all belongings.

Sometimes a will is discovered during the process. If this happens, The PGT contacts the executor to take over the administration of the estate.

How can I make a referral?

If you know of an estate that you think may be eligible for administration by The PGT, call our estates reception at (204) 945-4445, explain that you are calling about a deceased estate and provide the last name of the deceased. You will then be connected to the appropriate staff person in the Estates Department.

Who arranges the deceased's funeral?

The executor, next-of-kin or a friend can arrange the funeral and burial. As a last resort, the Sub-Inspector of Anatomy at the Medical Examiner's Office arranges the burial of deceased persons when no one else is available to do so.

Who pays for the funeral?

The costs of the funeral are paid by the estate. If it does not have enough money to cover the cost of a basic funeral or burial, Employment and Income Assistance may be asked to pay. There is also a special fund to pay for the funerals of deceased veterans.

ADMINISTRATION OF ESTATES

What is involved in administering an estate?

Estate administration is a complex process involving a great deal of research, transactions and paperwork. It also involves obtaining information and approvals from external authorities over whom The PGT has no control. The specific work involved includes:

- determining the nature, location and value of assets;
- applying to Court for appointment as administrator or executor;
- securing the assets, including maintaining and managing real estate if necessary;
- collecting any money or benefits owing to the estate;
- liquidating assets and disposing of personal effects;
- paying debts;
- initiating or defending legal action on behalf of the estate;
- filing tax returns;
- establishing identity and location of the lawful heirs; and
- accounting to the heirs and distributing the money in proper shares among the heirs or beneficiaries.

How much does it cost for The PGT to administer an estate?

The PGT charges fees which are set out in its fee schedule. As these fees change periodically, it is best to inquire and obtain a current schedule from the office or from our website at www.gov.mb.ca/publictrustee/

How long does it take The PGT to administer an estate?

If the heirs or beneficiaries are known and can easily be located, the estate can usually be wound up in one to two years. This time frame would only apply if the assets can easily be converted into cash and if there is no dispute or litigation between parties making claims against the estate.

However, when the heirs or beneficiaries are not known or cannot be easily located, the time frame to wind up the estate will vary greatly. Attempting to locate heirs or beneficiaries of different generations and from different countries, may take a number of years.

ENTITLEMENT TO ESTATE FUNDS

If the deceased did not leave a valid will, a Manitoba law called *The Intestate Succession Act* sets out, in order, which next-of-kin are entitled to inherit. This type of estate is called an “intestate” estate. Next-of-kin who inherit from this type of estate are called heirs.

If the deceased did leave a valid will, the persons named in the will, called beneficiaries, are entitled to inherit if the estate assets are sufficient to:

- a) pay all outstanding debts; and
- b) pay beneficiaries named in the will.

How does The PGT find heirs and beneficiaries?

The PGT makes extensive efforts to find heirs and beneficiaries when it administers an estate. Next-of-kin or beneficiaries can often be found by reviewing the deceased’s personal papers, or they are identified by others such as the deceased’s caregivers, lawyers, friends or family. All heirs and beneficiaries are instructed as to how to prove their identity to The PGT.

In some cases, it is difficult to identify and locate next-of-kin or beneficiaries. The PGT uses its own professional resources and sometimes employs genealogists or researchers to trace the deceased’s family tree. All professionals use a variety of known techniques including searching birth, marriage and death notices and records in Canada and other countries.

How does The PGT know whether a person claiming to be an heir is legitimate?

The PGT must be certain that:

- There is no one living who is closer in relationship to the deceased than the person claiming to be the heir;
- Proof of the heir's identity is sufficient; and
- It is aware of all persons who are entitled to inherit.

This is accomplished by reviewing the deceased's family tree and verifying the proof of identity. The material is further reviewed and verified by senior staff before the estate is distributed.

What if I am approached by a person who agrees to give me information about an inheritance in exchange for a percentage of the estate?

There are individuals - sometimes referred to as heir tracers or locators - whose business is to track down people who are not aware of their entitlement to an inheritance. Heir tracers often require a very substantial "finder's fee" before giving a person the information they need to access the inheritance.

If you suspect you have an entitlement to an estate that The PGT's Office is administering, contact us. Provide the last name of the deceased person and your relationship to him or her, and staff will try to assist you in determining whether you are a potential heir. The PGT does not charge for this information, and if you are found to be an heir, you will be provided with information regarding the requirements to obtain your inheritance.

How many estates does The PGT administer?

The PGT is appointed as administrator or executor of approximately 175 new estates each year and administers approximately 400 estates at any given time.

CONTACT INFORMATION

What are the operating hours of the Estates Department?

The Department operates between 8:30 a.m. and 4:30 p.m. Monday to Friday. It is closed on statutory holidays, and weekends.

Where can I get more information?

If you have more questions about the PGT's Estates Department, call (204) 945-4445, or toll free at (800) 282-8069 extension 4445 or fax (204) 948-2251.

Written enquiries should be directed to:

Manager, Estates and Trusts
Public Guardian and Trustee of Manitoba
155 Carlton Street, Suite 500
Winnipeg MB R3C 5R9

E-mail: PGT@gov.mb.ca
Website: www.gov.mb.ca/publictrustee/



Privacy laws do not allow The PGT to give out a list of estates under administration by The PGT, although The PGT will assist individuals who think they may have an interest in an estate if they can provide the surname of the deceased. The PGT cannot give individuals, professionals or organizations legal advice about specific cases or about their own legal obligations. These questions should be directed to a lawyer. The Law Society of Manitoba operates a Legal Referral Service which can be reached at (204) 943-3602 or toll free at (800) 262-8800.

This brochure provides a very general overview of the mandate and operation of the Estates Department. It does not include all the details of the law, policies, procedures and exceptions that may apply in a particular case. For information about the law governing estates, please refer to the applicable statutes or contact your lawyer.

If you have questions about other services provided by The PGT of Manitoba you can access our website at: www.gov.mb.ca/publictrustee/



**Public Guardian and
Trustee of Manitoba**