

# **PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN**

## **DISPOSITION OF LAND BY AN EXECUTOR OR ADMINISTRATOR**

The registration of a transfer, mortgage or other instrument executed by an executor or administrator may require the Public Guardian and Trustee's Certificate of No Infants or the consent of the Public Guardian and Trustee, if there is a lock on the title.

The Public Guardian and Trustee will issue a Certificate of No Infants if it is proven that no minors have an interest in the estate. Appendix A describes how this can be proven. The fee for a Certificate of No Infants is \$30.00.

If there are minors who have an interest in the estate, the consent of the Public Guardian and Trustee can be requested. This consent is specific to the instrument to be registered, and the Public Guardian and Trustee's requirements are outlined in Appendix B. The fee is \$50.00 for each consent that is required.

The Public Guardian and Trustee will accept the documents by fax or email. It is not necessary to send the original documents unless there are unusual circumstances.

Attachments: Appendix A – Public Guardian and Trustee's Certificate of No Infants  
Sample Affidavit – Where There is a Will  
Sample Affidavit – Where There is No Will

Appendix B – Public Guardian and Trustee's Consent

For information contact:

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## APPENDIX A

### REQUIREMENTS FOR THE PUBLIC GUARDIAN AND TRUSTEE'S CERTIFICATE OF NO INFANTS

In order to issue a Public Guardian and Trustee's Certificate of No Infants, the Public Guardian and Trustee requires proof that:

- no minors are entitled to any share of the estate under the will or under *The Intestate Succession Act* and no minors take a share that would otherwise have gone to a parent who has predeceased the deceased; and
- no minors may have a claim pursuant to *The Dependants' Relief Act*; and
- no minors may become entitled to a share of the estate in the future (ie. as a child born posthumously or upon the termination of a life interest), or
- if a minor is entitled to a share of the estate, that the minor's interest has been satisfied in a manner that is acceptable to the Public Guardian and Trustee.

This proof should be provided by affidavit from the personal representative. Sample affidavits are attached. The samples are provided for guidance only and the wording must be modified to reflect the specific circumstances of the estate.

If there are two or more personal representatives, one personal representative can take the affidavit. It is not necessary to have the affidavit sworn by all of the personal representatives.

It is not acceptable for the estate solicitor to take the affidavit unless he or she was well acquainted with the deceased during his or her lifetime and this is confirmed in the affidavit.

The application for a Certificate of No Infants must include a copy of letters probate or letters of administration.

The fee for issuing a Certificate of No Infants is \$30.00

**SAMPLE AFFIDAVIT FOR CERTIFICATE OF NO INFANTS  
(WHERE THERE IS A WILL)**

CANADA ) IN THE ESTATE OF  
PROVINCE OF SASKATCHEWAN ) \_\_\_\_\_  
TO WIT: ) DECEASED

I, \_\_\_\_\_, OF THE CITY OF \_\_\_\_\_, IN THE PROVINCE OF \_\_\_\_\_,  
MAKE OATH AND SAY THAT:

1. I am the executor (or one of the executors) named in Letters Probate.
2. Every person who is named as a beneficiary in the will survived the testator and is over the age of eighteen.

**OR**

Every person named as a beneficiary in the will survived the testator and is over the age of eighteen, except for \_\_\_\_\_, named as a beneficiary in the will, who predeceased the testator. His/her share of the estate will pass to \_\_\_\_\_ who is over the age of eighteen.

**OR**

Every person named as a beneficiary in the will survived the testator. All of the beneficiaries are over the age of eighteen, except for the following: (list the names, dates of birth and relationship to deceased) and their shares of the estate have been dealt with in the following manner: (ie. paid to the Public Guardian and Trustee, paid to the parent as directed by the Public Guardian and Trustee).

3. The testator was a (married man, widower, bachelor, single woman, etc.) and no child or adopted child now under 18 years survived him/her and no posthumous child has been born or will be born to him/her.

**OR**

That the testator was survived by children under the age of eighteen (list the names and dates of birth), that six months have passed since Letters Probate issued, that no application has been made pursuant to *The Dependants' Relief Act*, that to the best of my knowledge none is being contemplated and no order has been made extending the time for such application.

4. I make this affidavit in support of an application to the Public Guardian and Trustee of Saskatchewan for a certificate to issue that no infants are interested in the estate.

SWORN BEFORE ME at \_\_\_\_\_ )  
in the Province of \_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ) \_\_\_\_\_  
\_\_\_\_\_) \_\_\_\_\_  
\_\_\_\_\_ )

A Commissioner for Oaths (if in Saskatchewan)  
or A Notary Public (if outside Saskatchewan)  
for the Province of \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**SAMPLE AFFIDAVIT FOR CERTIFICATE OF NO INFANTS  
(WHERE THERE IS NO WILL)**

CANADA ) IN THE ESTATE OF  
PROVINCE OF SASKATCHEWAN ) \_\_\_\_\_  
TO WIT: ) DECEASED

I, \_\_\_\_\_, OF THE CITY OF \_\_\_\_\_, IN THE PROVINCE OF \_\_\_\_\_, MAKE OATH AND SAY THAT:

1. I am the administrator (or one of the administrators) named in Letters of Administration.
2. The persons that are entitled to share in the estate, according to the terms of *The Intestate Succession Act*, are:  
(list name and relationship to deceased) and all of these persons are over 18 years of age.
3. No child or adopted child (or brother or sister, depending on the class of the next of kin described in paragraph 2) of the deceased died in his lifetime leaving a child or adopted child now under 18 years of age.

**OR**

The deceased was predeceased by \_\_\_\_\_ (list any child or sibling, depending on the class of the next of kin described in paragraph 2, who predeceased) whose share of the estate will pass to \_\_\_\_\_, who is over the age of eighteen.

4. The deceased was a (married man, widower, bachelor, single woman, etc.) and no child or adopted child now under 18 years survived him/her and no posthumous child has been born or will be born to him/her.

**OR**

That the deceased was survived by children under the age of eighteen (list the names, and dates of birth), that six months have passed since Letters of Administration issued, that no application has been made pursuant to *The Dependants' Relief Act*, that to the best of my knowledge none is being contemplated and no order has been made extending the time for such application.

5. I make this affidavit in support of an application to the Public Guardian and Trustee of Saskatchewan for a certificate to issue that no infants are interested in the estate.

SWORN BEFORE ME at \_\_\_\_\_ )  
in the Province of \_\_\_\_\_ ) \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

A Commissioner for Oaths (if in Saskatchewan)  
or A Notary Public (if outside Saskatchewan)  
for the Province of \_\_\_\_\_

My Commission Expires \_\_\_\_\_

## APPENDIX B

### REQUIREMENTS FOR THE PUBLIC GUARDIAN AND TRUSTEE'S CONSENT

In estates in which a child under the age of eighteen has an interest, the material required for the Public Guardian and Trustee to consent to the disposition of real property is as follows: (In all cases, a copy of letters probate or letters of administration is required, as well as the fee of \$50.00 for each consent that is required.)

- A. If the proposed purchaser is an executor or administrator, a court order may be required, unless the will provides direction in this regard. The Public Guardian and Trustee will not consent to the transfer of estate property to a personal representative unless it can be demonstrated that it is equally or more advantageous for the personal representative to buy the property than for the property to be sold to a third party. The consent of all of the adult beneficiaries will also be required.
- B. If the transfer is to a named adult beneficiary pursuant to the terms of the will, the Public Guardian and Trustee's consent will be provided upon receipt of a copy of the transfer authorization and a copy of the title.
- C. In estates where no minor has a present interest in the estate, but a minor may acquire an interest in the future, (ie. an estate where the beneficiaries cannot be determined until the death of a life tenant, or where a beneficiary's interest does not vest **until and if** they attain a certain age) and if the will provides the power of sale, the Public Guardian and Trustee's consent may be provided upon receipt of a photocopy of the transfer authorization and a copy of the title. If there is no power of sale in the will, the Public Guardian and Trustee will not consent and an application under *The Administration of Estates Act* is required.
- D. Where the minor has no distinct interest in the land but is entitled to a specific bequest, and the proposed disposition does not affect the minor's bequest, the Public Guardian and Trustee may consent to the transfer upon receipt of a photocopy of the transfer authorization and a copy of the title and information with respect to how the minor's interest will be handled. In these cases, the Public Guardian and Trustee may impose a trust condition when providing the consent to ensure that the minor's interest is satisfied.

E. For all other dispositions of real property in which a minor has an interest:

1. A photocopy of the title and the transfer authorization, mortgage, or other instrument to be registered.
2. Evidence of value, which may consist of a qualified appraisal or two affidavits of value taken by parties that have no interest in the estate and have knowledge of the value of real property in the area (eg. realtor, municipal secretary, banker, insurance agent).

If less than the established value is being obtained, then a statutory declaration from the executor or administrator is required. This declaration should set out the details of the attempts at sale (ie. the length of time that the property was listed or advertised), details of the offers received and the reason for the proposed disposition.

3. The consent of every person fourteen years of age or older who is interested in the land (ie. all beneficiaries or next of kin interested) and the consent of a parent of any person under the age of eighteen who is interested in the land. The consent should include the legal land description and the sale price.

In these cases, the Public Guardian and Trustee may impose a trust condition when providing the consent to ensure that the minor's interest is satisfied.