

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

An administrator is appointed in the following situation:

- When a person dies without leaving a will, an administrator is appointed and the estate is distributed according to *The Intestate Succession Act*.

**STEP 1** **Decide who will be appointed administrator.** *The Intestate Succession Act* sets out priorities about 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 grandparents and nieces and nephews. According to *The Court of King's Bench Surrogate Practice Act*, the administrator must be a resident of Manitoba.

**STEP 2** **Decide whether you should see a lawyer about the estate.**

Assess whether there are any potential problems or issues that would make it necessary or desirable to consult a lawyer. (See [Probate Guide -Read this First – When this guide should not be used](#) )

**STEP 3** **Get the Administration forms and fill them out.**

You will need copies of the forms you must file with the court.

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

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. If you are filling them out by hand, print neatly in pen.

Cross out any information that does not apply.

Use only one side of the paper.

Use figures for dates, numbers and sums.

The forms come together in a package. You will need the [Request for Administration Set](#)

## **Request for Administration Set**

Includes:

- [74L](#) Request for Letters of Administration
- [74B](#) Inventory and Valuation of the Property of the Deceased
- [74Q](#) Letters of Administration (2 copies)
- [74M](#) Nomination of Administrator
- [74O](#) Renunciation of Administration
- [74V](#) Bond for Administrators (Or with Will Annexed or Foreign Executors)
- [74W](#) Affidavit of Execution of Bond
- [74X](#) Affidavit of Execution of Renunciation
- [74Y](#) Affidavit of Justification by Sureties

### **STEP 4 Find out what assets exist and form part of the estate.**

Review the personal papers of the deceased and the contents of their safety deposit box, and bank statements. Find out what other assets exist by discussing this with the deceased's spouse, accountant, employer and financial institutions.

### **STEP 5 Fill out the Forms to File at Court**

Review the Administration precedents that are included in this section for help in filling out the forms.

Forms needed are: 74B, 74L, 74M, 74O, 74Q, 74V, 74W, 74X, 74Y.

#### **[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*. Do not fill in the last line. The deputy registrar will fill it in after checking to see if the deceased's will was deposited with the court.

#### **[74B Inventory and Valuation of the Property of the Deceased](#)**

Do not include jointly held real or personal property. Only property that is in the deceased's name alone should be included, unless there is a joint bank account that the deceased intended to be included in the estate.

If you find out after you apply for probate that other assets exist that you did not list, you can file an amended valuation within 30 days of the discovery.

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.

The value of property for probate or administration purposes is the fair market value of the property minus any incumbrances. Show only the net value. For mortgages, show the total value of the property minus the amount of the mortgage which equals the net value.  $\$150,000 - \$50,000 = \$100,000$ .

Do not include life insurance or 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 executor may have to provide the additional information. The rules that govern this are KBR 74.06.1 (1) - 74.06.2(3).

### **74Q Letters of Administration (2 copies)**

This is a very straightforward document. Fill in the details about the deceased: date of death, and your name (and the other administrator's name(s), if applicable). Leave the Judge's name and the date blank. You will need two copies to file in court.

**Proof of Death** - this will usually be either the original Funeral Director's Death Certificate or original Death Certificate from Vital Statistics.

### **74M Nomination of Administrator**

Rule 74.04 (2) says all persons habitually resident in Manitoba with an equal or superior right to administration shall either nominate the person making the request by using Form 74N or renounce by using Form 74P.

### **74O Renunciation of Administration**

Must be filled out by anyone in Manitoba with an equal or greater right to act as administrator, who is renouncing their right to act.

### **74X Affidavit of Execution of Renunciation**

### **74V 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 74V.

An Affidavit of Execution of Bond is filed with the Court in form 74X and must be sealed. (The Notary or Commissioner for Oaths will attach a seal).

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. The Court can also dispense with the requirement for sureties.\* When the value of the estate is less than \$50,000 a surety is not needed. Only one surety is needed if the estate is worth more than \$50,000, but less than \$100,000.

The administrator can buy a bond from an insurance company or a surety company and in that case, a personal surety is not needed.

\* See section 25(4) of the Court of King's Bench Surrogate Practice Act below. You can request the following forms from the Court:

- Consent to Administration waiving Bond and/or sureties
- Affidavit in Support of a Request to Dispense with Bond and/or Surety

"25(4) Where all the beneficiaries of an estate are adults capable of giving their consent, and do consent, a judge may direct  
(a) that the grant of administration of the estate be made without a bond; or  
(b) that the grant of administration of the estate be made without requiring sureties to the bond."

#### [74W Affidavit of Execution of Bond](#)

#### [74Y 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 if the estate is worth \$100,000 or more. Each must swear to owning assets worth the amount of the bond. Each must live in Manitoba. Only one surety is needed if the estate is worth more than \$50,000, but less than \$100,000.

A surety uses Form 74Y to state the value of their assets and guarantee that they will pay the amount of the bond if the administration of the estate is not carried out according to the terms of the bond.

The Administrator can also buy a bond from an insurance company or surety company. In that case, the amount of the bond only has to be for the amount of the value of the estate.

### **STEP 6 Go to the Court of King's Bench and file the forms.**

You do not need to make an appointment. Just go to the Court of King's Bench Office nearest where you live with the documents and filing fee.

Estate matters at The Court of King's Bench in Winnipeg at 408 York 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 they will be reviewed and dealt with by Court staff and a Master or a Judge.

If your documents are not in the proper form they may be rejected. In that case you will have to pay a \$10.00 Rejection Fee.

**STEP 7      Receipt of Letters of Administration**

Once you receive the 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 may require a death certificate.