

For Administrators - Detailed Step-by-Step Instructions on How to Apply for Administration in Manitoba

An administrator is appointed in the following situations:

- When a person dies without leaving a will. (Apply for Letters of Administration). In this case, the administrator is named and the estate is distributed according to *The Intestate Succession Act*.
- When a person dies and leaves a will but there is no executor to administer the estate, either because one wasn't named, or because the named executors have died, are not able to act, or will not act. (Apply for Administration with Will Annexed) In this case, the eligible administrator(s) and who takes priority are set out in *The Intestate Succession Act* and the estate is distributed according to the terms of the will.

STEP 1 **Decide who will be appointed administrator.** *The Intestate Succession Act* sets out priorities of who has the right to be named administrator. The first right goes to a spouse or common-law partner, then to an adult child, then to parents and then brothers and sisters and then to nieces and nephews. According to *The Court of Queen's Bench Surrogate Practice Act*, the administrator must be a resident of Manitoba.

STEP 2 **Get the Administration forms and fill them out.** You will need copies of the forms you must file with the court. The forms are specified by Queen's Bench Rule 74.

Pre-printed forms are available at the Court office, but there is a fee.

If you have access to a computer and Internet access, you can get the forms online at the Province of Manitoba website. You can fill in the forms on computer and print them out or print the forms and fill them out in handwriting. http://web2.gov.mb.ca/laws/rules/forms_e.php

You may print neatly in pen on the printed forms and cross out information that is not applicable (see the precedents at the back of this guide). Text in court documents can be printed, typewritten, or handwritten legibly. Only one side of the paper is to be used. Use figures for dates, numbers and sums.

Letter of Administration Set

- 6A Covering Page Request (note – this form is not available online)
- 74B Inventory and Valuation of the Property of the Deceased
- 74L Request for Administration
- 74M Affidavit in Support of Request for Administration
- 74N Nomination of Administrator
- 74P Renunciation of Administration
- 74R Administration (2 copies)
- 74S Bond for Administrators (Or with Will Annexed or Foreign Executors)
- 74T Affidavit of Execution of Bond
- 74T.1 Affidavit of Execution of Renunciation
- 74U Affidavit of Justification by Sureties for Administration

STEP 3 Find out what assets exist and form part of the estate. Review the personal papers of the deceased and the contents of his or her safety deposit box. Review bank statements. Investigate what assets exist but may not specifically be named in the will by discussing this with the deceased's spouse, accountant, employer and financial institutions.

Note that the Court cannot grant Letters of Administration until 14 days after the death of the deceased.

Only property that is in the deceased's name alone should be included. Do not include jointly held real or personal property.

If you find out after you apply for administration that other assets exist that you did not list, you can file an amended valuation within 30 days of the discovery, and pay the additional fees required at that time.

Any "right of action" that the estate has should be valued at \$1.00 and then amended later if necessary. If you include a right of action, you must also provide the court with a letter stating that you will provide an amended inventory once the value is determined and that you will pay the additional administration charge at that time.

The value of property for administration purposes is the fair market value of the property less any incumbrances, so show only the net value.

Do not include life insurance or life insured RRSPs payable to named beneficiaries – only include these if they are payable to the estate.

Note: Be aware that any interested person or the court can inquire further into the assets of the deceased, and the administrator may have to provide the additional information. The rules that govern this are QBR 74.06.1 (1) - 74.06.2(3)

STEP 4 Fill out the Forms to File at Court

Review the Administration precedents in the back of this guide for assistance in filling out the forms, page 59.

Forms needed are: 6A, 74B, 74L, 74M, 74N, 74P, 74R, 74S, 74T, 74T.1, 74U

6A Covering Page Request

74B Inventory and Valuation of the Property of the Deceased

74L Request for Administration

This form is mostly self-explanatory. Section 7 should be filled out according to the degrees of kinship listed in *The Intestate Succession Act* and referred to above. Do not fill in the last line, as the deputy registrar will fill it in after checking to see if the deceased's will was deposited with the court.

74M Affidavit in Support of Request for Administration

This has to be sworn or affirmed in front of a Notary Public or Commissioner for Oaths.

74N Nomination of Administrator

Rule 74.04 (2) says all persons habitually resident in Manitoba with an equal or superior right to the administration shall either nominate the person making the request in Form 74N or renounce in Forms 74O (Administration with the Will Annexed) or 74P (Letters of Administration).

74P Renunciation of Administration

Must be filled out by anyone in Manitoba with an equal or greater right to act as administrator.

74R Administration (2 copies)

Leave the date and judge's name blank.

74S Bond for Administrators

A bond is an agreement made by the administrator and sureties with the Probate Court Judge promising that all of the administrator's duties will be performed, and if they are not, the sureties will pay money to the court. The bond amount is twice the value of the estate. A bond is filed with the Court in Form 74S. An Affidavit of Execution of Bond is filed with the Court in form 74T and must be sealed. The bond is meant to guarantee the proper administration of the estate and protect the beneficiaries and creditors. The Court can dispense with the requirement for a bond when the beneficiaries are all adults and they consent, or when the value of the estate is less than \$50,000.

A bond can also be purchased by the administrator from an insurance or surety company, so that a personal surety is not necessary.

74T Affidavit of Execution of Bond

74T.1 Affidavit of Execution of Renunciation

74U Affidavit of Justification by Sureties for Administration

A surety guarantees the bond required by the court for security on administration of an estate. Two sureties are required to guarantee the bond. Each must swear to owning assets worth the amount of the bond. Each must live in Manitoba.

A surety uses Form 74U to state the value of his or her assets and guarantee that he or she will pay the amount of the bond if the administration of the estate is not carried out according to the terms of the bond. An insurance or surety company can also sell a bond to the administrator and act as a surety. In this case, the amount of the bond only has to be for the amount of the value of the estate.

STEP 5

Go to the Court of Queen's Bench and file the forms. You do not need to make an appointment. Just go to the Court of Queen's Bench Office nearest where you live with the documents and filing fee. Estate matters at The Court of Queen's Bench in Winnipeg are dealt with in Room 100C. (This is just a section of the long counter where all incoming matters are handled. As you enter the court, turn right and look for the sign that says Wills and Estates.) You will take a number for service and then a clerk will take your forms and fees and they will be reviewed and dealt with by Court staff and a Master or a Judge.

STEP 6 **Pay the Administration Charge**

Many banks will advance the administration charge from the deceased's account. Calculate the amount owing as follows:

Where the value of the property in the estate is more than \$10,000:
\$70

plus \$7 for every additional \$1,000 of value or fraction thereof.

For example, an estate worth \$100,000 would have to pay \$700 for the administration charge.

You can pay by cash, cheque or money order, made payable to the Minister of Finance.

If your documents are not in the proper form they may be rejected. In that case you will have to pay a \$5.00 Rejection Fee.

STEP 7 **Receipt of Grant of Letters of Administration**

Once you receive the Grant of Letters of Administration you will have the authority to deal with the estate assets held by various institutions. Some institutions may require a notarial copy, and also require a death certificate of the deceased.