

FORM 74AA

INFORMATION FOR PERSONAL REPRESENTATIVES
AND RESIDUARY BENEFICIARIES

The property of a deceased person is placed in the hands of a trustee, known as a personal representative. He is also called an executor, (executrix) or administrator (administratrix). He or she has the duty of gathering in the assets, paying debts and distributing to the beneficiaries in accordance with law and the terms of any will of the deceased.

The personal representative receives authority to deal with the estate of the deceased from the Court of Queen's Bench and is subject to supervision by that court. Any person interested in the estate may, upon reasonable grounds, require the personal representative to appear before the court to give an account of the handling of the estate.

A personal representative may ask for payment for services rendered, and in that case, is entitled to a fair and reasonable allowance for care, pains, trouble and time. That allowance is not a fixed amount or percentage but will vary according to the work done and the trouble and time expended. If all beneficiaries are adults of sound mind and are satisfied with the work of the personal representative they may agree on the amount of the fee and give releases when the estate is wound up and the beneficiaries' shares are paid.

If, however, there should be a dispute about the handling of the estate or the amount of the fee, any beneficiary may insist that the accounts be placed before the court for inspection and have the fee settled by the court.

PERSONAL REPRESENTATIVE'S LAWYER

A personal representative is permitted to employ a lawyer to assist in his or her duties. The fees of that lawyer are paid out of the estate and the amount is governed by the *Queen's Bench Rules*, particularly Rule 74.14. A copy of the Rules may be obtained from the Queen's Printer, at the Provincial Library Building, 200 Vaughan Street, Winnipeg, Manitoba.

The basic legal fees are computed as a percentage of the value of the estate assets and are intended to cover the work involved in estates of average complexity. Estate assets do not include property held in joint tenancy or insurance, annuities or pensions not payable to the estate. Briefly stated, the basic fee is calculated as follows:

3% on the first \$10,000.

2% on the next \$90,000.

1% on the next \$200,000.

Over \$300,000.00 by agreement or by application to the court.

Only 40% of those fees are payable where the personal representative is a lawyer, a trust company or the public trustee.

The above fees are subject to review by the court at the time the accounts of the personal representative are placed before the court for inspection or upon the application of the personal representative, a beneficiary or the lawyer in the manner provided by Queen's Bench Rule 74.14.

The personal representative's lawyer is also permitted to charge for additional services, as specified in Rule 74.14.

It should be understood that the lawyer retained by the personal representative is his or her lawyer. In the event of any dispute, a beneficiary is free to obtain separate legal advice from some other lawyer.