

ADMINISTRATION AND PROBATE

No. 20 of 1965

An Ordinance to amend the *Administration and Probate Ordinance 1929-1960*.

1.—(1.) This Ordinance may be cited as the *Administration and Probate Ordinance 1965*.*

Short title
and citation.

(2.) The *Administration and Probate Ordinance 1929-1960*† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Administration and Probate Ordinance 1929-1965*.

2. This Ordinance shall come into operation on the first day of January, One thousand nine hundred and sixty-six.

Commence-
ment.

3. Section four of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ 4. This Ordinance is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1-5).

Part II.—Administration (Sections 6-8).

Part III.—Grant of Representation.

Division 1.—Jurisdiction of the Court (Sections 9-32B).

Division 2.—Caveats (Sections 33-38).

Division 3.—Effect of Grant of Representation (Sections 38A-49).

Division 4.—Rights, Powers, Duties and Liabilities of Executors and Administrators (Sections 50-69).

Division 5.—Commission, Charges and Costs (Sections 70-74).

Part IV.—Small Estates (Sections 75-79).

Part V.—Recognition of Foreign Grants (Sections 80-83).

* Made on 17 December, 1965; notified in the *Commonwealth Gazette* on 21 December, 1965.
† Ordinance No. 18, 1929, as amended by Ordinance No. 11, 1930; No. 13, 1932; No. 9, 1933; Nos. 2 and 6, 1934; Nos. 3, 13 and 27, 1937; No. 35, 1938; No. 7, 1943; No. 15, 1947; No. 16, 1950; No. 5, 1953; No. 2, 1954; and No. 6, 1960.

- Part VI.—Curator of Estates of Deceased Persons (Sections 84-109).
 Part VII.—Testator's Family Maintenance (Sections 110-117).
 Part VIII.—Procedure (Sections 121-124).
 Part IX.—Miscellaneous (Sections 125-129A).
 Part X.—Fees (Section 130).”.

Definitions.

4. Section five of the Principal Ordinance is amended—
- (a) by inserting before the definition of “ Administrator ” the following definition:—
- “ ‘ Acting Curator ’ means a person appointed to act in the office of Curator of Estates of Deceased Persons under sub-section (3.) of section eight of this Ordinance;
- “ ‘ Acting Deputy Curator ’ means a person appointed to act in the office of Deputy Curator of Estates of Deceased Persons under sub-section (3.) of section eight of this Ordinance;
- “ ‘ Acting Deputy Registrar ’ means a person appointed to act in the office of Deputy Registrar of Probates under sub-section (3.) of section seven of this Ordinance;
- “ ‘ Acting Registrar ’ means a person appointed to act in the office of Registrar of Probates under sub-section (3.) of section seven of this Ordinance;”;
- (b) by omitting the definitions of “ the Court ”, “ the Curator ” and “ Deceased person ” and inserting in their stead the following definitions:—
- “ ‘ Commonwealth country ’ means—
- (a) the States and Territories of the Commonwealth other than the Australian Capital Territory; and
- (b) the countries specified in the Fifth Schedule to this Ordinance,
- and includes—
- (d) a colony, overseas territory or protectorate of a country specified in the Fifth Schedule to this Ordinance; and

- (e) a territory for the international relations of which a country so specified is responsible;
- “ ‘deceased person’ or ‘the deceased’ means a person dying on or after the first day of July, One thousand nine hundred and twenty-nine;
- “ ‘Deputy Curator’ means the Deputy Curator of Estates of Deceased Persons appointed under section eight of this Ordinance;
- “ ‘Deputy Registrar’ means the Deputy Registrar of Probates appointed under section seven of this Ordinance;”;
- (c) by inserting after the definition of “Distribute” the following definition:—
- “ ‘election’ means an election to administer the estate or a part of the estate of a deceased person;”;
- (d) by omitting the definition of “portion of His Majesty’s Dominions”;
- (e) by omitting the definitions of “Registrar” and “Registrar of Titles”;
- (f) by inserting after the definition of “Rules” the following definitions:—
- “ ‘the Court’ means the Supreme Court;
- “ ‘the Curator’ means the Curator of Estates of Deceased Persons appointed under section eight of this Ordinance, and includes—
- (a) the Deputy Curator;
- (b) an Acting Curator; and
- (c) an Acting Deputy Curator, when exercising a power or function of the Curator;
- “ ‘the Registrar’ means the Registrar of Probates appointed under section seven of this Ordinance, and includes—
- (a) the Deputy Registrar;
- (b) an Acting Registrar; and
- (c) an Acting Deputy Registrar, when exercising a power or function of the Registrar;

“ ‘ the Registrar of Titles ’ means the Registrar of Titles appointed under the *Real Property Ordinance 1925-1963*;”;

(g) by omitting the definition of “ the Seal of the Court ” and inserting in its stead the following definitions:—

“ ‘ the seal of the Court ’ means the seal referred to in section seven B of this Ordinance;

“ ‘ will ’ includes a codicil;”;

(h) by adding at the end thereof the following sub-section:—

“ (2.) In this Ordinance, unless the contrary intention appears, a reference to a public trustee, in relation to a country, shall be read as including a reference to an officer of that country who is entitled under a law of that country to apply, in a case where a deceased person has died intestate leaving no next of kin, to a court for an order that authorizes the officer to administer the estate of the deceased person.”.

5. Sections seven and eight of the Principal Ordinance are repealed and the following sections inserted in their stead:—

“ 7.—(1.) For the purposes of this Ordinance, there shall be a Registrar of Probates, who shall be appointed by the Attorney-General.

“ (2.) The Attorney-General may appoint a person to be the Deputy Registrar of Probates.

“ (3.) The Attorney-General may appoint a person to act in the office of Registrar of Probates or Deputy Registrar of Probates during any vacancy in the office, or in the event of any illness or absence, of the Registrar of Probates or Deputy Registrar of Probates, as the case may be.

“ 7A.—(1.) A person appointed under sub-section (3.) of the last preceding section to act in the office of Registrar of Probates has all the powers, and shall perform all the duties and functions, of the Registrar of Probates during any vacancy in the office, or in the event of any illness or absence, of the Registrar of Probates.

“ (2.) The Deputy Registrar of Probates may, subject to any directions of the Registrar, exercise any power or perform any function of the Registrar.

Registrar
of Probates,
and other
officers.

Powers of
Acting
Registrar,
Deputy
Registrar, &c.

“ (3.) A person appointed under sub-section (3.) of the last preceding section to act in the office of Deputy Registrar of Probates may, subject to any directions of the Registrar, exercise any power and perform any function of the Registrar during any vacancy in the office, or in the event of any illness or absence, of the Deputy Registrar of Probates.

“ 7B.—(1.) The Registrar shall have a seal and a stamp, for use under this Ordinance, the respective designs of which shall be determined by the Attorney-General.

Seal and
stamp of the
Registrar.

“ (2.) A document that is required by this Ordinance to be sealed with the seal of the Court may be stamped with the stamp referred to in the last preceding sub-section and, when so stamped, has the same force and effect as if it had been sealed with the seal referred to in that sub-section.

“ (3.) The Registrar, the Deputy Registrar, an Acting Registrar, and an Acting Deputy Registrar may each have a stamp for affixing on documents marks that are facsimiles of his signature.

“ (4.) Instead of signing his name on a document or on a copy of or an extract from a document in pursuance of, or for the purposes of, a provision of this Ordinance, the Registrar, the Deputy Registrar, an Acting Registrar or an Acting Deputy Registrar, as the case may be, may cause the document, copy or extract to be stamped with the stamp referred to in the last preceding sub-section, and the document, copy or extract shall then be deemed to have been signed by him.

“ (5.) All courts and all persons acting judicially shall take judicial notice of a seal or stamp referred to in this section affixed on a document or a copy of or extract from a document and, in the absence of proof to the contrary, shall presume that it was affixed by proper authority.

“ 8.—(1.) For the purposes of this Ordinance, there shall be a Curator of Estates of Deceased Persons, who shall be appointed by the Attorney-General.

Curator of
Estates of
Deceased
Persons.

“ (2.) The Attorney-General may appoint a person to be the Deputy Curator of Estates of Deceased Persons.

“ (3.) The Attorney-General may appoint a person to act in the office of Curator of Estates of Deceased Persons or Deputy Curator of Estates of Deceased Persons during any vacancy in the office, or in the event of any illness or absence, of the Curator of Estates of Deceased Persons or Deputy Curator of Estates of Deceased Persons, as the case may be.

Powers of
Acting Curator,
Deputy
Curator, &c.

“8A.—(1.) A person appointed under sub-section (3.) of the last preceding section to act in the office of Curator of Estates of Deceased Persons has all the powers, and shall perform all the duties and functions, of the Curator of Estates of Deceased Persons during any vacancy in the office, or in the event of any illness or absence, of the Curator of Estates of Deceased Persons.

“ (2.) The Deputy Curator of Estates of Deceased Persons may, subject to any directions of the Curator, exercise any power or perform any function of the Curator.

“ (3.) A person appointed under sub-section (3.) of the last preceding section to act in the office of Deputy Curator of Estates of Deceased Persons may, subject to any directions of the Curator, exercise any power and perform any function of the Curator during any vacancy in the office, or in the event of any illness or absence, of the Deputy Curator of Estates of Deceased Persons.

Seal and stamp
of the Curator.

“8B.—(1.) The Curator shall have a stamp, the design of which shall be determined by the Attorney-General.

“ (2.) The Curator, the Deputy Curator, an Acting Curator, and an Acting Deputy Curator may each have a stamp for affixing on documents marks that are facsimiles of his signature.

“ (3.) Instead of signing his name on a document or on a copy of or an extract from a document in pursuance of, or for the purposes of, a provision of this Ordinance, the Curator, the Deputy Curator, an Acting Curator or an Acting Deputy Curator, as the case may be, may cause the document, copy or extract to be stamped with the stamp referred to in the last preceding sub-section, and the document, copy or extract shall then be deemed to have been signed by him.

“ (4.) All courts and all persons acting judicially shall take judicial notice of a stamp referred to in this section affixed on a document or a copy of or extract from a document and, in the absence of proof to the contrary, shall presume that it was affixed by proper authority.”

Probate or
administration
may be granted.

6. Section nine of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“ (2.) The Court shall have jurisdiction to grant probate of the will, or administration of the estate, of a deceased person who did not leave property, whether real or personal, within the Territory, if the Court is satisfied that the grant of probate or administration is necessary.”

7. After section nine of the Principal Ordinance the following sections are inserted:—

“9A.—(1.) Probate of the will, or administration of the estate, of a person may be granted by the Court if it is satisfied, by direct evidence or by evidence supporting a presumption of death, that the person is, or may be presumed to be, dead. Evidence of death.

“(2.) A grant of probate of the will, or administration of the estate, of a person made upon direct evidence of the death of the person or upon evidence supporting a presumption of the death of the person is valid notwithstanding that the person is, after the day on which the grant was made, found to have been alive on that day.

“9B.—(1.) Where the Court makes a grant of probate of the will, or administration of the estate, of a person upon evidence supporting a presumption of the death of the person— Grant on presumption of death.

- (a) the grant shall be expressed to be made on presumption of the death of the person;
- (b) the estate of the person shall not be distributed without the leave of the Court;
- (c) the Court may, in the probate or administration or by an order made at any time, give leave to distribute the estate;
- (d) the Court may, in giving leave to distribute the estate of the person, direct that the distribution shall not be made unless each person who is to take under the distribution gives an undertaking or security that he will, if the probate or administration is revoked, restore the property received by him under the distribution to the person entitled to it, or pay to that person an amount equal to the value of that property; and
- (e) the Court may direct the executor or the administrator to give, before he distributes the estate, such notices (including a notice specifying a date before which a caveat against the distribution of the estate may be lodged with the Registrar) as the Court thinks fit.

“(2.) Where an executor or administrator of an estate has given the notices that the Court has, under the last preceding sub-section, directed him to give before distributing the estate, the executor or administrator—

- (a) may, subject to the next succeeding sub-section, after the expiration of the period specified in the notices, distribute the estate among the persons

entitled to it, having regard only to the claims of which the executor or administrator has notice at the time of the distribution; and

- (b) is not liable, in respect of any part of the estate so distributed, to a person entitled to that part of whose claim he did not have notice at the time of the distribution.

“(3.) Where a caveat against the distribution of an estate has been lodged with the Registrar under sub-section (1.) of this section—

- (a) the executor or administrator shall not distribute the estate among the persons entitled to it except in pursuance of an order of the Court under the next succeeding sub-section; and
- (b) the executor or administrator, the person who lodged the caveat or a person interested in the distribution of the estate may make application to the Court for an order under the next succeeding sub-section.

“(4.) The Court may, upon application under paragraph (b) of the last preceding sub-section, make an order authorizing the executor or administrator of an estate to distribute the estate among the persons entitled to it notwithstanding the lodging of a caveat under sub-section (1.) of this section.

“(5.) An order under the last preceding sub-section may authorize the distribution of the estate subject to such conditions as the Court thinks fit.”.

When probate
may be issued
by Registrar.

8. Section ten of the Principal Ordinance is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) The Registrar shall not, without an order of the Court, issue probate of the will, or administration of the estate, of a deceased person—

- (a) in any case where a caveat has been lodged;
- (b) in any case where there is no direct evidence of the death of the person but only evidence supporting a presumption of the death of the person; or
- (c) in any case which it appears to the Registrar to be doubtful whether the probate or administration should be granted.”.

9. Section ten A of the Principal Ordinance is amended by inserting in paragraph (b), after the word “newspaper”, the words “published and”.

Sealing of probate and letters of administration.

10. After section ten A of the Principal Ordinance the following sections are inserted:—

“10B. The Court may, if it thinks fit, grant probate to one or more of the executors named in a will reserving leave to the executor who has not renounced, or the executors who have not renounced, to come in and apply for a grant of probate at a future time.

Grant to one executor reserving leave to others to apply.

“10C. Where a deceased person has named the public trustee of a State or Territory of the Commonwealth as an executor of his will, the Court may grant probate of the will to that public trustee.”.

Court may grant probate to public trustee named as executor.

11. Section fourteen of the Principal Ordinance is repealed and the following section inserted in its stead:—

“14.—(1.) Subject to this section, a person (including a trustee company) to whom a grant of administration is made shall, before the issue of the administration, enter into, and file with the Registrar, a bond in accordance with the form prescribed by the rules, with such one or more sureties as the Registrar thinks fit, for duly collecting, getting in and administering the real and personal estate of the deceased person.

Administration bond to be given.

“(2.) The bond shall provide for the payment of the amount of the penalty specified in it to the Registrar for the time being.

“(3.) Sub-section (1.) of this section does not apply in relation to administration granted to—

- (a) the Curator;
- (b) a person on behalf of the Crown;
- (c) a trustee company in a case where the company is exempted by law from the obligation of having to enter into and file the bond required by that sub-section; or
- (d) the public trustee of a State or Territory of the Commonwealth.”.

12. Section fifteen of the Principal Ordinance is amended by omitting the words “one or both of the sureties” and inserting in their stead the words “some or all of the sureties”.

Amount of penalty on administration bond.

Powers of Registrar as to sureties, penalty, &c.

13. Section sixteen of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “Five hundred pounds, dispense with one or both of the sureties,” and inserting in their stead the words “One thousand pounds, dispense with sureties”; and
- (b) by omitting from paragraph (b) of sub-section (1.) the word “two” and inserting in its stead the words “one or more”.

14. After section eighteen of the Principal Ordinance the following section is inserted:—

Probate or administration may be revoked or further bond required.

“18A.—(1.) At any time after probate of the will, or administration of the estate, of a deceased person has been granted, the Court or the Judge may, upon the motion of a person who is interested in the estate, revoke the probate or administration, as the case may be.

“(2.) At any time after administration of the estate of a deceased person has been granted, the Court or the Judge may, upon the motion of a person who is interested in the estate, order the administrator of the estate to execute a bond, or an additional bond, as the case may be, of such amount, and within such time and with such sureties, as the Court or the Judge thinks fit.

“(3.) If an administrator fails to comply with the terms of an order made under the last preceding sub-section, the Court or the Judge may remove the administrator and appoint another person to be an administrator of the estate in his place.

“(4.) Where the Court or the Judge has removed an administrator of an estate under the last preceding sub-section and appointed another person to be an administrator of the estate in his place, any contract, made before the date on which the administrator was so removed, in respect of which the administrator so removed was, in his capacity of administrator of the estate, a party shall, on and after that date, be read and construed, and may be enforced, as if references in the contract to the administrator so removed were references to the administrator so appointed in his place.”

Administration to be granted to attorney in certain cases.

15. Section twenty-two of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“(2.) Where administration has been granted, under the last preceding sub-section, to an attorney appointed under a

power of attorney, unless the grant otherwise provides, the grant continues in force notwithstanding the death of the donor of the power of attorney.”.

16. After section thirty-two of the Principal Ordinance the following sections are inserted in Division 1 of Part III.:—

“ 32A.—(1.) Where the Court is satisfied that a person was living at the time when probate of his will, or administration of his estate, was granted by the Court, the Court—

Revocation of grant if person living at the date of the grant.

- (a) shall revoke the grant on such terms, if any, as the Court thinks fit with respect to proceedings which have been commenced by or against the executor or administrator or with respect to costs or any other matter; and
- (b) may at any time, whether before or after the revocation of the grant, make such orders as the Court thinks fit for the protection of the estate, including an order for an injunction against the executor or administrator or another person and an order for the appointment of a receiver.

“ (2.) An application to the Court for the revocation, under the last preceding sub-section, of a grant of probate of the will, or administration of the estate, of a person may be made—

- (a) by the person; or
- (b) if the person has died since the grant—by any person entitled to apply for a grant of probate of the will, or administration of the estate, of the person or by a person interested in the estate of the person.

“ 32B.—(1.) Where a grant of probate or administration has been revoked under this Ordinance—

Effect of revocation of grant.

- (a) the executor or administrator to whom the grant was made shall account to the Court for the property that he has received, or that has vested in him, as such executor or administrator, and the Court may make such orders as it thinks fit with respect to the disposal by the executor or administrator of so much of that property as remains in his hands;
- (b) the executor or administrator is not liable in respect of property that he has disposed of under the grant in good faith before the revocation of the grant if he complied with the provisions of section nine B of this Ordinance in and in relation to the disposing of that property;

- (c) the revocation of the grant does not, of its own force, invalidate a disposal of property made by, or to, the executor or administrator before the revocation of the grant;
- (d) an action does not lie against the Registrar of Titles for loss suffered by any person in consequence of the registration of a dealing with land under the provisions of the *Real Property Ordinance 1925-1963*, being a dealing lawfully made by the executor or administrator before the revocation of the grant; and
- (e) the Court may make such vesting orders as it thinks fit.

“(2.) This section does not affect—

- (a) any entitlement of an executor or administrator to commission, or to any protection, indemnity, reimbursement or right under any other provision of this Ordinance; or
- (b) the right of a person to follow an asset into the hands of the person to whom it was distributed or who has received it.”.

17. After section thirty-seven of the Principal Ordinance the following section is inserted:—

Withdrawal
and removal
of caveat.

“37A.—(1.) A caveat may, with the leave of the Court, be withdrawn at any time.

“(2.) Leave to withdraw a caveat may be given subject to such conditions as to payment of costs or otherwise as the Court thinks fit.

“(3.) A person applying for a grant of probate or administration may summon a person who has lodged a caveat against the grant to attend before the Court in order to show cause why the caveat should not be removed, and the Court may, on proof that the caveator has been so summoned, make such order as it thinks fit.”.

18. Before section thirty-nine of the Principal Ordinance the following section is inserted in Division 3 of Part III.:—

Estate to vest
in Curator
until grant.

“38A. Upon the death of a person, the real and personal property of the deceased person vests in the Curator in the same manner, and to the same extent, as the personal estate and effects of a deceased person formerly vested in the Ordinary in England.”.

19. Section thirty-nine of the Principal Ordinance is amended by omitting the words “, as from the death of that person,”.

Real and personal estate to vest in executor or administrator.

20. Section forty of the Principal Ordinance is amended by omitting the words “, as from the death of that person,”.

Real estate held in trust.

21. After section forty-one of the Principal Ordinance the following sections are inserted:—

“ 41A.—(1.) The real and personal property of a person who dies after the commencement of this section, to the extent of his beneficial interest in it, and the real and personal property (if any) disposed of by the person’s will (whether made before or after the commencement of this section) in exercise of a general power, are assets for the payment of the funeral, testamentary and administrative expenses, the debts and the liabilities of the person.

Property of deceased liable for debts.

“ (2.) If a person—

(a) on whom a beneficial interest in any property referred to in the last preceding sub-section devolves;

(b) to whom such an interest is given; or

(c) in whom such an interest vests,

disposes of the interest or of a part of the interest in good faith before a proceeding is taken or process is sued out against him, the person is personally liable for the value of the interest or part so disposed of by him, but the interest or part is not liable to be taken in execution in the proceeding or under the process.

“ 41B.—(1.) Where a provision contained in the will of a person dying after the commencement of this section operates as an appointment under a general power to appoint by will, the property, whether real or personal, that passes by virtue of the provision vests in the executor or administrator as if the testator had been entitled to the property at his death, whether or not he was so entitled for an estate or interest determining on his death or for any other estate or interest.

Appointments by will under general power.

“ (2.) Where a provision contained in the will of a person who died on or after the first day of January, One thousand nine hundred and eleven, but before the commencement of this section, operated as an appointment under a general power to appoint by will, the property, whether real or personal, that passed by virtue of the provision shall be deemed to have vested in the executor or administrator as if that property had been

vested in the testator at the time of his death whether or not he was entitled to it for an estate or interest determining on his death or for any other estate or interest.

“ (3.) The last preceding sub-section does not affect—

- (a) a right or title that accrued, before the commencement of this section, under a disposition by an appointee which, but for that sub-section, would be valid; or
- (b) the operation of section thirty-nine of this Ordinance.

Administration
of assets.

“ 41C.—(1.) Where the estate of a person who dies after the commencement of this section is sufficient for the payment in full of all the expenses, debts and liabilities payable from the estate, his real and personal property is, subject to the provisions of his will, if any, and to any law in force in the Territory as to charges on property, applicable in the order set out in Part I. of the Fourth Schedule to this Ordinance for the payment of the expenses, debts and liabilities payable from the estate.

“ (2.) Where the estate of a person who dies after the commencement of this section is insufficient for the payment in full of all the expenses, debts and liabilities payable from the estate, his real and personal property shall, subject to the *Bankruptcy Act* 1924-1965, be administered in accordance with the rules set out in Part II. of the Fourth Schedule to this Ordinance.

Application of
income of
settled
residuary
estate.

“ 41D.—(1.) Where a person who dies after the commencement of this section leaves a will containing a residuary gift by virtue of which real or personal property is settled by way of succession, this section applies to and in relation to the income derived from that property.

“ (2.) The income to which this section applies is not applicable in payment of—

- (a) the funeral, testamentary or administrative expenses payable from the estate of the person;
- (b) the debts or liabilities of the person;
- (c) any interest that accrued on any such debts or liabilities before the death of the person; or
- (d) any legacies bequeathed by the will of the person.

“ (3.) The income to which this section applies is applicable in payment of the interest (if any) that accrues—

- (a) on the funeral, testamentary or administrative expenses payable from the estate of the person;

(b) after the death of the person, on the debts or liabilities of the person; or

(c) on any legacies bequeathed by the will of the person, before payment, and the income is so applicable in priority to any other assets in the estate of the person.

“ (4.) Subject to the last preceding sub-section, the income to which this section applies is payable to the person for the time being entitled to the income from the settled property.

“ (5.) Where, in the final adjustment of the estate of a deceased person among the persons entitled to share in the distribution of the estate—

(a) property (other than property referred to in sub-section (1.) of this section) is treated as if it had been used in the proper order in payment of the funeral, testamentary and administrative expenses, the debts and the liabilities of the estate or of any legacies bequeathed by the will of the deceased person although it was not in fact so used; and

(b) income was earned by that property after the death of the person but before the property was so used or was deemed to have been so used,

that income shall, for the purposes of this section, be deemed to be income to which this section applies.

“ (6.) This section—

(a) does not affect the rights of a creditor of the estate; and

(b) applies subject to the provisions of the will of the deceased person and of any law in force in the Territory with respect to charges on the property of a deceased person.”

22. Section 45 of the Principal Ordinance is amended by omitting the words “One thousand pounds” (wherever occurring) and inserting in their stead the words “Five thousand pounds”.

Husband's interest in wife's estate and vice versa.

23. Section fifty of the Principal Ordinance is amended—

(a) by omitting from sub-section (2.) the words “or executor”; and

(b) by inserting after sub-section (2.) the following sub-sections:—

“ (2A.) A condition imposed, before the commencement of this sub-section, on the exercise by

Power of executors and administrators as to sale, mortgage or lease of real estate.

an executor of a power conferred on him by this section shall not operate after the commencement of this sub-section.

“(2B.) The Registrar shall write on the letters of administration, and on any copy of the letters of administration issued by him, a certified copy of any conditions imposed by the Court under sub-section (2.) of this section.”.

Court may make special order.

24. Section fifty-one of the Principal Ordinance is amended by omitting from paragraph (d) the words “partition of” and inserting in their stead the words “partition, if”.

Executor or administrator to pass accounts.

25. Section fifty-eight of the Principal Ordinance is amended by omitting from sub-section (1.) the word “pass” and inserting in its stead the words “shall file, or shall file and pass,”.

Passing and allowance of the accounts of executors and administrators.

26. Section fifty-eight A of the Principal Ordinance is amended by omitting paragraphs (b) and (c) and inserting in their stead the following word and paragraph:—

“; or (b) in or in connexion with the granting of further time to executors and administrators to file, to file and pass or to pass their accounts in a case where no objection is raised to the granting of the further time by a person interested or where no doubt or difficulty arises.”.

If accounts not exhibited Registrar to summon administrator before Court, which may inflict penalty.

27. Section fifty-nine of the Principal Ordinance is amended—

(a) by omitting from sub-section (1.) the words “pass those accounts” and inserting in their stead the words “file, to file and pass or to pass those accounts”;

(b) by omitting from sub-section (2.) the words “exhibit the account to the Court” and inserting in their stead the words “to file, to file and pass or to pass the accounts”;

(c) by omitting from sub-section (3.) the words “file, pass, or exhibit the inventory or account” and inserting in their stead the words “file the inventory or file, file and pass or pass the accounts, as the case may be,”.

Payments under revoked probates or administrations valid.

28. Section sixty-two of the Principal Ordinance is amended—

(a) by omitting sub-section (1.); and

(b) by omitting from sub-section (2.) the word “such”.

29. Section sixty-eight of the Principal Ordinance is amended by omitting the words "Any executor" and inserting in their stead the words "An executor or administrator".

Executors may compound, &c.

30. Section sixty-nine of the Principal Ordinance is amended by omitting from paragraph (a) of sub-section (1.) the words "His Majesty's Dominions" and inserting in their stead the words "a Commonwealth country".

Every executor, &c., to be deemed resident in the Territory.

31.—(1.) Section seventy-one of the Principal Ordinance is amended—

Limits of professional charges for obtaining probate or letters of administration.

(a) by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

"(1.) Subject to this section, where the gross value of an estate does not exceed Ten thousand pounds, the costs to be allowed out of the estate to a solicitor for professional services rendered in connexion with the obtaining of a grant of probate or administration shall, where no contention has arisen, be in accordance with the following scale:—

Where the Gross Value of the Estate is—	The Costs shall be—
	£ s. d.
Not more than £500	15 0 0
More than £500 but not more than £1,000 ..	20 0 0
More than £1,000 but not more than £2,000 ..	25 0 0
More than £2,000 but not more than £3,000 ..	30 0 0
More than £3,000 but not more than £4,000 ..	35 0 0
More than £4,000 but not more than £5,000 ..	40 0 0
More than £5,000 but not more than £6,000 ..	45 0 0
More than £6,000 but not more than £7,000 ..	50 0 0
More than £7,000 but not more than £8,000 ..	55 0 0
More than £8,000 but not more than £9,000 ..	60 0 0
More than £9,000 but not more than £10,000 ..	65 0 0

"(1A.) Subject to this section, where the gross value of the estate exceeds Ten thousand pounds, the costs to be allowed out of the estate to a solicitor for professional services rendered in connexion with the obtaining of a grant of probate or administration are Sixty-five pounds plus an additional Two pounds ten shillings for each complete One thousand pounds by which the gross value of the estate exceeds Ten thousand pounds or Five hundred pounds, whichever is the less.";

(b) by omitting from sub-section (2.) the words "in the last preceding sub-section" and inserting in their stead the words "in sub-sections (1.) and (1A.) of this section"; and

(c) by omitting from sub-sections (3.), (4.) and (6.) the words “ barrister or ” (wherever occurring).

(2.) Notwithstanding the repeal of sub-section (1.) of section seventy-one of the Principal Ordinance, the provisions of that sub-section continue to apply to and in relation to an application for probate or administration that was filed before the commencement of this Ordinance.

Additional charge where necessary to employ agent.

32. Section seventy-two of the Principal Ordinance is repealed.

Application to Registrar for probate or administration.

33. Section seventy-five of the Principal Ordinance is amended by omitting the words “ Five hundred pounds ” and inserting in their stead the words “ One thousand pounds ”.

Registrar to issue probate or administration in the name of the Court.

34. Section seventy-seven of the Principal Ordinance is amended—

(a) by omitting from paragraph (b) of sub-section (1.) the words “ Five hundred pounds ” and inserting in their stead the words “ One thousand pounds ”; and

(b) by omitting paragraphs (d) and (e) and inserting in their stead the following word and paragraph:—

“ ; and (d) that no will has been deposited with the Registrar.”.

Obligation of Registrar.

35. Section seventy-nine of the Principal Ordinance is amended by omitting the words “ barrister or ”.

36. Section eighty of the Principal Ordinance is repealed and the following section inserted in its stead:—

Repeal of grant made in certain countries.

“ 80.—(1.) Where a court of competent jurisdiction in a Commonwealth country has, whether before or after the commencement of this section, granted probate of a will, administration of an estate or an order to collect and administer an estate, the person who is—

(a) in the case of a probate of a will—

(i) the executor to whom the probate was granted;

(ii) a person authorized by that executor, under a power of attorney, to make the application; or

(iii) the executor, by representation, of the will;

(b) in the case of administration of an estate—

(i) the administrator to whom the administration was granted; or

- (ii) the person authorized by that administrator, under a power of attorney, to make the application; or
- (c) in the case of an order to collect and administer an estate—a public trustee in the country or part of a country to whom the order was granted,

may, upon producing the probate, administration or order to the Registrar and depositing a copy of it with the Registrar, apply to the Court to have it sealed with the seal of the Court, and the Court may seal it accordingly.

“(2.) Where a probate or administration is sealed under the last preceding sub-section—

- (a) the probate or administration has the same force, effect and operation as if it had been originally granted by the Court; and
- (b) the person who made the application under the last preceding sub-section shall perform the same duties and be subject to the same liabilities as if the probate or administration had been originally granted by the Court and he was the person to whom the probate or administration had been so granted.

“(3.) Where an order to collect and administer an estate is sealed under sub-section (1.) of this section, the person who made application for the sealing of the order has the same duties and is subject to the same liabilities as if he was the Curator and the order was an order to collect and administer the estate granted to the Curator under section eighty-eight of this Ordinance.

“(4.) The Court may, before or after sealing a probate, administration or order to collect and administer an estate under sub-section (1.) of this section, require the applicant to give security for the proper administration of the estate to which it relates.

“(5.) In this section, a reference to an order to collect and administer an estate shall be read as including a reference to an exemplification of such an order.”

37. Section eighty-one of the Principal Ordinance is amended by omitting the words “letters of” (wherever occurring). Caveat.

38. Section eighty-two of the Principal Ordinance is amended— Seal not to be affixed until duty is paid, &c.

- (a) by omitting from sub-section (1.) the words “letters of”;

- (b) by omitting from sub-section (2.) the words "The letters of administration" and inserting in their stead the words "Subject to the next succeeding sub-section, the administration";
- (c) by omitting from sub-section (3.) the words "letters of"; and
- (d) by inserting in sub-section (3.), after the word "newspaper", the words "published and".

39. Section eighty-three of the Principal Ordinance is repealed and the following section inserted in its stead:—

Inclusion of orders to collect and Scotch confirmation.

" 83. A reference in this Part to probate or administration shall be read as including a reference to—

- (a) an order to a curator or other person to collect and administer an estate; and
- (b) a confirmation of the executor or another person granted in a Sheriff Court in Scotland."

Heading to Part VI.

40. The heading to Part VI. of the Principal Ordinance is repealed and the following heading inserted in its stead:—

" PART VI.—CURATOR OF ESTATES OF DECEASED PERSONS."

41.—(1.) Section eighty-four of the Principal Ordinance is repealed and the following section inserted in its stead:—

Curator, &c., to give security.

" 84.—(1.) A person appointed to be the Curator, an Acting Curator, the Deputy Curator or an Acting Deputy Curator shall, before entering upon the duties of his office, give security, in such sum, and in such manner and form, as the Attorney-General directs, for duly collecting, paying and accounting for all moneys that come into the possession or under the control of the person by virtue of his office.

" (2.) Where a security given for the purposes of the last preceding sub-section has been guaranteed by a person, that person may, by notice in writing to the Attorney-General, cancel the guarantee from a date specified in the notice, being a date not earlier than three months after the day on which the notice is given to the Attorney-General, but the cancellation does not affect the liability of the person under the guarantee in respect of any breach of the security committed before the date so specified.

" (3.) Wherever a guarantor of a security cancels his guarantee under the last preceding sub-section, the person who gave that security shall, if so required by the Attorney-General,

give a fresh security for the purposes of sub-section (1.) of this section in such sum, and in such manner and form, as the Attorney-General directs.

“(4.) The Attorney-General may, if he thinks fit, exempt a person who has been appointed the Curator, an Acting Curator, the Deputy Curator or an Acting Deputy Curator from having to give security in accordance with sub-section (1.) of this section.”.

(2.) A security given for the purposes of section eighty-four of the Principal Ordinance and in force immediately before the date of commencement of this section shall, on and after that date, be deemed to have been given for the purposes of section eighty-four of the Principal Ordinance as amended by this Ordinance.

42. Section eighty-six of the Principal Ordinance is amended—

Proceedings
by and against
Curator.

- (a) by omitting from sub-section (1.) the words “as Curator” and inserting in their stead the words “as the Curator”;
- (b) by inserting in sub-section (2.), after the word “Curator” (first occurring), the words “of Estates of Deceased Persons”; and
- (c) by omitting from sub-section (2.) the word “such” and inserting in its stead the word “the”.

43. After section eighty-seven A of the Principal Ordinance the following sections are inserted:—

“87B.—(1.) In a case where the Curator is satisfied—

- (a) that the net value of the estate of a deceased person does not exceed One hundred pounds; and
- (b) that application has not been made for a grant of probate of the will, or administration of the estate, of the deceased person,

Estates to
the value of
One hundred
pounds or
less.

the Curator may administer the estate of the deceased person, and for that purpose may call in the estate of the deceased person, sell and convert into money such part of that estate as does not consist of money, pay any debts and liabilities of or relating to the deceased person, being debts and liabilities of which he has notice, and deal with the balance, if any, of that estate as if probate of the will or administration of the estate of the deceased person had been granted to him by the Court.

“(2.) Where the Curator administers the estate of a deceased person under the last preceding sub-section and a balance remains after he has dealt with the estate in accordance

with that sub-section, the Curator shall deal with the balance of the estate in the following manner:—

- (a) if the Curator is of the opinion that the person died testate—as if probate of the last will of the person had been granted to him by the Court; or
- (b) in any other case—as if administration of the estate had been granted to him by the Court.

“ (3.) The Curator shall not administer an estate under sub-section (1.) of this section unless he has given notice of his intention so to do, by advertisement or otherwise, in such manner and form as the Curator thinks fit.

“ (4.) Where the Curator is in, or comes into, possession of a will of a deceased person whose estate he is administering or has administered under sub-section (1.) of this section, the Curator shall deposit the will with the Registrar.

“ (5.) Where the Curator administers an estate under sub-section (1.) of this section—

- (a) section eighty-seven of this Ordinance applies as if he was administering the estate under a will or intestacy, as the case may be; and
- (b) the Commonwealth and the Curator are not liable for any act done by, or under the direction of, the Curator in good faith in the course of administering the estate.

“ 87c.—(1.) The Curator may file in the office of the Registrar an election, under the hand of the Curator, to administer the estate of a deceased person if—

- (a) the person left property within the Territory;
- (b) the gross value of that property does not, in the opinion of the Curator, exceed One thousand pounds;
- (c) probate of the will, or administration of the estate, of the person has not been granted by the Court to any person; and
- (d) the Curator is entitled under the next succeeding section to apply for an order to collect and administer the estate of the person.

“ (2.) An election under the last preceding sub-section in respect of the estate of a deceased person shall contain—

- (a) particulars of the name of the deceased person;
- (b) such particulars of the place of residence, and the occupation, of the deceased person at the time of his death as are known to the Curator; and
- (c) such particulars of the date of death, and the property forming part of the estate, of the deceased person as are known to the Curator.

Election to
administer
estate.

“ (3.) Where, in the opinion of the Curator, a deceased person died testate, an election shall have the will of the person annexed to it and shall state that the will was, in the opinion of the Curator, duly executed by the person.

“ (4.) Where the Curator has filed an election, the estate of the person vests in the Curator, and the Curator has the powers and duties that he would have had if the Court had, under the next succeeding section, granted to the Curator an order to collect and administer the estate of the person.

“ (5.) The Curator shall cause notice of each election filed by him under this section to be published in the *Gazette* and in a newspaper published and circulating in the Territory, and publication of a notice accordingly in respect of an estate is conclusive evidence that the Curator is entitled to administer the estate of the deceased person.

“ (6.) If, after the Curator has filed an election—

(a) in a case where the will of the deceased person was annexed to the election—a later will; or

(b) in any other case—a will,

of the deceased person comes into the possession of the Curator, the Curator shall, forthwith, file in the office of the Registrar a notice, under his hand, containing particulars of that will.

“ (7.) Where the Curator files a notice under the last preceding sub-section, the election shall be deemed to have been revoked and the Curator ceases to have the powers and duties conferred on him by this section in relation to the estate.

“ (8.) Where, after the Curator has filed an election in respect of the estate of a deceased person, the gross value of the estate is found to exceed One thousand pounds, the Curator shall, forthwith, file in the office of the Registrar a notice, under his hand, certifying that the value of the estate exceeds that amount.

“ (9.) Where the Curator files a notice under the last preceding sub-section, the election shall be deemed to have been revoked and the Curator ceases to have the powers and duties conferred on him by this section in relation to the estate.

“ (10.) The filing of a notice under sub-section (6.) or (8.) of this section in relation to the estate of a deceased person does not prevent the Curator from applying, under the next succeeding section, for an order to collect and administer that estate.

“ (11.) Where the Curator has filed a notice under sub-section (6.) or (8.) of this section in relation to the estate of a deceased person, the provisions of section thirty-two B of this Ordinance apply as if the filing of an election under

this section was the grant of probate of the will, or administration of the estate, of the deceased person and the filing of the notice was the revocation of that grant.”.

Effect of order.

44. Section eighty-nine of the Principal Ordinance is amended by inserting after sub-section (1.) the following sub-section:—

“(1A.) Where the Court grants an order to collect and administer the estate of a deceased person after having been satisfied that he made a valid will that had not been revoked before he died—

- (a) a copy of that will shall be annexed to the order; and
- (b) the Curator has, subject to this Part, the same rights and duties with respect to the estate of the person as the Curator would have if administration with the will annexed of the estate of the deceased person had been granted to the Curator.”.

Probates and administrations may be granted notwithstanding appointment of Curator.

45. Section ninety of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Notwithstanding that—

- (a) the Curator is administering the estate of a deceased person under section eighty-seven B of this Ordinance;
- (b) the Curator has filed an election to administer the estate of a deceased person under section eighty-seven c of this Ordinance; or
- (c) the Curator has been granted an order to collect and administer the estate of a deceased person under section eighty-eight of this Ordinance,

the Court may grant probate of the will, or administration of the estate, of the deceased person to an appropriate person upon such conditions as it thinks fit.”.

Money, &c., payable abroad.

46. Section ninety-four of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words “to the subject of any country out of His Majesty’s jurisdiction” and inserting in their stead the words “to a person in a country other than a Commonwealth country”;
- (b) by omitting from sub-section (2.) the words “in any part of the British dominions other than the Territory or in any place within His Majesty’s jurisdiction outside the British dominions” and inserting in their stead the words “in a Commonwealth country”; and

- (c) by omitting from sub-section (2.) the words “part or place” and inserting in their stead the words “country”.

47. Sections ninety-four A and ninety-four B of the Principal Ordinance are repealed and the following sections inserted in their stead:—

“94A. Where the Curator is administering the estate, in the Territory, of a person who, at the time of his death, was domiciled in a Commonwealth country and the estate of the person in that country is being administered by a public trustee of that country, the Curator may pay or hand over to that public trustee the balance of the estate in the Territory of the deceased after payment of creditors and the charges provided for in this Ordinance and, upon so paying or handing over that balance, is not under a duty to see to the application of that balance.

Payment to public trustee in another country.

“94B.—(1.) Where the estate of a deceased person who, was at the time of his death, domiciled in the Territory is administered by the Curator and a public trustee of a Commonwealth country has obtained administration of the estate of the deceased person in that country, the Curator may receive from that public trustee the balance of the estate in that country.

Curator may receive payment of estate situated in another country.

“(2.) The balance of an estate received by the Curator under the last preceding sub-section shall be deemed to form part of the estate of the deceased person in the Territory.”.

48. Section one hundred of the Principal Ordinance is repealed.

Payments to relatives, &c., in petty cases.

49. Section one hundred and one of the Principal Ordinance is amended by omitting sub-section (2.).

Accounts to be kept, &c.

50. Section one hundred and seven of the Principal Ordinance is amended—

Conveyance of escheated lands and disposal of proceeds of sale.

(a) by omitting from sub-section (1.) all words after the word “escheated” and inserting in their stead the words “to the Crown, the Curator may sell that real estate”; and

(b) by inserting after sub-section (1.) the following sub-sections:—

“(1A.) The Curator may sell any real estate vested in him that forms part of so much of the estate of a deceased person as is deemed to be *bona vacantia* to which the Commonwealth is entitled under this Ordinance.

“(1B.) Upon the sale of any real estate under either of the last two preceding sub-sections, the Curator shall pay the net proceeds of the sale to the Commonwealth.”.

51. Sections one hundred and eight and one hundred and nine of the Principal Ordinance are repealed and the following sections inserted in their stead:—

Unclaimed
moneys to be
paid to the
Treasurer.

“108.—(1.) The Curator shall, on or before the thirty-first day of January in a year, pay to the Treasurer an amount equal to the moneys (if any) in his possession or under his control that became unclaimed moneys during the preceding year, and furnish to the Treasurer the prescribed particulars relating to the moneys.

“(2.) Where the Curator has had in his possession or under his control, in the capacity of Curator of Estates of Deceased Persons, during a period of six years, moneys forming part of an estate under his control and, during the whole of that period, he has had no knowledge of the existence or address of a person who is or claims to be entitled to the moneys or to a share in the distribution of the moneys, the moneys or share, as the case may be, shall, for the purposes of this section, be deemed to be unclaimed moneys and to have become unclaimed moneys upon the expiration of that period.

“(3.) Sub-section (1.) of this section does not apply—

(a) to unclaimed moneys that the Curator is restrained from paying to the Treasurer by the order of a court of competent jurisdiction; or

(b) unclaimed moneys that the Curator considers he is likely to require in order to make payments under the order of a court of competent jurisdiction that is in force.

“(4.) Where the Curator ceases to be restrained by the order of a court from paying any unclaimed moneys to the Treasurer, the Curator shall, within one month after ceasing to be so restrained—

(a) in a case where the address of the person entitled to the moneys is known to him—pay the moneys to that person; or

(b) in any other case—pay to the Treasurer an amount equal to those moneys, and furnish to the Treasurer the prescribed particulars relating to those moneys.

“(5.) Where the Curator considers that it is no longer likely that any unclaimed moneys to which paragraph (b) of sub-section (3.) of this section applies will be required to make

payments under the order of a court, the Curator shall, unless restrained by the order of a court of competent jurisdiction from doing so, pay an amount equal to those moneys to the Treasurer, and furnish to the Treasurer the prescribed particulars relating to those moneys.

“(6.) Upon payment of an amount equal to any unclaimed moneys to the Treasurer under this section, the Curator is discharged from further liability in respect of the moneys.

“(7.) The Treasurer shall pay all moneys paid to him in pursuance of this section into the Consolidated Revenue Fund.

“109.—(1.) Where the Curator has paid to the Treasurer an amount equal to any unclaimed moneys in pursuance of the last preceding section and the Treasurer is satisfied that a person is entitled to those moneys, or to a share in the distribution of those moneys, the Treasurer shall pay an amount equal to the moneys or the share, as the case may be, to that person out of moneys legally available for the purpose.

Treasurer to
pay lawful
claimant.

“(2.) Where the Court is satisfied that a person is entitled to any moneys, or to a share in the distribution of any moneys, that have been paid to the Treasurer as unclaimed moneys under the last preceding section, the Court may, by order, declare that the Commonwealth is liable to repay to the person an amount equal to those moneys or to that share, as the case may be, and upon production of that order to the Treasurer, the Commonwealth is liable to repay the amount to the person accordingly.

“(3.) The liability of the Treasurer of the Commonwealth to pay an amount equal to unclaimed moneys, or to a share in the distribution of unclaimed moneys, to a person under this section is in substitution for any liability of the Curator under any law in respect of the moneys.

“(4.) Interest is not payable on any moneys that have been paid to the Treasurer as unclaimed moneys under the last preceding section.

“(5.) For the purposes of this section, moneys that were, immediately before the commencement of this section, standing to the credit of the Intestate Estates Fund established under the *Audit Act* 1901-1962 shall be deemed to have been paid to the Treasurer under the last preceding section.

“(6.) Where the Curator had in his possession or under his control immediately before the commencement of this section unclaimed moneys that became unclaimed moneys before the first day of January immediately preceding that commencement, those moneys shall, for the purposes of this section, be deemed to have become unclaimed moneys on that first day of January.

“(7.) In this section—

‘the prescribed particulars’, in relation to any unclaimed moneys, means particulars of the persons or class of persons entitled or apparently entitled to those moneys and of the capacity in which those persons are, or that class of persons is, so entitled or apparently entitled;

‘the Treasurer’ means the Treasurer of the Commonwealth;

‘year’ means a period of twelve months ending on a thirty-first day of December.”.

Repeal of sections 122 and 123.

52. Sections one hundred and twenty-two and one hundred and twenty-three of the Principal Ordinance are repealed.

Registrar to keep record of probates, &c.

53. Section one hundred and twenty-five of the Principal Ordinance is amended—

(a) by inserting after paragraph (a) of sub-section (1.) the following paragraph:—

“(aa) all elections and orders to collect;”;
and

(b) by omitting from paragraph (a) of sub-section (2.) the words “the grants” and inserting in their stead the words “the grants, elections and orders”.

54. After section one hundred and twenty-five of the Principal Ordinance the following sections are inserted:—

“125A. An original will—

(a) which is brought into the Court;

(b) probate of which is granted under this Ordinance;

(c) a copy of which is annexed to administration granted under this Ordinance;

(d) which is deposited with the Registrar under section eighty-seven B of this Ordinance;

(e) a copy of which is annexed to an election filed under section eighty-seven C of this Ordinance; or

(f) a copy of which is annexed to an order to collect and administer an estate granted under section eighty-eight of this Ordinance,

and such other documents as the Court or the Judge directs shall be deposited and preserved at the office of the Court and may, subject to the Rules, be inspected there.

Proved wills and other documents to be held by Court.

“ 125B. A person may, on payment of the fee (if any) payable to the Registrar under this Ordinance, obtain from the Registrar—

Official certificate or copy of grants and wills obtainable.

- (a) a certificate or exemplification of a grant of probate or administration; or
- (b) a copy of—
 - (i) the whole or a part of a will; or
 - (ii) such other document as the Court or the Judge approves.”.

55. Section one hundred and twenty-six of the Principal Ordinance is amended by omitting the words “ subject to appeal as provided in this Ordinance ”.

Costs.

56. Section one hundred and twenty-seven of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ 127. Where a person suffers damage as a result of the stealing of a will or a part of a will, or as a result of the fraudulent destroying, cancelling, obliterating or concealing of a will or a part of a will, the person may recover damages in respect of the damage by action in a court of competent jurisdiction from the person who stole, destroyed, cancelled, obliterated or concealed the will or part, as the case may be.”.

Person fraudulently disposing of will liable for damages.

57. Section one hundred and twenty-nine A of the Principal Ordinance is repealed.

Seal of the Court.

58. The Principal Ordinance is amended by adding at the end thereof the following Schedules:—

The Schedules.

“ FOURTH SCHEDULE.

Section 41c.

PART I.

Order of Application of Assets where the Estate is Solvent.

1. Assets undisposed of by will, subject to the retention out of those assets of a fund sufficient to meet any pecuniary legacies.
2. Assets not specifically disposed of by will but included (either by a specific or general description) in a residuary gift, subject to the retention out of those assets of a fund sufficient to meet any pecuniary legacies which are not provided for out of the assets undisposed of by will.
3. Assets specifically appropriated or disposed of by will (either by a specific or general description) for the payment of debts.
4. Assets charged with, or disposed of by will (either by a specific or general description) subject to a charge for, the payment of debts.

FOURTH SCHEDULE—*continued.*

5. The fund, if any, retained to meet pecuniary legacies.
6. Assets specifically disposed of by will, rateably according to value.

PART II.

Rules as to Payment of Debts and Liabilities when the Estate is Insolvent.

1. The funeral, testamentary and administration expenses have priority.
2. Subject to the last preceding rule, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors and as to the valuation of annuities and future and contingent liabilities, respectively, and as to the priorities of debts and liabilities as are in force at the death of the deceased person under the law of bankruptcy with respect to the assets of persons adjudged bankrupt.
3. In the application of those rules, the date of the death of the deceased person shall be substituted for the date of the sequestration order."

FIFTH SCHEDULE.

Section 5

COMMONWEALTH COUNTRIES

Canada	New Zealand
Ceylon	Federal Republic of Nigeria
Republic of Cyprus	Pakistan
The Gambia	Sierra Leone
Ghana	Singapore
India	United Republic of Tanzania
Jamaica	Trinidad and Tobago
Kenya	Uganda
Malawi	United Kingdom
Malaysia	Zambia
Malta	

Application.

59. The amendment made by section 22 of this Ordinance applies only to the estates of persons dying after the commencement of this Ordinance and section 45 of the Principal Ordinance as in force immediately before the commencement of this Ordinance continues to apply to the estate of a person dying before the commencement of this Ordinance.