

FORM P38
(Rule 25-13(2))
AFFIDAVIT IN SUPPORT OF APPLICATION TO PASS ACCOUNTS

General Notes

A personal representative or a person interested in an estate administered by a personal representative (such as a beneficiary or intestate successor) may apply for an order for one or both of the following:

- an order for the passing of the personal representative's accounts in relation to the estate; and/or
- an order to fix and approve the personal representative's remuneration.

In some circumstances, the parties have already approved the accounts of the personal representative but have not fixed his or her remuneration (or vice-versa). Accordingly, the court needs only to pass account or to fix remuneration. Both can be heard together.

Note: The formal passing of accounts before the court is quite rare since in most cases the beneficiaries consent to the accounts without need for a formal passing of accounts before the court. Accordingly, the procedure for passing accounts is not covered in this Guide. To assist users, we are setting out the forms with brief explanations. If there is demand for this procedure eventually, we shall include it in a future update.

Preparation

- ❶ Specify the type of representation/estate grant to which this affidavit applies:
 - a grant of probate;
 - a grant of administration with will annexed;
 - a grant of administration without will annexed;
 - an ancillary grant of probate;
 - an ancillary grant of administration with will annexed;
 - an ancillary grant of administration without will annexed; or
 - the resealing of a foreign grant.
- ❷ Delete the word “except” if not applicable. If there is an exception, describe any compensation that the applicant has been awarded for his/her services as personal representative.
- ❸ List the persons interested in the administration of the estate as beneficiaries of the Deceased.
- ❹ Delete the word “except” if not applicable. If there are beneficiaries under the age of 19 years, list them.

Continued...

FORM P38 (RULE 25-13(2))

This is the *{1st/2nd/3rd/etc.}*
affidavit of *{Name}* in this case and
was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the ❶ Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

**AFFIDAVIT IN SUPPORT OF
APPLICATION TO PASS ACCOUNTS**

I, *{NAME}*, of *{address}*, *{Occupation}*, **SWEAR/AFFIRM THAT:**

1. A ❶ of the estate of *{LEGAL NAME OF DECEASED}*, deceased, was made to me by this court on *{dd/mmm/yyyy}*.
2. I have administered the estate to the best of my ability.
3. I have filed with the registrar a full and correct accounting of the estate, showing all property, money and effects and the proceeds from them that have come into my hands as personal representative, and also a full and correct statement of all disbursements, with a full and correct statement of the assets not yet disposed of.
4. I have not been awarded any compensation for my services as personal representative by this or any other court ❷ except ❷.
5. The persons interested in the administration of the estate as beneficiaries of the deceased are as follows:

(a) ❸ *{NAME(S)}*,

and all of them are of the full age of 19 years ❹ except:

(a) ❹ *{NAME(S)}*,

Continued...

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Preparation *(Continued)*

- ❶ Delete the word “except” if not applicable. If there are any creditors of the estate who still have unsettled (unpaid) claims that the applicant considers to be valid, list the names.
- ❷ Describe the unadministered portion of the estate, for example:

“The residence of the Deceased at {address}.”
- ❸ Insert the reason why a portion of the estate remains unadministered, for example:

“Extensive renovations are being carried on the property and once completed, the applicant will endeavour to sell same.”

Processing

If the application is brought by the personal representative, it must be supported by this affidavit (Probate Rule 25-13(6)(b)).

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6. I know of no creditors of the estate who still have unsettled claims against it that I consider to be valid ❶ except ❶.

(a) ❶ {NAME(S)};

(b) ❶ {NAME(S)}.

7. The only portion of the estate that remains unadministered is as follows: ❷, and the reason it has not been administered is: ❸.

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, {British Columbia},)
this ___ day of _____, 20__)

_____))
A commissioner for taking affidavits)
for British Columbia)
{print name or affix stamp of commissioner})

_____))
{NAME}