

1981 BILL 57

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 57

THE PUBLIC TRUSTEE AMENDMENT ACT, 1981

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 57

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1981

THE PUBLIC TRUSTEE AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 The Public Trustee Act is amended by this Act.

2 Section 5 is amended by striking out “and” at the end of clause (h), by adding “, and” at the end of clause (i) and by adding the following after clause (i):

(j) where no person has been appointed by the Court to act for the estate of an unborn infant, act as guardian or custodian of the estate of the infant, if the infant

(i) has or may have property vested in him, or

(ii) is or may be entitled after a certain interval or contingency to property under an intestacy, will, settlement, trust deed or other instrument or in any other manner.

3 Section 8(1) is amended by striking out “\$10,000” wherever it occurs and substituting “\$75 000”.

Explanatory Notes

1 This Bill will amend chapter 301 of the Revised Statutes of Alberta 1970.

2 Additional power of the Public Trustee.

3 Section 8(1) presently reads:

8(1) Where an infant is entitled to share in the estate of an intestate and the share has been paid to the Public Trustee as guardian of the estate of the infant or for the benefit of the infant, or where property is held by the Public Trustee as trustee for an infant and such property is not subject to the terms of a will, trust deed or other instrument governing the trust, the Public Trustee may,

(a) if the share or property of the infant does not exceed in value the sum of \$10,000,

(i) from time to time expend, or advance to a person who has the lawful custody of the infant, such sum or sums as the Public Trustee deems necessary for or towards the maintenance and education of the infant, and

4 *The following is added after section 13:*

13.1 Notwithstanding *The Dependent Adults Act*, the Public Trustee while acting as a trustee of the estate of a mentally incompetent person or as a trustee of the estate of a dependent adult may manage, handle, administer, sell, dispose of or otherwise deal with the estate to the same extent as could be done by the person if the person were an adult able to make reasonable judgments in respect of his estate.

5 *Section 18(8) is amended by striking out “\$500” and substituting “\$1000”.*

6 *Section 25(1) is amended by striking out “\$100” and substituting “\$1000”.*

(ii) for the purpose of subclause (i) resort to capital and sell or convert any of the real or personal property held on behalf of the infant,

or

(b) if the share or property of the infant exceeds in value the sum of \$10,000,

(i) apply the income from the share or property for the maintenance or education of the infant, and

(ii) from time to time apply to a judge of the Supreme Court on summary application for an order authorizing him to expend, or to advance to a person having the lawful custody of the infant, so much of the share or property for the maintenance and education of the infant as the judge deems proper.

4 Power for the Public Trustee.

5 Section 18(8) presently reads:

(8) Where a mentally incompetent person admitted to a hospital dies possessed of personal property not exceeding \$500 in value and where no probate of his will or letters of administration of his estate have been granted in the Province, the Public Trustee, without obtaining any order or authority from a court or from the Attorney General or otherwise, may

(a) out of the personal property give or distribute, in his discretion, wearing apparel and articles of personal use or ornaments to or among one or more of the family and relatives of the deceased,

(b) sell personal property not dealt with under clause (a) and apply the proceeds towards payment of sums due and debts incurred

(i) for the burial of the deceased, and

(ii) for the maintenance of the deceased in hospital, and

(c) do all things necessary to complete the administration of the estate.

6 Section 25(1) presently reads:

25(1) Where a person dies possessed of personal property, the gross

7 *Section 30(1) and (2) are repealed and the following is substituted:*

30(1) The interest payable in respect of estates the money of which forms the common fund shall be payable and credited to the estates at the rate, in the manner and at the times that the Lieutenant Governor in Council may prescribe.

8 *Section 31 is amended by adding the following after subsection (10):*

(11) The Attorney General may approve a payment out of the special reserve fund to any person who has suffered a loss or damages as a result of an act or omission of the Public Trustee in the performance of his duties, if the loss or damages are not recoverable from an estate or any other person and the Public Trustee certifies that it is just and equitable that the payment be made.

(12) The Public Trustee and the Deputy Provincial Treasurer are authorized to pay out of the special reserve fund payments that are approved under subsection (11).

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.

value of which as estimated by the Public Trustee does not exceed \$100, and where no probate of his will or letters of administration of his estate have been granted in the Province, the Public Trustee, without obtaining any order or authority from a court or otherwise, may

(a) out of the personal property give or distribute, in his discretion, wearing apparel and articles of personal use or ornaments to or among one or more of the family and relatives of the deceased,

(b) sell property not so dealt with under clause (a) and apply the proceeds towards payment of sums due and debts incurred for the burial of the deceased, and

(c) do all things necessary to complete the administration of the estate.

7 Section 30(1) and (2) presently read:

30(1) The interest payable in respect of the estates, the moneys of which form the common fund, shall be at the rate of 3 per cent per annum or at such other rate as the Lieutenant Governor in Council may prescribe.

(2) Interest shall be credited to the respective estates at the authorized rate half-yearly, namely, on the 30th day of April and the 31st day of October in each year, and shall be calculated upon the minimum quarterly balances of the moneys that form the common fund.

8 Recovery of damages resulting from an act or omission of the Public Trustee.