



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Employment Standards Act* and Regulation for purposes of interpretation and application of the law.

July 2016

Public Guardian and Trustee

Trust Funds for Children Working in the Recorded & Live Entertainment Industries

In British Columbia, minimum standards of wages and terms of employment for most employees are set under the *Employment Standards Act* and Regulation. There are specific regulations for children working in the recorded and live entertainment industries. One of them addresses earnings.

When a child under the age of 15 earns more than \$2,000 on a recorded production, 25% of his or her gross earnings over \$2,000 must be remitted to the Public Guardian and Trustee (PGT) to be held in trust for the child.

When a child under the age of 15 earns more than \$1,000 in a week on a live performance, 25% of his or her earnings over \$1,000 must be remitted to the PGT to be held in trust for the child.

Why are young actors' earnings held in trust?

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

The law has recognized for many years that a child's financial rights are independent of his or her parents and families.

Because a child cannot legally enter into contracts, someone else usually has to manage the child's income.

Why 25 percent?

The figure of 25% is based on Canadian and American case law related to employment contracts for children. In some cases the courts have ordered a larger percentage to be held in trust where it is in the best interests of the child.

Who is the Public Guardian and Trustee (PGT)?

The Public Guardian and Trustee was established in 1963 under the *Public Guardian and Trustee Act*. One of the mandates of the PGT is to protect the legal rights and financial interests of children and youth under the age of 19.

The PGT carries out its decision-making responsibilities to its clients independent of government.

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

The PGT invests money in accordance with the *Public Guardian and Trustee Act* and Regulation. The circumstances of each child are taken into account when investment decisions are made.

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Generally speaking, money held in trust is placed in secure investments that produce reasonable rates of return.

Can money held by the PGT be released prior to age 19?

The intent of the legislation is to make sure that at least 25% of a young actor's earnings over \$2,000 per recorded production or 25% of earnings over \$1,000 per week for a live production will be available to the child when he or she reaches 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% of the earnings. For this reason, the funds paid to the PGT are not released prior to age 19 except in certain limited circumstances.

Does the PGT provide an accounting of money held in trust?

The PGT will provide a full accounting of a child's trust account to a child's legal guardian(s) or to a child upon request. Preferably, requests should 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
cys@trustee.bc.ca
<http://www.trustee.bc.ca/>

A full accounting can usually be provided within a few days of receiving a request. It is provided automatically when the child turns 17 and again shortly before the child's 19th birthday.

What does the PGT charge for administering funds?

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

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

These charges can be found on the PGT website at <http://www.trustee.bc.ca/> and include:

- 3.75% of the amount received;
- 3.75% of the income earned on it;
- 0.7% per annum, computed monthly, on the gross value of all assets.

Fees may be reduced or waived in the interest of fairness or to prevent undue hardship. Consideration of fee reductions may be requested by application to the Director of Child and Youth Services at the PGT.

How long is the money held in trust?

When a child is 17, the PGT contacts the child's legal guardian(s) to begin planning for the time the trust funds will be disbursed. The PGT will involve the child in the process unless the parent or guardian objects. The PGT will send an information package containing information on the present value of the trust account.

Shortly before the young person's 19th birthday, he or she will receive a final accounting to be approved and a Request for Distribution form for the young person to sign after his or her 19th birthday. The funds will then be released along with all interest earned while the funds were invested with the PGT, minus the PGT's charges.

Why is money only paid into trust until age 15?

Under the *Employment Standards Act*, a child under the age of 15 cannot be employed without the written consent of his or her parent or guardian. Once a young person turns 15 the parent or guardian's written consent is no longer required.

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What happens to the other 75 percent of a young actor's earnings?

The other 75% of a young actor's earnings over \$2,000 on a recorded production or \$1,000 per week on a live performance (and 100% of earnings under these amounts), is not required to be remitted to the PGT. If these earnings are paid to a child's parent or guardian, the parent or guardian is expected to invest and manage the money in the best interests of the child.

The parent or guardian's obligations are similar to those of a trustee: to invest the child's money in accordance with the Trustee Act and use only the amount of money that 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 he or she turns 19.

Is there any monitoring of the 75 percent not held by the Public Guardian and Trustee?

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

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

Remittances to the Public Guardian and Trustee

Remittances must be made at end of each pay period, concurrent with the date of the pay cheque to the young person (employee). The cheque must be made payable to the "Public Guardian and Trustee of British Columbia in trust for Child's Full Name". If a record is required of the child's stage name, the cheque reference line or the cheque stub may be used for this purpose.

The PGT requires the following information the first time a child's earnings are remitted:

- The child's full legal name;
- The child's mailing address, including the postal code;
- The child's social insurance number;
- The full name of the child's parent/legal guardian(s);
- The parent/legal guardian's mailing address, including the postal code, if different from the child's address;
- The daytime telephone number of the child's parent/legal guardian(s);
- A copy of the pay statement provided to the child;
- A copy of the form "Young Person's Employment, Written Consent by Parent or Guardian";
- A copy of the child's birth certificate; and
- Dates covered by the remittance.

The PGT provides written confirmation to the employer (payer) and the parent/legal guardian(s) of the trust account established in the child's name, the account number, and a contact telephone number.