

PROBATE AND ADMINISTRATION ACT

(CHAPTER 251)

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Probate and Administration Act.

Interpretation

2. In this Act, unless there is something repugnant in the subject or context —
"court" means —

(a) the High Court or a judge when sitting in open court in all cases where proceedings are taken in the High Court; and

(b) a District Court or a District Judge when sitting in open court in all cases where proceedings are taken in a District Court;

"judge" means —

(a) a judge sitting in chambers in all cases where proceedings are taken in the High Court; and

(b) a District Judge sitting in chambers in all cases where proceedings are taken in a District Court;

"letters of administration" means a grant under the seal of the court issuing the same, authorising the person or persons therein named to administer an intestate's estate in accordance with law;

"letters of administration with the will annexed" means a grant under the seal of the court issuing the same, authorising the person or persons therein named to administer a testator's estate in compliance with the directions contained in his will, and in accordance with law;

"prescribed form" means the form prescribed by rules made under any law for the time being in force relating to the courts;

"probate" means a grant under the seal of the court issuing the same, authorising the executor or executors expressly or impliedly appointed by a testator's will, or

one or more of them, to administer the testator's estate in compliance with the directions contained in his will, and in accordance with law;

"probate action" means a cause or matter in which a probate application is contested by any person, and includes any application to alter or revoke the grant of any probate or letters of administration;

"probate application" means an application for a grant of probate or letters of administration, and "probate applicant" shall be construed accordingly;

"Public Trustee" means the Public Trustee appointed under the Public Trustee Act (Cap. 260) and includes an Assistant Public Trustee appointed under that Act;

"registrar" means —

(a) the Registrar or the Deputy Registrar or Assistant Registrar of the Supreme Court in all cases where proceedings are taken in the High Court;

(b) a registrar or deputy registrar of a District Court in all cases where proceedings are taken in a District Court to which a registrar is attached; and

(c) a District Judge in all cases where proceedings are taken in any other District Court;

"will" includes any codicil or other testamentary document.

[7/97]

PART II

RENUNCIATION

Express renunciation

3. —(1) Any person who is or may become entitled to any probate or letters of administration may expressly renounce his right to such grant.

(2) Such renunciation may be made —

(a) orally by the person renouncing or by his advocate and solicitor, on the hearing of any probate application or probate action; or

(b) in writing signed by the person so renouncing and attested either by an advocate and solicitor or by any person before whom an affidavit may be sworn.

Constructive renunciation

4. —(1) Any person having or claiming any interest in the estate of a deceased

person, or any creditor of a deceased person, may, without applying for probate or letters of administration, cause to be issued a citation directed to the executor or executors appointed by the deceased's will, or to any person appearing to have a prior right to probate or letters of administration, calling upon the person cited to accept or renounce that right.

(2) Any person so cited may enter an appearance to the citation, but if he makes default in appearance thereto, he shall be deemed to have renounced his right.

(3) If, having appeared, the person so cited does not proceed to apply for probate or letters of administration, the person so citing may apply for an order that the person cited, unless he applies for and obtains a grant within a time limited by the order, shall be deemed to have renounced his right thereto, and an order may be made accordingly.

Effect of renunciation

5. —(1) The renunciation, whether made expressly in the manner provided by section 3, or constructively in the manner provided by section 4, shall preclude the person so renouncing from applying thereafter for probate or letters of administration.

(2) Notwithstanding subsection (1), the court may at any time allow the person so renouncing to withdraw his renunciation for the purpose of taking a grant, if it is shown that the withdrawal is for the benefit of the estate or of those interested under the will or intestacy.

PART III

GRANT OF PROBATE OR LETTERS OF ADMINISTRATION

Provisions as to number of personal representatives

6. —(1) Probate or letters of administration shall not be granted to more than 4 persons in respect of the same property.

(2) Letters of administration shall, if there is a minority or if a life interest arises under the will, be granted either to a trust corporation, with or without an individual, or to not less than 2 individuals.

(3) The court in granting letters of administration may act on such prima facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by rules made under any written law for the time being in force relating to the courts.

(4) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest and until the estate is fully administered, the court may, on the application of any person interested or of the guardian, committee or receiver of any such person, appoint one or more personal representatives in addition to the existing personal representative in accordance with rules made under any written law for the time being in force relating to the courts.

(5) This section shall apply to grants made after 1st January 1935 whether the testator or intestate died before or after that date.

(6) For the purposes of this section, "trust corporation" means the Public Trustee or a corporation licensed as a trust company under the Trust Companies Act 2005.

Notation of domicile

7. —(1) A probate applicant may at any time apply to the registrar by summons intituled in the estate of the deceased person for an order that a notation be endorsed on the grant that the deceased person died domiciled in Singapore.

(2) The registrar, on being satisfied by affidavit and by such further evidence as he may require that the testator or intestate died domiciled in Singapore, may write and sign a note or memorandum upon such grant stating that the testator or intestate died domiciled in Singapore.

Grant of probate

8. —(1) Probate may be granted to any executor appointed by a will.

(2) The appointment may be express or implied.

(3) Subject to section 6, where more than one person is appointed an executor by a will, probate may be granted to one or more of the persons so appointed, without prejudice to a subsequent application by another or others of them for further grant or grants.

Where will lost, etc.

Probate of copy or draft, or of contents

9. Where a will has been lost or mislaid after the death of the testator, or where a will cannot for any sufficient reason be produced —

(a) if a copy or draft thereof is produced, and it appears that the copy or draft is identical in terms with the original, probate may be granted of that copy or draft, limited until the original is admitted to probate; or

(b) if no such copy or draft is produced, probate may be granted of the contents of the will, if they can be sufficiently established, limited as above described.

Where will destroyed, etc.

Destroyed will

10. Where a will has been destroyed, otherwise than by the act or with the consent of the testator, probate may be granted of a copy or draft thereof, or of the contents thereof, if they can be sufficiently established.

Where will proved and deposited outside Singapore

Administration with copy annexed of authenticated copy of will proved abroad

11. When a will has been proved and deposited in a court of competent jurisdiction situated beyond the limits of Singapore, and a properly authenticated copy of the will is produced, probate may be granted of such copy or letters of administration may be granted with a copy of such copy annexed.

Where codicil propounded after probate

Codicil propounded after probate

12. —(1) Where, after probate has been granted, a codicil of the will is propounded, separate probate may be granted of the codicil.

(2) Where the codicil expressly or impliedly revokes the appointment of any executor to whom probate has been granted, the probate shall be revoked, and a new probate shall be granted of the will and codicil together.

Letters of administration with will annexed

On failure of executors

13. —(1) Where —

- (a) no executor is appointed by a will;
 - (b) the executor or all the executors appointed by will are legally incapable of acting as such, or have renounced the right to act as such;
 - (c) no executor survives the testator;
 - (d) all the executors die before obtaining probate or before having administered all the estate of the deceased; or
 - (e) the executors appointed by any will do not appear and extract probate,
- letters of administration with the will annexed may be granted to such person or persons as the court considers the fittest to administer the estate.

(2) A prior right to a grant under subsection (1) shall belong to the following persons in the following order:

- (a) a universal or residuary legatee;
- (b) a legal personal representative of a deceased universal or residuary legatee;
- (c) such person or persons, being beneficiaries under the will, as would have been entitled to a grant of letters of administration if the deceased had died intestate;
- (d) a legatee having a beneficial interest;
- (e) a creditor of the deceased.

Letters of administration with will annexed may be granted to attorney of absent executor

14. Where an executor appointed by a will is absent from Singapore, and there is no other executor within Singapore willing to act, letters of administration with the will annexed may be granted to a duly authorised attorney of the absent executor, limited until he obtains probate for himself, and in the meantime to any purpose to which the attorney's authority is limited.

Grant to attorney of absent person entitled to letters of administration

15. Where any person to whom letters of administration with the will annexed might be granted under section 13 is absent from Singapore, letters of administration with the will annexed may be granted to his duly authorised attorney, limited as described in section 14.

Codicil propounded after grant of letters of administration

16. Section 12 shall apply in the case of a grant of letters of administration with the will annexed, in like manner as they apply in the case of a grant of probate.

Letters of administration until will produced

Letters of administration until will produced

17. When no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy thereof is produced.

Letters of administration on intestacy

Letters of administration on intestacy

18. —(1) When a person has died intestate, the court may grant letters of administration of his estate.

(2) In granting such letters of administration the court shall have regard to the rights of all persons interested in the estate of the deceased person or the proceeds of sale thereof, and in regard to land settled previously to the death of the deceased, letters of administration may be granted to the trustees of the settlement.

(3) Any such grant of letters of administration may be limited in any way the court thinks fit.

(4) Without prejudice to the generality of subsection (2) —

(a) letters of administration may be granted to the husband or widow or next of kin or any of them;

(b) when such persons apply for letters of administration, it shall be in the discretion of the court to grant them to any one or more of such persons;

(c) when no such person applies, letters of administration may be granted to a creditor of the deceased;

(d) in any case where —

(i) the next of kin of any person dying intestate, or the greater number of such next of kin, so desire; or

(ii) no next of kin or creditor or other person appears and makes out a claim to letters of administration,
letters of administration of the estate and effects of the intestate may be granted by the court to such person as the court thinks fit for the purpose.
(5) Nothing in this section shall affect any law by which special provision is made regarding the estates of persons of a particular religion or race.

Letters of administration to attorney of person entitled

19. Where a person entitled to letters of administration in case of intestacy is absent from Singapore, and no person equally entitled is willing to act, letters of administration may be granted to an authorised attorney of the absent person, limited until he obtains a grant to himself.

Letters of administration pending probate action

Letters of administration pending probate action

20. Pending any probate action, letters of administration may be granted to such person as the court may appoint, limited so that the administrator shall not be empowered to distribute the estate, and shall be subject to such control by, and direction of, the court as the court thinks fit.

Letters of administration during infancy

Infants

21. —(1) No probate or letters of administration shall be granted to a person while he is an infant.

(2) Where an infant would, but for his infancy, be entitled to probate or letters of administration, letters of administration with or without the will annexed may, subject to section 6 (1), be granted to the guardian of the person and property of the infant, or to such person as the court thinks fit, limited until the infant obtains a grant to himself.

(3) Where there are 2 or more infant executors or persons so entitled, any grant made under subsection (2) shall be limited until any of them obtains a grant.

Letters of administration during lunacy

Lunatics

22. —(1) No probate or letters of administration shall be granted to a lunatic or person of unsound mind.

(2) Where any such person, if of sound mind, would be entitled to probate or letters of administration, letters of administration with or without the will annexed may be granted to the person to whom the care of his estate has been lawfully committed, or to such person as the court thinks fit, for the use and benefit of the lunatic or person of unsound mind, until he becomes of sound mind and obtains a grant to himself.

Letters of administration limited to trust property

Letters of administration of trust property

23. Where a person dies, leaving property in which he had no beneficial interest on his own account, and does not leave a representative who is able and willing to act, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Letters of administration limited to collection and preservation of property

Letters of administration to collect and preserve property

24. In any case in which it appears necessary for preserving the property of a deceased person, the court may grant to any person whom the court thinks fit letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges of debts due to his estate, subject to the directions of the court.

Death of one of several executors, etc.

Death of one of several executors, etc.

25. —(1) Where probate or letters of administration have been granted to more than one executor or administrator, and one of them dies, the representation of

the estate shall accrue to the surviving executor or executors or, except in cases to which section 6 applies, administrator or administrators.

(2) On the death of an administrator, letters of administration may be granted in respect of any estate not fully administered and in granting such letters of administration the court shall be guided by the same rules as apply to original grants.

Grants with exception

26. —(1) A grant of probate or letters of administration may be made subject to such exception as the will or the circumstances of the case require.

(2) A further grant may be made of the part of the estate excepted under subsection (1).

Administration when limited grant expired and some part of estate unadministered

27. When a limited grant has expired by effluxion of time or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

PART IV

OATH

Oath

28. —(1) Upon the grant of any probate or letters of administration, the grantee shall take an oath in the prescribed form, faithfully to administer the estate and to account for the same.

(2) Subsection (1) shall not apply where the grantee is the Public Trustee, or a trust company.

PART V

SECURITY

Administration bond

29. —(1) Where security is required the registrar shall determine its sufficiency.

(2) The security shall ordinarily be by bond in the prescribed form by the grantee and 2 sureties in the amount at which the estate within the jurisdiction is sworn, without deduction of any debts due by the deceased, other than debts secured by mortgage.

(3) The court or a judge or any registrar whom the Chief Justice may specially appoint for that purpose may for any sufficient reason increase or decrease the number of the sureties, or dispense with them, or reduce the amount of the bond.

(4) Where the Public Trustee has obtained a grant of letters of administration, he shall not be required to give security.

(5) When the administrator is entitled to the whole of the estate after payment of the debts, sureties in the bond may ordinarily be dispensed with.

(6) Sureties may be required by the registrar to justify.

(7) In the case of administrations whether with or without the will annexed the person to whom the grant is made or on whose behalf it is sealed shall give security for the due administration of the estate.

Bond by creditor administrator

30. When letters of administration are granted to a creditor, he may be required to enter into a bond to pay the debts of the deceased rateably, without preferring his own debt.

Assignment of bond

31. The court or a judge may, if it appears that the condition of an administration bond has been broken, order that it be assigned by the registrar to some named person, who shall thereupon be entitled to sue on the bond under his own name on behalf of all persons interested in the estate in respect of which the bond was executed, as though it had originally been made in his favour.

PART VI

REVOCATION OF GRANT

Revocation of grant

32. Any probate or letters of administration may be revoked or amended for any sufficient cause.

PART VII

CAVEATS

Caveat

33. —(1) Any person having or claiming to have interest may, at any time after the death of a deceased person and before probate or letters of administration have been granted to his estate, enter a general caveat, so that no probate or letters of administration shall be granted without notice to the caveator.

(2) After entry of any such caveat no such grant shall be made until the caveator has been given opportunity to contest the right of any probate applicant to a grant.

PART VIII

DISTRICT COURTS

Jurisdiction of District Courts

34. —(1) District Courts shall exercise the jurisdiction conferred on them by any written law for the time being in force relating to the courts in accordance with this Act, subject to sections 35 and 36 and to the Rules of Court (Cap. 322, R 5).

[7/76]

(2) A District Court may, subject to the Rules of Court, allow any citation issued under section 4 or under any such Rules to be served out of the jurisdiction by registered post upon any person required to be served therewith wherever he may be whether in Singapore or elsewhere.

[7/76]

Grants in excess of jurisdiction not to be invalid

35. —(1) No probate or letters of administration granted by a District Court shall

be invalid by reason of the assets and effects of the deceased being subsequently found to be of a value which exceeds the District Court limit.

(2) The grantee shall be —

(a) liable for the estate duty payable in respect of the true value of the estate, and for all such court fees as would have been payable had the application for the grant been made to the High Court; and

(b) required to give such security for the due administration of the estate as is required in the case of a grant by the High Court.

[7/76;3/87]

(3) Unless in such case the grantee complies without delay with the requirements of subsection (2), the grant may be revoked, on the application of the Commissioner of Estate Duties, or of the Registrar of the Supreme Court, or of any person having any interest as beneficiary or creditor in the assets of the estate.

(4) In this section, "District Court limit" has the same meaning as in sections 26 (a) and 27 of the Subordinate Courts Act (Cap. 321).

Security in case of grant of administration by District Court

36. A grantee of letters of administration from the District Court shall not be required to give security for the due administration of the estate, unless the person for whose use and benefit the grant is made is an infant, or unless in any other case the District Court thinks fit to require such security.

PART IX

PROTECTION OF ESTATES PENDING GRANT

Vesting of estate in Public Trustee in certain circumstances between death and grant of administration

37. —(1) Where a person dies intestate, his real and personal estate shall vest in the Public Trustee.

[7/97]

(2) Where a testator dies and —

(a) at the time of his death there is no executor with power to obtain probate of the will; or

(b) at any time before probate of the will is granted there ceases to be any executor with power to obtain probate, the real and personal estate of which the testator disposes by the will shall vest in the Public Trustee with effect from the time specified in paragraph (a) or (b) in relation to each case.

[7/97]

(3) The vesting by virtue of this section of any estate in the Public Trustee shall not, without more, confer or impose on him any power, duty, right, equity, obligation or liability in respect of the estate.

[7/97]

(4) Any estate or part of an estate vested in the Public Trustee under subsection (1) or (2) shall cease to be so vested on the grant of administration in respect of the estate or part in question.

[7/97]

Estate vested in Chief Justice before 1st October 1997

38. —(1) Any estate or part of an estate of a deceased person vested in the Chief Justice under section 37 immediately before 1st October 1997 shall on that date vest in the Public Trustee.

[7/97]

(2) Subject to subsection (3), the amendment made to this Act by the Statutes (Miscellaneous Amendments) Act 1997 (Act 7 of 1997) applies in respect of a person's estate whether the person died before, on or after 1st October 1997.

[7/97]

(3) Where, but for this subsection, the vesting under section 37 (as amended by the Statutes (Miscellaneous Amendments) Act 1997) of any estate of a testator would have effect from a time before 1st October 1997, the vesting shall have effect from that date and section 37 (2) shall have effect subject to this.

[37A

[7/97]

Receiver pending grant

39. Where any person dies leaving property within Singapore, the court or a judge may, if it appears, on an application made by originating summons by the Public Trustee or by any person claiming to be interested in the property, or having the custody or control thereof at the time of the death of the deceased, or being at such time an attorney of the deceased, that there is danger that the property may be wasted, appoint the Public Trustee or such other person as the court or judge thinks fit, to be a receiver of the property pending a grant of probate or letters of administration.

[38]

Sale by order of court

40. The court or a judge may, on application by a receiver appointed under section 39, or any person interested in the estate, order the sale of the whole or any part of such property, if it appears that such sale will be beneficial to the estate.

[39]

Application of rules relating to receivers

41. A receiver appointed under section 39 shall be subject to the Rules of Court (Cap. 322, R 5) relating to receivers generally, but the Public Trustee shall not be required to furnish security.

[40]

Penalty

42. Any person who, without lawful authority, removes or attempts to remove from Singapore any portion of the property of which a receiver has been appointed under section 39, or destroys, conceals, or refuses to yield up the same to the receiver, shall be guilty of an offence and shall be liable on conviction by a Magistrates' Court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both.

[41]

No suit against receiver

43. —(1) No suit shall be brought against a receiver appointed under section 39 in relation to anything done or intended to be done by him in respect of the

property of the deceased in exercise or intended exercise of the powers vested in him.

(2) Any person aggrieved by anything so done, or intended to be done, may apply to the court or a judge for directions in the matter, and the court or judge may make such order in the premises as is just.

[42]

Receiver's lien

44. A receiver appointed under section 39 shall have a lien upon the property entrusted to him for all costs and expenses properly incurred by him in the exercise of his duties as such receiver.

[43]

District Courts

45. This Part shall not apply to District Courts.

[44]

PART X

RE-SEALING OF PROBATES AND LETTERS OF ADMINISTRATION GRANTED OUT OF SINGAPORE

Interpretation

46. In this Part —

"Commonwealth" shall, for the purposes of this Part, be deemed to include any country in the Commonwealth which the Minister may, by notification in the *Gazette*, specify to be a country to which this Part applies;

"court of probate" means any court or authority by whatever name designated, having jurisdiction in matters of probate;

"probate" and "letters of administration" include confirmation in Scotland and any instrument having in any country or territory the same effect which, under the law of Singapore, is given to probate or letters of administration respectively.

[45]

[7/97;2/99]

Power of court to re-seal

47. —(1) Subject to subsections (3) and (4), where —

(a) a court of probate in any part of the Commonwealth has, either before, on or after 25th February 1999, granted probate or letters of administration in respect of the estate of a deceased person; or

(b) a court of probate in a country or territory, being a country or territory declared by the Minister under subsection (5) as a country or territory to which this subsection applies, has, on or after a date specified by the Minister in respect of that country or territory (referred to in this section as the relevant date), granted probate or letters of administration in respect of the estate of a deceased person,

the probate or letters of administration so granted, or a certified copy thereof, sealed with the seal of the court granting the same, may, on being produced to and a copy thereof deposited in the High Court, be sealed with the seal of the Supreme Court.

[2/99]

(2) Upon sealing under subsection (1), the probate or letters of administration shall be of the like force and effect, and have the same operation in Singapore, as if granted by the High Court to the person by whom or on whose behalf the application for sealing was made.

[2/99]

(3) Before the probate or letters of administration is sealed with the seal of the Supreme Court, the High Court may require such evidence as it thinks fit as to the domicile of the deceased person.

[2/99]

(4) If it appears that the deceased was not, at the time of his death, domiciled within the jurisdiction of the court from which the grant was issued, the seal shall not be affixed unless the grant is such as the High Court would have made.

[2/99]

(5) For the purposes of subsection (1) (b), the Minister may, by notification in the *Gazette* —

- (a) declare any country or territory, which is not a part of the Commonwealth, as a country or territory to which subsection (1) applies; and
- (b) specify the relevant date in respect of that country or territory which may be a date before, on or after 25th February 1999.

[46
[2/99]

Provisions for estate duty

48. The provisions of the Estate Duty Act (Cap. 96), including the penal provisions thereof, shall apply as if the person who applies for sealing under this Part were an executor within the meaning of that Act, and section 42 of that Act shall apply with the necessary modifications to the re-sealing of grants under this Part.

Security on re-sealing letters of administration

49. —(1) Before the sealing of letters of administration under this Part, the administrator or his attorney shall give security by a bond in the prescribed form for the due administration of the estate.

(2) Such security shall be subject to section 29 relating to security to be given in the case of a grant of letters of administration.

Security for creditors in Singapore

50. —(1) Where the deceased has carried on business or resided in Singapore within 12 months of his death, the court or a judge may, on the application of a creditor of the deceased or otherwise, before a grant of probate or letters of administration is re-sealed, require adequate security to be given for the payment of debts due to creditors residing in Singapore.

(2) Any such creditor may give notice in writing to the registrar, requiring that he be notified of any application for the sealing of a grant of probate under this Part; and no such grant shall be sealed before the expiration of 7 days after service on such creditor of a notice in writing of an application for sealing.

Notice of sealing

51. Notice of the sealing of a grant under this Part shall be sent forthwith by the registrar to the court from which the grant is issued.

Notice of revocation

52. When notice has been received by the court of the re-sealing of a grant

issued in Singapore, notice of any revocation or alteration of the grant shall be sent forthwith by the registrar to the court so re-sealing the grant.

District Courts

53. This Part shall not apply to District Courts.

PART XI

GENERAL

Order to bring in will, etc.

54. The court or a judge may, on the application of any person interested, if it appears that there is reason to believe that any will or other testamentary document of a deceased person is in the possession or under the control of any person, or that any person has knowledge of the existence of such a will or document, order that that person do, within a time named, produce the will or document at the registry, or attend at a time named before a court or a judge, for the purpose of being examined in relation to the will or document.

Grant to Public Trustee in cases of delay

55. —(1) In the following cases:

- (a) where, after the expiration of 6 months from the death of a deceased person, no application has been made for probate or letters of administration to his estate;
- (b) where any such application, though made within the said 6 months, has not within that period been proceeded with, or has been withdrawn or refused;
- (c) where any person, who has received a grant of letters of administration with or without the will annexed, neglects within one month of the date of the grant to give such security as he is lawfully required to furnish;
- (d) where a receiver may be appointed under section 39, but it appears that such appointment would not be a sufficient protection for the estate;
- (e) where an administrator has failed to extract the grant of letters of administration; or

(f) where after the death of a last surviving executor or administrator of a deceased person's estate 6 months have elapsed and no application for the representation of the estate has been made, letters of administration with or without the will annexed may be granted to the Public Trustee, or to such other person as the court thinks fit.

(2) Nothing in this section shall be construed so as to prevent the Public Trustee from applying for or being granted letters of administration of the estate of a deceased person with or without the will annexed before the expiration of a period of 6 months of the death of the deceased.

Death of payee

56. —(1) When funds in court are by an order directed to be paid, transferred or delivered to any person named or described in an order, or in a certificate of the registrar, except to a person therein expressed to be entitled to those funds as trustee, executor, or administrator, or otherwise than in his own right, or for his own use, the funds, or any portion thereof for the time being remaining unpaid, untransferred or undelivered, may, unless the order otherwise directs, on proof of the death of such person, whether on or after or, in the case of payment directed to be made to a creditor as such, before the date of the order, be paid, transferred, or delivered to the legal personal representatives of the deceased person, or to the survivors or survivor of them.

(2) If no administration has been taken out to the estate of such deceased person who has died intestate, and whose assets do not exceed \$500, including the amount of the funds directed to be so paid, transferred or delivered to him, the funds may be paid, transferred or delivered to the person who, being a widower, widow, child, father, mother, brother or sister of the deceased, would be entitled to take administration to his or her estate upon a declaration by that person in the prescribed form.

Administration of assets

57. —(1) Where the estate of a deceased person is insolvent his estate shall be administered in accordance with the rules set out in the First Schedule.

(2) The right of retainer of a personal representative and his right to prefer creditors may be exercised in respect of all assets of the deceased, but the right

of retainer shall only apply to debts owing to the personal representative in his own right whether solely or jointly with another person.

(3) Subject to subsection (2), nothing in this Act shall affect the right of retainer of a personal representative, or his right to prefer creditors.

(4) Where the estate of a deceased person is solvent his estate shall, subject to the Rules of Court (Cap. 322, R 5) and section 58 as to charges on property of the deceased, and to the provisions, if any, contained in his will, be applicable towards the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable thereout in the order mentioned in the Second Schedule.

Charges on property of deceased to be paid primarily out of property charged

58. —(1) Where a person dies possessed of, or entitled to, or, under a general power of appointment, by his will disposes of an interest in property which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge.

(2) Every part of the interest referred to on subsection (1), according to its value, shall bear a proportionate part of the charge on the whole thereof.

(3) Such contrary or other intention shall not be deemed to be signified —
(a) by a general direction for the payment of debts or of the debts of the testator out of his movable property or of his residuary estate; or
(b) by a charge of debts upon any such estate,
unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.

(4) Nothing in this section shall affect the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the deceased or otherwise.

Administration of estates by consular officers

59. —(1) Whenever any subject or citizen of any State mentioned in the first column of the Third Schedule —

(a) dies within Singapore; or

(b) dies outside Singapore leaving property within Singapore, and no person is present in Singapore at the time of his death who is rightfully entitled to administer the estate of the deceased person, the consul, vice-consul or consular agent of that State within Singapore may —

(i) take possession and have the custody of the property of the deceased person;

(ii) apply the same in payment of his debts and funeral expenses; and

(iii) retain the surplus for the benefit of the persons entitled thereto.

(2) Notwithstanding subsection (1), the consul, vice-consul or consular agent shall immediately apply for, and shall be entitled to obtain from the court, letters of administration of the property of the deceased person, limited in such manner and for such time as to the court seems fit.

Variation of Third Schedule

60. The Minister may, by notification in the *Gazette*, add to, amend or vary the Third Schedule.

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Letters of administration granted to consular officer to pass to his successors in office

61. —(1) Letters of administration granted to a consular officer under section 59 shall be granted to such an officer in his official style and title and not in his personal name, but the person officiating as such consul, vice-consul or consular agent shall personally take the administrator's oath.

(2) The letters of administration referred to in subsection (1) and the estate of the deceased shall pass from such consular officer to his successors in office, and shall vest in each such consular officer for the time being during his continuance in office without any order of the court or any conveyance, assignment or other instrument whatsoever.

Administration by Public Trustee

62. —(1) Where any person dies leaving property in Singapore not exceeding

\$50,000 in value (without deduction for debts), the Public Trustee, after satisfying himself that no application for letters of administration is pending, may, if he thinks fit, by writing signed by him declare that he undertakes to administer such property.

(1A) For the purpose of subsection (1), the amount of \$50,000 shall not include

—

(a) the value of any property which the deceased possessed or was entitled to as trustee and not beneficially; and

(b) in the case of a person who dies on or after 17th September 2005, any moneys payable by an appointed insurer pursuant to the Dependents' Protection Insurance Scheme or any other equivalent scheme maintained by the Central Provident Fund Board under the Central Provident Fund Act (Cap. 36).

(2) Upon a declaration under subsection (1), the Public Trustee shall be empowered to administer such property as though letters of administration, with or without the will annexed, of the estate of the deceased person had been granted to him, and his receipt shall be a sufficient discharge to any person who pays any money or delivers any property to him.

(3) Notice of every declaration made under subsection (1) shall be filed in court.

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(4) At any time prior to the distribution of any part of the property among the beneficiaries thereof under this section the Public Trustee may, if he thinks it expedient to do so, notwithstanding any declaration made by him under subsection (1), decline to proceed with the administration of the property in his hands until a grant of representation has been obtained in respect of the estate of the deceased.

Payment for minor's maintenance, etc., out of property not exceeding \$25,000 in value held by Public Trustee

63. —(1) Where any property not exceeding \$25,000 in value is held by the Public Trustee, whether by virtue of a grant of letters of administration to him or by virtue of the powers conferred on him by this Act, and the property is held by him upon trust for any person for any interest whatsoever, whether vested or contingent, then, subject to any prior interest or charges affecting that property,

the Public Trustee may in his sole discretion, during the minority of any such person, in respect of that person's maintenance, education or benefit make payments of the whole or such part of the income and capital money of such property as may in all the circumstances be reasonable.

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(2) When the property so held exceeds \$25,000 but does not exceed \$50,000 in value, the Public Trustee may make such payments of capital money to the extent of \$25,000.

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(3) Such payments may be made to the parent or guardian of such person or otherwise as the Public Trustee may, in his discretion, determine, and whether or not there is —

(a) any other fund applicable to the same purpose; or

(b) any person bound by law to provide for such person's maintenance or education.

Exemption from necessity of giving notice of distribution of property of less than \$10,000 in value

64. —(1) Where the total value of any property (without deduction for debts, but not including the value of any property which the deceased possessed or was entitled to as trustee and not beneficially) administered by the Public Trustee, whether by virtue of a grant of letters of administration to him or by virtue of the powers conferred on him by this Act, does not exceed \$10,000, it shall not be necessary for the Public Trustee to give notice by advertisement in the *Gazette* or otherwise of his intention to distribute the estate or require any person interested to send in particulars of his claim against the estate, but the Public Trustee may proceed forthwith to convey or distribute the estate or any part thereof to or among the persons entitled thereto, having regard only to the claims, whether formal or not, of which the Public Trustee then had notice.

(2) The Public Trustee shall not, as respects the property conveyed or distributed under subsection (1), be liable to any person of whose claim the Public Trustee has not had notice at the time of conveyance or distribution.

(3) Nothing in this section shall —

(a) prejudice the right of any person to follow the property representing the same, into the hands of any person, other than a purchaser, who may have received it; or

(b) free the Public Trustee from any obligation to make searches similar to those which an intending purchaser would be advised to make or obtain.

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When interest is payable into Consolidated Fund

65. —(1) Where any trust money in the hands of the Public Trustee is normally insufficient to earn bank interest if kept in a bank current account the money may be kept in a general banking account or deposited in any bank.

(2) Any interest allowed by the bank shall be paid into the Consolidated Fund.

Executors' or administrators' commission

66. —(1) The court or a judge may in its or his discretion allow the executors or administrators a commission not exceeding 5% on the value of the assets collected by them, but in the allowance or disallowance of such commission the court or judge shall be guided by its or his approval or otherwise of their conduct in the administration of the estate.

(2) The registrar may, in the course of the taking of the administration accounts of executors or administrators, exercise the powers conferred on the court or a judge by subsection (1).

Testamentary and funeral expenses

67. —(1) The court or a judge shall allow the executors or administrators the reasonable testamentary and other expenses incurred by them, and also proper funeral expenses and all reasonable expenses of subsequent religious ceremonies suitable to the station in life of the deceased.

(2) The registrar may, in the course of the taking of the administration accounts of executors or administrators, exercise the powers conferred on the court or a judge by subsection (1).

Where funds of estate cannot be immediately distributed

68. —(1) Where, upon the conclusion of the administration of the estate of a person dying testate or intestate, there remain in the hands of the personal representative funds of which he is unable to dispose immediately by distribution

in accordance with law by reason of the inability of the person entitled to give a discharge, through lack of legal capacity or otherwise, or for any other cause which to the Public Trustee appears sufficient, the personal representative may, if the Public Trustee consents to accept the same, pay those funds to the Public Trustee who —

(a) shall not be required to make any enquiry whether the administration has been conducted in accordance with law;

(b) may accept those funds as a trustee for the person entitled, and apply the same for the benefit of such person; and

(c) may for such purpose exercise all the powers conferred on him under section 63.

(2) The receipt of the Public Trustee may be accepted by the personal representative and shall constitute a full and sufficient discharge in respect of such funds.

Power of registrar to grant probate or letters of administration in uncontested cases

69. Notwithstanding anything to the contrary in this Act, the registrar may exercise and shall be deemed always to have had power to exercise, in uncontested matters and subject to rules made under any written law for the time being in force relating to the courts, all or any of the powers conferred upon the court by Parts II, III and X, and by section 55.

Transitional provision

70. As from the date of commencement of section 8 of the Statutes (Miscellaneous Amendments) Act 2004 —

(a) any letters of administration granted to the official assignee;

(b) any application made by the official assignee (whether for letters of administration or otherwise);

(c) any estate or part thereof of a deceased person vested in or being administered by the official assignee; and

(d) any other action (whether for the administration of the estate of a deceased person or otherwise) begun by the official assignee,

under the provisions of this Act in force immediately before that date shall be

deemed to have been so granted to, made by, vested in or administered or begun by the Public Trustee under the provisions of this Act in force as from that date, and any such application, administration or other action still pending on that date may be continued with by the Public Trustee in accordance with the provisions of this Act in force as from that date.