[Français](http://www.ontario.ca/fr/lois/loi/90e21)

Estates Act

R.S.O. 1990, Chapter E.21

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Definitions

**1** (1)  In this Act,

“administration” includes all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special or limited purposes; (“administration”)

“county” includes a territorial district; (“comté”)

“matters and causes testamentary” includes all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration; (“matières et causes testamentaires”)

“registrar” means a local registrar of the Superior Court of Justice; (“greffier”)

“small estate” means an estate that does not exceed the amount prescribed by regulations made under subsection (2); (“petite succession”)

“will” includes a testament and all other testamentary instruments of which probate may be granted. (“testament”) R.S.O. 1990, c. E.21, s. 1; 1999, c. 12, Sched. B, s. 6; 2006, c. 19, Sched. C, s. 1 (1); 2020, c. 11, Sched. 8, s. 1 (1-3).

Regulations

(2)  The Lieutenant Governor in Council may make regulations prescribing an amount for the purposes of the definition of “small estate” in subsection (1). 2020, c. 11, Sched. 8, s. 1 (4).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 6 - 31/12/1991

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

[2020, c. 11, Sched. 8, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S20011" \l "sched8s1s1) - 08/01/2021; [2020, c. 11, Sched. 8, s. 1 (3, 4)](http://www.ontario.ca/laws/statute/S20011" \l "sched8s1s3) - 01/04/2021

Depository for the wills of living persons

**2** The office of the registrar is a depository for all wills of living persons given there for safekeeping, and the registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court. 2020, c. 11, Sched. 8, s. 2.

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

[2020, c. 11, Sched. 8, s. 2](http://www.ontario.ca/laws/statute/S20011" \l "sched8s2) - 08/01/2021

Preservation of testamentary instruments, etc.

**3** The registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted, and all other papers used in any matter in the registrar’s court, subject to such conditions as are prescribed by the rules of court. R.S.O. 1990, c. E.21, s. 3.

**4** Repealed: 2020, c. 11, Sched. 8, s. 3.

**Section Amendments with date in force (d/m/y)**

[2020, c. 11, Sched. 8, s. 3](http://www.ontario.ca/laws/statute/S20011" \l "sched8s3) - 08/01/2021

Administration not to be granted to non-resident

**5** Letters of administration shall not be granted to a person not residing in Ontario, but this does not apply to resealing letters under section 52. R.S.O. 1990, c. E.21, s. 5.

Probate or letters ancillary to persons not residing in Commonwealth

**6** Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the Commonwealth unless the person has given the like security as is required from an administrator in case of intestacy or in the opinion of the judge such security should under special circumstances be dispensed with or be reduced in amount. R.S.O. 1990, c. E.21, s. 6.

Grant of probate or administration, jurisdiction

**7** (1)  An application for a grant of probate or letters of administration shall be made to the Superior Court of Justice and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode. R.S.O. 1990, c. E.21, s. 7 (1); 2006, c. 19, Sched. C, s. 1 (1).

Where decedent had no abode in Ontario

(2)  If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death. R.S.O. 1990, c. E.21, s. 7 (2).

When application may be filed in any office

(3)  In other cases the application for probate or letters of administration may be filed in any office. R.S.O. 1990, c. E.21, s. 7 (3).

Rules of court

(4)  Except as otherwise provided by this Act, applications for a grant of probate or letters of administration are subject to the procedures set out in the rules of court and, in the case of small estates, to the procedures set out in the rules of court that are specific to small estates. 2020, c. 11, Sched. 8, s. 4.

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

[2020, c. 11, Sched. 8, s. 4](http://www.ontario.ca/laws/statute/S20011" \l "sched8s4) - 01/04/2021

Trial of questions of fact by a jury

**8** (1)  The court may cause any question of fact arising in any proceeding to be tried by a jury. R.S.O. 1990, c. E.21, s. 8 (1).

The issue

(2)  The question directed to be tried by a jury shall be reduced to writing in such form as the court may direct. R.S.O. 1990, c. E.21, s. 8 (2).

Production of instruments purporting to be testamentary

**9** (1)  Whether a suit or other proceeding is or is not pending in the court with respect to a probate or administration, the Superior Court of Justice may, on motion or otherwise in a summary way, order any person to produce and bring before the registrar, or otherwise as the court may direct, any paper or writing being or purporting to be testamentary that is shown to be in the possession or under the control of such person. R.S.O. 1990, c. E.21, s. 9 (1); 2006, c. 19, Sched. C, s. 1 (1).

Examination of persons touching such instruments

(2)  If it is not shown that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he or she has knowledge of such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or before the registrar or such person as the court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person is subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as the person would have been subject to if he or she had been a party to a suit in the court and had made such default, and the costs of such motion or other proceeding are in the discretion of the court. R.S.O. 1990, c. E.21, s. 9 (2).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Right of appeal

**10** (1)  Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Superior Court of Justice if the value of the property affected by such order, determination or judgment exceeds $200. R.S.O. 1990, c. E.21, s. 10 (1); 2006, c. 19, Sched. C, s. 1 (1).

Rights of persons interested to appeal

(2)  Where the claimant or personal representative having a right of appeal does not appeal from the order, judgment or determination, the Children’s Lawyer or any person beneficially interested in the estate may, by leave of a judge of the Divisional Court, appeal therefrom. R.S.O. 1990, c. E.21, s. 10 (2); 1994, c. 27, s. 43 (2).

Rights of persons interested to be heard at appeal

(3)  The Children’s Lawyer or any person beneficially interested in the estate, may, by leave of a judge of the Divisional Court, appear and be heard upon any such appeal. R.S.O. 1990, c. E.21, s. 10 (3); 1994, c. 27, s. 43 (2).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 43 (2) - 03/04/1995

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Where deceased resided in Ontario

**11** (1)  On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his or her death, the deceased’s place of abode at the time of his or her death shall be made to appear by affidavit of the person or one of the persons making the application, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1990, c. E.21, s. 11 (1).

Death or absence of witnesses of will of member of forces or mariner

(2)  Where, upon the application for probate of the will of a person who at the time of the execution of the will was a member of the forces or was a mariner or sailor at sea or in the course of a voyage, it appears that the witnesses are dead or are incompetent or that the whereabouts of the witnesses, or either of them, is unknown, the judge of the Superior Court of Justice to whom the application is made may accept such evidence as he or she considers satisfactory as to the validity and proper execution of such will, despite anything in this Act or in the rules of court to the contrary. R.S.O. 1990, c. E.21, s. 11 (2); 2006, c. 19, Sched. C, s. 1 (1).

Definition

(3)  In subsection (2),

“member of the forces” means a member of a component of the Canadian Forces,

(a) that is referred to in the National Defence Act (Canada) as a regular force, or

(b) while placed on active service under the National Defence Act (Canada). R.S.O. 1990, c. E.21, s. 11 (3).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Where deceased had no fixed place of abode in Ontario

**12** On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his or her death, the same shall be made to appear by affidavit of the person or one of the persons making the application to the court, and that the deceased died leaving property, or leaving no property in Ontario, as the case may be, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1990, c. E.21, s. 12.

Proof, etc., requisite for obtaining grant to party not next of kin to intestate

**13** Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin, or others having or pretending interest in the property of the deceased, resident in Ontario, to show cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the rules of court. R.S.O. 1990, c. E.21, s. 13.

Temporary administration in certain cases

**14** (1)  If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario. R.S.O. 1990, c. E.21, s. 14 (1).

Security to be given

(2)  The administrator so appointed shall give such security as the court may direct, and has all the rights and powers of a general administrator, and is subject to the immediate control of the court. R.S.O. 1990, c. E.21, s. 14 (2).

Quebec notarial wills

**15** A notarial will made in the Province of Quebec may be admitted to probate without the production of the original will upon filing a notarial copy thereof together with the other proper proofs to lead grant. R.S.O. 1990, c. E.21, s. 15.

Where probate or administration shall not be granted

**16** Unless the court orders otherwise, probate or administration shall not be granted until the registrar has confirmed that,

(a) no other application has been filed in respect of the estate;

(b) no notice of objection filed by a person who appears to have a financial interest in the estate is in effect;

(c) on an application where there is a will, there is no will or codicil of a later date than that for which the grant is sought deposited in the Superior Court of Justice; and

(d) on an application where there is no will, there is no will or codicil deposited in the Superior Court of Justice. 2020, c. 11, Sched. 8, s. 5.

**Section Amendments with date in force (d/m/y)**

[2020, c. 11, Sched. 8, s. 5](http://www.ontario.ca/laws/statute/S20011" \l "sched8s5) - 08/01/2021

Stay, if multiple applications

**17** If the registrar determines that an application for probate or administration has been filed in two or more court offices, the proceeding shall be stayed until, on motion, a judge of the Superior Court of Justice determines where the application will proceed. 2020, c. 11, Sched. 8, s. 5.

**Section Amendments with date in force (d/m/y)**

[2020, c. 11, Sched. 8, s. 5](http://www.ontario.ca/laws/statute/S20011" \l "sched8s5) - 08/01/2021

**18** Repealed: 2020, c. 11, Sched. 8, s. 5.

**Section Amendments with date in force (d/m/y)**

[2020, c. 11, Sched. 8, s. 5](http://www.ontario.ca/laws/statute/S20011" \l "sched8s5) - 08/01/2021

**19-22** Repealed: 2020, c. 11, Sched. 8, s. 5.

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

[2020, c. 11, Sched. 8, s. 5](http://www.ontario.ca/laws/statute/S20011" \l "sched8s5) - 08/01/2021

Citation of persons interested

**23** Where a proceeding is commenced for proving a will in solemn form or for revoking the probate of a will on the ground of the invalidity thereof or where in any other contentious cause or matter the validity of a will is disputed, all persons having or pretending to have an interest in the property affected by the will may, subject to this Act and to the rules of court, be summoned to see the proceeding and may be permitted to become parties, subject to such rules and to the discretion of the court. R.S.O. 1990, c. E.21, s. 23.

Citation to prove or renounce

**24** The court having jurisdiction may summon any person named executor of any will to prove, or refuse to prove, such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. R.S.O. 1990, c. E.21, s. 24.

Consequences of failure to appear

**25** When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, the executor’s right in respect of the executorship wholly ceases, and the representation to the testator, and the administration of the testator’s property, without any further renunciation, goes, devolves, and is committed in like manner as if such person had not been appointed executor. R.S.O. 1990, c. E.21, s. 25.

Where a minor sole executor

**26** (1)  Where a minor is sole executor, administration with the will annexed shall be granted to the guardian of the minor or to such other person as the court thinks fit, until the minor has attained the full age of eighteen years, at which time, and not before, probate of the will may be granted to the minor. R.S.O. 1990, c. E.21, s. 26 (1).

Power of administrator in such case

(2)  The person to whom such administration is granted has the same powers as an administrator has by virtue of an administration granted to an administrator during minority of the next of kin. R.S.O. 1990, c. E.21, s. 26 (2).

Official copies

**27** An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration may be obtained from the registrar on payment of the prescribed fees. R.S.O. 1990, c. E.21, s. 27.

Administration pending action

**28** Pending an action touching the validity of the will of a deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the Superior Court of Justice has jurisdiction to grant administration in the case of intestacy and may appoint an administrator of the property of the deceased person, and the administrator so appointed has all the rights and powers of a general administrator, other than the right of distributing the residue of the property, and every such administrator is subject to the immediate control and direction of the court, and the court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the court considers proper. R.S.O. 1990, c. E.21, s. 28; 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

To what persons administration shall be granted

**29** (1)  Subject to subsection (3), where a person dies intestate or the executor named in the will refuses to prove the will, administration of the property of the deceased may be committed by the Superior Court of Justice to,

(a) the person to whom the deceased was married immediately before the death of the deceased or person with whom the deceased was living in a conjugal relationship outside marriage immediately before the death;

(b) the next of kin of the deceased; or

(c) the person mentioned in clause (a) and the next of kin,

as in the discretion of the court seems best, and, where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where only one desires the administration as next of kin where there are more persons than one of equal kindred, the administration may be committed to such one or more of such next of kin as the court thinks fit. R.S.O. 1990, c. E.21, s. 29 (1); 1999, c. 6, s. 23; 2005, c. 5, s. 24; 2006, c. 19, Sched. C, s. 1 (1).

Appointment at request of parties interested

(2)  Subject to subsection (3), where a person dies wholly intestate as to his or her property, or leaving a will affecting property but without having appointed an executor thereof, or an executor willing and competent to take probate and the persons entitled to administration, or a majority of such of them as are resident in Ontario, request that another person be appointed to be the administrator of the property of the deceased, or of any part of it, the right that such persons possessed to have administration granted to them in respect of it belongs to such person. R.S.O. 1990, c. E.21, s. 29 (2).

General power as to appointment of administrator under special circumstances

(3)  Where a person dies wholly intestate as to his or her property, or leaving a will affecting property but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it is not obligatory upon the court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the court may appoint such person as it thinks fit upon his or her giving such security as it may direct, and every such administration may be limited as it thinks fit. R.S.O. 1990, c. E.21, s. 29 (3).

Appointment of trust corporation

(4)  A trust corporation may be appointed as administrator under subsection (2) or (3), either alone or jointly with another person. R.S.O. 1990, c. E.21, s. 29 (4).

**Section Amendments with date in force (d/m/y)**

1999, c. 6, s. 23 - 01/03/2000

[2005, c. 5, s. 24](http://www.ontario.ca/laws/statute/S05005" \l "s24) - 09/03/2005

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

After grant of administration no person to act as executor

**30** After a grant of administration, no person, other than the administrator or executor, has power to sue or prosecute any action or otherwise act as executor of the deceased as to the property comprised in or affected by such grant of administration until such administration has been recalled or revoked. R.S.O. 1990, c. E.21, s. 30.

Administration limited to personal estate

**31** A person entitled to letters of administration to the property of a deceased person is entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1990, c. E.21, s. 31.

Evaluation

**32** (1)  The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true statement of the total value, verified by the oath or affirmation of the applicant, of all the property that belonged to the deceased at the time of his or her death. R.S.O. 1990, c. E.21, s. 32 (1).

Evaluation of subsequently discovered property

(2)  When after the grant of probate or letters of administration any property belonging to the deceased at the time of his or her death and not included in such statement of total value is discovered by the executor or administrator, they shall, within six months thereafter, deliver to the registrar a true statement of the total value, duly verified by oath or affirmation, of such newly discovered property. R.S.O. 1990, c. E.21, s. 32 (2).

Evaluation of limited grant

(3)  Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in the statement of value only the property and value thereof intended to be affected by such application or grant. R.S.O. 1990, c. E.21, s. 32 (3).

**33** Repealed: 1998, c. 34, s. 63 (1).

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 63 (1) - 18/12/1998

Consequences upon executor renouncing

**34** Where a person renounces probate of the will of which the person is appointed an executor, the person’s rights in respect of the executorship wholly cease, and the representation to the testator and the administration of the testator’s property, without any further renunciation, goes, devolves and is committed in like manner as if such person had not been appointed executor. R.S.O. 1990, c. E.21, s. 34.

Bonds

**35** Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the judge of the court by which the grant is made, to enure for the benefit of the Accountant of the Superior Court of Justice, with a surety or sureties as may be required by the judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the rules of court, and in cases not provided for by the rules, the bond shall be in such form as the judge by special order may direct. R.S.O. 1990, c. E.21, s. 35; 2006, c. 19, Sched. C, s. 1 (3).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (3)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s3) - 22/06/2006

When security not required

**36** (1)  It is not necessary for the Government of Ontario or any ministry thereof or any Provincial commission or board created under any Act of the Legislature to give any security for the due performance of its duty as executor, administrator, trustee, committee, or in any other office to which it may be appointed by order of the court or under any Act. R.S.O. 1990, c. E.21, s. 36 (1).

Idem

(2)  A bond shall not be required where the administration on an intestacy is granted to the surviving spouse of the deceased and where,

(a) the net value of the estate as computed for the purposes of section 45 of the Succession Law Reform Act does not exceed the preferential share prescribed under subsection 45 (6) of that Act; and

(b) there is filed with the application for administration an affidavit setting forth the debts of the estate. R.S.O. 1990, c. E.21, s. 36 (2); 1997, c. 23, s. 8 (1).

Same

(3)  Subject to section 6, a bond shall not be required in respect of a small estate, unless,

(a) a beneficiary of the estate is a minor; or

(b) a beneficiary of the estate is incapable within the meaning of section 6 of the Substitute Decisions Act, 1992 in respect of an issue in the proceeding, whether or not the person has a guardian. 2020, c. 11, Sched. 8, s. 6.

Same

(4)  Subsection (3) does not affect the operation of subsection (2). 2020, c. 11, Sched. 8, s. 6.

Subsequently discovered property

(5)  Subsection (3) ceases to apply if, following the discovery of property belonging to the deceased in the circumstances described in subsection 32 (2), the estate ceases to be a small estate. 2020, c. 11, Sched. 8, s. 6.

**Section Amendments with date in force (d/m/y)**

1997, c. 23, s. 8 (1) - 28/11/1997

[2020, c. 11, Sched. 8, s. 6](http://www.ontario.ca/laws/statute/S20011" \l "sched8s6) - 01/04/2021

Amount of security

**37** (1)  The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, and the judge may direct that more than one bond be given so as to limit the liability of any surety to such amount as the judge considers proper. R.S.O. 1990, c. E.21, s. 37 (1).

Power to reduce amount

(2)  The judge may at any time under special circumstances reduce the amount of or dispense with the bond. R.S.O. 1990, c. E.21, s. 37 (2).

Power of courts as to assignment of bonds

**38** The judge on application made in a summary way and on being satisfied that the condition of the bond has been broken may order the registrar to assign the bond to some person to be named in the order, and such person is thereupon entitled to sue on the bond in the person’s own name as if it had been originally given to the person, and shall recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1990, c. E.21, s. 38.

Accounts to be rendered

**39** The oaths and affirmations to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians, and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of their executorship, administration or guardianship only when thereunto lawfully required. R.S.O. 1990, c. E.21, s. 39.

New or additional security in certain cases

**40** (1)  Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient, the judge may require other or additional security to be furnished, and if it is not furnished as directed by the judge, he or she may revoke the grant of administration or letters of guardianship. R.S.O. 1990, c. E.21, s. 40 (1).

Order by judge or on application

(2)  The order may be made by the judge on the judge’s own initiative or on the application of any person interested. R.S.O. 1990, c. E.21, s. 40 (2).

Substitution of security

**41** (1)  Where a surety for an administrator or guardian desires to be discharged from their obligation or where an administrator or guardian desires to substitute other security for that furnished by the surety, the judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as the judge considers proper, and the judge may direct that, on the substituted security being furnished, and, if the judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged. R.S.O. 1990, c. E.21, s. 41 (1).

How application made

(2)  The application may be made without notice or on such notice as the judge may direct. R.S.O. 1990, c. E.21, s. 41 (2).

Cancellation of security

**42** Where an executor or administrator has passed their final account and has paid into court or distributed the whole of the property of the deceased that has come to their hands, the judge may direct the bond or other security furnished by the executor or administrator to be delivered up to be cancelled. R.S.O. 1990, c. E.21, s. 42.

Cancellation of bond of administrator in distribution of estate

**43** Where an executor or administrator has produced evidence to the satisfaction of the judge that the debts of the deceased have been paid and the residue of the estate duly distributed, the judge may make an order directing the bond or other security furnished by the executor or administrator to be delivered up to be cancelled, but where a minor was or is entitled to a part of the estate under the distribution, the order shall not be made until after such notice as the judge may direct has been given to the Children’s Lawyer, and where any person who is a patient in a psychiatric facility under the Mental Health Act was or is entitled to a part of the estate under the distribution, the order shall not be made until after like notice has been given to the Public Guardian and Trustee. R.S.O. 1990, c. E.21, s. 43; 1994, c. 27, s. 43 (2).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 43 (2) - 03/04/1995

[CTS 30 AU 10 - 1](https://www.ontario.ca/laws/consolidated-statutes-change-notices)

Contestation of claims against estate

**44** (1)  Where a claim or demand is made against the estate of a deceased person or where the personal representative has notice of such claim or demand, they may serve the claimant with a notice in writing that they contest the same in whole or in part, and, if in part, stating what part, and also referring to this section. R.S.O. 1990, c. E.21, s. 44 (1).

Application for order allowing claim

(2)  Within thirty days after the receipt of such notice of contestation or within three months thereafter if the judge of the Superior Court of Justice on application so allows, the claimant may, upon filing with the registrar a statement of their claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the Superior Court of Justice for an order allowing the claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as the judge considers just, and if the claimant does not make such application, the claimant shall be deemed to have abandoned the claim and it is forever barred. R.S.O. 1990, c. E.21, s. 44 (2); 2006, c. 19, Sched. C, s. 1 (1).

Claim within jurisdiction of Small Claims Court

(3)  Where the claim is within the jurisdiction of the Small Claims Court, an application for the extension of time referred to in subsection (2) and the application for the order shall be made to the judge of a Small Claims Court in which an action for the recovery of the claim might be brought, and the application for the order shall be heard by the judge at the sittings of such court, but where the claimant and the personal representative consent, the applications may be made to the judge of the Superior Court of Justice. R.S.O. 1990, c. E.21, s. 44 (3); 2006, c. 19, Sched. C, s. 1 (1).

Notice in such cases

(4)  Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the judge of the Superior Court of Justice, shall also be given to the Children’s Lawyer if minors are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge may direct. R.S.O. 1990, c. E.21, s. 44 (4); 1994, c. 27, s. 43 (2); 2006, c. 19, Sched. C, s. 1 (1).

Right of persons interested to be heard

(5)  Where the application is made to the judge of the Superior Court of Justice, in addition to the persons to whom notice has been given, any other person who is interested in the estate has the right to be heard and to take part in the proceeding. R.S.O. 1990, c. E.21, s. 44 (5); 2006, c. 19, Sched. C, s. 1 (1).

Consent to jurisdiction of Superior Court of Justice in certain cases

(6)  Where the claim, or the part of it that is contested, amounts to $800 or more, instead of proceeding as provided by this section, the judge shall, on the application of either party, or of any of the parties mentioned in subsection (5), direct the creditor to bring an action for the recovery or the establishment of the creditor’s claim, on such terms and conditions as the judge considers just but, where the claimant and the personal representative consent to have the trial before the judge of the Superior Court of Justice, the trial shall take place and be disposed of before the Superior Court of Justice judge under this section. R.S.O. 1990, c. E.21, s. 44 (6); 2006, c. 19, Sched. C, s. 1 (1).

Fees and costs when claim within Small Claims Court jurisdiction

(7)  Where the claim is within the jurisdiction of the Small Claims Court, the fees and costs shall be according to the tariff of that court and in other cases the fees payable to the judge of the Superior Court of Justice and to the registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested, and the fees to be allowed to counsel or solicitors shall be fixed and determined by the Superior Court of Justice judge having regard to the amount involved and the importance of the contest. R.S.O. 1990, c. E.21, s. 44 (7); 2006, c. 19, Sched. C, s. 1 (1).

Claims not presently payable

(8)  This section applies, even if the claim or demand is not presently payable, and that, for that reason, an action for the recovery of it could not be brought. R.S.O. 1990, c. E.21, s. 44 (8).

Application for order allowing commission

(9)  The judge may order the issue of a commission to take the testimony of any person or party residing out of Ontario. R.S.O. 1990, c. E.21, s. 44 (9).

Judge may make an order appointing a person to take testimony

(10)  The judge may make an order for the taking of evidence before trial of any material and necessary witness residing in Ontario who is sick, aged or infirm or is about to leave Ontario and provide to whom notice of the examination is to be given. R.S.O. 1990, c. E.21, s. 44 (10).

Right to issue summons

(11)  A summons may be issued to enforce the attendance of witnesses to give evidence on any proceeding under this section. R.S.O. 1990, c. E.21, s. 44 (11).

Rules of court apply

(12)  The Rules of Civil Procedure, so far as they are applicable, apply to every application for such commission or order for examination, the issue, execution, enforcement and return thereof and the judge has power to award costs of all such procedures according to the tariff in force from time to time. R.S.O. 1990, c. E.21, s. 44 (12).

Permission for enforcement of judgment

(13)  Where a claim is established under this section, no procedures shall be commenced to enforce payment of the claim without the permission of the judge. R.S.O. 1990, c. E.21, s. 44 (13).

Enforcement of judgment

(14)  Where permission to enforce payment of a claim is given, the order shall be filed in the Superior Court of Justice and an execution shall issue as upon a judgment of that court and an order for payment of costs may be entered in the same way. R.S.O. 1990, c. E.21, s. 44 (14); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 43 (2) - 03/04/1995

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Notice of contestation of unliquidated claims

**45** (1)  Where any claim or demand not within the meaning of subsection 44 (1) is made against the estate of a deceased person or where the personal representative has notice or knowledge of the claim or demand, they may serve the claimant with the notice prescribed in the said subsection. R.S.O. 1990, c. E.21, s. 45 (1).

Application by claimant for order for directions

(2)  Within the time limits mentioned in subsection 44 (2), the claimant may, upon filing with the registrar a statement of their claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the Superior Court of Justice for an order for directions as to the disposition of the claim or demand, and if the claimant does not make the application, the claimant shall be deemed to have abandoned the claim, and it is forever barred. R.S.O. 1990, c. E.21, s. 45 (2); 2006, c. 19, Sched. C, s. 1 (1).

Notice in such cases

(3)  Not less than seven days notice of the application shall be given to the personal representative and to the Children’s Lawyer if minors are concerned and to such, if any, of the persons beneficially interested in the estate as the judge may direct. R.S.O. 1990, c. E.21, s. 45 (3); 1994, c. 27, s. 43 (2).

Powers of judge

(4)  The judge shall make such order upon the application for directions as he or she considers just and, in particular but without limiting the generality of the foregoing, the judge may,

(a) direct the claimant to bring an action for the recovery or establishment of their claim on such terms and conditions as the judge considers just; and

(b) where the claim or demand is not presently recoverable, prescribe the time after which the claimant shall proceed pursuant to the directions. R.S.O. 1990, c. E.21, s. 45 (4).

Application of parts of s. 44

(5)  When an order is made under subsection (4), subsections 44 (9), (10), (11) and (12) apply. R.S.O. 1990, c. E.21, s. 45 (5).

Right of persons interested to appeal

(6)  If the personal representative does not appeal from an order made under subsection (2) or (4), the Children’s Lawyer or any person beneficially interested in the estate may, by leave of a judge of the Divisional Court, appeal therefrom. R.S.O. 1990, c. E.21, s. 45 (6); 1994, c. 27, s. 43 (2).

Right of persons interested to be heard on appeal

(7)  Where the claimant or the personal representative appeals from an order made under subsection (2) or (4), the Children’s Lawyer and any person beneficially interested in the estate may, by leave of the court that hears the appeal, appear and be heard. R.S.O. 1990, c. E.21, s. 45 (7); 1994, c. 27, s. 43 (2).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 43 (2) - 03/04/1995

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Summary determination of disputes as to ownership

**46** Where the personal representative of a person claims the ownership of any personal property not exceeding in value $800 and the claim is disputed by any other person, the dispute may be determined in a summary manner and section 44 applies with necessary modifications. R.S.O. 1990, c. E.21, s. 46.

*Trustee Act* not to apply in certain cases

**47** (1)  The Trustee Act does not affect the claim of a person against the estate of a deceased person where notice of the claim giving full particulars of the claim and verified by affidavit, is filed with the executor or administrator of the estate at any time prior to the date upon which the claim would be barred by the Trustee Act, but where no executor or administrator has been appointed, the notice may be filed in the office of a registrar. R.S.O. 1990, c. E.21, s. 47 (1); 2002, c. 24, Sched. B, s. 36; 2006, c. 19, Sched. C, s. 1 (1); 2020, c. 11, Sched. 8, s. 7.

Special provision

(2)  Where the claim of a person against any other person would be barred by the Trustee Act at any time within three months after the death of the person having the claim, the claim shall for all purposes be deemed not to be barred until three months after the date of such death. R.S.O. 1990, c. E.21, s. 47 (2); 2002, c. 24, Sched. B, s. 36.

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. B, s. 36](http://www.ontario.ca/laws/statute/S02024" \l "schedbs36) - 01/01/2004

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

[2020, c. 11, Sched. 8, s. 7](http://www.ontario.ca/laws/statute/S20011" \l "sched8s7) - 08/01/2021

Accounting by executor trustee

**48** Every executor who is also a trustee under the will may be required to account for their trusteeship in the same manner as they may be required to account in respect of their executorship. R.S.O. 1990, c. E.21, s. 48.

Passing accounts

Passing accounts by guardians

**49** (1)  A guardian appointed by the Superior Court of Justice may pass the accounts of the guardian’s dealings with the estate before the judge of the court by which letters of guardianship were issued. R.S.O. 1990, c. E.21, s. 49 (1); 2006, c. 19, Sched. C, s. 1 (1).

Powers of judge on passing accounts

(2)  The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement. R.S.O. 1990, c. E.21, s. 49 (2).

Further powers

(3)  The judge, on passing any accounts under this section, has power to inquire into any complaint or claim by any person interested in the taking of the accounts of misconduct, neglect, or default on the part of the executor, administrator or trustee occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise as the judge considers proper and just to the estate or trust fund, but any order made under this subsection is subject to appeal. R.S.O. 1990, c. E.21, s. 49 (3).

May order trial and give directions as to pleadings, etc.

(4)  The judge may order the trial of an issue of any complaint or claim under subsection (3), and in such case the judge shall make all necessary directions as to pleadings, production of documents, discovery and otherwise in connection with the issue. R.S.O. 1990, c. E.21, s. 49 (4).

(5)-(7)  Repealed: 1997, c. 23, s. 8 (2).

Notice of taking accounts to be served on Public Guardian and Trustee

(8)  Where by the terms of a will or other instrument in writing under which such an executor, administrator or trustee acts, real or personal property or any right or interest therein, or proceeds therefrom have heretofore been given, or are hereafter to be vested in any person, executor, administrator or trustee for any religious, educational, charitable or other purpose, or are to be applied by them to or for any such purpose, notice of taking the accounts shall be served upon the Public Guardian and Trustee. R.S.O. 1990, c. E.21, s. 49 (8).

Where person to whom administration granted is not next of kin

(9)  Where a person has died intestate in Ontario and administration has been granted to some person, not one of the next of kin, and it appears to be doubtful whether the intestate left any next of kin surviving them or that there are no known next of kin resident in Ontario, notice of taking the accounts shall be served upon the Public Guardian and Trustee. R.S.O. 1990, c. E.21, s. 49 (9).

Appointment of expert on examination of accounts

(10)  Where accounts submitted to the judge of the Superior Court of Justice are of an intricate or complicated character and in the judge’s opinion require expert investigation, the judge may appoint an accountant or other skilled person to investigate and to assist him or her in auditing the accounts. R.S.O. 1990, c. E.21, s. 49 (10); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

1997, c. 23, s. 8 (2) - 28/11/1997

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

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At whose instance executors or administrators compellable to account

**50** (1)  An executor or an administrator shall not be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor is an executor or administrator otherwise compellable to account before any judge. R.S.O. 1990, c. E.21, s. 50 (1).

Application

(2)  This section applies despite any provision to the contrary of any bond or security heretofore given by the executor or administrator. R.S.O. 1990, c. E.21, s. 50 (2).

**51** Repealed: 1998, c. 34, s. 63 (2).

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 63 (2) - 18/12/1998

Manner of giving effect to grants of probate of Commonwealth and Canadian courts, etc.

**52** (1)  Where probate or letters of administration or other legal document purporting to be of the same nature granted by a court of competent jurisdiction in the United Kingdom or in a province or territory of Canada or in any British possession is produced to and a copy thereof deposited with a registrar and the amount required by the Estate Administration Tax Act, 1998 is deposited with an officer of the court as on a grant of probate or administration, the probate or letters of administration or other document shall, under the direction of the judge, be sealed with the seal of the Superior Court of Justice, and thereupon is of the like force and effect in Ontario as if the same had been originally granted by the Superior Court of Justice, and is, so far as regards Ontario, subject to any order made by such court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. R.S.O. 1990, c. E.21, s. 52 (1); 1998, c. 34, s. 63 (3); 2006, c. 19, Sched. C, s. 1 (1); 2020, c. 11, Sched. 8, s. 8.

Letters of verification in Quebec

(2)  Letters of verification issued in the Province of Quebec shall be deemed to be a probate within the meaning of this section. R.S.O. 1990, c. E.21, s. 52 (2).

Security required

(3)  The letters of administration shall not be sealed with the seal of the Superior Court of Justice until a certificate has been filed under the hand of the registrar of the court that issued the letters that security has been given in such court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such court as the assets within Ontario, or in the absence of such certificate, until like security is given to the judge of the Superior Court of Justice covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1990, c. E.21, s. 52 (3); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 63 (3) - 18/12/1998

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

[2020, c. 11, Sched. 8, s. 8](http://www.ontario.ca/laws/statute/S20011" \l "sched8s8) - 08/01/2021

**53** Repealed: 1998, c. 34, s. 63 (4).

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 63 (4) - 18/12/1998

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