

# ADMINISTRATION AND PROBATE

## No. 9 of 1967

### An Ordinance to amend the *Administration and Probate Ordinance 1929-1965*.

**Short title and citation.**

1.—(1.) This Ordinance may be cited as the *Administration and Probate Ordinance 1967*.\*

(2.) The *Administration and Probate Ordinance 1929-1965*† 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 1929-1967*.

**Commencement.**

2.—(1.) Sections 1, 2, 7, 10 and 12 of this Ordinance shall come into operation on the day on which this Ordinance is notified in the *Gazette*.

(2.) The remaining sections of this Ordinance shall come into operation on the first day of July, One thousand nine hundred and sixty-seven.

**Parts.**

3. Section 4 of the *Principal Ordinance* is amended by omitting the words—

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

and inserting in their stead the words—

“Division 3.—Effect of Grant of Representation (Sections 38A-43).

“Division 3A.—Distribution on Intestacy (Sections 44-49E).

“Division 3B.—Matrimonial Home (Sections 49F-49N).”

**Interpretation.**

4. Section 5 of the *Principal Ordinance* is amended by adding at the end thereof the following sub-section:—

“(3.) In this Ordinance, a reference to a Schedule by number is a reference to the Schedule to this Ordinance so numbered.”

\* Made on 20 April 1967; notified in the *Commonwealth Gazette* on 18 May 1967.

† Ordinance No. 18, 1929, as amended by 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; No. 6, 1960; and No. 20, 1965.

5. Sections 44 to 49 (inclusive) of the Principal Ordinance are repealed and the following Divisions inserted in their stead:—

“ *Division 3A.—Distribution on Intestacy.*

“ 44.—(1.) In this Division, unless the contrary intention appears— Interpretation.

‘ *intestate* ’ means a person who dies after the commencement of this section and either does not leave a will or leaves a will but does not dispose effectively, by the will, of the whole or part of his real or personal property;

‘ *intestate estate* ’, in relation to an intestate, means—

(a) in the case of an intestate who leaves a will—the real and personal property of the intestate that is not effectively disposed of by the will; or

(b) in any other case—the real and personal property of the intestate;

‘ *personal chattels* ’, in relation to an intestate, means—

(a) the articles of household or personal use or adornment, plated articles, china, glassware, pictures, prints, linen, jewellery, clothing, books, musical instruments or apparatus, scientific instruments or apparatus, wines, liquors, consumable stores and domestic animals of the intestate; and

(b) the motor cars and accessories of the intestate,

but does not include—

(c) any chattels of the intestate used exclusively for business purposes; or

(d) money and securities for money of the intestate;

‘ *personal representative* ’, in relation to an intestate, means the executor of the will, or the administrator of the estate, of the intestate, as the case requires.

“ (2.) For the purposes of this Division—

(a) a husband and wife shall be regarded as two persons; and

(b) in ascertaining relationship it is immaterial whether the relationship is of the whole blood or the half blood.

“ 45. The personal representative of an intestate holds, subject to his rights, powers and duties for the purposes of administration, the intestate estate on trust for the persons entitled to it in accordance with the succeeding provisions of this Division.

Executor or administrator to hold property of intestate on trust for persons entitled.

Provisions relating to persons who at the date of death of the intestate are infants.

“ 46.—(1.) Where a person who is entitled, under the provisions of this Division, to the whole of, or a share in, the intestate estate of an intestate has not attained, at the date of death of the intestate, the age of twenty-one years and is not married, the person is entitled to take the intestate estate, or the share in the intestate estate, beneficially, upon his attaining the age of twenty-one years or marrying before attaining that age.

“ (2.) Where a person to whom the last preceding sub-section applies dies before attaining the age of twenty-one years and without having married, this Division applies in relation to the intestate estate of the intestate as if the person had died before the intestate.

“ (3.) This section does not affect the operation of a law in force in the Territory authorizing expenditure for the maintenance, advancement or benefit of a person under the age of twenty-one years out of property held on trust for, or for the benefit of, the person and, if property forming part of the intestate estate is expended for the maintenance, advancement or benefit of such a person and that person dies before attaining that age and without having married, the intestate estate shall, for the purposes of this Division, be deemed to have been reduced by the amount so expended.

Presumption of survivorship not to apply.

“ 47. Where an intestate and his spouse have died in circumstances rendering it uncertain which of them survived the other, this Division applies, as to the persons entitled to the intestate estate, as if the spouse had not survived the intestate.

Estate by courtesy or right of dower not to arise.

“ 48. An estate by courtesy or right of dower or an equivalent estate does not arise out of the real property as to which a person dies intestate.

Distribution of intestate estate on intestacy.

“ 49.—(1.) The person or persons entitled to take an interest in the intestate estate of an intestate, and the interest in that estate that that person or those persons are entitled to take shall, subject to this Division, be ascertained by reference to the Sixth Schedule according to the facts and circumstances existing in relation to the intestate.

“ (2.) Where an intestate is survived by his spouse, his intestate estate shall be taken, for the purposes of the Sixth Schedule and the next succeeding sub-section, not to include any personal chattels of the intestate.

“ (3.) For the purposes of the Sixth Schedule, the value of the intestate estate of an intestate shall be ascertained by deducting from the gross value of that intestate estate an amount equal to such of the debts and liabilities of the estate, the funeral and testamentary expenses, the costs and expenses of administering the estate and the estate duties, probate duties and death duties payable in relation to the estate as are payable out of that intestate estate.

“(4.) Where a paragraph of the Sixth Schedule provides for the payment of a sum out of the intestate estate of an intestate and then provides for the payment of an additional sum equal to a particular proportion of the value of the balance of the intestate estate, the value of the balance of the intestate estate shall be ascertained for the purposes of that paragraph by ascertaining the value of the intestate estate in the manner provided by the last preceding sub-section and deducting from that value the first-mentioned sum.

“(5.) For the purposes of the Sixth Schedule—

- (a) the brothers and sisters of an intestate;
- (b) the grandparents of an intestate;
- (c) the brothers and sisters of a parent of an intestate; and
- (d) the issue of any of those brothers or sisters who predeceased the intestate,

are the next of kin of the intestate.

“49A. Where an intestate is survived by his spouse, the spouse is entitled to take, absolutely, any personal chattels of the intestate that are not effectively disposed of by the will (if any) of the intestate.

Interest of spouse on intestacy in personal chattels.

“49B.—(1.) Where an intestate is survived by issue who are entitled to the whole or a part of his intestate estate—

Manner of distribution to issue.

- (a) if only one child of the intestate survives the intestate—that person is entitled to the whole, or that part, of the intestate estate, as the case may be;
- (b) if the intestate is survived by the issue of his child or one of his children but by no other issue—those issue are entitled to the whole, or that part, of the intestate estate, as the case may be, through all degrees according to their stocks, and, if there are more than one issue, in equal shares; or
- (c) in any other case—the whole or that part of the intestate estate shall be divided into a number of parts ascertained in accordance with the next succeeding sub-section and—
  - (i) each child (if any) of the intestate who survived the intestate is entitled to one of those parts; and
  - (ii) the issue of each child (if any) of the intestate who died before the intestate leaving issue who survived the intestate are entitled to one of those parts through all degrees, according to their stocks, and, if there are more than one issue, in equal shares.

“(2.) The number of parts for the purposes of paragraph (c) of the last preceding sub-section is a number equal to the sum of—

- (a) a number equal to the number of children (if any) of the intestate who survived the intestate; and
- (b) a number equal to the number of children (if any) of the intestate who died before the intestate leaving a child or remoter issue who survived the intestate.

“(3.) Where—

- (a) an intestate has, within the period of five years immediately before his death, paid any money, or transferred or assigned any property, to or for the benefit of his child, or settled any money or property for the benefit of his child, by way of advancement or on the marriage of the child; and
- (b) his intestate estate, or a part of his intestate estate, is divisible between the child, or the issue of the child, and other issue of the intestate,

the money or property shall be taken to have been paid, transferred, assigned or settled in or towards satisfaction of the share that the child will become entitled to take, or would become entitled to take if he were to survive the intestate, as the case may be, in the intestate estate or the part of the intestate estate unless—

- (c) the contrary intention was expressed or appears from the circumstances of the particular case; or
- (d) the value, as at the date of death of the intestate, ascertained in accordance with the requirements of the personal representative of the intestate, of all the money so paid or settled, of all the property so transferred, assigned or settled or all that money and property, or of so much of all that money or property, or money and property, in respect of which such a contrary intention was not expressed or did not appear, does not exceed One thousand dollars.

“(4.) Where any money or property is taken to have been paid, transferred, assigned or settled, in accordance with the last preceding sub-section, in or towards satisfaction of the share of a child of an intestate, the money or property shall be brought into account, at a valuation, as at the date of death of the intestate, in accordance with the requirements of the personal representative of the intestate, in calculating the share that the child or the issue of the child, as the case may be, is entitled to take under this Division in the intestate estate or a part of the intestate estate.

" 49C.—(1.) Where, by virtue of this Ordinance, the next of kin of an intestate are entitled to his intestate estate, the persons entitled to that intestate estate shall be ascertained in accordance with the following paragraphs:—

Manner of distribution to next of kin.

- (a) the brothers and sisters of the intestate who survived the intestate, and the issue of a brother or sister of the intestate who died before the intestate, being issue who survived the intestate, are entitled to the intestate estate;
- (b) if the intestate is not survived by any persons entitled to the intestate estate under the last preceding paragraph but is survived by one or more of his grandparents, the grandparent is entitled to the intestate estate or the grandparents are entitled to the intestate estate in equal shares, as the case requires; and
- (c) if the intestate is not survived by any persons entitled to the intestate estate under the last two preceding paragraphs, the uncles and aunts of the intestate who survived the intestate and the issue of such an uncle or aunt who died before the intestate, being issue who survived the intestate, are entitled to the intestate estate.

" (2.) The intestate estate of an intestate shall be divided amongst the brothers and sisters or the uncles and aunts of the intestate, and the issue of those brothers or sisters, or uncles or aunts, who died before the intestate, in the same manner as the intestate estate would have been divided amongst those persons if the brothers and sisters or the uncles and aunts, as the case may be, had been children of the intestate and the issue of a brother, sister, uncle or aunt who died before the intestate had been issue of a child of the intestate who died before the intestate.

" 49D.—(1.) Where the spouse of an intestate acquires a beneficial interest under the will of the intestate in the real or personal property of the intestate (other than in the personal chattels of the intestate), the Sixth Schedule applies only to the extent to which it is expressed to apply by virtue of a succeeding sub-section of this section but the person or persons entitled to take an interest in the intestate estate, and the interest in that estate that that person or those persons are entitled to take, shall be ascertained by reference to the succeeding sub-sections of this section according to the facts and circumstances existing in relation to the intestate.

Partial intestacies.

" (2.) Where the intestate is not survived by issue or a parent, a brother or sister or the issue of a brother or sister—the spouse is entitled to the whole of the intestate estate.

" (3.) Where the intestate is survived by issue—

- (a) if the value of the beneficial interest that is acquired by the spouse under the will does not

exceed Ten thousand dollars—item 2 in Part I. of the Sixth Schedule applies as if the references to the sum of Ten thousand dollars were read as references to the sum ascertained by deducting from Ten thousand dollars the value of that beneficial interest; or

(b) if the value of the beneficial interest that is acquired by the spouse under the will exceeds Ten thousand dollars—

(i) the spouse is entitled to be paid out of the intestate estate a sum equal to, if one child or the issue of one child of the intestate but no other issue of the intestate survives the intestate, one-half of the value of the intestate estate or, in any other case, one-third of the value of the intestate estate; and

(ii) the issue of the intestate are entitled to the balance of the intestate estate after payment to the spouse of the sum to which the spouse is entitled under the last preceding sub-paragraph.

“ (4.) Where the intestate is not survived by issue but is survived by a parent, a brother or sister or the issue of a brother or sister—

(a) if the value of the beneficial interest that is acquired by the spouse under the will does not exceed Fifty thousand dollars—item 3 in Part I. of the Sixth Schedule applies as if the references to the sum of Fifty thousand dollars were read as references to the sum ascertained by deducting from Fifty thousand dollars the value of that beneficial interest; or

(b) if the value of the beneficial interest that is acquired by the spouse under the will exceeds Fifty thousand dollars—

(i) the spouse is entitled to be paid out of the intestate estate a sum equal to one-half of the value of the intestate estate;

(ii) if the intestate is survived by one or both of his parents (whether or not the intestate is also survived by a brother or sister or the issue of a brother or sister)—the surviving parent is entitled, or the parents are entitled in equal shares, as the case may be, to the balance of the intestate estate after payment to the spouse of the sum to which the spouse is entitled under the last preceding sub-paragraph; and

- (iii) if the intestate is not survived by a parent —the brothers and sisters of the intestate who survive the intestate, and the issue who survive the intestate of a brother or sister of the intestate who died before the intestate, are entitled to the balance of the intestate estate, after payment to the spouse of the sum to which the spouse is entitled under sub-paragraph (i) of this paragraph, in such shares as he or they would have been entitled to the intestate estate if the intestate had not been survived by his spouse.

“(5.) Sub-section (3.) of section forty-nine of this Ordinance applies for the purposes of the last two preceding sub-sections in like manner as it applies for the purposes of the Sixth Schedule.

“(6.) Where a child of an intestate who is entitled to take an interest in his intestate estate also acquires an interest under the will of the intestate in the real or personal property of the intestate, the interest to which the child is entitled under the will shall be brought into account, at a valuation, as at the date of death of the intestate, in accordance with the requirements of the personal representative of the intestate, in calculating the interest that the child is entitled to take under this Division in the intestate estate.

“(7.) For the purposes of this section, a beneficial interest in real or personal property acquired by virtue of the exercise, by will, of a general power of appointment, shall be taken to be an interest acquired under that will.

“49E.—(1.) Where an intestate is survived by an illegitimate child, the child is entitled to take the interest in the intestate estate that the child would be entitled to take if the child were the legitimate child of the intestate.

Application of Division in relation to illegitimate persons.

“(2.) Where an illegitimate child of an intestate has died before the intestate leaving issue (being issue who are the legitimate issue of the child) who survive the intestate, the issue are entitled to take the interest in the intestate estate that they would have been entitled to take if the child had been the legitimate child of the intestate.

“(3.) Where an intestate (being an illegitimate person) is survived by a parent or both parents, the parent is or parents are, as the case may be, entitled to take the interest in the intestate estate that the parent or parents would have been entitled to take if the intestate had been the legitimate child of the parent or parents.



“(4.) For the purposes of this Division and the Sixth Schedule in their application to and in relation to an intestate, relationship may, to such extent only as is necessary to enable effect to be given to the preceding sub-sections of this section, be traced through or to an illegitimate person as if the person were the legitimate child of his mother and, subject to the next succeeding sub-section, of his father.

“(5.) For the purposes of this section, a person shall not be taken to be the father of an illegitimate child unless he has acknowledged, in writing, that he is the father of the child or has been adjudged by a court to be the father of the child, and, in the case where the child died before that person, the person so acknowledged the child, or has been so adjudged, before the death of the child.

“(6.) For the purposes of the last preceding sub-section, a person shall be taken to have been adjudged by a court to be the father of a child—

- (a) if the court has made an order in such circumstances that it was not entitled to make the order unless it found as a fact that the person was the father of the child; or
- (b) if, at any time within six months before the birth of a child, the court has made an order in such circumstances that it was not entitled to make the order unless it found as a fact that the child's mother was at that time with child by that person.

“*Division 3B.—Matrimonial Home.*

**Definitions.**

“49F. In this Division, unless the contrary intention appears—

‘dwelling-house’ includes—

- (a) a garden or portion of ground attached to, and usually occupied with, a dwelling-house, or otherwise required for the amenity or convenience of a dwelling-house; and
- (b) a part of a building occupied as a separate dwelling;

‘representation’, in relation to an intestate, means probate of the will, or administration (including administration with the will of the intestate annexed) of the estate, of the intestate, as the case requires;

‘intestate’, ‘intestate estate’ and ‘personal representative’ have the same meanings, respectively, as in Division 3A of Part III. of this Ordinance.

“ 49G.—(1.) Subject to the provisions of this Division, where the intestate estate of an intestate who is survived by his spouse comprises or includes an interest in a dwelling-house in which the spouse of the intestate was residing at the date of the intestate’s death, the spouse may elect to have that interest appropriated under section forty-six of the Trustee Act, 1925-1942, of the State of New South Wales, in its application in the Territory, in or towards the satisfaction of any interest of the spouse in the real and personal property of the intestate.

Claim by spouse to appropriate right to matrimonial home.

“ (2.) An election under this section may be exercised within a period of one year after the date on which representation in the estate of the intestate is granted by the Court or within such extended period as the Court allows.

“ (3.) Where—

- (a) probate of a will of the intestate has been revoked on the ground that the will was invalid;
- (b) a question whether a person had an interest in the estate of the intestate, or a question as to the nature of an interest claimed in the estate of the intestate, had not been determined at the time when administration of the estate was granted or first granted, as the case may be; or
- (c) the Court, for any other reason affecting the administration or distribution of the estate, considers it proper to do so,

the Court may extend the period specified in the last preceding sub-section.

“ (4.) An election by a spouse shall be furnished in writing—

- (a) if the spouse is not a personal representative of the intestate—to the personal representative, or to each personal representative, as the case may be, of the intestate;
- (b) if the spouse is one of the personal representatives of the intestate—to the other personal representative, or to each other personal representative, as the case may be, of the intestate; or
- (c) if the spouse is the sole personal representative of the intestate—to the Registrar.

“ (5.) An election is not revocable except with the consent of the personal representative or of each personal representative, as the case may be, of the intestate.

“ (6.) A spouse may require the personal representative of the intestate to have the interest in the dwelling-house valued, and to inform him of the result of that valuation, before deciding whether to exercise the right conferred by this Division.

Interest in matrimonial home to be valued.

“ 49H. For the purposes of this Division, the value of the interest of an intestate in a dwelling-house is the amount determined by a qualified valuer engaged by the personal representatives of the intestate to be the market value of the interest.

Right not exercisable in case of certain tenancies.

“ 49J. The right conferred by this Division is not exercisable where the interest of the intestate in the dwelling-house is a tenancy—

- (a) that will determine within a period of two years after the date of death of the intestate; or
- (b) that the landlord is, by notice given after the date of death of the intestate, entitled to determine before the expiration of that period.

Right not exercisable in certain other cases.

“ 49K. Where—

- (a) a dwelling-house forms part of a building and an interest in the whole of the building is comprised in the intestate estate of an intestate;
- (b) a dwelling-house is held with agricultural land and an interest in the agricultural land is comprised in the intestate estate of an intestate;
- (c) the whole or a part of a dwelling-house was, at the date of an intestate's death, used as a hotel or boarding-house; or
- (d) a part of a dwelling-house was, at the date of an intestate's death, used for purposes other than domestic purposes,

the right conferred by this Division on the spouse of the intestate in respect of the dwelling-house is not exercisable by the spouse unless the Court, being satisfied that the exercise of that right is not likely to—

- (e) diminish the value of the assets (other than the interest in the dwelling-house) in the intestate estate; or
- (f) make those assets more difficult to dispose of,

so orders.

Personal representative not to sell or dispose of interest without consent.

“ 49L.—(1.) A personal representative of an intestate is not authorized to sell or otherwise dispose of the interest of the intestate in a dwelling-house in which the spouse of the intestate was residing at the date of the intestate's death during the period of one year after the date on which representation in the estate of the intestate is granted by the Court or, if that period is extended by the Court, during that extended period without the consent in writing of the spouse, except in the course of administration owing to want of other assets or except with the approval of the Court.

“(2.) Where on an application under section forty-nine K of this Ordinance made by the spouse or by the personal representatives of the intestate, the Court does not order that the right conferred by section forty-nine G of this Ordinance may be exercised by the surviving spouse, the Court may approve the disposal of the interest in the dwelling-house within the period of one year referred to in the last preceding sub-section.

“(3.) This section does not apply where the spouse of the intestate is the sole personal representative, or one of two or more personal representatives, of the intestate.

“(4.) Nothing in this section shall be taken to affect the validity of a sale by the personal representatives of an intestate of any part of the estate of the intestate.

“49M. Where the spouse of an intestate is the sole personal representative of the intestate or one of two or more personal representatives of the intestate, he may, notwithstanding that he is a trustee, acquire under this Division, the interest of the intestate in the dwelling-house in which the spouse was residing at the date of the intestate’s death.

Rule that trustee not to purchase trust property.

“49N.—(1.) Where the spouse of an intestate is a person of unsound mind, a requirement or consent under this Division may be made or given on his behalf by his committee, if any, or, where there is no committee, by the Court.

Where surviving spouse is under a legal disability.

“(2.) A requirement or consent made or given under this Division by a surviving spouse who is an infant is as valid as it would be if he had attained the age of twenty-one years.”

**6. Section 50 of the Principal Ordinance is amended—**

(a) by omitting from paragraph (b) of sub-section (1.) the word “or” (second occurring);

(b) by adding at the end of that sub-section the following word and paragraph:—

“; or (d) subject to sub-section (2c.) of this section, raise, on the security of the whole or any part of the intestate estate of the deceased person, any sum required by the executors or administrators for the purpose of paying to the spouse of the person the share, or a part of the share, of the spouse in the intestate estate of the person.”;

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

(c) by omitting from sub-section (2.) the words “, or lease” (wherever occurring) and inserting in their stead the words “, lease or raising of any sum”;

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

“(2C.) The power conferred by paragraph (d) of sub-section (1.) of this section on the executors or administrators of a deceased person is exercisable only in a case where the deceased person is an intestate for the purposes of Division 3A of this Part.

“(2D.) In this section, ‘the intestate estate’, in relation to a person who is an intestate for the purposes of Division 3A of this Part, has the same meaning as in that Division.”;

(e) by omitting from sub-section (3.) the words “No purchaser, nor the Register of Titles or other person registering or certifying title under any sale, mortgage, or lease under this section, shall be bound” and inserting in their stead the words “A purchaser, mortgagee, lessee or other person who for valuable consideration acquires an interest in the estate of the deceased person, or the Registrar of Titles or other person registering title under any sale, mortgage or lease under this section, is not bound”; and

(f) by omitting from sub-section (4.) the words “, or lease” and inserting in their stead the words “, lease or raising of any sum”.

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

7. Section 71 of the Principal Ordinance is amended by omitting sub-sections (1.) and (1A.) and inserting in their stead the following sub-sections:—

“(1.) Subject to this section, where the gross value of an estate does not exceed Twenty thousand dollars, 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—
Not more than \$1,000	\$ 30.00
More than \$1,000 but not more than \$2,000	40.00
More than \$2,000 but not more than \$4,000	50.00
More than \$4,000 but not more than \$6,000	60.00
More than \$6,000 but not more than \$8,000	70.00
More than \$8,000 but not more than \$10,000	80.00
More than \$10,000 but not more than \$12,000	90.00
More than \$12,000 but not more than \$14,000	100.00
More than \$14,000 but not more than \$16,000	110.00
More than \$16,000 but not more than \$18,000	120.00
More than \$18,000 but not more than \$20,000	130.00

“(1A.) Subject to this section, where the gross value of the estate exceeds Twenty thousand dollars, 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 One hundred and thirty dollars plus an additional Five dollars for each complete Two thousand dollars by which the gross value of the estate exceeds Twenty thousand dollars or One thousand dollars, whichever is the less.”.

8. Section 110 of the Principal Ordinance is amended by omitting from sub-section (3.) the words “sections forty-five and forty-six” and inserting in their stead the words “Division 3A. of Part IV.”.

Where no adequate provision made by deceased person, Court may make orders, etc.

9. Section 111 of the Principal Ordinance is amended by omitting from sub-section (2.) the words “sections forty-five and forty-six” and inserting in their stead the words “Division 3A. of Part IV.”.

Provision to operation as codicil.

10. The Third Schedule to the Principal Ordinance is repealed and the following Schedule inserted in its stead:—

Third Schedule.

THIRD SCHEDULE

Section 130.

Fees

	\$
1. For a search .. .. .	0.30
2. For filing documents in support of an application for probate or administration (other than documents in support of an application under Part IV. of this Ordinance)—	
(a) where the gross value of the estate does not exceed \$1,000 ..	2.50
(b) where the gross value of the estate exceeds \$1,000 but does not exceed \$2,000 .. .. .	4.00
(c) where the gross value of the estate exceeds \$2,000 but does not exceed \$4,000 .. .. .	5.50
(d) where the gross value of the estate exceeds \$4,000 but does not exceed \$16,000—	
For the first \$4,000 of the gross value .. .. .	5.50
For each \$4,000 (or part of \$4,000) of the gross value in excess of \$4,000 .. .. .	1.50
(e) where the gross value of the estate exceeds \$16,000 but does not exceed \$20,000 .. .. .	12.00
(f) where the gross value of the estate exceeds \$20,000 but does not exceed \$80,000—	
For the first \$20,000 of the gross value .. .. .	12.00
For each \$10,000 (or part of \$10,000) of the gross value in excess of \$20,000 .. .. .	2.00
(g) where the gross value of the estate exceeds \$80,000 .. .. .	30.00
3. For filing a subsequent affidavit or other document in response to the Registrar's requisition or otherwise in support of an application for probate or administration .. .. .	0.30
4. For filing accounts .. .. .	0.80

THIRD SCHEDULE—*continued.*

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5. For an appointment before the Registrar or Deputy Registrar to vouch accounts, for each hour or part of an hour .. .. .	2.50
6. For any other appointment before the Registrar or Deputy Registrar ..	1.30
7. For an attendance by the Registrar, or other officer of the Court, before the Court on the return date of a summons .. .. .	3.00
8. For the issue of a certificate of the Registrar or Deputy Registrar ..	1.00
9. For filing a notice of motion returnable before the Judge, the Registrar or Deputy Registrar .. .. .	2.00
10. For filing a petition .. .. .	2.00
11. For the preparation, issue and service of a summons under section 59 of this Ordinance .. .. .	1.50
12. For the issue and service of a summons other than a summons under section 59 of this Ordinance .. .. .	2.00
13. For filing an order .. .. .	1.20
14. For the issue of a citation (including the filing of a praecipe and affidavit)	1.00
15. For the issue of a subpoena (including the filing of a praecipe) ..	1.20
16. For filing a caveat .. .. .	0.70
17. For filing a statement of claim .. .. .	2.00
18. On each copy of a statement of claim for service .. .. .	1.00
19. For filing an appearance .. .. .	1.00
20. For filing a statement of defence .. .. .	2.00
21. For setting down for hearing (including the filing of a notice) .. ..	2.00
22. For amending a statement of a claim or any other pleading or document	1.50
23. For filing a decree .. .. .	5.00
24. For filing a notice of appeal .. .. .	2.00
25. For a typewritten office copy of a will or other document—	
(a) where there are not more than 8 folios (of 72 words each) ..	1.00
(b) where there are more than 8 folios, per folio .. .. .	0.12
26. For an office copy, reproduced by photographic process, of a will or other document, per page .. .. .	1.00
27. For the preparation of probate or letters of administration with the will annexed .. .. .	2.50
And, in addition, where the will comprises more than one page, for each page after the first .. .. .	0.70
28. For the preparation of an exemplification or certified copy of probate or letters of administration with the will annexed (in addition to the fees prescribed for an office copy of the will) .. .. .	1.30
29. For the preparation of letters of administration upon intestacy ..	1.30
30. For the preparation of an exemplification or certified copy of letters of administration upon intestacy .. .. .	1.30
31. For the certification of a copy of probate or letters of administration with or without a will annexed or an exemplification .. .. .	2.50
32. For filing a bill of costs (including appointment and allocatur or certificate)	1.50
33. For taxing costs or moderating costs—	
(a) up to \$20 .. .. .	0.70
(b) over \$20, a percentage of the amount allowed at the rate per centum of .. .. .	5.00
34. For filing any other document for which a fee is not elsewhere prescribed	0.30

11. The Principal Ordinance is amended by adding at the end thereof the following Schedule:—

Addition of  
Sixth Schedule.

“SIXTH SCHEDULE

Section 49.

DISTRIBUTION OF INTESTATE ESTATE UPON INTESTACY

PART I.—MANNER OF DISTRIBUTION WHERE INTESTATE IS SURVIVED BY A SPOUSE

Item	Circumstances	Manner in which the intestate estate of the intestate is to be distributed
1	Where the intestate is not survived by— (a) issue; or (b) a parent, a brother or sister or the issue of a brother or sister.	The spouse is entitled to the whole of the intestate estate.
2	Where the intestate is survived by issue.	<p>1. The spouse is entitled—</p> <p>(a) if the value of the intestate estate does not exceed Ten thousand dollars—to the whole of the intestate estate; or</p> <p>(b) if the value of the intestate estate exceeds Ten thousand dollars—to be paid out of the intestate estate the sum of Ten thousand dollars and an additional sum equal to—</p> <p>(i) if one child or the issue of one child of the intestate but no other issue of the intestate survives the intestate—one-half of the value of the balance of the intestate estate; or</p> <p>(ii) if any other case—one-third of the value of the balance of the intestate estate.</p> <p>2. The issue of the intestate are entitled to the balance (if any) of the intestate estate after payment to the spouse of the sum or sums to which the spouse is entitled under the last preceding paragraph.</p>
3	Where the intestate is not survived by issue but is survived by a parent, a brother or sister or the issue of a brother or sister.	<p>1. The spouse is entitled—</p> <p>(a) if the value of the intestate estate does not exceed Fifty thousand dollars—to the whole of the intestate estate; or</p> <p>(b) if the value of the intestate estate exceeds Fifty thousand dollars—to be paid out of the intestate estate the sum of Fifty thousand dollars and an additional sum equal to one-half of the value of the balance of the intestate estate.</p> <p>2. If the intestate is survived by one or both of his parents (whether or not the intestate is also survived by a brother or sister or the issue of a brother or sister), the surviving parent is entitled, or the parents are entitled in equal shares, as the case may be, to the balance (if any) of the intestate estate after payment to the spouse of the sum or sums to which the spouse is entitled under the last preceding paragraph.</p>



## SIXTH SCHEDULE—continued.

## Part I.—continued.

Item	Circumstances	Manner in which the intestate estate of the intestate is to be distributed
		3. If the intestate is not survived by a parent, the brothers and sisters of the intestate who survive the intestate, and the issue who survive the intestate of a brother or sister of the intestate who died before the intestate, are entitled to the balance (if any) of the intestate estate, after payment to the spouse of the sum or sums to which the spouse is entitled under paragraph 1 of this item, in such shares as he or they would have been entitled to the intestate estate of the intestate if the intestate had not been survived by his spouse.

## PART II.—MANNER OF DISTRIBUTION WHERE INTESTATE IS NOT SURVIVED BY A SPOUSE

Item	Circumstances	Manner in which the intestate estate of the intestate is to be distributed
1	Where the intestate is survived by issue.	The issue are entitled to the whole of the intestate estate.
2	Where the intestate is not survived by issue but is survived by a parent or both parents.	The parent is entitled to the whole of the intestate estate or, if both parents survive the intestate, the parents are entitled to the whole of the intestate estate in equal shares.
3	Where the intestate is not survived by issue or by a parent but is survived by next of kin.	The next of kin are entitled to the intestate estate in accordance with section 49c of this Ordinance.
4	Where the intestate is not survived by issue, by a parent or by next of kin.	The intestate estate shall be deemed to be <i>bona vacantia</i> and the Commonwealth is entitled to it.

Amendments in relation to decimal currency.

12. The Principal Ordinance is amended as set out in the Schedule to this Ordinance.

## THE SCHEDULE

Section 12.

## AMENDMENTS IN RELATION TO DECIMAL CURRENCY

Provisions amended	Omit—	Insert—
Section 15 .. ..	exceed Five thousand pounds of Five thousand pounds	exceed Ten thousand dollars of Ten thousand dollars
Section 16 (1.) (a) ..	One thousand pounds	Two thousand dollars
Section 70 (1.) .. ..	Five pounds	five
Section 71 (3.) .. ..	Two thousand pounds	Four thousand dollars
Section 71 (4.) .. ..	Two thousand pounds	Four thousand dollars
Section 75 .. ..	One thousand pounds	Two thousand dollars
Section 77 (1.) (b) ..	One thousand pounds	Two thousand dollars
Section 87 (1.) .. ..	Five pounds	five
Section 87B (1.) (a) ..	One hundred pounds	Two hundred dollars
Section 87c (1.) (b) ..	One thousand pounds	Two thousand dollars

**13.** Division 3A and Division 3B of Part III. of the Principal Ordinance as amended by this Ordinance apply to and in relation to the administration of the estate of a person who dies after the commencement of this Ordinance and sections 44 to 49 (inclusive) of the Principal Ordinance continue to apply, after the commencement of this Ordinance, notwithstanding the repeal of those sections by this Ordinance, to and in relation to the administration of the estate of a person who died before the commencement of this Ordinance. Application.