

NEW BONA VACANTIA APPLICATIONS TO BE MADE WITH THE PUBLIC TRUSTEE FROM 15 FEBRUARY 2013

1. From 15 February 2013, members of the public who wish to make claims against ownerless assets (also known as Bona Vacantia (BV) assets¹) may do so with the Public Trustee (PT)².
2. This change follows the passing of the amendments to the Civil Law Act (see Annex A for Civil Law (Amendment) Bill fact sheet) in October 2012 in two key areas:
 - (a) Expanding the categories of BV assets available for distribution to legitimate claimants, to cover non-estate properties³; and
 - (b) Allowing the Minister for Law to assign specific functions for the distribution of BV assets to the PT.

Claiming BV Estates

3. Applicants who wish to submit claims to BV assets, are advised to follow the steps set out below. Applicants may be individuals, charities or hospices (see Annex B for an example of a hospice making a claim).

Step 1	Ensure that the estate concerned is valued at \$50,000 or below.
Step 2	Make an appointment with the Insolvency and Public Trustee's Office via email: ipto_pt_trust@ipto.gov.sg or phone: 6325 1500

¹ Bona Vacantia assets refer to the assets of persons who have died without leaving a will and without any surviving next-of-kin who may be entitled to inherit the assets.

² The Public Trustee administers and distributes the un-nominated CPF and estate monies of deceased in accordance with the Intestate Succession Act, subject to eligibility conditions.

³ These include:

- (i) CPF money for which no prior or valid nomination was made (sections 24(3A) and 25 of the CPF Act);
- (ii) Edusave and Post-Secondary Education Fund money (sections 16 and 16H of the Education Endowment and Savings Schemes Act); and
- (iii) Money placed in a Child Development Account (section 6 of the Child Development Co-Savings Act).

Muslim estates are excluded as such monies will be paid in accordance with Muslim inheritance laws.

Step 3	Pay an application fee of \$50 (including GST) for each claim submitted to the PT.
Step 4	Prove that the deceased had no surviving next-of-kin entitled to inherit the assets and produce the necessary documents and evidence to support your equitable or moral claim.

PT's assessment of claims

4. The PT will assess all claims on their respective merits, taking into account factors such as the deceased's wishes and the relationship between the deceased and the claimants (see Annex C for the factors which the PT will consider).

5. The PT may, depending on the type of assets, wait for a period of time from the date of death before processing the claims. This is a safeguard to ensure that any surviving next-of-kin entitled to inherit the assets will have sufficient time to submit their claim to the PT.

6. In addition, the PT can only administer estates which are valued at \$50,000 or lower (see Annex D). Applicants who wish to lodge claims involving immovable property such as HDB flats or apartments, or assets which amount to more than \$50,000, would have to engage their own lawyers to assist with their claims. For more details, please refer to the Insolvency and Public Trustee's website at www.ipto.gov.sg/by.

**14 FEBRUARY 2013
INSOLVENCY AND PUBLIC TRUSTEE'S OFFICE
MINISTRY OF LAW**

About the Insolvency & Public Trustee's Office

The Insolvency & Public Trustee's Office (IPTO) in Singapore is a department under the Ministry of Law. IPTO oversees the administration of individual and corporate insolvencies, the administration of small intestate estates and un-nominated Central Provident Fund (CPF) monies, as well as the licensing and regulation of moneylenders and pawnbrokers. For more information, please visit www.ipto.gov.sg.

ANNEX A

FACT SHEET
The Civil Law (Amendment) Bill 2012

A. Overview

1. **Affected Acts.** The Civil Law (Amendment) Bill 2012 proposes amendments to the Civil Law Act (CLA) and the Public Trustee Act (PTA).
2. **Background.** When a person dies intestate with no entitled next-of-kin, his assets will devolve to the Government by virtue of the Intestate Succession Act⁴. Section 27 of the CLA in turn confers a discretion on the Minister for Law to distribute such ownerless assets (known as “*bona vacantia*” (BV)) to persons who can establish an “equitable or moral” claim, rather than being accrued to the Government’s Consolidated Fund.
3. Such equitable or moral claimants are typically persons whom the deceased may have reasonably expected to leave his assets to. This could be in recognition of their close relationship with the deceased or for the care rendered to the deceased during his lifetime⁵.
4. **Key changes.** In order to better address the range of situations that could arise, the Civil Law (Amendment) Bill seeks:
 - (i) To expand the categories of assets available for distribution, and clarify the scope and process for the disposition of assets under that section; and
 - (ii) To empower the Minister, under the PTA, to assign functions to the Public Trustee (PT) for the distribution of BV assets to deserving claimants.

B. Summary of Key Changes

- (i) **Expanding the categories of assets and to clarify how they are distributed**

⁴ This Act provides the rules of distribution for the assets of a person who dies intestate (i.e. without a will or one that is defective).

⁵ On average, the Minister for Law deals with 1 to 2 cases per year, and these have generally been in relation to persons with quasi-family ties who regarded the deceased as a family member, or to nursing homes to help defray unpaid expenses incurred in caring for the deceased during his residence.

5. Presently, certain categories of property are deemed by law not to form part of a deceased person's estate after his death⁶ (Non-Estate Properties). As a result, Non-Estate Properties cannot be distributed to deserving claimants, since section 27 of the CLA applies only to assets of a deceased's estate.
6. The rationale for excluding these Non-Estate Properties from a deceased's estate is to ensure that these Non-Estate Properties are protected from a deceased's creditors for the benefit of the entitled next-of-kin. However, this reason does not apply where there is no entitled next-of-kin.
7. The amendments will bring such Non-Estate Properties within the ambit of the Minister for Law's BV discretion. The other amendments in the Bill are of a technical nature.

(ii) Assignment of functions to the PT

8. The Bill makes related amendments to the PTA to allow the Minister to assign specific functions for the distribution of BV assets to the PT⁷.
9. Given that the PT already administers small estates of deceased persons of up to \$50,000⁸, the PT has the expertise to deal with BV cases. The amendments will capitalise on this.

C. Conclusion

10. This Bill is part of the Ministry of Law's continued law reform efforts. It will further clarify the scope of Minister's role in relation to equitable or moral claimants, and enhance internal processes to deal with such claims.

**MINISTRY OF LAW
10 SEPTEMBER 2012**

⁶ These include:

- (i) CPF money for which no prior or valid nomination was made (sections 24(3A) and 25 of the CPF Act);
- (ii) Edusave and Post-Secondary Education Fund money (sections 16 and 16H of the Education Endowment and Savings Schemes Act); and
- (iii) Money placed in a Child Development Account (section 6 of the Child Development Co-Savings Act).

⁷ These functions include an assessment that the claim falls within the scope of section 27 CLA, and of the strengths of the moral and equitable claims.

⁸ Section 6 of Probate and Administration Act and section 6 of Public Trustee Act.

ANNEX B

Example of a hospice making a BV claim

A hospice applied to claim the bona vacantia estate of a deceased person under their care on the basis that it had provided nursing home services to the deceased during her lifetime and performed the necessary funeral rites after she passed on.

The deceased, who was single, was in the terminal stage of illness when she was transferred to the hospice. Her parents had passed away and she had no relatives. The deceased had indicated that she had wanted to donate her savings to the hospice. The deceased had also signed a document entrusting \$5,000 to the hospice for funeral-related expenses.

As the hospice had sufficiently established a moral and equitable claim to the deceased's estate, the estate was transferred to the hospice.

ANNEX C

Persons who can make BV claims on equitable or moral grounds

In assessing whether an “equitable or moral claim” is made out within the meaning of section 27 (3) of the Civil Law Act, the Public Trustee may take into consideration the following factors and circumstances:

- a. The length and nature of the relationship between the deceased and the claimant;
- b. Any legal or moral obligations which the deceased had towards the claimant;
- c. The way in which the claimant behaved towards the deceased including the contribution (if any) made by the claimant to the welfare of the deceased; and
- d. The deceased’s last wishes.

Every claim is assessed on a case-by-case basis and on its individual merits as supported by evidence.

ANNEX D

Administration of estates ≤ \$50,000

The Public Trustee can only administer estates that are ≤ \$50,000 if these meet the criteria below:

1. No pending applications for Letter of Administration or Grant of Probate;
2. Estate does not exceed \$50,000 in value;
3. Estate does not have any outstanding debts or liabilities;
4. Deceased does not own a commercial vehicle or a vehicle with an outstanding loan;
5. Deceased does not hold a Trust bank account with a minor;
6. Deceased does not own an insurance policy that falls under section 73 of the Conveyancing and Law of Property Act (Cap 61);
7. Deceased does not have shares or other interests in unlisted companies (foreign or local);
8. There are no conflicting claims to the estate or disputes among beneficiaries;
9. Deceased is not a partner, sole proprietor or has interests in firms or other businesses;
10. Deceased is not the sole lessee (owner) of a HDB flat and there are no minor interests; and
11. There are no pending law suits which involve the deceased.