

ACT 63
ADMINISTRATION OF ESTATES ACT, 1961

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ACT 63
ADMINISTRATION OF ESTATES ACT, 1961(1)

AN ACT to amend and consolidate the law providing for the administration of estates and for related matters.

PART ONE

Devolution of Movable and Immovable Property

1. Devolution on personal representatives

(1) The movable and immovable property of a deceased person shall devolve on the personal representatives of the deceased person with effect from the date of death.

(2) In the absence of an executor the estate shall, until a personal representative is appointed, vest

- (a) in the successor, if the entire estate devolves under customary law, or
- (b) in the Chief Justice, in any other case.

2. Status of personal representatives

(1) The personal representatives are the representatives of the deceased person with regard to the

movable and immovable property of the deceased person.

(2) The personal representatives for the time being of a deceased person are in law the heirs and assigns of the deceased person within the meaning of the trusts and powers.

3. Property of the deceased

(1) An interest in property which cannot by law be disposed of by testamentary disposition is not property for the purposes of this Act.

(2) Immovable property passing under a gift contained in a will which operates as an appointment under a general power to appoint by will, is, for the purposes of this Act, property of the testator.

(3) The interest of a deceased person under a joint tenancy where another tenant survives the deceased person is not property of the deceased person.

(4) On the death of a corporation sole, the interest of the deceased person in the corporation's movable and immovable property is not property of the deceased person and that property devolves on the successor.

4. Property devolving under customary law

The interest of an intestate in a property, movable or immovable, of which by customary law that intestate could have disposed of by testamentary disposition is, for the purposes of this Act, property of the intestate.

PART TWO

The Administrator-General

5. Application

This Part applies to an estate in respect of which a grant of probate or letters of administration may be granted by the Court.

Appointments and Functions

6. Incorporation of Administrator-General

(1) The President shall, in accordance with article 195 of the Constitution, appoint a suitable person to be the Administrator-General for the purposes of this Act, and as many Assistant Administrators-General as may be required.

(2) The Administrator-General is a corporation sole by the name of the Administrator-General of the Republic with perpetual succession and an official seal and may sue and be used in that corporate name.

(3) An instrument sealed by the Administrator-General shall not, by reason of the use of a seal, be rendered liable to a higher stamp duty than if the Administrator-General were an individual.

(4) The Administrator-General is entitled to appear in court either in person or by counsel in proceedings to which the Administrator-General is a party.

7. Liability of the Administrator-General

(1) The Administrator-General or an agent is not personally liable to a person in respect of assets which are in the possession, at the time of death, of a person whose estate is being administered by the Administrator-General, and are dealt with by the Administrator-General or the agent, unless the Administrator-General or the agent, respectively, knows, or has actual notice, before the assets are dealt with, that they were not in fact the property of the person whose estate is being administered by the Administrator-General.

(2) The Administrator-General or an agent is not liable for an act done bona fide in the supposed and intended performance of functions under this Act, unless it is shown that the act was done not only illegally but wilfully or with gross negligence.

(3) Subsections (1) and (2) do not affect the operation of section 19.

8. Liability of the Government

(1) The sums of money required to discharge a liability which, were the Administrator-General a private administrator, the Administrator-General would be personally liable to discharge, shall be a charge on the Consolidated Fund.

(2) Subsection (1) does not apply where the liability is one

- (a) to which neither the Administrator-General nor an agent has in any way contributed, or
- (b) to which neither the Administrator-General nor an agent could, by the exercise of reasonable diligence, have averted,

and in either of those cases the Administrator-General shall not, nor shall the Consolidated Fund, be subject to a liability.

9. Non-liability of Administrator-General and Government

Where death is proved to the satisfaction of the Administrator-General

- (a) by a certified copy of a register of deaths,
- (b) by a certificate of a local authority in an area where there is no compulsory registration of deaths by a public officer,²⁽²⁾ or
- (c) by a certificate of, in the case of a public officer, the official head of the department in which the officer was employed,

neither the Administrator-General personally nor the Government is liable for loss incurred through a fraudulent or innocent misrepresentation concerning that death.

10. Sale of goods of third party

(1) Where during the administration of an estate by the Administrator-General, any of the goods or chattels belonging to a third party are sold by the Administrator-General or an agent, the amount realised by the sale shall be paid over to the owner on proof of ownership.

(2) Subsection (1) does not apply where the proceeds

- (a) have already been applied in payment of the debts of the deceased person, or
- (b) have been distributed in the ordinary course of administration whilst the Administrator-General or the agent did not know of, or did not have actual notice of, the

claim of that person to the goods or the chattels sold.

11. Security or oath not required from Administrator-General

(1) A petition presented under this Act by the Administrator-General shall be signed personally by the Administrator-General, and if the facts stated in the petition are not within the Administrator-General's own personal knowledge, the petition may be subscribed and verified by a person competent to make the verification.

(2) The facts stated in the reports of administrative officers to the Administrator-General are, for the purposes of this section, within the personal knowledge of the Administrator-General.

(3) The Administrator-General may be required to enter into an administration bond, or to give any other security to the Court on the grant of letters of administration to the Administrator-General.

12. Administrator-General as executor

The Administrator-General may be appointed the sole executor of a will.

13. Grants to Administrator-General

Probates and letters of administration granted to the Administrator-General shall be by that name, and shall authorise the Administrator-General to act as executor or administrator of the estate to which the probate or letters relate.

14. Effect of grant to Administrator-General

Probate or letters of administration granted by the Court to the Administrator-General

- (a) is conclusive as to the representative title of the Administrator-General against the debtors of the deceased person and the persons holding assets; and
- (b) shall afford full indemnity to debtors paying debts, and the persons delivering up those assets, to the Administrator-General, or to the agent.

15. Name of Administrator-General in company's books

(1) The entry of the name of the Administrator-General in the books of a company does not constitute notice of a trust.

(2) A company shall not object to enter the name of the Administrator-General on its register by reason only that the Administrator-General is a corporation, and in dealing with assets the fact that the person dealt with is the Administrator-General does not of itself constitute notice of a trust.

(3) The Administrator-General is not personally liable for a claim as a contributory.

Grant of Probate or of Letters of Administration

16. Petition of Administrator-General to Court

(1) The Administrator-General may, on becoming aware that an estate is not represented, present a petition to the Court in the form set out in the First Schedule, for the grant of probate or of letters of administration of the estate.

(2) On being satisfied that the estate is not represented, the Court may make an order accordingly, and the Administrator-General shall forthwith cause an inventory to be made of the estate and filed in the Court.

(3) The Administrator-General shall not petition the Court in respect of an estate for the administration of which other special provision is made by an enactment.

17. Entering estate before court order

The Administrator-General may, immediately on becoming aware that an estate is not represented, and before obtaining a grant of probate or of letters of administration of that estate, enter on the estate for the purpose of sealing up or making the necessary dispositions for the security of the estate.

18. Time of application

The Administrator-General is not precluded by this Act or any other enactment from applying to the Court for a grant of probate or of letters of administration at any time after the death of the deceased person.

19. Uncertainty as to succession

(1) Where

- (a) a person dies leaving assets in the Republic and the Court is not satisfied
 - (i) that there is a person immediately available who is legally entitled to succession to the assets,
 - (ii) whether there is the danger of misappropriation, deterioration or waste of the assets before the succession to the assets can be determined,
 - (iii) whether the Administrator-General is entitled to a grant of probate or of letters of administration of the estate of the deceased in respect of the assets, or
- (b) the agent in charge of the assets in the Republic belonging to a person not residing in the Republic or belonging to a company not incorporated in the Republic dies without leaving a responsible person in charge of the assets,

the Court may, on the application of the Administrator-General or a person interested in the assets or in the due administration of the assets, direct the Administrator-General to collect and take possession of the assets, and to hold, possess, realise and dispose of the assets according to the discretion of the Court, and in default of that discretion, according to this Act so far as applicable to the assets.

(2) An order of the Court made under subsection (1) entitles the Administrator-General

- (a) to maintain a suit or any proceedings to recover the assets,
- (b) to apply for a grant of probate or of letters of administration of the estate of the deceased person, and
- (c) to retain, subject to section 54, out of the assets of the estate the fees chargeable under the Rules and subject to reimbursement to the Administrator-General for payments made by the Administrator-General in respect of the assets which a private administrator might lawfully have made.³⁽³⁾

20. Grants to persons appearing

Where in the course of proceedings to obtain a grant of probate or of letters of administration under section 16, section 18 or section 19, a person appears and establishes a claim

- (a) to probate of the will of the deceased person, or
- (b) to letters of administration as next-of-kin of the deceased person, and gives the security required by law,

the Court may grant probate of the will or letters of administration accordingly, and shall award the Administrator-General the costs of the proceedings under those sections, to be paid out of the estate as part of the testamentary or intestate expenses of the estate.

21. Grant to Administrator-General

The Court may grant probate or letters of administration to the Administrator-General

- (a) where, in the course of the proceedings to obtain a grant of probate or of letters of administration under section 16, section 18 or section 19, a person does not establish a claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased person within the period that the Court considers reasonable; or
- (b) where a person who has established a claim to a grant of letters of administration as next of kin of the deceased person fails to give the security required by law.

22. Transfer to Administrator-General

(1) A private executor or administrator may, with the previous consent by instrument in writing signed personally by the Administrator-General, and notified in the *Gazette*, transfer the assets of the estate vested in that private executor or administrator by virtue of the probate or letters to the Administrator-General by that name.

(2) As from the date of transfer, the transferor shall be exempt from liability as executor or administrator, except in respect of acts or omissions done, or committed, before the date of the transfer, and the Administrator-General shall have the same rights and be subject to the same liabilities as if probate or letters of administration had been granted to the Administrator-General by that name at the date of the transfer.

Revocation of Grant of Probate or Letters of Administration

23. Revocation of grant to Administrator-General

(1) Where an executor or next-of-kin of the deceased person who has not been personally served with a citation or who has not had actual notice of the citation in time to appear pursuant to the citation, establishes to the satisfaction of the Court, a claim to probate of a will or to letters of administration in preference to the Administrator-General, a probate or letters of administration granted to the Administrator-General may be revoked, and probate or letters of administration may be granted to that executor or next-of-kin.

(2) Probate or letters of administration granted to the Administrator-General shall not be revoked under subsection (1) on the application of the next-of-kin of the deceased person, unless

- (a) the application is made within six months after the grant to the Administrator-General, and
- (b) the Court is satisfied that there has not been an unreasonable delay in making the application or in transmitting the authority under which the application is made.

24. Costs of Administrator-General on revocation of grant

(1) Where a grant of probate or of letters of administration to the Administrator-General is revoked, the Court may order the costs of obtaining the grant of probate or of the letters of administration and the whole or a part of the fees which would otherwise have been payable under this Act together with the costs of the Administrator-General in the proceedings taken to obtain the revocation, to be paid to or retained by the Administrator-General out of the estate.

(2) Subsection (1) does not affect the operation of section 19 (2) (c).

25. Validity of previous acts of Administrator-General

(1) Where a grant of probate or of letters of administration to the Administrator-General is revoked, the grant is valid as regards the Administrator-General and the persons acting under the authority of the Administrator-General in pursuance of that grant, except as to an act done by the Administrator-General, or by any one of those persons, after notice of a will or of any other fact which would render the probate or letters void.

(2) A notice of a will or of any other fact which would render a grant void shall not affect the Administrator-General or a person acting under the authority of the Administrator-General in pursuance of the grant, unless within the period of one month from the time of giving the notice, proceedings are commenced to prove the will or to cause the letters to be revoked and the proceedings are prosecuted without unreasonable delay.

26. Payments made prior to revocation of grant

Where a grant of probate or letters of administration to the Administrator-General is revoked, the payments made or acts done by or under the authority of the Administrator-General in pursuance of the grant prior to revocation, which would have been valid if the grant had not been revoked, are valid despite the revocation.

Administration

27. Conversion of movable and immovable property

(1) The Administrator-General may convert into money the movable property except household chattels of an intestate to which section 3 of the Intestate Succession Act, 1985(4) applies and, with the consent of the Court, the immovable property of an intestate which the Administrator-General administers.

(2) Despite subsection (1), where in the opinion of the Administrator-General the claims of creditors of the intestate cannot be met without converting the household chattels of the intestate into money, the Administrator-General shall apply to the Court for an order to sell and convert the household chattels into money.

(3) The Court shall, in making an order under subsection (2), consider the circumstances of the case, including the wishes of the beneficiaries entitled to the household chattels under the Intestate Succession

Act, 1985.5(5)

(4) Despite subsection (1), where the parties interested in the immovable property consent in writing to the conversion into money by the Administrator-General, or where the value of the immovable property does not exceed fifty thousand cedis and the Administrator-General is satisfied that the conversion of the immovable property into money would be to the advantage of the estate, the consent of the Court is not necessary.6(6)

28. Payment of debts and distribution of assets

(1) The Administrator-General shall cause advertisements to be published in the *Gazette* and in any other manner calling on

- (a) the creditors of an estate under the administration of the Administrator-General, and
- (b) any other person beneficially entitled to the estate,

to come and prove their claims within the period specified by the Administrator-General.

(2) Subject to section 42, the Administrator-General shall pay, after the expiration of the specified period,

- (a) the debts proved, and
- (b) where the whole of the debts cannot be paid, the dividend on those debts.

(3) Where the Administrator-General collects further assets after making payment, subsection (2) shall apply in relation to those assets.

(4) In respect of subsection (3) the debts that are subsequently proved shall first be paid a dividend in proportion to their amount equal to the dividend paid to creditors who have previously proved their debts.

(5) The Administrator-General may require a creditor or a claimant to file a claim which shall state

- (a) the name and place of abode of the creditor or claimant,
- (b) the origin of the debt or claim,
- (c) the degree or class of debt, and
- (d) the particulars and the exact amount of the claim,

all of which shall be verified by affidavit.

(6) A creditor or claimant shall, in complying with subsection (5), annex to the claim the documents purporting to be evidence in support of the debt or claim.

(7) The Administrator-General may require a claimant to make an affidavit in the prescribed form setting forth particulars concerning the person beneficially entitled to the estate according to the best knowledge and belief of the claimant.

29. Disposal of assets received from abroad

Where the Administrator-General is administering an estate and receives assets which at the time of the death of the deceased person were situated outside the Republic, those assets shall be treated in the same manner as assets in the Republic at the time of the death.

30. Barring of claims

(1) Where the Administrator-General gives the prescribed notice for creditors and others to send in their claims against the estate of the deceased person, the Administrator-General may, at the expiration of the time specified in the notice for sending in claims, distribute the assets or a part of the assets in discharge of the lawful claims of which the Administrator-General has notice.

(2) The Administrator-General is not liable, for the assets distributed under subsection (1), to a person in respect of a claim of which a notice had not been given at the time of the distribution.

(3) The notice of a claim which has been sent in and has been rejected or disallowed in part by the Administrator-General shall not affect the Administrator-General

(a) unless proceedings to enforce the claim are commenced within two months after notice of the rejection or disallowance of the claim has been given; and

(b) unless proceedings are prosecuted without unreasonable delay.

(4) Subsections (1), (2) and (3) do not prejudice the right of a creditor or any other claimant to follow the assets or a part of the assets in the hands of the persons who may have received them.

(5) In computing the period of limitation for a suit, an appeal or application under any other enactment, the period between the date of submission of the claim of a creditor to the Administrator-General and the date of the final decision of the Administrator-General on the claim shall be excluded.

31. Costs in suit against Administrator-General

(1) Where a suit is brought by a creditor against the Administrator-General, the creditor is liable to pay the costs of the suit unless the creditor proves that not less than one month previous to the institution of the suit, the creditor

(a) had applied in writing to the Administrator-General stating the amount and any other particulars of the claim, and

(b) had given the evidence in support of the claim which, in the circumstances of the case, the Administrator-General was reasonably entitled to require.

(2) A creditor, other than a secured creditor, in whose favour a suit is decreed is entitled to payment out of the assets of the deceased person equally and rateably with the other creditors.

32. Disposal of jewellery

Repealed.7(7)

33. Payment for improvements

The Administrator-General may, in addition to and not in derogation of, any other powers of expenditure lawfully exercisable by the Administrator-General, incur expenditure

(a) on acts that are necessary for the proper care and management of the property belonging to an estate in the charge of the Administrator-General, and

(b) with the sanction of the Court, on the improvements that are reasonable and proper in the case of that property.

34. Application to Court for directions or information

(1) The Court may, on the application of the Administrator-General, or of a person interested in the assets of an estate, or in the due administration of that estate, give to the Administrator-General directions

- (a) in respect of an estate in the charge of the Administrator-General, or
- (b) with regard to the administration of that estate.

(2) Where the property of a deceased person devolves in accordance with customary law, the Administrator-General may apply to a court of competent jurisdiction for information as to how that property should be distributed.⁸⁽⁸⁾

(3) Property distributed in accordance with information given pursuant to subsection (2) is well administered, for the purposes of this Act, so far as concerns the liability of the Administrator-General or the Government.

35. Administrator-General to keep accounts

(1) The Administrator-General

- (a) shall make a complete inventory of each estate which the Administrator-General administers,
- (b) shall keep an account of the receipts, payments and dealings with the estate, and
- (c) shall retain the letters received, and copies of the letters written by the Administrator-General and the deeds, writings, and papers of or relating to the estate.

(2) The Administrator-General may destroy the private papers, bills, receipts, memoranda and any other similar documents in the possession of the Administrator-General and

- (a) which do not have a value with respect to the estate under administration, and
- (b) which are not claimed by the beneficiaries or any other persons entitled to those documents.

36. Inspection of accounts

A creditor or beneficiary of an estate which is in the charge of the Administrator-General is entitled

- (a) on payment of the prescribed fee and subject to the prescribed conditions and restrictions, to inspect, at a reasonable time, the accounts relating to the estate and the reports and certificates of the auditor, and
- (b) on payment of the prescribed fee, to make copies of, and extracts from, the accounts and the reports.

37. Prescribed bank accounts and investment of surplus funds

(1) The Administrator-General shall keep an account with a prescribed bank, and the moneys received by the Administrator-General in respect of proceedings under this Act shall be paid into that account.

(2) Where the cash balance standing to the credit of the Administrator-General's account is in excess of the amount which in the opinion of the Administrator-General is required for the time being to answer demands in respect of the estate under administration, the Administrator-General

- (a) may deposit the cash balance or a part of the balance with the Accountant-General or in a Government savings bank, or
- (b) may invest the whole or a part of that balance in a fund or security in which trustees are by law authorised to invest trust funds.

(3) Where moneys placed on deposit or invested under subsection (2) are in the opinion of the Administrator-General, required to meet a demand in respect of an estate under administration, the Administrator-General shall withdraw the money deposited or realise the investment, and place the amount received to the credit of the cash balance of the Administrator-General.

(4) Where the realised assets of an estate are not sufficient in value for distribution amongst the beneficiaries or creditors entitled to the estate, or where, after division of the estate, a balance remains which by reason of the number of the beneficiaries or creditors, and the small amount of the balance is practically indivisible amongst the beneficiaries or creditors, the assets or balances shall be paid or transferred on the closing of the estate account into the Consolidated Fund.

38. Final accounts

(1) On the completion of the administration of an estate, the Administrator-General shall file in the Court, the accounts and vouchers relating to the estate together with an affidavit in verification.

(2) After fourteen days' notice is given in the prescribed manner by the Administrator-General to the persons interested, who are resident in the Republic the accounts may be examined and taxed by the taxing officer in the presence of any of the persons who attend on the notice, and the taxation may be brought under review by the Court in the same manner, as near as may be, as in the case of any other proceedings in the Court.

(3) The notice under subsection (2) shall set forth the day and the hour appointed by the taxing officer for the passing of the accounts.

(4) A person who examines the accounts and vouchers under subsection (2) may raise objection to the accounts or an item or a part of the accounts.

(5) A certificate personally signed by the taxing officer, or a Justice of the Court, to the effect that the accounts have been examined and found correct, is a valid and an effectual discharge in favour of the Administrator-General.

39. Passing interim accounts

The Administrator-General may, on giving the notice referred to in section 38, pass interim accounts prior to the completion of the administration.

40. Interim accounts

Where the administration of an estate by the Administrator-General is not completed within eighteen months after the grant of letters of administration, the Administrator-General shall, unless otherwise ordered by the Court, file in the Court an interim statement of accounts which may be examined in accordance with the Rules of Court.

41. Transfer of share of minor to relative

(1) Where a person, entitled to a share under the will or in the distribution of the estate of a deceased person, whose estate is being administered by the Administrator-General, is a minor, the Court may, on the application of the Administrator-General, appoint the father or mother of the minor, or any other suitable person, to receive the share of the minor.

(2) Where an appointment is made under subsection (1), the Administrator-General may pay the share of the minor to that person on behalf of the minor, and the receipt of that person is a complete discharge

to the Administrator-General in respect of the share of the minor.

Distribution of Residue

42. Distribution of proceeds of estate

As soon as may be after the expiration of the time limited for the submission of claims in the last of the notices published in pursuance of section 28, or after the settlement of a disputed claim, the Administrator-General

- (a) shall reimburse the Administrator-General of the costs and charges reasonably incurred in collecting the estate;
- (b) shall pay the prescribed percentage to the credit of the Consolidated Fund out of the gross amount of moneys arising from the realisation of the estate;
- (c) shall pay the creditors of the estate in the order and manner provided by law; and
- (d) shall pay or distribute the balance which remains after the payments to the persons legally entitled to those payments, if known or, if unknown, to the Accountant-General in trust for the persons entitled to those payments, in accordance with section 45.

43. Disposal of immovable property

Where, after winding up an estate, an immovable property remains undisposed of, the Administrator-General shall, and before closing the accounts of the estate, apply to the Court for directions as to the disposal of the immovable property, and the Court may order it to be sold, or may appoint a receiver or make any other appropriate order.

44. Assets of persons not domiciled in Ghana

(1) Where a person who is not domiciled in the Republic dies leaving assets in the Republic, the Administrator-General

- (a) after having given the prescribed notice for creditors and others to send in their claims against the estate of the deceased, and
- (b) after having discharged at the expiration of the time specified in the notice the lawful claims in respect of which notice has been given,

may, instead of distributing the surplus or residue of the deceased person's assets to persons residing in another country who are entitled to the assets, transfer, with the consent of the executor or administrator in the country of the domicile of the deceased person, the surplus or residue to that executor or administrator for distribution to those persons, or to a consular officer of that country or any other authority competent to receive the surplus or residue, whose receipt means complete discharge to the Administrator-General.

(2) The Administrator-General may transfer the residue through the Accountant-General and a written acknowledgement by the Accountant-General of the receipt of the surplus is a complete discharge to the Administrator-General.

(3) The Minister may prescribe the fees payable to an authority or to a consular officer mentioned in subsection (1).

45. Disposal of proceeds of intestate estates

(1) Where a sum of money remains to the credit of an estate in the hands of the Accountant-General

- (a) on the completion of the administration of the estate of a person who has died intestate and without a known next-of-kin by paying the debts, fees, expenses and liabilities incidental to the collection, management and administration of the estate, and
- (b) after the passing of the accounts of the estate by the taxing officer or a Justice,

the Administrator-General shall inform the Attorney-General of the action taken.

(2) The Attorney-General shall publish a notice in the *Gazette*

- (a) announcing the completion of the administration of the estate, and passing of the accounts and the amount of the residue of the estate remaining, and
- (b) calling on the persons claiming to be interested in the estate on legal, equitable or moral grounds to present their petitions to the Court.

(3) A petition may be presented within two years from the date of the notice, unless the Court, under subsection (5), fixes a lesser period within which the petition may be presented.

(4) A claim shall not be entertained after the expiration of two years or a lesser period of time that may be fixed by the Court, and the hearing of the petition shall not take place

- (a) until two months have elapsed after the expiration of the period of two years or lesser period, and
- (b) until the petitioner has given two months' notice in the *Gazette* of the presentation of the petition or intention to present and the notice is not given, until after the day appointed by the Court.

(5) Where the Court is satisfied on an application by the Attorney-General or by a person who has presented a petition as provided for in subsection (2), that it is likely that there will be further petitions presented or that a lesser period of time will be sufficient for the presentation of petitions, the Court may substitute a lesser period, less than six months, that the Court considers sufficient for the period of two years mentioned in subsection (3).

(6) Notice of an order made by the Court under subsection (5) shall be published in the *Gazette*.

(7) A petition shall state the place of residence of the claimant and the grounds on which, and the description of the estate in respect of which, the claim is made.

(8) A copy of the petition shall be served on the Attorney-General.

(9) A person claiming to be interested in the estate may appear personally or by a legal practitioner, and the respective claims of different petitioners may be heard and dealt with at the hearing.

(10) The equitable or moral claim referred to in this section include those of dependants, whether kindred or not, of the deceased person or any other persons for whom the deceased person might reasonably have been expected to make provision.

46. Orders on petition

(1) Where a petitioner verifies a claim by evidence to the satisfaction of the Court, the Court shall make an appropriate order in the matter, including the awarding of costs.

(2) The order may contain a direction to the Accountant-General to pay from the sum of money standing to the credit of the estate

- (a) the sum of money awarded to the claimant or petitioner by the order, or
- (b) a debt appearing to the Court to be then outstanding and due from the estate.

47. Rival claims

(1) Where two or more persons claim an estate or the residue, the Administrator-General may pay into court and notify the claimants, and the Court may, with the consent of the parties, dispose of their claims by determining them in a summary manner, and may make an order with regard to costs and any other matters as the circumstances may require.

(2) Where the parties do not consent, they may proceed to obtain a decision on their claims according to the ordinary course of law.

48. Assets unclaimed for five years

(1) There shall be transferred, in the prescribed manner, to the account and credit of the Consolidated Fund the assets

- (a) deposited by the Administrator-General with the Accountant-General in accordance with section 42, or
- (b) paid into court in accordance with section 47,

which have remained with the Accountant-General or the Court for a period of not less than five years, without an application for payment having been made and granted by the Court.

(2) The assets shall not be transferred under subsection (1) if a suit or proceeding is pending in the Court in respect of the assets.

(3) Where before the end of the period of five years it is claimed and proved on behalf of the Republic to the satisfaction of the Court that the assets deposited with the Accountant-General are vacant goods then those assets shall at once become the absolute property of the Republic, subject to the power of disposal conferred on the Minister by section 49.

(4) For the purposes of subsection (3), “**vacant goods**” means property which has not been disposed of by the will of a deceased person and to which a relative is not entitled on an intestacy.

49. Disposal of unclaimed assets

The Minister may dispose of or distribute the whole or a part of the assets transferred under section 48, or otherwise, to or among the kindred of the deceased person or any other persons in the shares or manner that the Minister thinks fit, having regard to the equitable or moral claims.⁹⁽⁹⁾

Fees, Expenses and Costs

50. Fees

The prescribed fees shall be paid in respect of the functions of the Administrator-General.

51. Expenses

(1) The expenses which might be retained or paid out of an estate in the charge of the Administrator-General, were the Administrator-General a private administrator of the estate, shall be retained and paid and the fees prescribed under section 50 shall be retained and paid in like manner as an addition to the expenses.

(2) Fees of court payable under an enactment or a rule of court shall not be charged, paid or collected in respect of an estate administered by the Administrator-General under section 59.

(3) Fees, charges and reimbursements to be retained or paid by the Administrator-General shall have priority over the debts of the deceased person and may be deducted from the moneys received by the Administrator-General in the course of the administration.

52. Right of Administrator-General to costs

(1) Where the Court orders the costs of the proceedings, to which the Administrator-General is a party, to be paid otherwise than out of the estate of a deceased person which is being administered by the Administrator-General, the Administrator-General is entitled to charge ordinary costs, whether or not the Administrator-General has appeared in person.

(2) The costs paid under subsection (1) shall be credited to the Consolidated Fund.

Administration of Small Estates

53. Administration of assets not exceeding fifty million cedis

(1) Subject to the Intestate Succession Act, 1985¹⁰ where a person dies intestate leaving property or assets in the Republic the gross value of which does not exceed fifty million cedis,¹¹ the Administrator-General may by notice in the *Gazette* advertise to administer the estate.

(2) The notice under subsection (1) may be combined with a notice to creditors and any other persons.

(3) At the expiration of the time limited by the notice, the Administrator-General may apply to the Court for leave to administer the estate.

(4) The Administrator-General shall not undertake the administration of an estate under the power conferred by subsections (1), (2) and (3)

(a) if there has been a previous appointment of an administrator under any other provision relating to small estates, or

(b) if there has been a previous grant of probate of the will of the deceased person or of letters of administration of the estate, or unless that appointment or grant is revoked.

(5) The Administrator-General need not file in court the accounts or vouchers in respect of an estate administered under this section, unless the Administrator-General is required to do so by a beneficiary or creditor of the administration, and receives payment of the sum of money that the Administrator-General may reasonably require to cover the cost of preparing, filing and passing the accounts.

(6) On the completion of the administration of the estate the Administrator-General shall give notice in the prescribed manner to the persons interested.

(7) A beneficiary or creditor may call on the Administrator-General to file an account under subsection (5) within one month of the notice being given.

(8) The Administrator-General may finally settle the disputes and questions which may arise in the

course of an administration under this section, including claims by creditors, subject to an appeal to the Court or may apply to the Court for directions.

(9) In settling disputes or questions, the Administrator-General may, in the interest of justice or with a view to saving expense, act on credible information though it is not legal evidence.¹²⁽¹²⁾

54. Remitting fees in estates not exceeding fifty million cedis¹³⁽¹³⁾

(1) In administering an estate under section 53, the Administrator-General may remit the fees and costs usually payable on an administration by the Administrator-General, and substitute for those fees and costs a fee calculated in accordance with the rules.

(2) In calculating the amount of the fee payable, a fraction of a cedi shall be taken as a cedi.

Miscellaneous

55. Rules

(1) The Minister may, by legislative instrument, make rules for carrying into effect the objects of this Part and for regulating the proceedings of the Administrator-General.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the rules may

- (a) provide for the accounts to be kept by the Administrator-General;
- (b) provide for the notices to be given by the Administrator-General and the method of service;
- (c) prescribe forms, scales of fees and prescribe a matter which in this Act may be prescribed to give effect to this Act, or is directed to be prescribed;
- (d) define the functions and liabilities of agents, provide for the appointment of the persons who may be thought advisable to be agents, determine the amount of security to be given by agents and the remuneration to be allowed to them, whether by way of fees or salary, and generally regulate their functions.

56. Appointment of agents

(1) The Administrator-General may appoint a number of persons as agents

- (a) for the preservation of the assets under section 19 or for the managing, collection and obtaining the assets, and
- (b) for the payment of the liabilities and the distribution of the assets of a deceased person whose estate is in the course of administration.

(2) An agent shall act under the direction of the Administrator-General who is not answerable for an act or omission of an agent, if the act or omission is not in conformity with the direction of the Accountant-General or if the act or omission would not have occurred by the Administrator-General's fault or neglect.

(3) An agent shall find security to the satisfaction of the Administrator-General for the performance of that agent's functions.

(4) An agent may be remunerated by the salary or the fees determined by the Administrator-General with the approval of the Minister.

57. Administering oath

The Administrator-General may, for the purposes of this Act, administer an oath, in order to be satisfied regarding a question of fact, and examine on oath a person who is willing to be so examined regarding the question.

58. False evidence

A person who in a matter affecting the administration of an estate makes on oath a statement which is false, and which that person knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a judicial proceeding.

59. Taking charge of assets

In the case of a deceased person having assets in the Republic, the agent of the area in which the assets are situated may, for the protection of the estate, take possession of the estate, and forthwith report that action to the Administrator-General, who shall give the requisite directions and take the appropriate proceedings in the matter.

60. Annual report

The Administrator-General shall furnish to the Minister responsible for Finance as early as possible in each year, a statement showing the amount of moneys received, paid and expended in each case, of the estates under the administration of the Administrator-General during the previous year.

PART THREE

Executors and Administrators

General Provisions

61. Necessity for probate

(1) A grant of probate is necessary to entitle an executor to administer the property of the testator, whether movable or immovable.

(2) Before probate, the executor may, for the benefit of the estate, perform the functions which pertain to that office but is not entitled to make a disposition of the property.

62. Cesser of right of executor to prove

Where a person appointed executor by a will

- (a) survives the testator but dies without having taken out probate of the will,
- (b) is cited to take out probate of the will and does not appear to the citation, or
- (c) renounces probate of the will,

the rights of that person in respect of the executorship shall cease, and the representation to the testator and the administration of the estate shall devolve and be committed in like manner as if that person had not been appointed executor.

63. Withdrawal of renunciation

(1) Where an executor who has renounced probate has been permitted, whether before or after the commencement of this Act, to withdraw the renunciation and to prove the will

- (a) the probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other personal representative who has previously proved the will or taken out letters of administration; and
- (b) a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

(2) Subsection (1) applies whether the testator died before or after the commencement of this Act.

64. Executor of executor represents original testator

(1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

(2) Subsection (1) does not apply to an executor who does not prove the will of the testator.

(3) In the case of an executor who on death leaves some other survivor as executor of the testator who afterwards proves the will of that testator, subsection (1) shall cease to apply on the probate being granted.

(4) So long as the chain of the representation is not broken, the last executor in the chain is the executor of every preceding testator.

(5) The chain of the representation is broken by

- (a) an intestacy,
- (b) the failure of a testator to appoint an executor, or
- (c) the failure to obtain probate of a will,

but the chain is not broken by a temporary grant of administration if probate is subsequently granted.

(6) A person in the chain of representation to a testator,

- (a) has the same rights in respect of the estate of that testator as the original executor would have had if living; and
- (b) is, to the extent to which the estate of that testator has come to the hands of that person, answerable as if that person were an original executor.

65. Right of proving executors to exercise powers

(1) Where probate is granted to one of two persons or to some of more than two persons named as executors, whether or not power is reserved to the others, or the other to prove, the powers which are by law conferred on the personal representative may be exercised by the proving executor or executors for the time being and shall be as effectual as if the persons named as executors had concurred in the grant.

(2) Subsection (1) applies whether the testator died before or after the commencement of this Act.

66. Liability of acting executor failing to apply for probate

Where a person appointed executor by will takes possession of and administers or otherwise deals with

a property of the deceased person and does not apply for probate within one month after the death, or after the termination of a suit or dispute respecting probate or administration, that person may, independently of any other liability, be punished for contempt of court.

67. Executor not to act while administration is in force

Where administration is granted in respect of an estate of a deceased person, a person shall not bring an action or otherwise act as executor of the deceased person in respect of the estate comprised in or affected by the grant until the grant is recalled or revoked.

68. Legal proceedings after revocation of temporary administration

If, while legal proceedings are pending in a court by or against an administrator to whom a temporary administration has been granted, that administration is revoked, the Court may order the continuance of the proceedings by or against the new personal representative in like manner as if it had been originally commenced by or against the new personal representative, but subject to the conditions and variations directed by the Court.

69. Rights and liabilities of administrator

A person to whom the administration of the estate of a deceased person is granted has, subject to the limitations contained in the grant, the same rights and liabilities and is accountable in like manner as if that person were the executor of the deceased.

Duties, Rights and Obligations

70. Duty of personal representative as to inventory

The personal representative of a deceased person shall, when lawfully required to do so, exhibit on oath in the Court a true and perfect inventory and account of the estate of the deceased person, and the Court may require the personal representatives to bring in inventories.

71. Distress for rent

(1) A personal representative may distrain on land for arrears of rent due or accruing to the deceased person in the manner in which the deceased person might have done if then living.

(2) The arrears may be distrained for after the termination of the lease or tenancy as if the term or interest had not determined, if the distress is made

- (a) within six months after the termination of the lease or tenancy; and
- (b) during the continuance of the possession of the lessee or tenant from whom the arrears were due.

(3) An enactment relating to distress for rent applies to a distress made pursuant to this section.

72. Protection of persons acting on probate or administration

(1) A person making or permitting to be made a payment or disposition in good faith under a representation shall be indemnified and protected in so doing, despite a defect or circumstance affecting the validity of the representation.

(2) Where a representation is revoked, the payments and dispositions made in good faith to a personal representative under the representation before the revocation are a valid discharge to the person making them.

(3) The personal representative may retain the moneys due to that representative in respect of the payments or dispositions made which the person to whom representation is afterwards granted might have properly made.

73. Liability of person fraudulently obtaining estate of deceased

Where a person, to the defrauding of creditors or without full valuable consideration,

- (a) obtains, receives or holds an estate of a deceased person,
- (b) effects the release of a debt or liability due to the estate of the deceased,

that person shall be charged as a defaulting executor for a wrong done to the extent of the estate received or coming to the defaulting executor's hands, or the debt or liability released, after deducting,

- (c) a debt for valuable consideration and without fraud due to that person from the deceased person at the time of death, and
- (d) a payment made by that person which might properly be made by a personal representative.

74. Liability of estate of personal representative

Where a person as personal representative of a deceased person, including a defaulting executor wastes or converts to that person's own use a part of the estate of the deceased person, and dies, the personal representative of that defaulting person is liable and chargeable, to the extent of the available assets of the defaulter, in respect of the waste or conversion in the manner in which the defaulter would have been if then living.

PART FOUR

Grants of Probate and Administration

75. Grant of representation of property

(1) Probate or administration in respect of the immovable property of a deceased person, or a part of that property, may be granted

- (a) separately or together with probate or administration of the movable property of the deceased person; and
- (b) in respect of the immovable property only where there is no movable property, or in respect of a trust estate only.

(2) The grant of the administration of the immovable property may be limited in the way that the Court thinks proper.

76. Grant in case of insolvency

Where the estate of a deceased person is known to be insolvent, the grant of representation to the estate shall not be several except as regards a trustee estate.

77. Number of personal representatives

(1) Probate or administration shall not be granted to more than four persons in respect of the same property, and administration shall, if there is an infant beneficiary or if a life interest arises under the will or intestacy, be granted to a trust corporation, with or without an individual, or to not less than two individuals.

(2) The Court in granting administration may act on prima facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, that the Court thinks sufficient.

(3) Where there is only one personal representative, who is not 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 a person interested or of the guardian committee or receiver of that person, appoint one or more personal representatives in addition to the original personal representative.

(4) This section applies to grants made after the commencement of this Act, whether the testator or intestate died before or after the commencement.

78. Representation to trust corporation

(1) The Court

(a) may where a trust corporation is named in a will as executor, whether alone or jointly with another person, grant probate to the corporation, either solely or jointly with another person, as the case may require, and

(b) may grant administration to a trust corporation, solely or jointly with another person,

and the corporation may act accordingly as executor or administrator.

(2) Probate or administration shall not be granted to a syndic or to a nominee on behalf of a trust corporation.

(3) An officer authorised for the purpose by a trust corporation or the directors or governing body of that corporation may, on behalf of the corporation, swear affidavits, give security and do any other act or thing which the Court may require with a view to the grant to the corporation of probate or administration, and the acts of that officer is binding on the corporation.

(4) Where, at the commencement of this Act, an interest in an estate is vested in a syndic on behalf of a trust corporation acting as the personal representatives of a deceased person, that interest shall, by virtue of this Act, vest in the corporation, and the syndic shall be kept indemnified by the corporation in respect of that interest.

(5) Subsection (4) does not apply to securities registered or inscribed in the name of a syndic, or to an instrument affecting land registered under an enactment in the name of a syndic, but the securities, land or charge, shall be transferred by the syndic to the corporation or as the corporation may direct.

(6) This section has effect whether the testator or the intestate died before or after the commencement of this Act, and the vesting or transfer shall not operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

(7) For the purposes of this section, “**syndic**” means a person deputed to represent, and transact the affairs of a corporation.

79. Discretion as to grant of administration

(1) Subject to this section, the selection of a personal representative is within the discretion of the Court.

(2) In granting administration the Court shall consider the rights of the persons interested in the estate, and, in particular, administration with the will annexed may be granted to a devisee or legatee and the administration may be limited in the way that the Court thinks fit.¹⁴⁽¹⁴⁾

(3) The Court may,

- (a) where the deceased person died wholly intestate, grant administration to one or more persons interested in the residuary estate of the deceased person, if they make an application for the purpose; and
- (b) if by reason of the insolvency of the estate of the deceased person, or of any other special circumstances, it appears to the Court that it is necessary or expedient to appoint as administrator a person other than the person who, but for this provision, would by law have been entitled to the grant of administration, despite anything in this Act, appoint as administrator the person who the Court thinks expedient,

and an administration granted under this provision may be limited in the way that the Court thinks fit.

(4) Where it appears to the Court that an estate vested in the successor of the deceased person under customary law is being duly dealt with, the Court may refuse to grant an application for administration not made by or with the concurrence of the successor.

80. Administration when legal proceedings pending

(1) Where legal proceedings touching the validity of the will of a deceased person, or for obtaining, recalling or revoking a grant, are pending, the Court may grant administration of the estate of the deceased person to an administrator.

(2) The administrator to whom a grant is made under subsection (1)

- (a) shall have the rights and powers of a general administrator, other than the right of distributing the residue of the estate, and
- (b) is subject to the immediate control, and act under the direction, of the Court.

(3) The Court may, out of the estate of the deceased, assign a reasonable remuneration to an administrator appointed under subsection (1).

81. Special administration where personal representative is abroad

(1) Where at the expiration of twelve months from the death of a person a personal representative of the deceased person to whom a grant is made is residing out of the jurisdiction of the Court, the Court may, on the application of a creditor, or a person interested in the estate of the deceased person, grant to that creditor or person special administration of the estate of the deceased person.

(2) The Court may, for the purposes of legal proceedings to which the administrator under the special administration is a party, order the transfer into Court of the moneys or securities belonging to the estate of the deceased person, and all persons shall obey the order.

(3) Where the personal representative capable of acting returns to and resides within the jurisdiction

of the Court while legal proceedings to which a special administrator is a party are pending, that personal representative shall be made a party to the legal proceedings, and the costs of, and incidental to, the special administration and the legal proceedings shall be paid by that personal representative and out of a fund that the Court in which the proceedings are pending may direct.

82. Administration during minority of executor

(1) Where an infant is the sole executor of a will, administration with the will annexed shall be granted to the guardian, or to any other person who the Court thinks fit, until the infant attains the age of twenty-one years, and on attaining that age, and not before, probate of the will may be granted to the sole executor.15(15)

(2) Where a testator of a will appoints an infant to be an executor, the appointment shall not operate to transfer an interest in the property of the deceased person to the infant, or to constitute the infant as personal representative for any purpose, unless probate is granted to the infant under subsection (1).

83. Administration with will annexed

Administration with the will annexed shall continue to be granted in every case where a grant was customary before the commencement of this Act, and in that case the will of the deceased person shall be performed and observed in like manner as if probate of the will had been granted.

Recognition of Probate and Letters of Administration Granted in Commonwealth and Other Countries

84. Sealing of probate and letters from other countries

(1) Where a Court of Probate in a Commonwealth country, or in a country to which this section is applied, has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy deposited with, the Court, be sealed with the seal of the Court.

(2) On the sealing under subsection (1), the probate or letters become effective, and shall operate in the Republic as if granted by the Court.

(3) The Court shall, before sealing a probate or letters of administration under subsection (1), be satisfied

- (a) that probate duty has been paid in respect of that part of the estate that is liable to probate duty in the Republic, and
- (b) that, in the case of letters of administration, security has been given in a sum of money sufficient to cover the property in the Republic to which the letters of administration relate.

(4) The Court may, on the application of a creditor require before sealing that adequate security is given for the payment of debts due from the estate to creditors residing in the Republic.

(5) The President may, by legislative instrument, apply this section to a specified country on the conditions prescribed in the instrument.

85. Sealing duplicate in lieu of original

For the purposes of section 84, a duplicate of a probate or letters of administration sealed with the seal of a Court of Probate or a copy certified as correct by or under the authority of the Court has the same effect as the original.

86. Rules

Until provision is otherwise made by Rules of Court, the fees and probate duty prescribed in relation to probate and administration shall apply and are payable as if the person who applied for the sealing under section 84 were a person applying for probate or letters of administration.

87. Interpretation

For the purposes of sections 84, 85 and 86

“**Court of Probate**” means a court or an authority, by whatever name designated, having jurisdiction in matters of probate;

“**probate duty**” includes a duty payable on the value of the estate for which probate or letters of administration is or are granted.

Probate Exemption

88. “Proper officer” and “public officer”

For the purposes of sections 89, 90 and 91

“**proper officer**” means the Administrator-General or the agent of the Administrator-General or a public officer appointed by the Minister to be the proper officer in relation to a specified category of persons;

“**public officer**” includes a pensioner.

89. Distribution without probate of sums not exceeding one hundred million cedis¹⁶⁽¹⁶⁾

(1) On the death of a public officer to whom or to whose estate a sum of money not exceeding two hundred million cedis is due or payable by the Government in respect of the pay, allowance, pension, or gratuity, excluding a death gratuity, the proper officer may direct, subject to the Regulations made under section 91, that probate or any other proof of the title of the personal representative of the deceased public officer may be dispensed with despite any law, usage, or custom to the contrary.

(2) The sum of money due to the deceased public officer may be paid

- (a) to the person, or distributed among the persons, appearing to the proper officer to be entitled to the estate of the deceased public officer or a distributive share of that sum,
- (b) to, or distributed among any one or more of those persons, or
- (c) if the proper officer is unable to discover any of those persons, to the person or distributed among the persons who the proper officer thinks fit, and in the proportions that the proper officer thinks fit.¹⁷⁽¹⁷⁾

(3) On the payment or distribution being made, the Government and the proper officer are discharged from liability in respect of that payment or distribution.

90. Decision of question arising under sections 88 to 91

The decision of the Minister on a question which arises as to the application of sections 88 to 91 to a person, or as to the amount of the pay, allowance, pension, or gratuity, or as to the reckoning of a service

for that pay, allowance, pension, or gratuity is subject to the operation of clause (3) of article 125 and articles 218 and 296 of the Constitution.

91. Regulations

The Minister may, by legislative instrument, make Regulations for any of the purposes of sections 89 and 90.

PART FIVE

Administration of Assets

92. Assets for payment of debts

(1) The assets for the payment of the debts, whether by speciality or simple contract, and the liabilities of a deceased person are

- (a) the movable and immovable property of that deceased person, to the extent of the beneficial interest of that deceased person, and
- (b) the movable or immovable property of which the deceased person in pursuance of a general power disposes of by will.

(2) A disposition by will which is inconsistent with this Act is void as against the creditors of the deceased person.

(3) The Court shall, if necessary, administer the property for the purpose of the payment of the debts and liabilities.

(4) Subsection (1) takes effect without prejudice to the rights of incumbrancers.

(5) Where a person to whom a beneficial interest devolves or is given, or in whom an interest vests, disposes of that interest in good faith before an action is brought, that person is personally liable for the value of the interest so disposed of by that person, but that interest is not liable to be taken in execution in the action.

93. Realisation of assets

(1) Subject to subsection (2), the personal representative may, so far as required for the purposes of administration, sell and convert into money the movable and immovable property of the deceased person, other than the household chattels and immovable property to which sections 3 and 4 of the Intestate Succession Act, 1985(18) apply.

(2) If the personal representative is of the opinion that the conversion into money of those household chattels and the immovable property referred to in that subsection is necessary for the purposes of administration, the personal representative shall apply to the Court for an order to sell and convert into money those household chattels and immovable property.

(3) The Court shall, in making an order under subsection (2), consider all the circumstances of the case, including the wishes of the beneficiaries entitled to the household chattels and the immovable property.

(4) Out of the moneys arising from the sale and conversion and ready money of the deceased person, the personal representative shall

- (a) pay the testamentary and administration expenses, debts and any other liabilities properly payable from the estate having regard to the rules of administration contained in this Part, and
- (b) provide for the pecuniary legacies bequeathed by the will of the deceased person.

(5) Pending the distribution of the whole or a part of the estate of the deceased person, the personal representatives may invest moneys in their hands in the investments authorised by an enactment for the investment of trust money, with power, at the discretion of the personal representatives, to change the investments for others of a like nature.

(6) The part of the income of the deceased person which may not be disposed of by the will of the deceased person, or may not be required for the administration purposes under subsection (1), may, however the estate is invested, as from the death of the deceased person, be treated and applied as income.

(7) For the purposes of subsection (6), “**income**” includes net rents and profits of immovable property after payment of rates, taxes, rents, costs of insurance, repairs and any other outgoings properly attributable to income.

(8) This section does not affect the rights of a creditor of the deceased person.

(9) Where the deceased person leaves a will, this section shall have effect subject to the will.19(19)

94. Administration of assets

(1) Where the estate of a deceased person is solvent, the movable and immovable property of the deceased person are applicable, subject to

- (a) the Rules of Court and to the provisions of this Act relating to charges on property of the deceased, and
- (b) the provisions contained in the will of the deceased person,

towards the discharge of the testamentary and administration expenses, debts and liabilities payable from the estate in the order specified in the Second Schedule.20(20)

(2) The estate of an insolvent deceased person shall be administered as provided by law.

(3) The right of retainer of a personal representative and the right of that retainer to prefer creditors may be exercised in respect of the assets of the deceased person, but the right of retainer shall only apply to debts owing to the personal representative in the right of that representative whether solely or jointly with another person.

(4) The right of retainer shall not apply to the Administrator-General.

(5) Subject to subsections (3) and (4), this Act does not affect the right of retainer of a personal representative, or the right of that representative to prefer creditors.

(6) Where administration is granted of an estate which was previously being dealt with in accordance with customary law, the grant shall not affect the validity of an act duly done in accordance with the customary law prior to the grant.

95. Payment of charges on property

(1) Where a person

- (a) who is possessed of, or is entitled to, a general power of appointment, or

(b) under a general power of appointment,

by the will of that person disposes of an interest in property, which at the time of the death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise, including a lien for unpaid purchase money, and the deceased person has not by will, deed or any other document signified a contrary or any other intention, the interest so charged is primarily liable, as between the different persons claiming through the deceased person, for the payment of the charge, and every part of that interest, according to its value, shall bear a proportionate part of the charge on the whole of that interest.

(2) For the purpose of subsection (1), contrary or any other intention is not signified by

(a) a general direction for the payment of debts or of the debts of the testator out of the movable property, or the residuary movable and immovable property, or the residuary immovable property of that testator, or

(b) a charge of debts on that property,

unless that intention is further signified by words expressly or by necessary implication referring to all or a part of the charge.

(3) This section does not affect the right of a person entitled to the charge to obtain payment or satisfaction of the charge out of any other assets of the deceased person or otherwise.

96. Assent or conveyance by personal representative

(1) A personal representative may assent to the vesting, in the form set out in the Third Schedule, in a person who, whether by devise, bequest, devolution, appropriation or otherwise, is entitled to the vesting beneficially or as a trustee or personal representative, of any estate or interest in immovable property

(a) to which the testator or intestate was entitled, or

(b) over which the testator exercised a general power of appointment by will, and which devolved on the personal representative.

(2) The assent shall operate to vest in that person the estate or interest to which the assent relates, and, unless a contrary intention appears, the assent shall relate back to the death of the deceased person.

(3) The covenants implied by a person being expressed to convey as personal representative may be implied in an assent in like manner as in a conveyance by deed.

(4) A person in whose favour an assent or a conveyance of the property is made by a personal representative may require

(a) that notice of the assent or conveyance is written or endorsed on or permanently annexed to the probate or letters of administration, at the cost of the estate of the deceased person; and

(b) that the probate or letters of administration is or are produced, at the like cost, to prove that the notice has been placed on or annexed to the probate or administration.

(5) A statement in writing by a personal representative that the personal representative has not given or made an assent or a conveyance in respect of an immovable property, is, in favour of a purchaser, sufficient evidence that an assent or a conveyance has not been given or made in respect of the property to which the statement relates, unless notice of a conveyance affecting that property has been placed on or annexed to the probate or administration.

(6) Subsection (5) operates without prejudice to a previous disposition made in favour of another

purchaser deriving title mediately or immediately under the personal representative.

(7) A conveyance by a personal representative to a purchaser accepted on the faith of a statement in writing under subsection (5), operates to transfer or create the property expressed to be conveyed in like manner as if a previous assent or conveyance had not been made by the personal representative.

(8) Subsection (7) operates without prejudice as stated in subsection (6), unless notice of a previous assent or conveyance affecting the property has been placed on or annexed to the probate or administration.

(9) A personal representative making a false statement, with regard to a matter referred to in subsections (5) and (6), is liable in like manner as if the statement had been contained in a statutory declaration.

(10) An assent or conveyance by a personal representative is sufficient evidence in favour of a purchaser, unless notice of a previous assent or conveyance affecting the property has been placed on or annexed to the probate or administration, that the person in whose favour the assent or conveyance is given or made is the person entitled to have the property conveyed to, and on the proper trusts, but shall not otherwise prejudicially affect the claim of a person rightfully entitled to the estate vested or conveyed or a charge on that estate.

(11) A conveyance by a personal representative to a purchaser shall not be invalidated because the purchaser may have notice that all the debts, liabilities, and testamentary or administration expenses, duties, and legacies of the deceased have been discharged or provided for.²¹⁽²¹⁾

(12) An assent or a conveyance given or made by a personal representative shall not, except in favour of a purchaser, prejudice the right of the personal representative or any other person to recover the estate or interest to which the assent or conveyance relates, or to be indemnified out of that estate or interest against a debt or liability to which that estate or interest would have been subject if there had not been an assent, or a conveyance.

(13) A personal representative may, as a condition of giving an assent or making a conveyance, require security for the discharge of a debt or liability, but is not entitled to postpone the giving of an assent merely by reason of the subsistence of a debt or liability if reasonable arrangements have been made for discharging it; and an assent may be given subject to a charge by way of mortgage.

(14) This section does not operate to impose a stamp duty in respect of an assent, and in this section “**purchaser**” means a purchaser for money or money’s worth.

(15) This section applies to assents and conveyances made after the commencement of this Act, whether the testator or intestate died before or after the commencement.

97. Validity of conveyance and revocation of representation

(1) A conveyance of an interest in movable or immovable property made to a purchaser before or after the commencement of this Act by a person to whom probate has been granted or letters of administration have been granted is valid, despite a subsequent revocation or variation before or after the commencement of this Act, of the probate or administration.

(2) Subsection (1) takes effect without prejudice to an order of the Court made before the commencement of this Act, and applies whether the testator or intestate died before or after the commencement.

98. Right to follow property

(1) An assent or a conveyance by a personal representative to a person other than a purchaser does not prejudice the rights of a person to follow the property to which the assent or conveyance relates, or a property representing it, to the hands of the person in whom it is vested by the assent or conveyance, or of any other person, who is not a purchaser and who may have received it or in whom it may be vested.

(2) Despite that assent or conveyance the Court may, on the application of a creditor or any other person interested,

- (a) order a transaction to be carried out which the Court considers requisite for the purpose of giving effect to the rights of the persons interested;
- (b) declare that the person, who is not a purchaser, in whom the property is vested is a trustee for those purposes;
- (c) give directions respecting the preparation and execution of a conveyance or any other instrument or as to any other matter required for giving effect to the order; or
- (d) make a vesting order or appoint a person to convey the property.

(3) This section does not prejudice the rights of a purchaser or a person deriving title under that purchaser, but applies whether the testator or intestate died before or after the commencement of this Act.

99. Powers of management

(1) In dealing with the movable and immovable property of the deceased person the personal representatives shall, for purposes of administration, or during the minority of a beneficiary or the subsistence of a life interest, or until the period of distribution arrives, have

- (a) the powers and discretions, including power to raise money by mortgage or charge, whether or not by deposit of documents, that a personal representative had before the commencement of this Act, with respect to property vested in that representative, and the power of raising money by mortgage may in the case of land be exercised by way of a legal mortgage;
- (b) the powers, discretions and duties conferred or imposed by law on trustees holding land on an effectual trust for sale, including power to overreach equitable interests and powers as if the same affected the proceeds of sale; and
- (c) the powers conferred by law on trustees for sale, and accordingly a contract entered into by a personal representative
 - (i) is binding on and is enforceable against the personal representative for the time being of the deceased person, and
 - (ii) may be carried into effect, or be varied or rescinded by the personal representative, and, in the case of a contract entered into by a predecessor, as if it had been entered into by the personal representative.

(2) Subsection (1) does not affect the right of a person to require an assent to be given or a conveyance to be made.

(3) This section applies whether the testator or intestate died before or after the commencement of this Act.

100. Raising money

(1) For giving effect to beneficial interests, the personal representative

- (a) may limit or demise land for a term of years absolute, to trustees on the usual trusts for raising, or securing a principal sum of money and the interests on those sums of money for which the land, or a part of the land, is liable, and
- (b) may limit or grant a rent charge for giving effect to an annual or a periodical sum of money or which the land or the income of the land or a part of the land is liable.

(2) Subsection (1) applies whether the testator or intestate died before or after the commencement of this Act.

101. Appropriation by personal representative

(1) The personal representative may appropriate a part of the movable or immovable property, including things in action, of the deceased person in the actual condition or state of investment of the property at the time of appropriation in or towards satisfaction of a legacy bequeathed by the deceased person, or of any other interest or share in the property, as the personal representative considers just and reasonable, according to the respective rights of the persons interested in the property of the deceased person.

(2) An appropriation shall not be made under this section which prejudicially affects a specific devise or bequest.

(3) An appropriation of property, whether or not being an investment authorised by law or by the will of the deceased person for the investment of money is subject to the trust and, shall not, subject to subsections (4) to (16), be made under this section except

- (a) where it is made for the benefit of a person absolutely and beneficially entitled in possession, with the consent of that person;
- (b) where it is made in respect of a settled legacy, or interest, with the consent of
 - (i) the trustee of the legacy, who is not also the personal representative, or
 - (ii) the person who is for the time being entitled to the income.

(4) Where the person whose consent is required under subsection (3) is an infant or a lunatic or defective, the consent shall be given by the parents or parent, testamentary or any other guardian, committee or receiver, or if, in the case of an infant, there is no parent or guardian, by the Court on the application of the next friend.

(5) A consent, except that of a trustee, is not required on behalf of a person who may come into existence after the time of appropriation, or who cannot be found or ascertained at that time.

(6) Where a committee or receiver of a lunatic or defective has not been appointed, then, if the appropriation is of an investment authorised by law or by the will of the deceased person for the investment of money subject to the trust, consent is not required on behalf of the lunatic or defective.

(7) Where independently of the personal representative, there is

- (a) no trustee of a settled legacy, a share or an interest,
- (b) no person of full age and capacity entitled to the income of the settled legacy, the share or interest,

consent is not required to an appropriation in respect of the legacy, share or interest, provided that the appropriation is an authorised investment.

(8) A property duly appropriated under the powers conferred by this section shall be treated as an authorised investment, and may be retained or dealt with accordingly.

(9) For the purposes of the appropriation, the personal representative may ascertain and fix the value of the respective parts of the movable and immovable property, and the liabilities of the deceased as the representative thinks fit, and may make a conveyance, including an assent, which may be requisite for giving effect to the appropriation.

(10) An appropriation made pursuant to this section binds the persons interested in the property of the deceased person and the consent of those persons is not by this subsection made requisite.

(11) The personal representative shall, in making the appropriation, consider the rights

- (a) of a person who may come into existence after the appropriation, or who cannot be found or ascertained at the time of the appropriation, and
- (b) of any other person whose consent is not required by this section.

(12) This section does not prejudice any other power of appropriation conferred by law or by the will of the deceased person, and takes effect with the extended powers conferred by the will of the deceased person.

(13) Where an appropriation is made under this section, in respect of a settled legacy, a share or an interest, the property appropriated shall remain subject to the trusts for sale and the powers of leasing, disposition and management or varying investments which would have been applicable to those trusts and policies or to the legacy, share or interest in respect of which the appropriation is made, if an appropriation had not been made.

(14) Where, after an immovable property has been appropriated in purported exercise of the powers conferred by this section, the person to whom it was conveyed disposes of it or an interest in that property, then, in favour of a purchaser the appropriation shall be deemed to have been made in accordance with the requirements of this section and after the requisite consents had been given.

(15) In this section, a settled legacy, a share or an interest includes a legacy, share or an interest to which a person is not absolutely entitled to possession at the date of the appropriation and an annuity, and “**purchaser**” means a purchaser for money or money’s worth.

(16) This section applies whether the deceased person died intestate or not, and whether before or after the commencement of this Act, and extends to property over which a testator exercises a general power of appointment, and authorises the setting apart of a fund to answer an annuity by means of the income of that fund or otherwise.

102. Appointment of trustees of infant’s property

(1) Where an infant is absolutely entitled, under the will or on the intestacy of a person dying before or after the commencement of this Act

- (a) to a devise or legacy, or
- (b) to the residue of the estate of the deceased person, or a share in that estate,

and the devise, legacy, residue or share is not, under the will of the deceased person, devised or bequeathed to trustees for the infant, the personal representatives of the deceased may appoint

- (c) the Public Trustee or a trust corporation,
- (d) two or more individuals not exceeding four, whether or not including the personal

representatives, or

(e) one or more of the personal representatives,

to be the trustees of the devise, legacy, residue or share for the infant, and may execute or do an assurance or a thing requisite for vesting the devise, legacy, residue or share in the trustee or trustees so appointed.

(2) On appointment, the personal representatives are discharged from further liability in respect of the devise, legacy, residue or share, and the same may be retained in its existing condition or state of investment, or may be converted into money, and the money may be invested in an authorised investment.

(3) Where a personal representative has, before the commencement of this Act, retained or sold a residue or share, and invested it or the proceeds in an investment in which that representative was authorised to invest money subject to the trust, then, subject to an order of the Court made before the commencement of this Act, the personal representative has not, for the purposes of this Act, incurred a liability on that account, or by reason of not having paid or transferred the money or property into court.

(4) This section does not prejudice a right of the Public Trustee under the Public Trustee Act, 1952.22(22)

103. Obligations of personal representative regarding possession of land

(1) A personal representative, before giving an assent or making a conveyance of immovable property may permit the person to whom the conveyance is made to take possession of the property.

(2) A possession pursuant to subsection (1) does not prejudicially affect the right of the personal representative to take or resume possession or the power to convey the property as if the personal representative were in possession of the property, but subject to the interests of a lessee, tenant or occupier in possession or in actual occupation.

(3) A person who, as against the personal representative, claims possession of immovable property, or the appointment of a receiver of that property, or a conveyance of that property, or an assent to the vesting of that property, may apply to the Court for directions with reference to that property, and the Court may make a vesting or any other appropriate order.

(4) This section applies whether or not the testator or intestate died before the commencement of this Act.

104. Postponing distribution

Subject to this Act or any other enactment, a personal representative shall distribute the estate of a deceased person within one year after the grant of the probate or of the letters of administration.23(23)

105. Distribution of residuary estate

(1) The residuary estate shall be disposed of by the personal representative in accordance with the will of the deceased person or, in the case of intestacy, in accordance with the Intestate Succession Act, 1985.24(24)

(2) Where the common law applies, the rules relating to the distribution of movable property shall apply likewise to immovable property.25(25)

Miscellaneous

106. Savings

(1) Where, before the commencement of this Act, the administration of an estate has been commenced under any other enactment, the estate shall, despite this Act, be carried out in accordance with that other enactment.

(2) This Act shall not affect the estate of a seaman to whom the Merchant Shipping (Transitory Provisions) Act, 1957 (No. 23) applies.

107. Application of Act

Except as otherwise expressly provided, this Act does not apply in a case where the death occurred before the commencement of this Act.

108. Interpretation

(1) In this Act, unless the context otherwise requires,

“**administration**” means, with reference to the movable and immovable property of a deceased person, letters of administration, whether general or limited, or with the will annexed or otherwise;

“**administrator**” means a person to whom administration is granted;

“**Administrator-General**” includes an Assistant Administrator-General and the successors in office of the Administrator-General;

“**agent**” means a person duly appointed as agent by the Administrator-General as provided for in section 56;

“**assets**” means the property, movable and immovable, of a deceased person which is chargeable with, and applicable to, the payment of the debts and legacies of the deceased person or is available for distribution amongst those entitled to share;

“**conveyance**” includes a mortgage, a charge by way of legal mortgage, a lease, an assent, a vesting, a declaration, a vesting instrument, a disclaimer, a release and any other assurance of property or of an interest in that property by an instrument, except a will;

“**Court**” means the High Court or any other court of competent jurisdiction;

“**disposition**” includes a conveyance, a devise, a bequest and an appointment of property contained in a will;

“**estate**” means property, movable and immovable;

“**functions**” includes power and duties;

“**income**” includes rents and profits;

“**intestate**” includes a person who leaves a will but dies intestate as to a beneficial interest in the movable and immovable property of that person;

“**lunatic**” includes a person certified as a lunatic under an enactment and a person with regard to whom it is proved to the satisfaction of the Court as a person who is, through mental infirmity arising from disease or age, incapable of managing the affairs of that person;

“Minister” means the Minister to whom functions under this Act are assigned by the President;

“minority” means, according to the context, the state of being an infant or the interest of an infant beneficiary under a will or intestacy;

“oath” includes an affirmation;

“pecuniary legacy” includes an annuity, a general legacy, a demonstrative legacy so far as it is not discharged out of the designated property, and any other general direction by a testator for the payment of money;

“personal representative” means the executor, original or by representation, or the administrator for the time being, of a deceased person;

“possession” includes the receipt of rents and profits or the right to receive them;

“prescribed” means prescribed by the Rules of Court or Rules made by the Minister pursuant to this Act or prescribed to give effect to this Act;

“probate” means the probate of a will;

“probate rules” means the Rules and Orders made for regulating the procedure and practice of the Court with regard to non-contentious or common-form probate business;

“property” includes a thing in action;

“purchaser” includes a lessee, a mortgagee or any other person who in good faith acquires an interest in property for valuable consideration and an intending purchaser;

“Regulations” means Regulations made under the Act;

“rent” includes an annual or a periodical payment in money or money’s worth, issuing out of, or charged on, land, but does not include mortgage interest;

“representation” means the probate of a will or the grant of administration, and **“taking out representation”** refers to the obtaining of the probate of a will or of the grant of administration;

“residuary estate” means the residue as defined in section 18 of the Intestate Succession Act, 1985;26(26)

“Rules” means Rules made under this Act;

“Rules of Court” includes, in relation to non-contentious or common-form probate business, probate rules;

“securities” includes stocks, funds and shares;

“syndic” means a person deputed to represent, and transact the affairs of, a corporation;

“taxing officer” means a Registrar of the Court or any other officer duly appointed to act in that capacity;

“trust corporation” means the Public Trustee or a corporation appointed by the Court in a particular case to be a trustee;

“unrepresented estate” means

- (a) the estate of a person who dies intestate and whose next of kin, or where the next of kin is an infant, the guardian, is unknown or is absent from the Republic, and has refused or neglected for a period of one month after the death of the deceased person, to apply to the Court for

letters of administration

- (b) the estate of a person who has died having made a will, when owing to a sufficient cause it is necessary to appoint an administrator with the will attached or an administrator of goods not administered of that estate and the person entitled to the letters of administration is unknown or has, if in the Republic without having an attorney in the Republic or if in the Republic and known, refused or neglected for one month after the death the testator to apply to the Court for the letters of administration, or is absent from the Republic without having an attorney in the Republic;
- (c) an estate where the executors are, or the administrator is, absent from the Republic without having an attorney in the Republic;
- (d) an estate where the deceased person has named the Administrator-General as the sole executor of the will;

“**valuable consideration**” includes marriage, but does not include a nominal consideration in money;

“**will**” includes a codicil.

(2) References to a child or issue living at the death of a person include a child or issue in the mother’s womb at the time of death.

(3) References to the property of a deceased person include property over which the deceased person exercises a general power of appointment by that person’s will.

109. Statutes ceasing to apply

A Statute, or provision of a Statute, specified in the Fourth Schedule shall, in so far as it ever applied in the Republic, cease to apply.

110. Repeals

(1) An enactment specified in the Fifth Schedule is repealed.

(2) An instrument made under a repealed enactment and in force immediately before the commencement of this Act shall continue in force as if made under the corresponding provision of this Act.

111. Commencement

This Act shall come into operation on the day that the President may, by legislative instrument, appoint.²⁷⁽²⁷⁾

First Schedule

FORM OF PETITION FOR A GRANT OF PROBATE OR LETTERS OF ADMINISTRATION

[Section 16]

To the Chief Justice

The petition of the Administrator-General

The Administrator-General has been informed and believes that A.B., whose address was at ..
..... died on the dayof, possessed of property in Ghana.

The property of A.B. is an unrepresented estate because

- (a)
- (b)
- (c)
- (d)

(State as precisely as possible the reasons for declaring that the property is an unrepresented estate).

The Administrator-General therefore applies to the High Court for an order for the grant of probate or of letters of administration for the administration of the estate of A.B.

Dated this day of, 20

.....
Administrator-General

Second Schedule

ORDER OF APPLICATION OF ASSETS WHERE THE ESTATE IS SOLVENT

[Section 94]

1. The general or residuary movable property, not exonerated or exempted.
2. Immovable property specifically appropriated to or devised in trust for payment of debts.
3. Immovable property devised, charged with payment of debts.
4. General pecuniary legacies, rateably.
5. Movable property specifically bequeathed, rateably.
6. Other immovable property of the deceased, whether devised or not.
7. Property expressly appointed by will in exercise of a general power of appointment.

Third Schedule

FORM OF A VESTING ASSENT

[Section 96]

I of

Name

Physical address

as the personal representative of the late

Testator or intestate

whose last known address was do this hereby assent to the vesting in

..... of of all

Parcels

for all the interest of the

Testator or intestate

at the time of death and I hereby acknowledge the right of

..... to production of the probate of the will of

Beneficiary

.....

Testator

[or the grant of letters of administration of deceased and to delivery of copies thereof.

Intestate

As witness etc.

.....

Signature of personal representative

Fourth Schedule28(28)
STATUTES CEASING TO APPLY
[Section 109]

<i>Session and Chapter</i>	<i>Subject-matter</i>
13 Edw. 1 (Stat. Westm. Sec.) c. 19 (1285)	Payment of debts of intestate.
13 Edw. 1. (Stat. Westm. Sec.) c. 23 (1285)	Writ of account for executors.
13 Edw. 1. (Stat. Westm. Sec.) c. 34 (1285)	Dower.
25 Edw. 1. c. 7 (1297)	Widow; her marriage estate; re-marriage.
25 Edw. 1. c. 18 (1297)	The King's tenant, his debtor.
4 Edw. c. 7 (1330)	Executor's action of trespass.
25 Edw. 3. st. 5 c. 5 (1350)	Executors of executors.
31 Edw. 3. st. 1. c. 11 (1357)	Administration on intestacy.
21 Hen. 8. c. 4 (1529)	Executors.
32 Hen. 8. c. 37 (1540), sections 1, 2 and 3	Recovery of arrears by Executors and Administrators.

1	Edw. 6. c. 12 (1547) and	Treason, etc.
5	Edw. 6. c. 11 (1551)	Treason, etc.
43	Eliz. c. 8 (1601)	Fraudulent administration.
12	Chas. 2. c. 24 (1660)	Abolition of old tenures.
29	Chas. 2 c. 3 (1677), sections 10, 11, 23 and 24	The Statute of Frauds.
30	Chas. 2. c. 7 (1678)	Executors in their own wrong.
1	Jas. 2. c. 17 (1685)	Administration of intestates' estates.
4	Will and Mar. c. 24 (1692) section 12	Personal representatives.
38	Geo. 3. c. 87 (1798)	Administration of Estates.
11	Geo. 4 and 1 Will. 4. c. 40 (1830)	Executors.
11	Geo. 4 and 1 Will. 4. c. 40 (1830)	Debts Recovery.
3	and 4 Will. 4. c. 42 (1833), sections 2, 37 and 38	Civil Procedure.
3	and 4 Will. 4. c. 104 (1833)	Administration of Estates.
2	and 3 Vict. c. 60 (1839)	Debts Recovery.
11	and 12 Vict. c. 87 (1848)	Debts Recovery.
17	and 18 Vict. c. 113 (1854)	Real Estate Charges.
20	and 21 Vict. c. 77 (1857), sections 70 to 80	Court of Probate.
21	and 22 Vict. c. 95 (1858), sections 16, 18, 19, 21 and 22	Court of Probate.
22	and 23 Vict. c. 35 (1859), sections 14 to 18	Law of Property Amendment.
30	and 31 Vict. c. 69 (1867)	Real Estate Charges.
32	and 33 Vict. c. 46 (1869)	Administration of Estates.

Fifth Schedule 29(29)

REPEALS

[Section 110]

Probates (British and Colonial) Ordinance (Cap. 21).

Administration of Estates by Consular Officers Ordinance (Cap. 22).

Administration (Foreign Employment) Ordinance (Cap. 23).

Probate Exemption Ordinance (Cap. 25).

Administrator-General Ordinance, 1952 (No. 37).

Dated this day of, 20.....

.....

Registrar

Endnotes

1 (Popup - Footnote)

1. This Act was assented to on 7th June, 1961 and came into force on 7th July, 1961.

2 (Popup - Footnote)

2. This paragraph ceases to apply where the death occurs in a district to which the Registration of Births and Deaths Act, 1965 ([Act 301](#)) applies under [section 16](#) of this Act.

3 (Popup - Footnote)

3. Amended by section 1 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113).

4 (Popup - Footnote)

4. [P.N.D.C.L. 111](#).

5 (Popup - Footnote)

5. [P.N.D.C.L. 111](#).

6 (Popup - Footnote)

6. Substituted by section 2 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The previous provision read:

“27. Movable and immovable property to be realised

- (1) The Administrator-General may convert into money all movable and, with the consent of the Court, immovable property of an estate which he administers.
- (2) If all parties interested in the immovable property consent in writing to its conversion into money by the Administrator-General, or if the value of the immovable property does not exceed seven hundred and fifty pounds and the Administrator-General is satisfied that the conversion of the immovable property into money would be to the advantage of the estate, the consent of the Court shall not be necessary.”

7 (Popup - Footnote)

7. By section 3 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The provision reads,

“32. Disposal of jewellery

In the case of a solvent estate, the Administrator-General may deliver to the next-of kin of the deceased any watch, jewellery, or other property of the deceased which, in the opinion of the Administrator-General, ought not to be sold.”

8 (Popup - Footnote)

8. But see the Intestate Succession Act, 1985 ([P.N.D.C.L. 111](#)).

9 (Popup - Footnote)

9. But see the Intestate Succession Act, 1985 ([P.N.D.C.L. 111](#)).

10 (Popup - Footnote)

10. [P.N.D.C.L. 111](#).

11 (Popup - Footnote)

11. Amended by section 47 (1) (g) of the Courts (Amendment) Act, 2002 (Act 620) *re* section 5 of Act 620.

12 (Popup - Footnote)

12. Substituted by section 4 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The provision reads:

“53. Power to administer where assets do not exceed £G100

- (1) Whenever any person dies intestate leaving property or assets in Ghana the gross value of which does not exceed one hundred pounds, the Administrator-General may by notice in the *Gazette* (which may be combined with a notice to creditors and others) advertise his intention to administer the estate under this section and at the expiration of the time limited by the notice he may apply to the Court for leave to administer the estate.
- (2) Where the gross value of the estate does not exceed ten pounds the Administrator-General may administer it without the leave of the Court.
- (3) The Administrator-General shall not under the power conferred by this section undertake the administration of an estate if there has been any previous appointment of an administrator under any

other provision relating to small estates or if there has been any previous grant of probate of the will of the deceased or of letters of administration of his estate, unless and until that appointment or grant has been revoked.

- (4) It shall not be obligatory on the Administrator-General to file in court his accounts or vouchers in respect of an estate administered under this section unless he is required to do so by a beneficiary or creditor of the administration and receives payment of such sum as the Administrator-General may reasonably require to cover the costs of preparing, filing and passing the accounts.
- (5) The Administrator-General shall give notice in the prescribed manner to all persons interested that he has completed the administration of the estate. A beneficiary or creditor must call on the Administrator-General to file an account under [subsection \(4\)](#) of this section within one month of the notice being given.
- (6) The Administrator-General shall have full power to settle finally and without appeal all disputes and questions which may arise in the course of an administration by him under this section including claims by creditors, but may allow an appeal to the Court or may himself apply to the Court for directions.
- (7) In settling disputes or questions, the Administrator-General may, if he thinks it expedient in the interests of justice or with a view to saving expense, act on information which appears to him to be credible though it is not legal evidence.”

13 (Popup - Footnote)

13. By virtue of [section 47 \(1\) \(g\)](#) of the Courts Act, 1993 ([Act 459](#)) as amended by section 5 of the Courts (Amendment) Act, 2002 ([Act 620](#)).

14 (Popup - Footnote)

14. Substituted by section 5 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 112). The provision had the words “including the successor, if any under customary law,” after the word “estate”.

15 (Popup - Footnote)

15. The words “sole executor” have been substituted for the word “infant”, as on attaining the age of twenty-one years the infant ceases to be an infant. But under the Wills Act, 1971 ([Act 360](#)) only a person of or above twenty-one years can be an executor.

16 (Popup - Footnote)

16. The words “one hundred million cedis” have been substituted for the expression “£G200” consequent on the amendment effected for section 6 of the Courts (Amendment) Act, 2002 ([Act 620](#)) in respect of [section 47 \(1\) \(g\)](#) of the Courts Act, 1993 ([Act 459](#)). The amendment relates to the jurisdiction of the District Court.

17 (Popup - Footnote)

17. *See also* the Intestate Succession Act, 1985 ([P.N.D.C.L. 111](#)).

18 (Popup - Footnote)

18. [P.N.D.C.L. 111](#).

19 (Popup - Footnote)

19. Substituted by section 6 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 110).

The provision reads:

“93. Realisation of assets

- (1) The personal representative may sell and convert into money any movable or immovable property of the deceased so far as required for purposes of administration.
- (2) A conveyance of immovable property shall not be made without the concurrence of all the persons to whom representation has been granted, unless the courts otherwise directs.
- (3) Out of money arising from sale and conversion and any ready money of the deceased, the personal representative shall pay all funeral, testamentary and administration expenses, debts and other liabilities properly payable there out having regard to the rules of administration contained in this Part and shall provide for any pecuniary legacies bequeathed by the will (if any) of the deceased.
- (4) Pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest any money in their hands in any investments for the time being authorised by any enactment for the investment of trust money, with power, at the discretion of the personal representatives, to change the investments for others of a like nature.

- (5) The residue of the property of the deceased and any investments for the time being representing it, is in this Act referred to as ‘the residuary estate of the intestate’.
- (6) The income (including net rents and profits of immovable property after payment of rates, taxes, rent, costs of insurance, repairs and other outgoings properly attributable to income) of so much of the movable and immovable property of the deceased as may not be disposed of by his will, if any, or may not be required for the administration purposes aforesaid, may, however the estate is invested, as from the death of the deceased, be treated and applied as income.
- (7) Nothing in this section affects the rights of any creditor of the deceased.
- (8) Where the deceased leaves a will, this section has effect subject to the provisions contained in the will.”

20 (Popup - Footnote)

20. Substituted by section 7 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The previous provision reads:

“(1) Where the estate of a deceased person is solvent his movable and immovable property shall, subject to rules of court and the provisions hereinafter contained 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 there out in the order mentioned in the [Second Schedule](#) to this Act.”

21 (Popup - Footnote)

21. Substituted by section 8 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The amendment deleted the word “funeral” after “liabilities”.

22 (Popup - Footnote)

22. The Public Trustee Act, 1952 was Ordinance [No. 24 of 1952](#).

23 (Popup - Footnote)

23. Substituted by section 9 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The provision reads:

“Power to postpone distribution

Subject to the foregoing provisions of this Act, a personal representative is not bound to distribute the estate of the deceased before the expiration of the one year from the death.”

24 (Popup - Footnote)

24. Substituted by section 10 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The provision reads:

“(1) The residuary estate shall be disposed of by the personal representative in accordance with the will of the deceased or, in case of intestacy, in accordance with the law applicable thereto under the rules of section 66 of the Court Act, 1960 (C.A. 9). Except where any enactment the Intestate Succession Act, 1985 was issued as [P.N.D.C.L. 111](#).”

25 (Popup - Footnote)

25. This subsection will have to be construed as one with the Intestate Succession Act, 1985 ([P.N.D.C.L. 111](#)) and where there is a conflict, the 1985 Act shall prevail.

26 (Popup - Footnote)

26. Substituted by section 10 of the Administration of Estates (Amendment) Law, 1985 (P.N.D.C.L. 113). The provision reads:

“ ‘**residuary estate**’ has the meaning assigned to it by section 93 (5) of this Act.”

27 (Popup - Footnote)

27. The Administration of Estates Act, 1961 (Commencement) Order, 1961 (L.I. 137) appointed the 7th day of July, 1961 as the day for the coming into operation of the Act.

28 (Popup - Footnote)

28. This may be regarded as spent but kept for the purposes of research. See [section 2 \(1\)\(a\)](#) (i) and (ii) of the Laws of Ghana (Revised Edition) Act, 1998 ([Act 562](#)).

29 (Popup - Footnote)

29. The repeals would be reflected in the Index to the Statutes, 1852 – 2004.