



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **PROVINCIAL ADMINISTRATOR OF ESTATES ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 2, 2015. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## PROVINCIAL ADMINISTRATOR OF ESTATES ACT

### CHAPTER P-23

#### 1. Definitions

In this Act the words “**relative**”, “**heirs**”, or “**next of kin**” wherever they appear throughout the Act shall be interpreted as including spouse within their meaning unless the context otherwise renders such interpretation unnecessary. *R.S.P.E.I. 1974, Cap. P-21, s.1; 2008, c.8, s.21(2).*

#### 2. Public Trustee, where appointed administrator

Where any person dies in Prince Edward Island intestate, or intestate as to some part of his estate, and without leaving any known relative living within the province, or any known relative who can be readily communicated with, living elsewhere, the Supreme Court of Prince Edward Island may, upon application without any previous advertisement grant administration, general or limited, to the Public Trustee for the use and benefit of Her Majesty, or of such persons as may ultimately appear to be entitled thereto. *R.S.P.E.I. 1974, Cap. P-21, s.2; 1994, c.52, s.79.*

#### 3. Administration granted to Public Trustee and successors in office

- (1) The administration granted under section 2, and the duties of administrator under the grant, with all the estates, rights, duties, and liabilities of the administrator, shall, upon the death, resignation, or removal of the Public Trustee for the time being, devolve upon and become vested and continue in the succeeding Public Trustee by virtue of his appointment, and so in perpetual succession, without any further grant of administration or any assignment or transfer of the estates of the administrator.

##### Continuation of proceedings from Public Trustee to successor

- (2) All actions, and other proceedings by or against the Public Trustee for the time being, as the administrator at the time of his death, resignation or removal, shall continue and may be proceeded with, by, in favor of, and against the succeeding Public Trustee but, the effect of every limitation in duration or otherwise under the terms of the grant of the administration, and saving to every court having jurisdiction in this behalf all such right and authority to revoke or repeal the administration as the court has and exercises during the continuance of any ordinary administration. *R.S.P.E.I. 1974, Cap. P-21, s.3; 1994, c.52, s.79.*

#### 4. Duties, powers and liabilities

It is not necessary for the Public Trustee to give security for the due administration of the estate, but he has all the rights and powers of and is subject to all the liabilities and duties imposed on an administrator. *R.S.P.E.I. 1974, Cap. P-21, s.4; 1994, c.52, s.79.*

**5. Sale of property by auction**

- (1) Where administration is granted to the Public Trustee the Lieutenant Governor in Council may at any time after the expiration of one year from the date of the administration, direct the sale, by auction, of any real estate or interest therein in Prince Edward Island to which the intestate died entitled.

**Effect of sale and conveyance**

- (2) The Public Trustee is, upon the expiration of one year from the date of the administration, authorized to sell, in accordance with the directions of the Order in Council the whole or part of the real estate or interest, and to convey it to the purchaser, and every conveyance by the Public Trustee is as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same. *R.S.P.E.I. 1974, Cap. P-21, s.5; 1994, c.52, s.79.*

**6. Next of kin or will discovered after Public Trustee appointed**

If, after the granting of letters of administration to the Public Trustee and before the final settlement of the estate, the surviving spouse, next of kin, or an heir of the deceased claims the right of administration, or requests the appointment of some other suitable person to the trust, or if a will of the deceased is thereafter proved and allowed, the Supreme Court shall grant letters of administration or letters probate accordingly; and when the person to whom such letters are so granted gives the bond required by law, the powers of the Public Trustee as the administrator over the estate ceases, except as hereinafter provided. *R.S.P.E.I. 1974, Cap. P-21, s.6; 1994, c.52, s.79; 2008, c.8, s.21(3).*

**7. Settling accounts before succession**

The Public Trustee shall, upon the appointment and qualification of an executor or administrator as his successor, surrender into the Supreme Court his letters of administration in the case, with an account under oath of his doings therein; and upon a just settlement of such account, shall pay over and deliver to his successor all money remaining in his hands, and all property, effects and credits of the deceased not then administered. *R.S.P.E.I. 1974, Cap. P-21, s.7.*

**8. Exercise of power where will etc. found**

- (1) Where subsequently to the grant of administration, it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee subject to the direction of the Lieutenant Governor in Council, may exercise all or any of the powers by this Act conferred, until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased.

**Sales made by Public Trustee**

- (2) Notwithstanding the appointment referred to in subsection (1), any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance.

**Powers, exercisable**

- (3) Until the revocation of the letters granted, the Public Trustee may exercise fully all the powers vested in him as administrator. *R.S.P.E.I. 1974, Cap. P-21, s.8; 1994, c.52, s.79.*



**9. Estate, determining whether there is any**

Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court or a judge thereof for an order for the making of such inquiries as may be necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin, or otherwise; and any judgment pronounced upon the inquiry is, unless reversed on appeal, final and conclusive. *R.S.P.E.I. 1974, Cap. P-21, s.9; 1994, c.52, s.79.*

**10. Action for recovery of real property, without grant of letters**

Where a person died seised of or entitled to real estate in Prince Edward Island intestate as to the real estate and without any known heirs, and no administration of the estate has been granted or applied for, the Public Trustee without obtaining letters of administration, may bring an action, either in his own name on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of the real estate, and is entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. *R.S.P.E.I. 1974, Cap. P-21, s.10; 1994, c.52, s.79.*

**11. Order requiring administrator to account, upon application of Public Trustee**

Where a person has died or dies intestate in Prince Edward Island and administration has been, or may be hereafter, granted to some person not one of the next of kin, and it is doubtful whether the intestate left any next of kin him surviving, or there are no known next of kin resident in Prince Edward Island, the Public Trustee may apply to the Supreme Court or a judge thereof for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings, the validity of any release or settlement with any alleged next of kin, and any competent court may revoke such administration, and grant administration to the Public Trustee. *R.S.P.E.I. 1974, Cap. P-21, s.11; 1994, c.52, s.79.*

**12. Payment of moneys realized, to whom**

Moneys realized from any estate of which the Public Trustee is administrator under this Act, or of which a person appointed under section 16 is administrator, or which he has recovered under section 8, shall be paid to the Department of Finance. *R.S.P.E.I. 1974, Cap. P-21, s.; 1983, c.1, s.6; 1986, c.5, s.2; 1993, c.29, s.4; 1994, c.52, s.79; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

**13. Payment to persons entitled**

Any person proving title to the moneys is entitled to receive them with interest at such rate as the Lieutenant Governor in Council may direct. *R.S.P.E.I. 1974, Cap. P-21, s.13.*

**14. Application for order *re* interest in estate**

- (1) Any person claiming to be entitled to any such estate, or to any interest therein, or to any part of the proceeds thereof, may apply to the Supreme Court or a judge thereof for a judgment or order declaring his rights in respect thereto; and the court may direct inquiries as may be necessary to determine the same, and may finally adjudicate thereon.

**Security for costs**

- (2) No application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands the same. *R.S.P.E.I. 1974, Cap. P-21, s.14; 1994, c.52, s.79.*

**15. Deduction of costs**

The Public Trustee may, subject to the approval of a judge of the Supreme Court, deduct from the moneys received in account of any estate all disbursements made by him in respect to enquiries which he may have made before taking out letters of administration, as well as disbursements otherwise made by him, in respect to the estate. *R.S.P.E.I. 1974, Cap. P-21, s.15; 1994, c.52, s.79.*

**16. Substitution of Public Trustee as administrator by another**

- (1) Where in any case the Public Trustee is entitled to take out letters of administration under this Act, he may, instead of himself taking out letters of administration, authorize and appoint by writing under his hand, subject to the approval of the Lieutenant Governor in Council, some other person to take out such letters of administration.

**Grant of Letters of Administration**

- (2) The Supreme Court shall, upon the application of a person so authorized and appointed by the Public Trustee grant to the applicant letters of administration in the form in the Schedule.

**Security**

- (3) The person so appointed shall give security for the performance of his duties in the manner required in the case of an administrator appointed under the *Probate Act R.S.P.E.I. 1988, Cap. P-21. R.S.P.E.I. 1974, Cap. P-21, s.16; 1994, c.52, s.79.*

**17. Security payment of moneys, to whom**

Any administrator appointed under section 16 and any administrator referred to in section 11 may be required by the Public Trustee to pay into the Department of Finance all funds in his hands as the administrator. *R.S.P.E.I. 1974, Cap. P-21, s.17; 1983, c.1, s.6; 1986, c.5, s.2; 1993, c.29, s.4; 1994, c.52, s.79; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

**18. Moneys escheat, when**

All funds heretofore or hereafter paid into the Department of Finance by any administrator under sections 12 and 17, which are not claimed within ten years from the payment of the same into the Department of Finance become the property of Her Majesty. *R.S.P.E.I. 1974, Cap. P-21, s.18; 1983, c.1, s.6; 1986, c.5, s.2; 1993, c.29, s.4; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

**19. Forms**

The forms in the Schedule shall be used for the respective purposes therein mentioned with such variation as circumstances require. *R.S.P.E.I. 1974, Cap. P-21, s.19.*



**SCHEDULE\***

**APPLICATION FOR ADMINISTRATION**

*Province of*

*Prince Edward Island*

*In The Supreme Court (Estates Section)*

**In the matter of the Provincial Administrator of Estates Act.**

Unto the Supreme Court of the Province of Prince Edward Island

The petition of ..... of ..... in the County of ..... respectfully sheweth that:

1. .... late of ..... died on or about the .....day of ..... 20..... at ..... in ..... County in the Province of Prince Edward Island and without leaving any known relative within the said province or any known relative who could be readily communicated with living elsewhere.

2. That the value of the whole property of the said deceased which he in any way died possessed of or entitled to, so far as your Petitioner is able to ascertain, consists of the following:

*(Here state the nature of the property)*

3. That your Petitioner has made careful search and enquiry and so far as he is able to ascertain, the deceased has left no will, codicil or testamentary paper and your petitioner verily believes that the deceased died without having left any will, codicil or testamentary paper whatsoever.

Your Petitioner herewith produces an appointment from the Public Trustee authorizing and appointing him to take out administration under this Act.

Your Petitioner desires that the Estates Section may grant administration of the property of the said deceased under said Act for the use and benefit of Her Majesty or of such persons as may ultimately appear to be entitled thereto.

YOUR PETITIONER therefore prays that Letters of Administration of the Estate of the said ..... may be granted to him.

AND your Petitioner will ever pray, etc.

*Verification of Petition*

I, ..... of ..... in ..... County being the Petitioner named in the foregoing Petition, make oath and say:

That such statements in said petition as relate to the acts and deeds of the said petitioner are true, and such statements as relate to the acts of any other person I believe to be true.

SWORN at .....

in .....County this

.....day of..... 20 .....

Before me, .....

**LETTERS OF ADMINISTRATION**

*Province of*

*Prince Edward Island*

*In the Supreme Court (Estates Section)*

**In the matter of the *Provincial Administrator of Estates Act***

To..... of ..... in the County of .....  
Province of Prince Edward Island, greeting.

WHEREAS ..... as is alleged, died at..... intestate and without any known relative living within this province, or any known relative who could readily be communicated with living elsewhere.

AND WHEREAS under the provisions of said Act the said.....is entitled to administration of all and singular the goods, chattels and credits of the said deceased; therefore we being desirous that the said goods, chattels and credits may be well and faithfully administered, applied and disposed of according to law for the use and benefit of Her Majesty or such persons as may ultimately appear to be entitled thereto, do therefore by these presents grant full power and authority to you the aforesaid ..... to administer and faithfully dispose of the goods, chattels, and credits of the said deceased and to ask, demand, recover and receive all the debts and credits, which whilst living and at the time of his death, did in anyway belong to his estate and to pay whatsoever debts the said deceased at the time of his death did owe, so far as such goods, chattels and credits will extend and the law charge you, you being first sworn well and faithfully to administer the same by paying the just debts of the deceased and the lawful expenses, and pay over or distribute the remainder according to law, and to render just and true account thereof, and to obey, abide by and perform all such orders and decrees as are from time to time made by the court, touching the estate, goods, chattels and effects of the said deceased. And we do by virtue of these presents ordain and depute you the administrator of all and singular the goods, chattels and credits of the said deceased.

WITNESS: His Honour, ..... Judge of the said Supreme Court (Estates Section), at Charlottetown the ..... day of ..... 20....

By the Court.

.....

Registrar

\*{Note: The forms are prescribed by section 19.}