

Indian Boarding Homes Class Action

Estate Claims Protocol

Where There is an Executor/Administrator/Trustee/Liquidator

1. The Claimant shall:
 - a. complete the appropriate claim form;
 - b. provide evidence that the Primary Class Member is deceased;
 - c. provide evidence of when the Primary Class Member died; and
 - d. provide evidence that they have been appointed as the Estate Executor of the deceased Primary Class Member's estate.
2. The claim form will contain release, indemnity, and hold harmless provisions in favour of Canada, the representative plaintiffs, Class Counsel, Quebec Subclass Counsel, the Claims Administrator, and the Independent Reviewer.
3. The Claims Administrator will assess the Application in accordance with the Claims Process.
4. Payment of any approved Application will be made payable to "the estate of" the deceased Primary Class Member.

Where There is no Executor/Administrator/Trustee/Liquidator

5. For the purposes of this Estate Claim Protocol, a Claimant includes someone who makes a claim under this Protocol based upon a family relationship to a deceased Primary Class Member whether or not that person is an Estate Executor.
6. The Claimant shall:
 - a. complete the appropriate claim form;
 - b. provide evidence that the Primary Class Member is deceased;
 - c. provide evidence of when the Primary Class Member died;
 - d. provide an attestation/declaration that the Primary Class Member did not have a will and that no executor, administrator, trustee, or liquidator has

- e. been appointed by the court;
 - e. provide proof of their relationship to the Primary Class Member, which may take the form of an attestation/declaration from a third party;
 - f. provide an attestation/declaration from the Claimant that there is/are no higher priority heir(s);
 - g. list all individuals (if any) at the same priority level of heirs as the Claimant; and
 - h. provide the written consent of all individuals (if any) at the same priority level of heirs as the Claimant for the Claimant to submit a claim on behalf of the deceased Primary Class Member.
7. The claim form will contain release, indemnity, and hold harmless provisions in favour of Canada, the representative plaintiffs, Class Counsel, Quebec Subclass Counsel, the Claims Administrator, and the Independent Reviewer.
8. The Claims Administrator will assess the Application in accordance with the Claims Process but will only make a payment for an approved Application or communicate a dismissed Application with a right of reconsideration in accordance with the provisions below. In cases where the Application is dismissed with no right of reconsideration, the Claims Administrator will inform the Claimant in accordance with the Claims Administrator's normal process.
9. If no additional Applications with respect to the same deceased Primary Class Member are received by the Claims Administrator before the expiry of the Claims Deadline and the six month deadline for Request for Deadline Extension, the Claims Administrator shall:
- a. in the case of an Application that is approved, pay the Claimant;
 - b. in the case of an Application that is dismissed, advise the Claimant of the dismissal. The Claimant is able to seek reconsideration in accordance with the Claims Process; and
 - c. in the case of a Category 2 Application that is assessed by the Claims Administrator at a level lower than the Claimant has identified in the Application, advise the applicant of the decision. The Claimant is able to seek reconsideration in accordance with the Claims Process.

10. If the Claims Administrator receives another Application with respect to the same deceased Primary Class Member before the expiry of the Claims Deadline and the six month deadline for Request for Deadline Extension, where the Claimant is the estate executor, administrator, trustee, or liquidator, the Claims Administrator shall dismiss the Application from the non-executor, administrator, trustee, or liquidator Claimant, without any right of reconsideration.

11. If any additional Application(s) with respect to the same deceased Primary Class Member is/are received by the Claims Administrator before the expiry of the Claims Deadline and the six month deadline for Request for Deadline Extension, from a Claimant who is not the estate executor, administrator, trustee, or liquidator, and who is of a different priority level of heirs than the previous Claimant(s), the Claims Administrator shall contact the Claimant with the lower priority to inquire as to whether that Claimant disputes the existence of the higher priority level heir. If the existence of a higher priority level heir is disputed, the matter shall be referred to the Independent Reviewer for a determination regarding which Claimant has the highest valid priority level and deem them to be the Designated Representative of the deceased Primary Class Member. The decision of the Independent Reviewer is final without any right of appeal or judicial review. The Independent Reviewer shall inform the Claims Administrator of their decision, and the Claims Administrator shall:
 - a. in the case of an Application that is approved, pay the Designated Representative;
 - b. in the case of an Application that is dismissed, advise the Designated Representative of the dismissal. The Designated Representative is able to seek reconsideration in accordance with the Claims Process; and
 - c. in the case of a Category 2 Application that is assessed by the Claims Administrator at a level lower than the Designated Representative has identified in the Application, advise the Designated Representative of the decision. The Designated Representative is able to seek reconsideration in accordance with the Claims Process.

12. If any additional Application(s) with respect to the same deceased Primary Class Member is/are received by the Claims Administrator before the expiry of the Claims

Deadline and the six month deadline for Request for Deadline Extension, from a Claimant who is not the estate executor, administrator, trustee, or liquidator and who is of the same priority level of heirs as the previous Claimant(s), the Claims Administrator shall reject all of the Applications and notify each Claimant accordingly.

Notwithstanding the Claims Deadline and the six month deadline for Request for Deadline Extension, the Claimants who submitted competing Applications will then have three months to submit one new Application signed by all previously competing Claimant designating one Designated Representative on behalf of all of them and any other heirs. Upon receipt of the new Application, the Claims Administrator shall:

- a. in the case of an Application that is approved, pay the Designated Representative;
- b. in the case of an Application that is dismissed, advise the Designated Representative of the dismissal. The Designated Representative is able to seek reconsideration in accordance with the Claims Process; and
- c. in the case of a Category 2 Application that is assessed by the Claims Administrator at a level lower than the Designated Representative has identified in the Application, advise the Designated Representative of the decision. The Designated Representative is able to seek reconsideration in accordance with the Claims Process.

Priority Level of Heirs

13. The priority level of heirs follows the distribution of property intestacy provisions of the *Indian Act* and all terms have the definitions as set out in the *Indian Act*.



14. The priority level of heirs from highest to lowest priority are as follows:
- a. surviving spouse or common-law partner;
 - b. children;
 - c. grandchildren;
 - d. parents;
 - e. siblings; and
 - f. children of siblings;
 - g. court.