



## The Estates Procedures Manual: A Detailed Guide to the Probate Process

By: Suzana Popovic-Montag and Joshua Eisen

What happens behind the estates counter at the offices of the Superior Court of Justice is both a wonder and a mystery. Dedicated, diligent and talented courthouse staff somehow manage to wade through massive volumes of paper and process probate applications by the thousands. They sift through heaps of documents in great detail, catching even the smallest of errors – a misspelled name, a field left blank, an unmarked exhibit. Even the most seasoned of wills and estates practitioners are regularly caught unaware by unexpected error notices or other procedural surprises, born of fine attention to detail and dedicated adherence to proper protocol on the part of the court.

That protocol is set out in great detail in a document known as the “Estates Procedures Manual”. The Manual is a regularly updated living document which sets out in detail the practices and procedures that are followed by the court staff. It deals with a wide range of processes which are managed by the staff of the estates court, including the deposit of wills with the court and access to those wills, the issuing of certificates of appointment of estate trustee under a wide

range of circumstances, passings of accounts, and contentious estates proceedings. While the *Estates Act*, the *Estate Administration Tax Act, 1998* and Rules 74 and 75 of the *Rules of Civil Procedure* set out the bare bones of these processes, the Manual fleshes them out in fine detail for the court staff to bring them to life.

As lawyers specializing in the fields of estates and trusts, we interact with the staff of the estates court on a daily basis. A good understanding of how probate applications are processed can help members of the bar to be aware of what errors and deficiencies in filings will be problematic before the documents leave our offices. The Manual is an invaluable tool in preparing court filings, as it can be referred to in order to clarify what the court staff will be looking for in filed documents, what the substantive requirements are, and how the documents will be processed, examined, and treated.

Adherence to the manual can improve the turnaround times of applications for certificates of appointment by ensuring that common errors and pitfalls are avoided, reducing the need for error notices and re-filings which can add to legal fees and

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 **Hull & Hull LLP Wishes You Happy Holidays &  a Healthy and Prosperous New Year**  

  

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frustration for lawyers and applicants. It will also help the court's staff make more efficient use of their time, decreasing overall wait times.

As the Manual is subject to Crown copyright, we are unfortunately unable to distribute copies. However, it can be obtained through a request under the *Freedom of Information and Protection of Privacy Act*. The contact information for the freedom of information coordinator at Ontario's Ministry of the Attorney General is as follows:

MINISTRY OF THE ATTORNEY GENERAL  
Freedom of Information and Privacy Coordinator  
McMurty-Scott Building  
5th Floor, 720 Bay St.  
Toronto, ON  
M7A 2S9  
Phone: 416-326-4302

In order to obtain a copy, either a letter or an "Access or Correction Request" form under the *Freedom of Information and Protection of Privacy Act* should be sent in to the Ministry of the Attorney General at the above address.

## Breakfast Series

Our next Breakfast Series will be held on Thursday, January 16, 2014. The speakers are Suzana Popovic-Montag, Ian Hull and Jonathon Kappy. The title of the seminar is "Update and Review of Trusts Issues". The Breakfast Series meeting is being held at the Ontario Bar Association, 2nd Floor, 20 Toronto Street, Salons 2 & 3, Toronto, Ontario. Breakfast begins at 8:15 a.m. with the Presentation to follow at 8:30 a.m. A fee of \$30.00 (\$26.55 + \$3.45 HST) is payable to Hull & Hull LLP upon registration by cheque, VISA or MasterCard. To register, please contact Sarah Koslicki at (416) 369-4779 or by e-mail to [skoslicki@hullandhull.com](mailto:skoslicki@hullandhull.com).

The form or letter should specify that the request is for general records (as opposed to records containing personal information). It must contain the requester's information, a description of the Estates Procedures Manual, and should specify that the most current version is being sought. Payment of the applicable \$5 fee, plus a surcharge for photocopies, is necessary. For the latest version of the Manual as of the time of publication of this article, a cheque payable to the Minister of Finance for the total fee of \$29.60, including the \$5 fee and the cost of photocopies, is required.

For assistance in preparing this request, you are welcome to contact Sarah Koslicki at our office, available by telephone at 416-369-1140 and by email at [skoslicki@hullandhull.com](mailto:skoslicki@hullandhull.com). You can also contact the Ministry's Freedom of Information and Privacy Coordinator at the above address. The Estates Procedures Manual is frequently requested, and the Freedom of Information and Privacy Coordinator will likely be familiar with the document.



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The Probater is a quarterly newsletter provided as an information service. It is a summary of current legal issues of concern to estate law practitioners. The comments and articles are not meant as legal opinions and readers are cautioned not to act on information provided without seeking specific advice with respect to the particular situation.

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