



# INDUSTRIAL WORKERS OF THE WORLD

VANCOUVER GENERAL MEMBERSHIP BRANCH

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## **Trust Funds for Children Working In Film, TV and TV Commercials**

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*This Employment Standards Factsheet is also available in a [printable pdf format](#)*

In British Columbia, the *Employment Standards Act* sets minimum standards of wages and terms of employment for most workers. The Director of Employment Standards also has the legal authority to set conditions of work for any child under 15 years of age.

Special conditions have been developed for children under 15 years of age working in the film, television and television commercial industry. These conditions were developed in consultation with directors, producers, agents, actors and parents. They cover hours of work, education, and workplace safety.

Also included in these conditions is a requirement that, once a child under 15 years of age earns more than \$5,000 during his or her lifetime, 25 percent of his or her gross earnings must be remitted to the Public Guardian and Trustee to be held in trust for the child.

### **Why are child actors' earnings put in trust?**

The law and the courts have recognized for many years that children's financial rights are independent of their parents and families. Because children cannot legally enter into contracts, someone else usually has to manage the child's income for them.

The nature and history of the film and television industry has led almost all jurisdictions to put rules in place to look after the financial interests of child actors.

Unlike most other employment relationships, child actors are often very young and may have substantial earnings. It is also not uncommon for a child actor's earnings to be paid to someone other than the performer.

### **Why 25 percent?**

The 25 percent figure is based on Canadian and U.S. case law on employment contracts for child actors. In some cases the courts have ordered a larger percentage be held in trust where it is in the best interests of the child.

### **Who is the Public Guardian and Trustee?**

The Public Guardian and Trustee was established in 1963 to:

- Protect the legal rights and financial interests of children under the age of 19.
- Protect the legal rights and financial interests of adults who are unable to manage their own affairs.

- Administer the estates of deceased persons where there is no one else willing or able.
- Administer the estates of missing persons.

The Public Guardian and Trustee is an independent and impartial public official who is accountable to clients, the court and the public at large.

### **What happens to money held in trust by the Public Guardian and Trustee?**

The Public Guardian and Trustee invests money in accordance with the *Public Guardian and Trustee Act*. The circumstances of each child are taken into account when investment decisions are made. Generally speaking, money held in trust is placed in secure investments that produce reasonably good rates of return. The trust assets are protected from unacceptable levels of risk.

### **Can money held by the Public Guardian and Trustee be released prior to age 19?**

The funds paid to the Public Guardian and Trustee are not released prior to age 19 except in certain limited circumstances. The intent of the legislation is to make sure that at least 25 percent of all a child actor's earnings over \$5,000 will be available to the child when they reach the age of majority. It is expected that legitimate costs associated with furthering the child's career will be paid out of the remaining 75 percent of the earnings.

### **Does the Public Guardian and Trustee provide accounts?**

The Public Guardian and Trustee will provide a full accounting of a child's trust account to a child's legal guardian(s) or to a child upon request. Requests can be made in writing, addressed to:

Child and Youth Services  
Public Guardian and Trustee  
700-808 West Hastings Street  
Vancouver, British Columbia  
V6C 3L3  
Phone: (604) 775-3480  
Fax: (604) 775-3479

A full accounting can usually be provided within a few days of receiving a request.

### **What does the Public Guardian and Trustee charge for administering funds?**

Establishing and managing trust funds involves certain legal and administration costs.

The Public Guardian and Trustee's charges under the Public Guardian and Trustee Act regulations for trust management are comparable to charges made by other financial institutions performing similar tasks.

Fees may be reduced or waived in the interest of fairness or to prevent undue hardship. Consideration of fee waivers is by application to the Child and Youth Services at the Public Guardian and Trustee.

### **How long is the money held in trust?**

When a child is 15, the Public Guardian and Trustee writes to the child's legal guardian(s) to make sure the Public Guardian and Trustee has a correct address for the child and, if the guardian(s) agrees, the Public Guardian and Trustee will send the child and the guardian(s) a copy of the child's trust accounting at age 18.

Shortly before the child's 19th birthday, he or she will receive a final accounting, which they will be asked to approve. The funds will be released to the child on or after their 19th birthday along with all interest earned while the funds were invested with the Public Guardian and Trustee (minus the Public Guardian and Trustee's charges).

### **Why is money only paid into trust until age 15?**

Fifteen is the minimum working age under international conventions to which Canada is a signatory. Employment of a child under 15 is subject to the approval of the relevant administrator of labour legislation. In British Columbia, this is the Director of Employment Standards.

Once an individual turns 15 their employment is no longer subject to special conditions set by the Director of Employment Standards.

### **What happens to the other seventy-five percent of a child actor's earnings?**

The other seventy-five percent of a child actor's earnings is not regulated by legislation. If the money is paid to a child's guardians, the guardians are expected to invest and manage the money in the best interests of their child. Their obligations are similar to those of a trustee: to invest their child's money in accordance with the Trustee Act and use only the amount of money which is required for the child's career, education and benefit. Money remaining after the child's expenses are met should be held for the child until they turn 19.

### **Is there any monitoring of the seventy-five percent not held by the Public Guardian and Trustee?**

Under section 17 of the *Public Guardian and Trustee Act*, the Public Guardian and Trustee may investigate and audit the affairs, dealings and accounts of trust money held on behalf of a young person if the Public Guardian and Trustee has reason to believe that the assets of the young person may be at risk or that the decision maker has failed to comply with their duties.

It is important to note that it is not lawful to assign a child actor's earnings to another person or to a company.

### **Remittances**

Remittances must be made to Child and Youth Services, Public Guardian and Trustee. They should be made at the end of each pay period. Cheques should be made payable to the Public Guardian and Trustee of British Columbia in trust for [child actor's full name]. A letter or form accompanying the remittance should indicate:

- The child's name, address and Social Insurance No.;
- The reason(s) for the remittance;
- The name, address, telephone and fax number for the person responsible for the remittance, and

- Dates covered in the pay period.

On receipt of the initial remittance, the Public Guardian and Trustee will provide written confirmation that a trust account has been established in the child's name as well as a contact phone number and account number.

For children who are non-residents of B.C., working in B.C., who earn more than \$5000 in their lifetime, 25 percent of their earnings must be forwarded to the Public Guardian and Trustee in B.C. Should the non-resident child want the 25 percent transferred from the Public Guardian and Trustee in B.C. to their blocked trust account in their home region, they must receive advance written approval from the Public Guardian and Trustee.