

Tips For Newly Appointed Trustees

Office Of The
Public Trustee

**Government
of Alberta** ■
Justice

Being appointed trustee is no small task and you should be commended for your commitment to helping others in time of need. Now that you are a trustee, there are many rules you will need to follow. The Office of the Public Trustee has developed this booklet to help you through your first days of being a trustee...and every day after that.

Make Sure You Have At Least Two Photocopies Of The Court Order Certified By The Clerk Of The Court

The Court Order is your proof of authority to act on behalf of the dependent adult. Institutions like banks and the Land Titles Office require copies of the order certified by the Clerk of the Court.

Familiarize Yourself With The Order

It will indicate the extent of authority given to you over the dependent adult's finances. It will also show your obligation to pass your accounts and apply for reviews. If the order doesn't give a date(s) for this, follow the timeframes set out in the Dependent Adults Act. If you fail to meet these obligations in a timely fashion the Court can hold you in contempt.

Get To Know The Dependent Adults Act, Its Regulations And The Surrogate Rules

The Dependent Adults Act can be difficult to understand. Here are some points to help you through. If there is a term you do not understand, look in Section 1 of the act to see if it is defined.

The Act Is Divided Into Four Parts

Part 1 – guardianship

Part 2 – trusteeship

Division 1 (Sections 30-34) Application for Trusteeship Order

Division 2 (Sections 35-41) Trusteeship Order and Its Effect

Division 3 (Sections 42-46) Duties of Trustee

Division 4 (Sections 47-48) Appointment of the Public Trustee

Division 5 (Sections 49-57) Other Trusteeship Provisions

Part 3 – issues affecting guardians & trustees

Part 4 – the Public Trustee

The remainder of the Dependent Adults Act is not likely to apply to your situation. The Surrogate Rules may also be intimidating, however, Part 4, rules 118 to 136 are the ones that will apply to trustees of dependent adults.

Copies can be found at Court House libraries or the Queen's Printer. Or, go to http://www.qp.alberta.ca/Laws_Online.cfm and click on "List Acts", or "List Regulations".

The Queen's Printer:

Edmonton

Main Floor, Park Plaza Building

10611 – 98 Avenue

Phone: (780) 427-4952

Fax: (780) 452-0668

Your local public library may also have copies of the legislation and Surrogate Rules.

Let People Know About Your Appointment

The Dependent Adults Act requires you to serve a number of parties with the Order appointing you as trustee. These are usually the same ones you had to serve when you initially obtained the Order.

You Should Notify:

- Financial institutions regarding bank accounts, loans, guaranteed investment certificates, safety deposit boxes, etc.
- Government departments providing benefits to the dependent adult
 - Assured Income for the Severely Handicapped (AISH)
 - Employment and Immigration (Income Support)
 - Old Age Security (OAS), Canada Pension Plan (CPP)
 - Veterans Affairs
 - Alberta Seniors Benefits
- Other parties providing benefits
 - Workers' Compensation Board
 - Employment Insurance Commission
 - Private pension sources
 - Private long term disability insurers, etc.
- The institution or other place of residence in which the dependent adult may live
- All parties providing medical coverage
 - Alberta Health Care
 - Alberta Blue Cross
 - Private medical insurance
- Municipal taxing authorities
- Utility companies including cable television and telephone companies
- Canada Revenue Agency

Make Banking Arrangements

KEEP YOUR MONEY SEPARATE FROM THE DEPENDENT ADULT'S. Open a trust account for the dependent adult where you can direct income to and pay bills from on their behalf. Unless authorized by the Court, any investment made on behalf of the dependent adult must be in accordance with the Dependent Adults Act and the Trustee Act.

Arrange For Bookkeeping

You are required to account for your handling of the dependent adult's estate. You will have to provide documentation confirming ownership by the estate of the assets described in the accounts. Professional bookkeepers and accountants can be hired and will be paid for by the estate of the dependent adult.

The Following Must Be Presented (During The Accounting Period) To The Court:

- Inventory of property and debts (at the beginning and end of the accounting period)
- Statement of property and money received showing whether it's capital or income
- Statement of property distributed and money paid out showing whether it's capital or income
- Indication of changes to property and all debts of the estate paid or incurred
- Statement of expenses incurred or paid
- Statement of anticipated receipts and payments in the case of a final passing of accounts
- Reconciliation (when necessary) showing the items needed to balance the opening and closing net value of the estate
- Proposed compensation schedule for trusteeship showing the basis on which it is calculated

Make Preparations So You Can Be Compensated

If authorized by the Court, you will be compensated for acting as trustee. Keep a running record of tasks performed and time spent along with any out-of-pocket expenses paid on behalf of the dependent adult while administering an estate.

Keep Receipts And Cancelled Cheques

You may be required to produce receipts and cancelled cheques to pass accounts. It's in your best interest if you keep them organized.

Know Your Limitations

You cannot do any of the following without permission from the Court:

- Make gifts, advances, or charitable contributions from the estate
- Take compensation for acting as trustee
- Purchase property from the dependent adult
- Make loans to yourself or others not in accordance with the Trustee Act

How To Deal With The Death Of A Dependent Adult

When a dependent adult dies, a trustee is required to account to the personal representative of the deceased's estate. You are only required to account to the Court if the personal representative makes application to have you pass your accounts. Be sure to notify the Public Trustee and/or the Public Guardian (if the dependent adult also had a guardian) and the Clerk of the Court in writing of the date of death of the dependent adult.

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Calgary, AB T2G 4Y5
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For More Information:

While your best source for advice is your lawyer, guidance can also be found in support groups formed to assist individuals suffering from disabilities. As well, the Alberta Law Society operates the Dial-A-Law service with recorded messages about the Dependent Adults Act and other legal topics. You can access this information by calling 1-800-332-1091 toll-free.

Or, visit: www.justice.gov.ab.ca/public_trustee/, or call the Office of the Public Trustee toll-free: 310-0000 and dial 780-427-2744 for Edmonton, or 403-297-6541 for Calgary.

This publication was prepared as a public service to Albertans by the Office of the Public Trustee with the assistance of the Court Services Division of Alberta Justice and is intended to give information about trusteeship under the Dependent Adults Act. It is not intended to give legal advice for which a lawyer should be retained. The Dependent Adults Act and its Regulations should also be consulted. The Public Trustee does not warrant the outcome or result of using the information in this publication. This publication is current to November 1, 2008. The law and its interpretation by the Courts frequently change. Please ensure you are using the most current publication.