

1989

CHAPTER 6

An Act to amend The Public Trustee Act

(Assented to June 14, 1989)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title This Act may be cited as The Public Trustee Amendment Act, 1989.

S.S. 1983, c.P-43.1 amended

2 The Public Trustee Act is amended in the manner set forth in this Act.

Section 18 amended

3 Section 18 is amended:

- (a) by striking out "the next friend, guardian or parent of an infant" in subsection (1) and substituting "a person who, in the opinion of the court, has a sufficient interest"; and
- (b) by adding the following subsection after subsection (5):

"(6) This section is not to be interpreted as requiring an order pursuant to this section for a sale of shares in a corporation in which an infant has a beneficial interest".

Section 29 amended

4 Subsection 29(3) is repealed and the following substituted:

"(3) Where:

- (a) a person has applied pursuant to The Mentally Disordered Persons Act for an order appointing him as committee of the estate of a mentally incompetent person and it appears to the court that it would not be in the best interests of the mentally incompetent person to appoint the applicant as committee; or
- (b) a committee of an estate of a mentally incompetent person appointed pursuant to The Mentally Disordered Persons Act resigns or is removed; the court may, with the consent of the public trustee, make an order appointing the public trustee as committee of the estate".

Section 33 amended

5 Subsection 33(1) is repealed and the following substituted:

- "(1) In cases where section 37 of The Mentally Disordered Persons Act does not apply, no action, suit or proceeding, whether judicial or extra-judicial, shall be brought against or with respect to:
  - (a) a person with respect to whom a certificate of incompetence has been issued or order made pursuant to section 29; or
  - (b) the estate of a person described in clause (a);during the period commencing on the date of the issue of the certificate or order and ending on the date of the issue of a certificate of competence

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or order declaring the person of sound mind or capable of managing his own affairs, unless 30 days' written notice of the intention to do so setting out particulars of the proposed action, suit or proceeding has been given to the public trustee".

Section 35 amended<sup>6</sup> Subsection 35(4) is repealed and the following substituted:

"(4) Subsection (3) does not apply to:

- (a) a court order;
- (b) a certified copy of writ of execution or withdrawal of writ of execution;
- (c) a caveat or withdrawal of caveat;
- (d) a lis pendens or certificate vacating lis pendens;
- (e) a document filed pursuant to The Tax Enforcement Act;
- (f) an application for transmission pursuant to The Land Titles Act".

Section 38 amended

7 The following clause is added after clause 38(1)(a):

"(a.1) the certificate of incompetence is revoked pursuant to The Mentally Disordered Persons Act".

New section 43.18 The following section is added after section 43:

Reimbursement for certain losses

"43.1 Where a loss is incurred in an estate under the administration of the public trustee that:

- (a) in the opinion of the public trustee, results from a clerical error in the office of the public trustee; and
- (b) does not exceed \$500;

the public trustee may reimburse the estate for the amount of the loss".

Section 46 amended

9 Section 46 is amended:

(a) by repealing clause (c) and substituting the following:

"(c) where the public trustee endorses the public trustee's consent on the instrument on behalf of the infant or mentally incompetent wife";

(b) by renumbering it as subsection 46(1); and

(c) by adding the following subsection after subsection (1):

"(2) The public trustee may endorse the public trustee's consent on an instrument pursuant to clause (1)(c) notwithstanding that the public trustee is also the committee for the husband".

New sections 49.1 and 49.2

10 The following sections are added after section 49:

Agreements with other jurisdictions

"49.1 The public trustee may enter into an agreement with:

- (a) another public trustee; or
- (b) a person performing similar functions and having similar powers and duties as the public trustee;

in another jurisdiction of Canada to provide services in Saskatchewan with respect to the estate of an infant or mentally disordered person over whom the other public trustee or person has responsibility.

Change of fee"49.2(1) Where, in the opinion of the public trustee, it is reasonable to do so, the public trustee may charge a fee that is greater or smaller than the fee prescribed in the regulations.

"(2) A person affected by a decision of the public trustee made pursuant to subsection (1) may appeal the decision to the court within 30 days of the date of the decision".

Coming into force11 This Act comes into force on the day of assent.