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| FORM 74A |
| *Courts of Justice Act* |
| ONTARIO |
| **SUPERIOR COURT OF JUSTICE** |

**APPLICATION FOR A CERTIFICATE OF APPOINTMENT OF ESTATE TRUSTEE**

*(insert name of applicant(s))* is *(are)* applying for the following certificate in relation to the estate of the deceased described in Part 1 of this application below: *(select one)*

Certificate of Appointment of Estate Trustee with a Will

Certificate of Appointment of Estate Trustee with a Will Limited to the Assets Referred to in the Will

Certificate of Appointment of Estate Trustee without a Will

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| **PART 1 – INFORMATION ABOUT THE DECEASED** |

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **First name** | | | **Second name** | | | **Third name** | | **Surname** | | |
|  | | |  | | |  | |  | | |
| **Alternate names** *(if any are identified in the Will or other document state below the full names including surname(s)):* | | | | | | | | | | |
|  | | |  | | |  | |  | | |
|  | | |  | | |  | |  | | |
|  | | | | | | | | | | |
| **Date of Death** | | **Place of death** | | **Deceased resided in Ontario** | **Deceased owned property in Ontario (real estate and/or personal property)** | | **Date of Birth** | | **Last occupation** | |
| [DD/MM/YYYY] | |  | | [Yes/No] | [Yes/No] | | [DD/MM/YYYY] | |  | |
| The deceased was 18 years of age or older on the date the Will was executed  Yes  No  N/A  *If no,* explain here or in an attached schedule why the deceased was authorized to make a Will (i.e., legislative provision):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  Marital Status at date of death *(check all that apply)* | | | | | | | | |
| Not married  Married  Common Law Partner  Separated  Widowed  Divorced | | | | | | | | |

**Deceased’s Residence at the time of death:**

|  |  |
| --- | --- |
| Street address |  |
| City or town |  |
| County or district |  |
| Province/State |  |
| Postal code/Zip code |  |
| Country |  |

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| **PART 2 – INFORMATION ABOUT THE DECEASED’S TESTAMENTARY DOCUMENTS** |

|  |  |  |
| --- | --- | --- |
| **Deceased died with a Will** | **Date of Will** *(if any)* | **Date of Codicil(s)** *(if any)* |
| [Yes/No] | [DD/MM/YYYY] | [DD/MM/YYYY]  *(Insert an additional row for each codicil, as needed)* |

*If the date for a Will or codicil is missing*, explain here or in an attached schedule how the date was determined:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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| **PART 3 and 4 – STATEMENT OF ASSETS** |

Identify the total value of assets owned by the deceased at the date of death below.

|  |  |
| --- | --- |
| **PART 3 – REAL PROPERTY**  *(The value of the real estate should be net of encumbrances such as mortgages. Do not include any real estate in Ontario that is held jointly and passes by survivorship or any real estate outside Ontario)* | **Value**  **at date of death** |
| **Total value of all real property** | **$** |

|  |  |
| --- | --- |
| **PART 4 – PERSONAL PROPERTY**  *(Examples of personal property include household effects, bank accounts, investments, etc. Do not include money or property held jointly and passing by survivorship or money or property to which a person is entitled under a beneficiary designation under, for example, a life insurance contract, a registered pension plan, a registered retirement savings plan, a registered retirement income fund, a locked-in retirement account or a tax free savings account.)* | **Value**  **at date of death** |
| **Total value of all personal property** | **$** |
| **TOTAL VALUE OF ESTATE**  (Total value of all real property + Total value of all personal property) | **$** |

|  |
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| **PART 5 – ENTITLEMENT TO APPLY** |

*For multiple applicants, reproduce this section for each applicant and state applicant name(s) before each reproduced section.*

I am entitled to apply to the court for the above-mentioned certificate because:

*(Check all that apply. You can delete the statements that do not apply.)*

I am 18 years of age or older.

I am named as an estate trustee in the deceased’s Will or codicil dated *(insert date)*.

I am named as an alternate estate trustee in the deceased’s Will or codicil dated *(insert date)*.

I am appointed as estate trustee pursuant to a court order dated *(insert date)* (*attach court order).*

I am not named as an estate trustee in a Will or codicil of the deceased, AND *(Check all that apply below)*

I am an Ontario resident.

I was legally married to the deceased at the time of death and I have not elected to receive an entitlement under s. 5 of the *Family Law Act.*

I was living with the deceased in a conjugal relationship other than marriage at the time of death.

I am the deceased’s *(insert family relationship, if any).*

Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The applicant is a Corporation and the circumstances of the Corporation’s entitlement to apply are as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(attach additional pages if required)*.

All other persons entitled to apply for a certificate of appointment of estate trustee have renounced their right to do so. Identify any other person(s) who have a right to apply: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. A renunciation (Form 74G) for each of them will be filed together with this application.

I am not named as an estate trustee in the Will or codicil or there is no Will. However, consents of persons who together have a majority interest in the value of the assets of the estate at the date of death will be filed together with this application.

I am not automatically entitled to apply. I request a court order on consent pursuant to the *Estates Act* section 29(3) granting me a certificate of appointment of estate trustee (i.e., special circumstances). The basis for this request is as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(attach additional pages if required)*.

The estate trustee(s) *(insert estate trustee name(s))* named in the Will is (are) not applying because they

died  renounced their right to apply to act as estate trustee

 is (are) mentally incapable  is (are) under the age of eighteen years  other

*If one or more of the five boxes above is checked, provide details here. For example, date of death of the named estate trustee, if known, whether renunciation is attached, evidence of mental incapacity or that a supporting affidavit is filed regarding this issue and/or date of birth of estate trustee named in the Will:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Will includes a provision that makes the appointment of the estate trustee conditional upon the named estate trustee surviving the deceased for a specified period of time  Yes  No

*If yes,* the specified period of time is *(insert amount of time in days)* and it has ended. This time period ended on *(insert date)*.

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| **PART 6 – BENEFICIARIES** |

*If the beneficiary’s name includes a middle name, provide the middle name in the first name column.*

*If the beneficiary’s name in the Will is different from the name stated in this application (below in paragraphs 1, 2 or 3), in the row beneath the name, provide the name in the Will and explain the reason for the difference.*

1. Persons less than 18 years of age who are entitled to share in the distribution of the estate.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **First Name(s)** | | **Surname** | **Relationship to Deceased** | **Date of Birth** | **Parent’s or Guardian’s Name, Address and***,**if available,***E-mail Address** | **Estimated Value of Interest in Estate** |
|  |  |  | [DD/MM/YYYY] |  |  |
|  |  |  |  |  |  |
|  |  |  | [DD/MM/YYYY] |  |  |

2. Persons aged 18 years of age or older who are mentally incapable within the meaning of section 6 of the *Substitute Decisions Act, 1992* in respect of an issue in the proceeding and are entitled to a share in the distribution of the estate, are listed in the box below.

*If these persons who are mentally incapable as defined above have a Guardian or Attorney with the authority to act in the proceeding, provide the Guardian’s or Attorney’s information below. If these persons do not have a Guardian or Attorney, write “None” in the Guardian or Attorney box.*

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | **First Name** | **Surname** | **Relationship to Deceased** | **Name of Guardian or Attorney acting under Power of Attorney** *(if any)* | **Beneficiary’s Address, and the Guardian or Attorney’s**  **Address** *(if any)***and***,*  *if available,*  **E-mail Addresses** | **Estimated Value of Interest in Estate** | |  |  |  |  |  |  | |  |  |  |  |  |  | | |  |  |  |  |  |  | | |

*(Estimated value of interest in the estate may be omitted if it is included in a separate schedule attached to the application sent to the Children’s Lawyer or Public Guardian and Trustee.)*

3. Adult persons not listed in paragraph 2 and charities that are entitled to a share in the distribution of the estate.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **First Name** | **Surname (or charity name)** | **Relationship to Deceased** | **Address** | **E-mail Address***, if available* |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

4. Unborn or unascertained person may be entitled to an interest in the estate.  Yes  No

5. Did a beneficiary or married spouse of a beneficiary sign the Will or any codicil as a witness or sign for the testator?  Yes  No  N/A (no Will or codicil)

*If yes,* explain here or in an attached schedule: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*.

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| **PART 7 – INFORMATION ABOUT THE DECEASED’S RELATIONSHIPS** |

*(If you are completing section B below, you can delete section C. If you are completing section C, you can delete section B.)*

A. *Complete if applying with a Will or without a Will*

|  |  |  |
| --- | --- | --- |
| 1. | a. Was the deceased ever married?  *If yes, complete questions 2 to 4. Also, complete Section B if applying with a Will.*  *If no, complete Section C if applying without a Will or go to Part 8 if applying with a Will.* | Yes  No |
| 2 | a. Was the deceased married at the time of death?  b. *If the answer to (a) is “yes”,* were the deceased and their spouse separated and at the time of death living separate and apart as a result of the breakdown of their marriage? *(Separation is defined in ss. 17 and 43.1 of the* Succession Law Reform Act*).* Give details here or in an attached schedule:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. | Yes  No  Yes  No |
|  | c. *If the answer to (a) is “yes*”, is the name of the married spouse set out in Part 6 - Beneficiaries? | Yes  No |
|  | d. *If the answer to (c) is “no”,* provide the name and address of the married spouse \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. |  |
| 3 | a. Is the married spouse of the deceased an applicant?  b. *If the answer to (a) is “yes”,* has the spouse elected to receive an entitlement under the *Family Law Act* s. 5?  c. *If the answer to (b) is “yes*”, explain why the spouse is entitled to apply. Give details here or in an attached schedule:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. | Yes  No  Yes  No |
| 4. | a. Were any of the deceased’s marriages terminated by divorce or a declaration of nullity?  b. *If the answer to (a) is “yes*”, provide the name of the former spouse and the date of divorce or declaration of nullity. If there is a Will, indicate whether the date of divorce or declaration of nullity is after the date of the Will *(insert more rows if needed or attach a schedule)*  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. | Yes  No |

B. *Complete if applying with a Will*

|  |  |  |
| --- | --- | --- |
| 1. | a. Is the Will dated earlier than January 1, 2022?  b. *If the answer to (a) is “yes”,* did the deceased person marry after the date of the Will and before January 1, 2022?  c. *If the answer to (b) is “yes”,* explain why the Will was not revoked by marriage (i.e., declaration in the Will that it was made in contemplation of marriage or spouse filed an election to take under the Will). Give details here or in an attached schedule:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. | Yes  No  Yes  No |

C. *Complete if applying without a Will*

|  |  |  |
| --- | --- | --- |
| 1. | a. Was the deceased person living with a person in a conjugal relationship other than marriage immediately before their death?  b. *If the answer to (a) is “yes”,* provide the name of the person who was living with the deceased *(insert more rows if needed or attach a schedule)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  *Note: a person living with the deceased in a conjugal relationship other than marriage should not be listed in Part 6 – Beneficiaries.* | Yes  No |
| 2. | a. Did the deceased have any children?  *(Select “yes” if the deceased had a child inside or outside of marriage, adopted a child, was declared to be a child’s parent by court order or had a child who was born after the deceased’s death; see definition of “child” under s.1 of the* Succession Law Reform Act *and definition of “child” and “parent” in Part 1 of the* Children’s Law Reform Act*).*  i. *If the answer to (a) is “yes”,* is the name and address of each surviving child of the deceased set out in Part 6 - Beneficiaries?  ii. *If the answer to (a)(i) is “no*”, provide the names and addresses of the children who are not listed in Part 6 - Beneficiaries. If any of these children are minors, provide their dates of birth *(insert more rows if needed or attach a schedule)*:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  *If the answer to 2(a) is “yes”, answer questions 2(b) and 2(c).* | Yes  No  Yes  No |
|  | b. Did the deceased have a child or children who died before the deceased?  i. *If the answer to (b) is “yes”,* provide the name(s) of the child/children who died before the deceased *(insert more rows if needed or attach a schedule)*:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Yes  No |
|  | ii. *If the answer to (b) is* *“yes*”, are the surviving children or grandchildren of each child who died before the deceased listed in Part 6 - Beneficiaries?  iii. *If the answer to (b)(ii) is “no”,* provide the names and addresses of the deceased child’s surviving children or grandchildren (if any). If any of them are minors, provide their dates of birth *(insert more rows if needed or attach a schedule).*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* | Yes  No  N/A (none) |
|  | c. Did the deceased have a child or children who died after the deceased?  i. *If the answer to (c) is “yes”,* are the name(s) and addresses of the beneficiaries of the estate of each deceased child listed in Part 6 - Beneficiaries?  ii. *If the answer to (c)(i) is “no”,* provide the name(s) and addresses of the beneficiaries of the estate of each deceased child *(insert more rows if needed or attach a schedule)*  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. | Yes  No |

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| **PART 8 – DECLARATIONS** *(Check all that apply)* |

1. To the best of my knowledge and belief:

no other person has applied to the court for a certificate of appointment of estate trustee in the deceased’s estate.

the deceased died with a Will or with a Will and one or more codicils. I believe the Will and codicil(s) (if any) being filed together with this application comprise the:

deceased’s valid last Will

deceased’s valid last Will limited to assets referred to in that Will.

the deceased died without leaving a Will. I have carefully searched for a Will of the deceased and was unable to locate any Will.

1. I will:

*(Check all that apply. If you are a corporate applicant, revise to indicate “the corporate applicant”)*

serve this application on:

1. each person entitled to share in the distribution of the estate, including charities and contingent beneficiaries;
2. the Children’s Lawyer if any of the persons with an interest in the estate are under the age of 18, and a parent or guardian of each of those persons;
3. the Children’s Lawyer if any of the persons who may be entitled to an interest in the estate are unborn or unascertained; and
4. the Guardian or Attorney for any adults who meet the definition of “mentally incapable” as set out in Part 6 of this application. If I wrote “None” in the Guardian or Attorney box of Part 6 for any such person, I will also serve on the Public Guardian and Trustee a copy of this application and a copy of the Will and codicil(s), if any.

*(If you are the sole beneficiary of the estate, it is not necessary to check this box. Provide the reason in the last line of paragraph 2.*)

also serve the following documents together with this application if the application must be served on or in respect of:

1. a person entitled only to a specified item of property or a stated or determinable amount of money, an extract of the part or parts of the Will or codicil relating to the gift, or a copy of the Will and codicil(s), if any;
2. any other beneficiary, a copy of the Will and of any codicils; and
3. the Children's Lawyer or the Public Guardian and Trustee, a copy of the Will and of any codicils, together with a statement of the estimated value of the interest in the estate of the minor or the mentally incapable adult described in the application as lacking capacity, as the case may be, if that value is not disclosed in this application.

file at the Superior Court of Justice this application, together with originals of the Will and codicil(s), if any, the proof of death and any required affidavits.

The application will be filed in the court location at *(insert court location)* because that is the county or district in which:

the deceased resided in Ontario at the time of death

the deceased owned real estate or personal property (since the deceased did not have a residence in Ontario or resided out of Ontario at the time of death)

other *(Explain)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

administer the estate according to the law.

keep records of my administration of the estate, including lists and receipts of the assets and money that I receive on behalf of the estate and all money and assets that I distribute from the estate.

provide an accounting if required by court order to do so or when requested by any party who is served with this application (unless that person has received the fixed sum of money or the specific asset that they are entitled to).

*If you did not check off all the boxes for the declarations in paragraph 2 of Part 8*, provide the reason:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. I:

*(Complete only if you are seeking a Certificate of Appointment of Estate Trustee Limited to the Assets Referred to in the Will and/or the deceased executed a secondary (or other multiple Will(s)) that deals with the assets referred to in that Will(s)).*

confirm that the secondary (or other multiple) Will(s) has/have not revoked the Will I am seeking to probate.

will file together with this application a draft order (Form 74I).

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| **PART 9 – ESTATE ADMINISTRATION TAX** |

*(Check one of the following boxes)*

The value of the estate is $50,000 or less

The estate is valued at more than $50,000 and:

I will submit a payment of the estate administration tax deposit together with the application that is submitted for filing with the court.

I am seeking an order to defer the payment of the estate administration tax deposit pursuant to section 4(1) of the *Estate Administration Tax Act, 1998*. I will file with the court, together with the application, a draft order (Form 74I) with a backsheet (Form 4C) and an affidavit with respect to the estate administration tax deposit (Form 4D).

I am seeking to pay the estate administration tax deposit based on an estimated value of the estate pursuant to section 4(3) of the *Estate Administration Tax Act, 1998*. Within six months of the date of filing of this application, I will file a sworn statement of the actual total value of the estate and pay any additional tax if the actual value is higher than the estimated value.

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| **PART 10 – BOND** |

A bond is required to be addressed because *(check one if applicable)*:

the deceased died without a Will or with a Will but did not name me as an estate trustee in the Will.

I live outside of Canada and/or outside the Commonwealth.

*(If a bond is required to be addressed, check one of the boxes below.)*

I will include a bond as part of the application that is submitted for filing with the court (Form 74L or 74M).

I am seeking an order to dispense with the bond requirement or reduce the bond amount *(check one of the two boxes below):*

on consent *[pursuant to Rule 74.11(5)],* since none of the persons entitled to share in the distribution of the estate is:

* + 1. a minor, or
    2. a person who is mentally incapable within the meaning of section 6 of the *Substitute Decisions Act, 1992* in respect of an issue in the proceeding, unless there is a guardian or attorney acting under a power of attorney with authority to act in the proceeding who has consented to waiving the bond requirement.

I will file with the court together with the application an affidavit (Form 4D) setting out the information required by rule 74.11(6)3, the consents of all beneficiaries to the order (Form 74G), and a draft order (Form 74I) with a backsheet (Form 4C), in accordance with rule 74.11(6).

on motion *[pursuant to Rule 37 and Rule 74.11(3)(4)]* because:

1. there are minor beneficiaries, and/or
2. mentally incapable adult beneficiaries without a guardian or attorney with authority to act in this proceeding, and/or
3. mentally incapable adult beneficiaries who have a guardian or attorney with authority to act in this proceeding, but that guardian or attorney does not consent to waiving the bond requirement, and/or
4. adult beneficiaries who have not consented to the order.

I will serve a motion record and file it together with proof of service in the form authorized by rule 16.09.

*Note when a litigation guardian is required: if a party to a Rule 37 motion is a person under disability as defined in Rule 1, then the motion record must comply with Rule 7, and must be served on the proposed litigation guardian.*

I am relying on the exemption from posting a bond under section 36(2) of the *Estates Act* since

a) I was married to the deceased at the time of death; and

b) the net value of the estate does not exceed $350,000; and

*(if the deceased died before March 1, 2021, strike $350,000 above and indicate $200,000)*

c) I will file with the court together with the application an affidavit setting forth the debts of the estate.

I am acting on behalf of a trust company or Public Guardian and Trustee and therefore do not need to post a bond.

A court order made by Justice *(insert name of judge)* dated *(insert date)* appoints the applicant(s) as estate trustee(s) and dispenses with the requirement for the applicant(s) to post a bond. A copy of the order will be filed together with this application.

*(Reproduce this section for multiple applicants.)*

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  |  |  | | --- | --- | --- | --- | | **Applicant Name:** | *(First name)* | *(Middle name)* | *(Surname)* | | **Relationship to Deceased:** |  | | | | **Current Occupation**, if any: |  | | | | *If the Applicant’s name in the Will is different from the name stated above,* provide the name in the Will and explain the reason for the difference*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.* | | | |  | | **Contact Information:** | | | |  | |
| |  |  | | --- | --- | | Street address |  | | City or town |  | | Province/State |  | | Postal code/Zip code |  | | Country |  | | E-mail address, if any |  | | Telephone number |  | | If corporate applicant, name of trust officer |  | |

*(Complete this section if the filer is not the applicant.)*

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  | | --- | --- | | **Filer Name:** |  | | **Filer’s Firm Name**, if any: |  | | **Contact Information:** | | |  | |
| |  |  | | --- | --- | | Street address |  | | City or Town |  | | Province/State |  | | Postal code/Zip Code |  | | Country |  | | E-mail address |  | | Telephone number |  | | Law Society of Ontario number, if any |  | |

*(If there is more than one applicant, attach a separate sheet for additional affidavits.)*

I MAKE OATH AND SAY (or AFFIRM) that the information contained in this application and in any attached schedules is true, to the best of my knowledge and belief.

Sworn or Affirmed before me:  in person OR  by video conference

***Complete if affidavit is being sworn or affirmed in person:***

by *(insert name of applicant)* at the *(City, Town, etc.)* of *(insert name of city, town, etc.)* in the *(County, Regional Municipality, etc.)* of *(insert name of County, Regional Municipality, etc.)*, before me on *(insert date)*.

*Use one of the following if affidavit is being sworn or affirmed by video conference:*

***Complete if applicant and commissioner are in same city or town:***

by *(insert name of applicant)* at the *(City, Town, etc.)* of *(insert name of city, town, etc.)* in the *(County, Regional Municipality, etc.)* of *(insert name of County, Regional Municipality, etc.)*, before me on *(insert date)* in accordance with [O. Reg. 431/20](https://www.ontario.ca/laws/regulation/r20431), Administering Oath or Declaration Remotely.

***Complete if applicant and commissioner are not in same city or town:***

by *(insert name of applicant)* at the *(City, Town, etc.)* of *(insert name of city, town, etc.)* in the *(County, Regional Municipality, etc.)* of *(insert name of County, Regional Municipality, etc.)*, before me at the *(City, Town, etc.)* of *(insert name of city, town, etc.)* in the *(County, Regional Municipality, etc.)* of *(insert name of County, Regional Municipality, etc.)*, on *(insert date)* in accordance with [O. Reg. 431/20](https://www.ontario.ca/laws/regulation/r20431), Administering Oath or Declaration Remotely.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature of Commissioner | | Signature of applicant  (or if applicant is a corporation, signature of Trust Officer) |

***Notice to Applicant***: Information provided on this form related to the payment of estate administration tax will be forwarded to the Ministry of Finance pursuant to clause 39(1)(b) and 42(1)(c) of the *Freedom of Information and Protection of Privacy Act.* This includes the name of the deceased, name and address of estate trustee(s), value of the estate and any undertakings and tax payments made or refunded. This information will be used by the Ministry of Finance to determine the value of the estate and the amount of estate administration tax payable. Questions about the collection of this information should be directed to the Senior Manager – Audit, Compliance Branch, 33 King Street West, PO Box 625, Oshawa ON L1H 8H9, 1-866-668-8297.

RCP-E 74A (January 1, 2025)

**NOTICE**

You are receiving a copy of the attached court application for a certificate of appointment of estate trustee because you may have an interest in the estate of the deceased person named in the application.

**PLEASE NOTE:**

You have a right to oppose the application, by filing with the Superior Court of Justice a Notice of Objection ([Form 75.1](http://ontariocourtforms.on.ca/static/media/uploads/courtforms/civil/75_01/rcp-75-1-e.pdf)) in accordance with Rule 75.03 of the [*Rules of Civil Procedure*](https://www.ontario.ca/laws/regulation/900194),R.R.O. 1990, Reg. 194. If you file a Notice of Objection, you may be required to take or respond to additional litigation steps unless you withdraw your objection. You may wish to consult with a lawyer about your options and any concerns you may have regarding the application and/or estate administration.

If you do not file a Notice of Objection to the application, a certificate of appointment of estate trustee may be issued to the applicant(s) and the will, if any, may be validated as the last will of the deceased. This certificate would authorize the applicant(s) to act as the estate trustee(s) and give them the authority to administer the estate or confirm their authority under the will, if any.

You may wish to consult with a lawyer about the role and responsibilities of an estate trustee. One responsibility of the estate trustee is to provide an accounting of the estate administration when requested by any party who is served with this application or required by court order to do so.

You may also wish to consult with a lawyer concerning your interest in, or rights against, the estate. If you choose to make a claim, you must do so within the time limit imposed by any relevant court rule, legislation or court order.

The estate value disclosed in the application does not necessarily reflect the amount that will be available for distribution to beneficiaries.

The *Rules of Civil Procedure* and the court forms are available on the internet at:

Rules of Civil Procedure*:* <https://www.ontario.ca/laws/regulation/900194>

Court Forms: <http://ontariocourtforms.on.ca/en/rules-of-civil-procedure-forms/pre-formatted-fillable-estates-forms/>

[Notice of Objection Form](http://ontariocourtforms.on.ca/static/media/uploads/courtforms/civil/75_01/rcp-75-1-e.pdf) 75.1:<http://ontariocourtforms.on.ca/static/media/uploads/courtforms/civil/75_01/rcp-e-75-1-1120.doc>

General information about estates is available on the Ministry of the Attorney General website at:

How to Apply for Probate in Ontario: <https://www.ontario.ca/page/apply-probate-estate>

Probate of a Small Estate: <https://www.ontario.ca/page/probate-small-estate>