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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):* | | | | | | | | | |
|  | | |  |  | | |  | | |
|  | | |  |  | | |  | | |
|  | | | | | | | | | |
| **Date of Death** | | **Place of death** | | | **Deceased resided in Ontario** | **Deceased owned property in Ontario** | | **Date of Birth** | |
| [DD/MM/YY] | |  | | | [Yes/No] | [Yes/No] | | [DD/MM/YY] | |
| Marital Status  *(check all that apply)* | | | | | | | |
| Not married  Married  Common Law Partner  Separated  Widowed  Divorced | | | | | | | |

|  |  |
| --- | --- |
| Last Occupation: |  |

**Deceased’s Last Address:**

|  |  |
| --- | --- |
| 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/YY] | [DD/MM/YY] |

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| PART 3 – INFORMATION ABOUT THE DECEASED’S SPOUSAL RELATIONSHIPS |

|  |  |  |
| --- | --- | --- |
| 1. | Was the deceased married at the time of death?  If 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 |
| 2. | Is the spouse of the deceased an applicant?  If yes,   1. Has the spouse elected to receive an entitlement under the *Family Law Act* s. 5?   If yes,   1. Explain why the spouse is entitled to apply. Give details here or in an attached schedule: | Yes  No  Yes  No |
| 3. | *Complete question 3 if applying with a Will.*  Did the deceased person marry after the date of the Will and before January 1, 2022?  If yes, explain why the will was not revoked by marriage under now repealed sections 15 and 16 of the *Succession Law Reform Act* (i.e., exceptions to revocation of a will by marriage). Give details here or in an attached schedule: | Yes  No |
| 4. | *Complete question 4 if applying with a Will.*  Was a marriage of the deceased person terminated by a judgment absolute of divorce, death or declared a nullity after the date of the Will?  If yes, attach a schedule and give details regarding the termination of a marriage of the deceased person by a judgment absolute of divorce, death or declaration of nullity. | Yes  No |
| 5. | *Complete question 5 if applying without a Will.*  Was the deceased person ever legally married?  If yes, attach a schedule and provide the following information:   * Name and current address of the deceased’s spouse and of each former spouse. * Whether any of the marriages was terminated and, if so, the method of   termination of each marriage (by divorce, by death or by declaration of nullity).   * Name and address of each child of each of the marriages. * Name of each child who died before the deceased and name and address of that deceased’s person’s children, if any. | Yes  No |
| 6. | *Complete question 6 if applying without a Will.*  Was the deceased person living with a person in a conjugal relationship outside marriage immediately before his or her death?  If yes, provide the name and address of the person who was living with the deceased: | Yes  No |

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| PART 4 and 5 – STATEMENT OF ASSETS |

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

|  |  |
| --- | --- |
| **PART 4 – 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 5 – 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 6 – ENTITLEMENT TO APPLY |

I am entitled to apply to the court for the above-mentioned certificate because *(check all that 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 outside of marriage in a conjugal relationship at the time of death.

I am the deceased’s *(identify 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*).

The 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Attach a renunciation (Form 74G) for each of them.

I am not named as an estate trustee in the Will or codicil, however, consents of persons who together have a majority interest in the value of the assets of the estate at the date of death are attached.

I am not automatically entitled to apply. I request a court order 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).*

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| PART 7 – BENEFICIARIES |

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

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

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 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** | **Guardian or Attorney acting under Power of Attorney Name** *(if any)* | **Guardian or Attorney Address and***, if available,*  **E-mail Address** | **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 Office of the Children’s Lawyer or Office of the Public Guardian and Trustee.)*

3. Other adult persons or charities who are entitled to an interest in the estate.

|  |  |  |  |
| --- | --- | --- | --- |
| **First Name** | **Surname (or charity name)** | **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 spouse of a beneficiary sign the will or a codicil as

a witness or sign for the testator?  Yes  No  N/A

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

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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) attached to 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 *(if you are the sole beneficiary of the estate, it is not necessary to check this box. Please explain in the last line of paragraph 2*);
2. the Office of the Children’s Lawyer if any of persons with an interest in the estate are under the age of 18, and a parent or guardian of those persons;
3. the Office of 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 “incapable” as set out in Part 7 of this Application form. If I wrote “None” in the Guardian or Attorney section of Part 7, I will also serve on the Office of the Public Guardian and Trustee a copy of this Application form and a copy of the Will and any codicil(s) if there is a Will and any codicil(s).

also serve the following documents together with this Application form 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 Office of the Children's Lawyer or Office of 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 adult described in the application as lacking capacity or the minor, as the case may be, if that value is not disclosed in this Application form.

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

The application will be filed in the court location where:

the deceased resided

the deceased owned property

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 when requested by any party who is served with this application or required by court order to do so.

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

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

*(Reproduce this section for multiple applicants.)*

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  | | --- | --- | | **Applicant Name:** |  | | **Current Occupation**, if any: |  | | **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 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.)*, 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.

This *(insert date)* day of *(insert month)*, *(insert year).*

|  |  |  |
| --- | --- | --- |
|  |  |  |
| 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 (September 1, 2021)

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:**

1. 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.
2. 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). This certificate would authorize the applicant(s) to act as the estate trustee(s) and give them the authority to administer the estate.
3. 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.
4. 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.
5. 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>

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

Justice Ontario: <https://www.attorneygeneral.jus.gov.on.ca/english/justice-ont/estate_planning.php>

How to Apply for Probate in Ontario: [https://www.attorneygeneral.jus.gov.on.ca/english/estates/how\_to\_apply\_for\_probate.php#](https://www.attorneygeneral.jus.gov.on.ca/english/estates/how_to_apply_for_probate.php)

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