



Charities Accounting Act

R.S.O. 1990, CHAPTER C.10

Last amendment: 2009, c. 33, Sched. 6, s. 44.

Notice of donation to be given to Public Guardian and Trustee

1. (1) Where, under the terms of a will or other instrument in writing, real or personal property or any right or interest in it or proceeds from it are given to or vested in a person as executor or trustee for a religious, educational, charitable or public purpose, or are to be applied by the person for any such purpose, the person shall give written notice to,

- (a) the person, if any, designated in the will or other instrument as the beneficiary or as the person to receive the gift from the executor or trustee; and
- (b) the Public Guardian and Trustee, in the case of an instrument other than a will. 2000, c. 26, Sched. A, s. 2 (1).

Charitable corporations, etc., brought within Act

(2) Any corporation incorporated for a religious, educational, charitable or public purpose shall be deemed to be a trustee within the meaning of this Act, its instrument of incorporation shall be deemed to be an instrument in writing within the meaning of this Act, and any real or personal property acquired by it shall be deemed to be property within the meaning of this Act. R.S.O. 1990, c. C.10, s. 1 (2).

Time for giving notice

(3) The notice shall be given, in the case of an instrument other than a will, within one month after it has been executed, and, in the case of a will, within the same period after the death of the testator. R.S.O. 1990, c. C.10, s. 1 (3).

Where notice not necessary

(4) No notice is necessary where the trust was completely executed before the 31st day of March, 1914, but the remaining sections of this Act nevertheless apply to every such trust. R.S.O. 1990, c. C.10, s. 1 (4).

Contents of notice

(5) The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee. 1997, c. 23, s. 3 (2).

Copy of instrument

(6) The notice shall be accompanied by a copy of the will or other instrument; in the case of a notice under clause (1) (b), the Public Guardian and Trustee may require a notarial copy. 2000, c. 26, Sched. A, s. 2 (2).

1.1 Repealed: 2009, c. 33, Sched. 2, s. 11 (1).

Executor or trustee to provide information

2. An executor or trustee to whom section 1 applies shall, if requested by the Public Guardian and Trustee, provide to the Public Guardian and Trustee particulars in writing respecting,

- (a) the name and address of each executor or trustee of the estate or trust;
- (b) the condition, disposition or other such particulars as requested of the property devised, bequeathed or given or which is in any way held by the executor or trustee; and
- (c) any other matter relating to the administration or management of the estate or trust or any other property held by the executor or trustee, as requested. 2009, c. 33, Sched. 2, s. 11 (2).

Auditing accounts as to charitable legacies or grants

3. Whenever required so to do by the Public Guardian and Trustee, an executor or trustee shall submit the accounts of dealings with the property coming into the hands or under the control of the executor or trustee under the terms of the bequest or gift, to be passed and examined and audited by a judge of the Superior Court of Justice. R.S.O. 1990, c. C.10, s. 3; 1999, c. 12, Sched. B, s. 1 (1); 2000, c. 26, Sched. A, s. 2 (4).

Application to court where executor or trustee in default

4. If any such executor or trustee,

- (a) refuses or neglects to comply with section 1, 2 or 3, or with any of the regulations made under this Act;

- (b) is found to have misapplied or misappropriated any property or fund coming into the executor's or trustee's hands;
 - (c) has made any improper or unauthorized investment of any money forming part of the proceeds of any such property or fund; or
 - (d) is not applying any property, fund or money in the manner directed by the will or instrument,
- a judge of the Superior Court of Justice upon the application of the Public Guardian and Trustee, may make an order,
- (e) directing the executor or trustee to do forthwith or within the time stated in the order anything that the executor or trustee has refused or neglected to do in compliance with section 1, 2 or 3, or with the regulations made under this Act;
 - (f) requiring the executor or trustee to pay into court any funds in the executor's or trustee's hands and to assign and transfer to the Accountant of the Superior Court of Justice, or to a new trustee appointed under clause (g), any property or securities in the hands or under the control of the executor or trustee;
 - (g) removing such executor or trustee and appointing some other person to act in the executor's or trustee's stead;
 - (h) directing the issue of an attachment against the executor or trustee to the amount of any property or funds as to which the executor or trustee is in default;
 - (i) fixing the costs of the application and directing how and by whom they shall be payable;
 - (j) giving such directions as to the future investment, disposition and application of any such property, funds or money as the judge considers just and best calculated to carry out the intentions of the testator or donor;
 - (k) imposing a penalty by way of fine or imprisonment not exceeding twelve months upon the executor or trustee for any such default or misconduct or for disobedience to any order made under this section;
 - (l) appointing an executor or trustee in place of an executor or trustee who has died, or has ceased to act, or has been removed, or has gone out of Ontario, even if the will or other instrument creating the trust confers the power to make such an appointment upon another executor or trustee or upon any other person. R.S.O. 1990, c. C.10, s. 4; 1999, c. 12, Sched. B, s. 1 (1, 2); 2000, c. 26, Sched. A, s. 2 (4).

Information, documents respecting entities

4.1 (1) If an executor or trustee to whom section 1 applies holds a substantial interest in an entity within the meaning of subsection (3), the Public Guardian and Trustee may inquire into the management or operation of the entity and into its relationship to the executor or trustee, and the entity or any director, officer, manager or trustee of the entity shall, if requested by the Public Guardian and Trustee, provide to the Public Guardian and Trustee such information or documents respecting the entity as the Public Guardian and Trustee specifies. 2009, c. 33, Sched. 2, s. 11 (3).

Same

(2) Without limiting the generality of subsection (1), the Public Guardian and Trustee may make a request under that subsection for,

- (a) business records of the entity;
- (b) information respecting the assets and liabilities of the entity;
- (c) accounts of income and expenses for the entity;
- (d) financial statements of the entity, including any statements made by an auditor with respect to the financial statements; and
- (e) the particulars of any fees, salary or other remuneration paid to any person by the entity. 2009, c. 33, Sched. 2, s. 11 (3).

Substantial interest

(3) An executor or trustee holds a substantial interest in an entity if the following criteria are met:

1. In the case of an entity that is a corporation with share capital, the executor or trustee beneficially owns, controls or has direction over one of the following:
 - i. Shares of any class or series of voting shares of the corporation carrying more than 20 per cent of the voting rights attached to all of the outstanding voting shares of the corporation.
 - ii. Shares of the corporation representing more than 20 per cent of the shareholders' equity of the corporation.
2. In the case of an entity that is a corporation without share capital, the executor or trustee beneficially owns, controls or has direction over membership in a class of membership of the corporation carrying more

than 20 per cent of the voting rights attached to all of the outstanding voting membership interests of the corporation.

3. In the case of an entity that is a partnership, the executor or trustee beneficially owns, controls or has direction over a right to one of the following:

- i. At least 20 per cent of the profits of the partnership.
- ii. At least 20 per cent of the assets of the partnership on its dissolution.

4. In the case of an entity that is a trust, the executor or trustee beneficially holds an interest in the trust.

5. In the case of any other entity, the aggregate of any ownership interests into which the entity is divided, however designated, that are beneficially owned or controlled by the executor or trustee, or over which the executor or trustee exercises direction, exceeds 20 per cent of all the ownership interests into which the entity is divided. 2009, c. 33, Sched. 2, s. 11 (3).

Same

(4) For the purposes of subsection (3), the ownership, control or direction over a thing by the executor or trustee may be,

- (a) direct or indirect; or
- (b) alone or through one or more persons, entities or both. 2009, c. 33, Sched. 2, s. 11 (3).

Application to court

(5) On application by the Public Guardian and Trustee, a judge of the Superior Court of Justice may,

- (a) make any order that the judge considers necessary or proper to compel the provision of information or documents required to be provided to the Public Guardian and Trustee under subsection (1);
- (b) fix the costs of the application and direct how and by whom they shall be payable;
- (c) make any order relating to the management, operation, ownership or control of the entity that is in the best interest of the purpose for which the estate or trust is held, including an order,
 - (i) determining who owns, controls or has direction over the entity,
 - (ii) determining who controls the election of the directors of the entity,
 - (iii) ensuring that the ownership, control or direction of the entity is in the best interest of the purpose for which the estate or trust is held, including, if appropriate, requiring the executor or trustee to sell all or some of his or her interest in the entity,
 - (iv) ensuring the proper operation and management of the entity and its assets,
 - (v) protecting or preserving the assets or financial stability of the entity and the assets held by the executor or trustee relating to the entity,
 - (vi) selling some or all of the assets of the entity, or
 - (vii) distributing some or all of the profits of the entity. 2009, c. 33, Sched. 2, s. 11 (3).

Notice

(6) An application under subsection (5) shall be on notice to the entity, to the executor or trustee and to any other person that a judge directs. 2009, c. 33, Sched. 2, s. 11 (3).

No obstruction

(7) No person shall obstruct, hinder or interfere with an inquiry conducted under subsection (1), or withhold, conceal or destroy information or documents required to be provided to the Public Guardian and Trustee under that subsection. 2009, c. 33, Sched. 2, s. 11 (3).

Offence and penalty

(8) Every person who contravenes subsection (7) is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000. 2009, c. 33, Sched. 2, s. 11 (3).

Regulations

5. (1) The Attorney General, on the advice of the Public Guardian and Trustee, may make regulations,

- (a) prescribing forms of notices and returns to be made under this Act;
- (b) respecting the practice and procedure upon passing the accounts of an executor or trustee under this Act and the tariff of fees and costs to be applicable thereto;
- (c) requiring returns to be made by any such executor or trustee to any ministry of the Government and the form of such returns;
- (d) regulating the practice and procedure upon applications under section 4. R.S.O. 1990, c. C.10, s. 5 (1); 1996, c. 25, s. 2 (1).

Practice

(2) Except as otherwise provided by the regulations, the practice and procedure of the Superior Court of Justice apply to proceedings under this Act. R.S.O. 1990, c. C.10, s. 5 (2); 1999, c. 12, Sched. B, s. 1 (3).

[\(3\)](#) Repealed: 1997, c. 23, s. 3 (3).

Notice of action to set aside will to be served on Public Guardian and Trustee

[\(4\)](#) Where an action or other proceeding is brought to set aside, vary or construe a will or other instrument described in subsection 1 (1), written notice thereof shall be served upon the Public Guardian and Trustee, and if no one appears as representing the religious, educational, charitable or public institution, or if there is no named beneficiary, or a discretion is given to the executor or trustee as to a choice of beneficiaries, the Public Guardian and Trustee may intervene in the action or other proceeding and has the right to object or consent and to be heard upon any argument as a party to the action or other proceeding. R.S.O. 1990, c. C.10, s. 5 (4); 2000, c. 26, Sched. A, s. 2 (4); 2009, c. 33, Sched. 2, s. 11 (4).

Regulations

[5.1 \(1\)](#) The Attorney General, on the advice of the Public Guardian and Trustee, may make regulations,
(a) providing that acts or omissions that would otherwise require the approval of the Superior Court of Justice in the exercise of its inherent jurisdiction in charitable matters shall be treated, for all purposes, as though they had been so approved;
(b) requiring the making and keeping of records relating to charitable property and respecting the making, keeping, transfer and disposal of such records. 1999, c. 12, Sched. B, s. 1 (4).

Limitation

[\(2\)](#) Regulations under clause (1) (a) may be made only in relation to,
(a) the giving of benefits from charitable property to,
(i) executors and trustees referred to in subsection 1 (1),
(ii) corporations deemed by subsection 1 (2) to be trustees within the meaning of this Act,
(iii) directors of corporations described in subclause (ii) or of persons described in subclause (i) who are corporations, or
(iv) persons who, because of their relationship or connection to a person, corporation or director described in subclause (i), (ii) or (iii), cannot be given such benefits without court approval; and
(b) the administration and management of charitable property that is held for restricted or special purposes. 1999, c. 12, Sched. B, s. 1 (4); 2000, c. 26, Sched. A, s. 2 (3).

Governing instrument

[\(3\)](#) Regulations made under clause (1) (a) do not apply to an act or omission that conflicts with the will or instrument referred to in subsection 1 (1) or with the instrument deemed by subsection 1 (2) to be an instrument in writing under this Act. 1999, c. 12, Sched. B, s. 1 (4).

General or particular

[\(4\)](#) Regulations made under this section may be general or particular in their application and, without limiting the generality of the foregoing, may be subject to the conditions set out in the regulations. 1999, c. 12, Sched. B, s. 1 (4).

Definition

[\(5\)](#) In this section,
“charitable property” means property that is within the inherent jurisdiction of the court in charitable matters. 1999, c. 12, Sched. B, s. 1 (4).

Collection of funds from the public, right of complaint

[6. \(1\)](#) Any person may complain as to the manner in which a person or organization has solicited or procured funds by way of contribution or gift from the public for any purpose, or as to the manner in which any such funds have been dealt with or disposed of. R.S.O. 1990, c. C.10, s. 6 (1).

Form of complaint

[\(2\)](#) Every such complaint shall be in writing and delivered by the complainant to a judge of the Superior Court of Justice. R.S.O. 1990, c. C.10, s. 6 (2); 1999, c. 12, Sched. B, s. 1 (5).

Order for investigation

[\(3\)](#) Wherever the judge is of opinion that the public interest can be served by an investigation of the matter complained of, he or she may make an order directing the Public Guardian and Trustee to make such investigation as the Public Guardian and Trustee considers proper in the circumstances. R.S.O. 1990, c. C.10, s. 6 (3); 2000, c. 26, Sched. A, s. 2 (4).

Application of Public Inquiries Act, 2009

[\(4\)](#) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation directed under subsection (3). 2009, c. 33, Sched. 6, s. 44 (1).

Cost of investigation

(5) The cost of any such investigation, when approved by the Attorney General, forms part of the expenses of the administration of justice in Ontario. R.S.O. 1990, c. C.10, s. 6 (5).

Report of investigation

(6) As soon as the Public Guardian and Trustee has completed the investigation, he or she shall report in writing thereon to the Attorney General and to the judge who ordered the investigation. R.S.O. 1990, c. C.10, s. 6 (6); 2000, c. 26, Sched. A, s. 2 (4).

Order for audit

(7) Upon receipt of the report, the judge may order a passing of the accounts in question, in which case section 23 of the *Trustee Act* applies, and the judge may make such order as to the costs of the Public Guardian and Trustee thereon as he or she considers proper. R.S.O. 1990, c. C.10, s. 6 (7); 2000, c. 26, Sched. A, s. 2 (4).

Where section not to apply

(8) Nothing in this section applies to any religious or fraternal organization or to any person who solicited or procured any funds of any religious or fraternal organization. R.S.O. 1990, c. C.10, s. 6 (8).

Definition

7. In sections 8, 9 and 10,

“charitable purpose” means,

(a) the relief of poverty,

(b) education,

(c) the advancement of religion, and

(d) any purpose beneficial to the community, not falling under clause (a), (b) or (c). R.S.O. 1990, c. C.10, s. 7; 2009, c. 33, Sched. 2, s. 11 (5).

Limitation on use of property

8. A person who holds an interest in real or personal property for a charitable purpose shall use the property for the charitable purpose. 2009, c. 33, Sched. 2, s. 11 (6).

Authority for certain public bodies to receive property for charitable purposes

9. (1) Subject to section 8, a municipal corporation or local board thereof, a university or a public hospital may receive, hold and enjoy real or personal property devised, bequeathed or granted to it for a charitable purpose, upon the terms expressed in the devise, bequest or grant. R.S.O. 1990, c. C.10, s. 9 (1).

Agreement re administration

(2) A municipal corporation or local board thereof, university or public hospital holding property under subsection (1) may enter into an agreement with the person devising, bequeathing or granting the property for the holding, management, administration or disposition of the property. R.S.O. 1990, c. C.10, s. 9 (2).

Application of section

(3) This section applies even if the devise, bequest or grant was made before it was authorized by this section. R.S.O. 1990, c. C.10, s. 9 (3).

Definition

(4) In this section,

“local board” includes a school board and a conservation authority. 2002, c. 17, Sched. F, Table.

Application for order re carrying out trust

10. (1) Where any two or more persons allege a breach of a trust created for a charitable purpose or seek the direction of the court for the administration of a trust for a charitable purpose, they may apply to the Superior Court of Justice and the court may hear the application and make such order as it considers just for the carrying out of the trust under the law. R.S.O. 1990, c. C.10, s. 10 (1); 1999, c. 12, Sched. B, s. 1 (5).

Notice to Public Guardian and Trustee

(2) An application under subsection (1) shall be upon notice to the Public Guardian and Trustee who may appear and be represented by counsel at the hearing. R.S.O. 1990, c. C.10, s. 10 (2); 2000, c. 26, Sched. A, s. 2 (4).

Investigation by Public Guardian and Trustee

(3) Where the court is of the opinion that the public interest can be served by an investigation of the matter alleged in the application, the court may make an order directing the Public Guardian and Trustee to make such investigation as the Public Guardian and Trustee considers proper in the circumstances and report in writing thereon to the court and the Attorney General. R.S.O. 1990, c. C.10, s. 10 (3); 2000, c. 26, Sched. A, s. 2 (4).

Application of *Public Inquiries Act*, 2009

(4) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation directed under subsection (3). 2009, c. 33, Sched. 6, s. 44 (2).

Application of Trustee Act

10.1 Sections 27 to 31 of the *Trustee Act* apply to,

- (a) an executor or trustee referred to in subsection 1 (1);
- (b) a corporation that is deemed to be a trustee under subsection 1 (2); and
- (c) a person referred to in section 8 who is not a person referred to in clause (a) or (b). 2009, c. 33, Sched. 2, s. 11 (7).

Application of Act

11. This Act applies despite any provision in any will or other instrument excluding its application or giving to an executor or trustee any discretion as to the application of property, funds or the proceeds thereof to religious, educational, charitable or public purposes. R.S.O. 1990, c. C.10, s. 11.

Other rights and remedies not affected

12. This Act does not apply to or affect or in any way interfere with any right or remedy that any person may have under any other Act or in equity or at common law or otherwise. R.S.O. 1990, c. C.10, s. 12.

Consent orders and judgments in charitable matters

13. (1) A draft order or judgment that could have been made by the Superior Court of Justice under this Act, under any other Act dealing with charitable matters, or in the exercise of its inherent jurisdiction in charitable matters, shall be deemed to be an order or judgment of that court if the following persons give a written consent to its terms:

1. The Public Guardian and Trustee.
2. Every other person who would have been required to be served in a proceeding to obtain the order or judgment. 1997, c. 23, s. 3 (4); 1999, c. 12, Sched. B, s. 1 (5).

PGT's seal

(2) In the case of the Public Guardian and Trustee, the consent shall be sealed. 1997, c. 23, s. 3 (4).

Effective date

(3) The terms of the draft order or judgment take effect when it is filed with the Superior Court of Justice. 1997, c. 23, s. 3 (4); 1999, c. 12, Sched. B, s. 1 (5).

Charitable Gifts Act

Definition

14. (1) In this section, “interest in a business” means an interest in a business within the meaning of the *Charitable Gifts Act*, as it read immediately before its repeal. 2009, c. 33, Sched. 2, s. 11 (8).

Obligation to dispose of business interest extinguished

(2) Despite clause 51 (1) (b) of the *Legislation Act, 2006*, the repeal of the *Charitable Gifts Act* extinguishes all obligations under the *Charitable Gifts Act* to dispose of any interest in a business that are still in existence at the time of the repeal. 2009, c. 33, Sched. 2, s. 11 (8).

Same

(3) Subsection (2) applies in respect of obligations that came into existence under the *Charitable Gifts Act* at any time before its repeal. 2009, c. 33, Sched. 2, s. 11 (8).

Right to application extinguished

(4) Despite subclause 51 (1) (d) (i) and subsection 51 (2) of the *Legislation Act, 2006*, the repeal of the *Charitable Gifts Act* extinguishes all rights to bring an application under that Act in relation to the obligations to which subsection (2) applies. 2009, c. 33, Sched. 2, s. 11 (8).

Non-application

(5) Subsection (4) does not apply in respect of an application relating to an order made under subsection 3 (3) of the *Charitable Gifts Act*, as it read immediately before its repeal. 2009, c. 33, Sched. 2, s. 11 (8).
