



HULL & HULL LLP
Barristers and Solicitors

Advising Clients Regarding Wills Benefitting Charities

It is not uncommon for a testator to choose to leave one or more charity with some form of gift, whether a legacy or a residuary interest, pursuant to a Last Will and Testament. When advising an estate trustee regarding the administration of an estate in which a charity has a financial interest, solicitors should be mindful of the following provisions of the *Charities Accounting Act*, R.S.O. 1990, c. C.10:

Notice of donation to be given to Public Guardian and Trustee

1. 1 (1) Where, under the terms of a will or other instrument in writing, real or personal property or any right or interest in it or proceeds from it are given to or vested in a person as executor or trustee for a religious, educational, charitable or public purpose, or are to be applied by the person for any such purpose, the person shall give written notice to,
 - (a) the person, if any, designated in the will or other instrument as the beneficiary or as the person to receive the gift from the executor or trustee; and
 - (b) the Public Guardian and Trustee, in the case of an instrument other than a will. 2000, c. 26, Sched. A, s. 2 (1).

...

Time for giving notice

(3) The notice shall be given, in the case of an instrument other than a will, within one month after it has been executed, and, in the case of a will, within the same period after the death of the testator. R.S.O. 1990, c. C.10, s. 1 (3).

...

Contents of notice

(5) The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee. 1997, c. 23, s. 3 (2).

Copy of instrument

(6) The notice shall be accompanied by a copy of the will or other instrument; in the case of a notice under clause (1) (b), the Public Guardian and Trustee may require a notarial copy. 2000, c. 26, Sched. A, s. 2 (2).

This section of the *Charities Accounting Act* requires an estate trustee to provide a copy of the Will, along with written notice that the Will benefits the charity, to the Public Guardian and Trustee and to the charity itself within one month of the testator's death, regardless of the nature of the charity's interest in the estate. In light of this tight timeline, it may be prudent to advise estate trustees regarding this obligation when other steps to be taken immediately following death are being discussed.