

BELIZE

ADMINISTRATION OF ESTATES ACT
CHAPTER 197

REVISED EDITION 2020

SHOWING THE SUBSTANTIVE LAWS AS AT
31ST DECEMBER, 2020

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2020.



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CHAPTER 197

ADMINISTRATION OF ESTATES

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CHAPTER 197

ADMINISTRATION OF ESTATES

Ch. 196,
R.L. 1958.
CAP. 160,
R.E. 1980-1990.
40 of 1963.
14 of 1964.
3 of 1978.
11 of 1991.
6 of 2001.

[31st December, 1953]

PART I

Preliminary

Short title.

1. This Act may be cited as the Administration of Estates Act.

Interpretation.

2. In this Act, unless the context otherwise requires–

"administration" means, with reference to the real and personal estate 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;

CAP. 122.

"committee" includes a person appointed by the court to exercise the powers of a committee under section 15 (2) of the Unsoundness of Mind Act;

"conveyance" includes a lease, assent, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will, and "convey" has a corresponding meaning;

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"court" means the Supreme Court;

CAP. 122.

"defective" includes every person affected by section 19 of the Unsoundness of Mind Act and for whose benefit a receiver has been appointed;

"disposition" includes a conveyance, devise, bequest and an appointment of property contained in a will, and "dispose of" has a corresponding meaning;

"entailed interest" includes an estate tail (taking effect as an equitable interest) created before the commencement of this Act;

"equitable interests" means all interests and charges in or over land or in the proceeds of sale thereof, other than legal estates;

"income" includes rents and profits;

"intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate;

"land" includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments and a rent or other incorporeal hereditaments, and an easement, right, privilege or benefit in, over or derived from land and an estate or interest in land not being an undivided share in land;

"legal estates" means the estates, charges and interests in or over land, subsisting or created at law, which are by statute authorized to subsist or to be created at law;

"legal mortgage" means a charge created by way of legal mortgage;

"mortgage" means any charge or lien on any property for securing money or money's worth;

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"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, including all estate duty from which any devise, bequest or payment is made to take effect;

"person of unsound mind" includes a person of unsound mind whether so found or not, and in relation to a person of unsound mind not so found;

"personal chattels" means carriages, horses, stable, furniture and effects not used for business purposes, motor cars and accessories, not used for business purposes, garden effects, domestic animals, plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament, musical and scientific instruments and apparatus, wines, liquors and consumable stores, but does not include any chattels used at the death of the intestate for business purposes nor money or securities for money;

"personal property" means all forms of property, movable or immovable, corporeal or incorporeal, other than freehold estates and interests in land;

"personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of estate duty, includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court, and "executor" includes a person deemed to be appointed executor as respects settled land;

"possession" includes the receipt of rents and profits or the right to receive the same, if any;

"prescribed" means prescribed by probate rules or other rules of court; "probate" means the probate of a will;

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CAP. 91.

"probate rules" means rules made under section 165 of the Supreme Court of Judicature Act;

"property" includes a thing in action and any interest in real or personal property;

"purchaser" includes a lessee or other person who in good faith acquires an interest in property for valuable consideration, also an intending purchaser;

"real estate", except as provided in Part VI, means real estate (including chattels real) which by virtue of Part III devolves on the personal representative of a deceased person;

"rent" includes a rent service or a rent charge, or other rent, toll, duty or annual or periodical payment in money or money's worth, issuing out of or charged upon land, but does not include mortgage interest;

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

"securities" includes stocks, funds or shares;

1925, c. 18.

"tenant for life" includes a person (not being a statutory owner) who has the power of a tenant for life under the Settled Land Act and also (where the context requires) one of two or more persons who together constitute the tenant for life, or have the powers of a tenant for life;

"term of years absolute" means a term of years, taking effect either in possession or in reversion, with or without impeachment for waste, whether at a rent or not and whether subject or not to another legal estate, and whether certain or liable to determination by notice, re-entry, operation of law or by a provision for cesser or redemption or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of

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years determinable with life or lives or with the cesser of a determinable life interest, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty- one years after the creation thereof where required by this Act to take effect within that period, and in this definition to the expression "terms of years" includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;

"trust for sale", in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without a power at discretion to postpone the sale, and "power to postpone a sale" means power to postpone in the exercise of a discretion;

"valuable consideration" includes marriage, but does not include a nominal consideration in money;

"will" includes codicil.

(2) References to a child or issue living at the death of any person include a child or issue *en ventre sa mere* at the death.

(3) References to the estate of a deceased person include property over which the deceased exercises a general power of appointment, including the statutory power to dispose of entailed interests, by his will.

PART II

Abolition of Descent to the Heir

Abolition of descent to heir, courtesy, dower and escheat.

3.-(1) With regard to the real estate and personal inheritance of every person dying after the commencement of this Act, there shall be abolished–

(a) all existing modes, rules and canons of descent, and of devolution by special

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occupancy or otherwise, of real estate, or of a personal inheritance, whether operating by the general law or by custom of any locality or otherwise however;

(b) tenancy by the courtesy and every other estate and interest of a husband in real estate as to which his wife dies intestate, whether arising under the general law or by custom or otherwise;

(c) dower and free bench and every other estate and interest of a wife in real estate as to which her husband dies intestate, whether arising under the general law or by custom or otherwise,

provided that where a right (if any) to free bench or other like right has attached before the commencement of this Act which cannot be barred by a testamentary or other disposition made by the husband, such right shall, unless released, remain in force as an equitable interest; and

(d) escheat to the State.

(2) Real estate of a person dying intestate after the commencement of this Act shall devolve in the manner provided by section 4, and the residuary estate of that person shall be distributed in accordance with section 54.

(3) Nothing in this section shall affect the descent or devolution of an entailed interest.

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PART III

Devolution of Real and Personal Estate

Devolution of real and personal estate on personal representative.

4.-(1) All real estate and personal estate to which a deceased person was entitled for an interest not ceasing on his death shall on his death, and notwithstanding any testamentary disposition thereof, devolve from time to time on the personal representative of the deceased, in like manner as real estate and personal estate at the commencement of this Act devolved in Belize on the personal representative of the deceased.

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

(3) The personal representatives shall be the representatives of the deceased in regard to his real estate to which he was entitled for an interest not ceasing on his death as well as in regard to his personal estate.

Application to real estate of law affecting chattels real.

5.-(1) Subject to this Act, all enactments and rules of law, and the jurisdiction of the court with respect to the appointment of administrators or to probate or letters of administration, or to dealings before probate in the case of chattels real, and with respect to costs and other matters in the administration of personal estate, in force before the commencement of this Act, and all powers, duties, rights, equities, obligations and liabilities of a personal representative in force at the commencement of this Act with respect to chattels real, shall apply and attach to the personal representative and shall have effect with respect to real estate vested in him.

(2) In particular, all such powers of disposition and dealing as were before the commencement of this Act exercisable as respects chattels real by the survivor or survivors of two or more personal representatives, as well as by a single personal representative, or by all the personal representatives together,

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shall be exercisable by the personal representatives or representative of the deceased with respect to his real estate.

Concurrence of all personal representatives necessary to conveyance of real estate.

6.-(1) Where, as respects real estate, there are two or more personal representatives, a conveyance of real estate devolving under this Part shall not, except as otherwise provided as respects trust estates including settled land, be made without the concurrence therein of all such representatives or an order of the court, but where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance of the real estate may be made by the proving executors for the time being, without an order of the court, and shall be as effectual as if the persons named as executors had concurred therein.

(2) Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real estate shall not, except as hereinafter provided, affect–

(a) any rule as to marshalling or as to administration of assets;

(b) the beneficial interest in real estate under any testamentary disposition;

(c) any mode of dealing with any beneficial interest in real estate, or the proceeds of sale thereof;

(d) the right of any person claiming to be interested in the real estate to take proceedings for the protection or recovery thereof against any person other than the personal representative.

Interpretation of Part III.

7.-(1) In this Part "real estate" includes–

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(a) chattels real, and land in possession, remainder or reversion, and every interest in or over land to which a deceased person was entitled at the time of his death; and

(b) real estate held on trust, including settled land, but does not include money to arise under a trust for sale of land, nor money secured or charged on land.

(2) A testator shall be deemed to have been entitled at his death to any interest in real estate passing under any gift contained in his will which operates as an appointment under a general power to appoint by will, or operates under the testamentary power conferred by statute to dispose of an entailed interest.

(3) An entailed interest of a deceased person shall, unless disposed of under testamentary power conferred by statute, be deemed an interest ceasing on his death, but any further or other interest of the deceased in the same property in remainder or reversion which is capable of being disposed of by his will shall not be deemed to be an interest so ceasing.

(4) The interest of a deceased person under a joint tenancy where another tenant survives the deceased is an interest ceasing on his death.

(5) Where any real or personal property or any interest therein is or has been vested in a corporation sole, including the State–

(a) the interest of the corporator therein shall, on the death of the corporator, be deemed to be an interest ceasing on his death;

(b) the real and personal property of the corporation shall, unless and until otherwise disposed of by the corporation, pass and

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devolve to and vest in, and be deemed always to have passed and devolved to or vested in, the successors from time to time of such corporation.

PART IV

Executors and Administrators

Summons of executor to prove or renounce.

8. The court shall have power to summon any person named as executor in any will to prove or renounce probate of the will, and to do such other things concerning the will as have heretofore been customary.

Cesser of right of executor to prove.

9. 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,

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

Withdrawal of renunciation.

10.-(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 prove the will, 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 a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

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

Executor of executor represents original testator.

11.-(1) Subject to sub-section (2), an executor of a sole or last surviving executor of a testator is the executor of that testator.

(2) Sub-section (1) shall not apply to an executor who does not prove the will of his testator and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, it shall cease to apply on such probate being granted.

(3) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

(4) The chain of such 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 is not broken by a temporary grant of administration of probate if subsequently granted.

(5) Every person in the chain of representation to a testator–

(a) has the same rights in respect of the real and personal estate of that testator as the original executor would have had if living; and

(b) is, to the extent to which the estate whether real or personal of that testator has come to his hands, answerable as if he were an original executor.

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Right of proving executors to exercise powers.

12.-(1) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the others or other to prove, all 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 all the persons named as executors had concurred therein.

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

Vesting of estate of intestate between death and grant of administration.

13. Where a person dies intestate, his real and personal estate, until administration is granted in respect thereof, shall vest in the Chief Justice in the same manner and to the same extent as formerly in England in the case of personal estate it vested in the Ordinary.

Administration bonds.

14.-(1) Before a probate of a will or letters of administration of any estate is granted, the person applying for such probate or letters of administration shall give a bond to the Chief Justice, conditioned for duly collecting, getting in and administering the real and personal estate of the deceased.

(2) The bond shall be given with such surety or sureties and in such form as the Chief Justice may by general or special order direct and shall provide a penalty of double the amount of the probable gross value of the real and personal estate as stated in the petition on which the grant is made or of such other amount as the Chief Justice may direct.

(3) Where on application made on motion, or by petition in chambers, it appears to the satisfaction of the court or a judge that any condition of an administration bond has been broken, the court or a judge may by order direct the Registrar to assign the bond to a person named in the order, and the person to whom the bond is assigned shall be entitled by virtue of the order to sue thereon in his own name as if the bond had been originally given to him instead of the Chief Justice and to recover thereon

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as trustee for all persons interested the full amount recoverable in respect of the breach of the condition thereof.

(4) Nothing in this section shall require the public trustee appointed and acting under the Public Trustee Act to give an administration bond. CAP. 199.

(5) The Chief Justice may, in any case in which he thinks it proper to do so, dispense with the bond required by this section, and may do so subject to such conditions as he may think fit.

Discretion of court as to persons to whom administration is to be granted.

15. In granting administration the court shall have regard to the rights of all persons interested in the estate of the deceased person, or the proceeds of sale thereof, and, in particular, administration with the will annexed may be granted to a devisee or legatee, and in regard to land settled previously to the death of the deceased and not by his will, may be granted to the trustees of the settlement and any such administration may be limited in any way the court thinks fit,

provided that,

(a) where the deceased died wholly intestate as to his estate, administration shall be granted to some one or more persons interested in the residuary estate of the deceased if they make an application for the purpose, and as regards lands settled previously to the death of the deceased, be granted to the trustees, if any, of the settlement, if they are willing to act; and

(b) if, by reason of the insolvency of the estate of the deceased or of any other special circumstances, it appears to the court to be necessary or expedient to appoint as administrator some person other than the person who, but for this provision, would by law have been entitled to the grant of administration, the court may in its discretion,

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notwithstanding anything in this Act, appoint as administrator such person as it thinks expedient, and any administration granted under this provision may be limited in any way the court thinks fit.

Provisions as to the number of personal representatives.

16.-(1) Probate or administration shall not be granted to more than four persons in respect of the same property, and, where the gross value of the estate exceeds five thousand dollars, administration shall, if there is a minority or if a life interest arises under the will or intestacy, be granted to not less than two individuals,

provided that the Court in granting administration may act on such *prima facie* evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by rules of court.

(2) This section shall apply to grants made after the date of the commencement of this Act, whether the testator or intestate died before or after that date.

Power to grant representation of real and personal estate separately or together.

17.-(1) Subject to sub-section (2), probate or administration in respect of the real estate of a deceased person, or any part thereof, may be granted either separately or together with probate or administration of his personal estate, and may also be granted in respect of real estate only where there is no personal estate, or in respect of a trust estate only, and a grant of administration to real estate may be limited in any way the court thinks proper.

(2) Where the estate of the deceased is known to be insolvent, the grant of representation to the estate shall not be severed except as regards a trust estate.

(3) The procedure and practice on the grant of administration in the case of real estate shall be the same as in the case of personal property, and the same rules shall apply to the one as to the other.

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Executor not to act while administration is in force.

18. Where administration has been granted in respect of any real or personal estate of a deceased person, no person shall have power to bring any 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 has been recalled or revoked.

Administration *pendent lite.*

19.-(1) Where any legal proceedings touching the validity of the will of a deceased person or for obtaining, recalling or revoking any grant are pending, the court may grant administration of the estate of the deceased to an administrator, who shall have all the rights and powers of a general administrator, other than the right of distributing the residue of the estate, and every such administrator shall be subject to the immediate control of the court and act under its direction.

(2) The court may, out of the estate of the deceased, assign to an administrator appointed under this section such reasonable remuneration as the court thinks fit.

Continuance of legal proceedings after revocation of temporary administration.

20. If, while any legal proceeding is pending in any court by or against an administrator to whom a temporary administration has been granted, that administration is revoked, the court may order that the proceeding be continued by or against the new personal representative in like manner as if it had been originally commenced by or against him, but subject to such conditions and variations, if any, as the court directs.

Grant of special administration where personal representative is abroad

21.-(1) If, at the expiration of twelve months from the death of a person, any personal representative of the deceased to whom a grant has been made is residing out of the jurisdiction of the court, the court may, on the application of any creditor or person interested in the estate of the deceased, grant to him in the prescribed form special administration of the estate of the deceased.

(2) The court may, for the purpose of any legal proceedings to which the administrator under the special administration is a party, order the transfer into court of any money or securities

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belonging to the estate of the deceased person, and all persons shall obey any such order.

(3) If the personal representative capable of acting as such returns to and resides within the jurisdiction of the court while any 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 such person and out of such funds as the court in which the proceedings are pending may direct.

(4) When an executor or administrator to whom probate or administration has been or may be granted departs from and remains absent from Belize for a period of one year, without having appointed an attorney to act for and represent him, the court may, on petition verified by affidavit proving to the satisfaction of the court that the interests of the parties concerned in the estate are, or will be, prejudiced by the absence of such executor or administrator, appoint a special administrator with the will annexed or an administrator *de bonis non*, as the case may be, who shall, during the absence of such executor or administrator, on giving sufficient security, have, possess and exercise all and singular the same power and authority as the executor or administrator so absent as aforesaid would have had if personally present.

Administration with will annexed.

22. 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 such case the will of the deceased shall be performed and observed in like manner as if probate thereof had been granted to an executor.

Administration during minority of executor.
3 of 1978.

23.-(1) Where an infant is sole executor of a will, administration with the will annexed shall be granted to his guardian, or to such other person as the court thinks fit, until the infant attains the age of eighteen years, and on his attaining that age, and not before, probate of the will may be granted to him.

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(2) Where a testator by his will appoints an infant to be executor, the appointment shall not operate to transfer any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him under this section.

Rights and liabilities of administrator.

24. Every person to whom administration of the real and personal estate of a deceased person is granted shall, subject to the limitations contained in the grant, have the same rights and liabilities and be accountable in like manner as if he were the executor of the deceased.

Duty of personal representative as to inventory.

25. 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 real and personal estate of the deceased, and the court shall have power as heretofore to require personal representatives to bring in inventories.

Rights of action by and against personal representative and effect of death on certain causes of action.

26.-(1) A personal representative may distrain for arrears of a rent charge due or accruing to the deceased in his lifetime on the land affected or charged therewith, so long as the land remains in the possession of the person liable to pay the rent charge or of the persons deriving title under him, and in like manner as the deceased might have done had he been living.

(2) A personal representative may distrain upon land for arrears of rent due or accruing to the deceased in like manner as the deceased might have done had he been living, and such 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;

(b) during the continuance of the possession of the lessee or tenant from whom the arrears were due.

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(3) All statutory enactments relating to distress for rent shall apply to any distress made pursuant to sub-section (2).

(4) On the death of any person after the commencement of this Act, all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate,

provided that this sub-section shall not apply to the following causes of action–

(a) defamation;

(b) seduction or inducing one spouse to leave or remain apart from the other; and

CAP. 91.

(c) claims for damages under section 151 of the Supreme Court of Judicature Act on the ground of adultery.

(5) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person–

(a) shall not include any exemplary damage;

(b) in the case of a breach of promise to marry, shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry;

(c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

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(6) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either–

(a) proceedings against him in respect of that cause of action were pending at the date of his death; or

(b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(7) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Act, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

(8) The rights conferred by this section for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of deceased persons by sections 8 to 16 inclusive of the Torts Act and so much of this section as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the said sections as it applies in relation to other causes of action not expressly excepted from the operation of sub-section (4). CAP. 172.

(9) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that

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it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust.

Protection of persons acting on probate or administration

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

(2) Where a representation is revoked, all payments and dispositions made in good faith to a personal representative under the representation before the revocation thereof are a valid discharge to the person making the same, and the personal representative who acted under the revoked representation may retain and reimburse himself in respect of any payments or dispositions made by him which the person to whom representation is afterwards granted might have properly made.

Liability of persons fraudulently obtaining or retaining estate of deceased.

28. If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives or holds any real or personal estate of a deceased person or effects the release of any debt or liability due to the estate of the deceased, he shall be charged as executor in his own wrong to the extent of the real and personal estate received or coming to his hands, or the debt or liability released, after deducting–

(a) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death; and

(b) any payment made by him which might properly be made by a personal representative.

Liability of estate of personal representative.

29. Where a person as personal representative of a deceased person, including an executor in his own wrong, wastes or converts to his own use any part of the real or personal estate of the deceased, and dies, his personal representative shall, to the extent of the available assets of the defaulter, be liable and

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chargeable in respect of such waste or conversion in the same manner as the defaulter would have been if living.

Administration of estate of falling to State. 40 of 1963.

30.-(1) Where the residuary estate of an intestate belongs to the State under this Act, administration shall be granted to the Public Trustee or to some other person nominated by the Minister in that behalf.

(2) Where the administration of the real and personal estate of any deceased person is granted to the Public Trustee or a person nominated by the Minister, any legal proceeding by or against the Public Trustee or that nominee for the recovery of the real or personal estate, or any part or share thereof, shall be of the same character, and be instituted and carried on in the same manner, and be subject to the same rules of law and equity, including, except as otherwise provided by this Act, the rules of limitation under the statutes of limitation or otherwise, in all respects as if the administration had been granted to the Public Trustee or such nominee as one of the persons interested in the estate of the deceased.

(3) Proceedings on the part of Her Majesty shall not be filed or instituted in respect of the real or personal estate of any deceased person or any part or share thereof, or any claim thereon, except subject to the same rules of law and equity within and subject to which a proceeding for the like purposes might be instituted by or against a subject.

(4) The Public Trustee or such nominee shall not be required, when applying for or obtaining administration of the estate of a deceased person for the use or benefit of Her Majesty, to deliver, nor shall the court be entitled to receive in connection with any such application or grant of administration, any affidavit, statutory declaration, account, certificate or other statement verified on oath, but the Public Trustee or such nominee shall deliver, and the court shall accept *in lieu* thereof, an account or particulars of the estate of the deceased signed by or on behalf of the Public Trustee or such nominee.

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(5) This section shall apply as well to residuary estates falling to the State before, as to residuary estates falling to the State after, the commencement of this Act.

Sealing in Belize of probate, etc., already granted in United Kingdom or British possession.

31.-(1) Where a court of probate in any part of the Commonwealth or a British court of probate in a foreign country has granted probate or letters of administration in respect of the estate of a deceased person, or where a court in Scotland has granted confirmation, the probate or letters or confirmation so granted may, on being produced to, and a copy thereof deposited with, the court, be sealed with the seal of the court and, thereupon, shall be of the like force and effect and have the same operation in Belize as if granted by the court,

provided that the court shall, before sealing a probate or letters of administration or a confirmation under this section, be satisfied–

CAP. 42. R.E. 1980-1990.

(a) that the estate duty imposed under the repealed Estate Duty Act, if any, has been paid in respect of so much, if any, of the estate as is liable to estate duty in Belize; and

(b) that sufficient security has been given in respect of the property, if any, in Belize to which the probate or letters of administration or confirmation relate.

(2) For the purposes of this section, a duplicate of any probate or letters of administration or confirmation sealed with the seal of the court granting the same, shall have the same effect as the original.

(3) In this section–

"British court in a foreign country" means any British court having jurisdiction out of Her Majesty's dominions in pursuance of an Order in Council, whether made under any Act or otherwise;

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

Special provisions for small estates. 14 of 1964.

32.-(1) Where it is alleged by an applicant for probate or letters of administration whether with the will annexed or in cases of intestacy that the net value of the estate which is the subject of the application is under four hundred dollars, the procedure for obtaining a grant of probate or letters of administration shall be as stated in the following sub-sections.

(2) *(a)* In the case of an application for probate or for letters of administration with the will annexed, the application shall be by petition accompanied by production of the will and by an inventory of the estate. The petition shall be supported by an affidavit, and the inventory by a declaration, of the applicant; and the will shall be accompanied by an affidavit of the due execution thereof.

(b) In the case of an application for letters of administration on an intestacy application, the application shall be by petition accompanied by an inventory of the estate. The petition shall be supported by an affidavit, and the inventory by a declaration, of the applicant.

(3) Notice of application for letters of administration, whether with the will annexed or in cases of intestacy, shall be given in the *Gazette* for three successive weeks before such letters may be granted.

(4) On payment of a fee of two dollars by the applicant, it shall be the duty of the Registrar, if requested by the applicant, to assist the applicant with the preparation of all the papers mentioned in sub-sections (2) and (3).

(5) Where the net value of the estate is estimated to be less than four hundred dollars–

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(a) the applicant shall not be required to furnish any bond under section 14;

(b) the Registrar shall lay his report thereon before the Chief Justice or other Judge of the Supreme Court who may, if he is satisfied that the applicant is entitled to administer the estate of the deceased, direct a grant of probate or letters of administration, as the case may be, to issue to the applicant;

(c) no fee other than the two dollars mentioned in sub-section (4), shall be payable by the applicant either in respect of the issue of the grant of probate or letters of administration or for court fees, or stamp duty, or otherwise.

(6) (a) Where the net value of the estate is estimated to be four hundred dollars or greater–

Schedule I.

(i) the Registrar shall be entitled to charge the fees in Schedule I for services rendered by him in assisting the applicant with the preparation of any papers mentioned in sub-sections (2) and (3), which fees shall be paid into the Public Treasury. Such fees shall be additional to the fee of two dollars payable under sub-section (4);

(ii) the application shall proceed in the ordinary manner under this Act other than this section, and the ordinary fees shall be chargeable;

(iii) no grant of probate or of letters of administration of the estate shall issue until any fees required to be paid by

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paragraph *(i)* have been paid by the applicant.

(7) In this section, the expression "net value" in relation to an estate, means the value of the estate after the deductions allowed have been made.

PART V

Administration of Assets

Real and personal estate of deceased are assets for payment of debt.

33.-(1) The real and personal estate, whether legal or equitable, of a deceased person, to the extent of his beneficial interest therein, and the real and personal estate of which a deceased person in pursuance of any general power, including the statutory power to dispose of entailed interests, disposes by his will, are assets for payment of his debts, whether by specialty or simple contract, and liabilities, and any disposition by will inconsistent with this enactment is void as against the creditors, and the court shall, if necessary, administer the property for the purpose of the payment of the debts and liabilities.

(2) This sub-section takes effect without prejudice to the rights of encumbrances.

(3) If any person to whom any such beneficial interest devolves, or is given, or in whom any such interest vests, disposes thereof in good faith before an action is brought or process is sued out against him, he shall be personally liable for the value of the interest so disposed of by him, but that interest shall not be liable to be taken in execution in the action or under the process.

Trust for sale.

34.-(1) Subject to this section, on the death of a person, his real or personal estate shall be held by his personal representatives–

(a) as to the real estate, upon trust to sell it; and

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(b) as to the personal estate, upon trust to call in, sell and convert into money such part thereof as may not consist of money–

with power to postpone such sale and conversion for such a period as the personal representatives, without being liable to account, may think proper, and so that any reversionary interest be not sold until it falls into possession, unless the personal representatives see special reason for sale, and so also that, unless required for purposes of administration owing to want of other assets, personal chattels be not sold except for special reason.

(2) Out of the net money to arise from the sale and conversion of such real and personal estate, after payment of costs, and out of the ready money of the deceased, so far as not disposed of by his will, if any, the personal representative shall pay all such funeral, testamentary and administration expenses, debts and other liabilities as are properly payable there out, having regard to the rules of administration contained in this Part, and out of the residue of the said money the personal representative shall set aside a fund sufficient to provide for any pecuniary legacies bequeathed by the will, if any, of the deceased.

(3) During the minority of any beneficiary or the subsistence of any life interest and pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest the residue of the said money, or so much thereof as may not have been distributed, in any investments for the time being authorized by statute for the investment of trust money, with power, at the discretion of the personal representatives, to change such investments for others of a like nature.

(4) The residue of the said money and any investments for the time being representing it, including, but without prejudice to the trust for sale, any part of the estate of the deceased which may be retained unsold and is not required for the administration

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purposes aforesaid, is, as regards a person dying an intestate, in this Act referred to as "the residuary estate of the intestate."

(5) The income, including net rents and profits of real estate and chattels real after payment of rates, taxes, rent, costs of insurance, repairs and other outgoings properly attributable to income, of so much of the real and personal estate 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 such estate is invested, as from the death of the deceased, be treated and applied as income, and for that purpose any necessary apportionment may be made between tenant for life and remainder man.

(6) Nothing in this section affects the rights of any creditor of the deceased or the rights of the State in respect of estate duty.

(7) Where the deceased leaves a will, this section has effect subject to the provisions contained in the will, and the trust for sale shall extend only so far as it is necessary to raise money for the payment of the funeral, testamentary and administration expenses and the debts and other liabilities of the deceased.

(8) Nothing contained in this section shall authorize the personal representatives to execute the trust for sale in regard to any real property in which an infant or person of unsound mind has any share or interest unless leave of the court to sell and dispose of that property is previously obtained.

Rights of beneficiary *sui juris* and absolutely entitled to make over property.

35.-(1) Notwithstanding the statutory trust for sale of the real estate and personal estate of a deceased person, the personal representatives shall be bound, if requested to do so, to convey or deliver over to all persons of full age absolutely entitled to the residuary estate of the deceased or any part thereof, any real and personal property not required for the payment of the funeral, testamentary and administration expenses and the debts and other liabilities of the deceased, instead of executing the statutory trust for sale.

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(2) For the purposes of sub-section (1), such person of full age absolutely entitled as aforesaid may pay to the personal representative the whole or part of the money necessary to meet the funeral, testamentary and administration expenses and the debts and other liabilities of the deceased so as to render unnecessary the sale and realisation of the whole or part of the real and personal property of the deceased.

(3) Where an infant is absolutely entitled to the residuary estate of a deceased person, and any real and personal property of the deceased is not required for the payment of the funeral, testamentary and administration expenses and the debts and other liabilities of the deceased, the personal representative, before executing the statutory trust for sale, shall apply for the directions of the court on the matter of the sale and realisation of the residuary estate.

Notice by executors and administrators for lodgement of claims.

36.-(1) Every executor or administrator to whom probate or letters of administration is or are granted shall, so soon as he enters on the administration of the estate and within fourteen days after the date of the grant, cause a notice to be published in the *Gazette* and in some newspaper circulating in the district or town in which the deceased ordinarily resided, calling upon all persons having claims as creditors against the deceased or his estate to lodge them with the executor or administrator within three months from the date of the first publication of the notice.

(2) The notice shall be published at least twice, with an interval of a week between each publication.

(3) All claims which would be provable in case of the insolvency of the estate shall be deemed to be claims of creditors for the purposes of this Act.

Duties of executors after expiration of period for lodging claims.

37.-(1) On the expiration of the period notified in the *Gazette* in manner hereinbefore provided, every executor or administrator aforesaid shall forthwith proceed to rank, according to their legal order of preference, all claims of creditors against the deceased or his estate lodged with him, or of the existence of

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which he knows, and shall pay them in that order of preference as soon as the funds necessary for that purpose have been realised out of the estate.

(2) If the proceeds of the estate are found to be insufficient for the payment of all the valid claims of creditors against it, the executor or administrator shall be liable to pay to anyone having a valid claim the amount which that person would have been entitled to receive in respect of his claim if ranked according to the legal order of preference, so far as the executor or administrator has, within the period last-mentioned, or afterwards at any time when he knew of the existence of the claim, paid that amount to any person the payment of whose claim against the deceased or his estate according to the legal order of preference ought to have been postponed until the valid claim aforesaid had been satisfied, reserving always to the executor or administrator recourse against the person to whom payment of his claim was improperly made,

provided that–

(a) when the notice to creditors aforesaid has been duly published, no creditor claiming against the estate of any deceased person who has not lodged his claim with the executor or administrator within the period aforesaid, or thereafter before the distribution of the estate has been completed, shall in respect of his claim be entitled to recover from any person having a valid claim as a creditor against the estate restitution of any portion of that estate paid to that person in satisfaction of his claim after the expiry of that period and before the claim of the person seeking restitution was lodged with the executor or administrator, although if lodged in due time the last-mentioned claim would, according to the legal order of preference, have been preferred to

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that of the person to whom payment was previously made; and

(b) that creditor shall have no claim against an executor or administrator duly appointed in respect of any distribution aforesaid of the funds of any estate made by him after the expiry of the period aforesaid and before the claim of the creditor was known to the executor or administrator.

Suspension of execution of judgments against deceased.

38. No person who has obtained the judgment of a competent court against a deceased person in his lifetime, or against his executor or estate, shall sue out or obtain any process in execution thereon before the expiration of the period notified in the *Gazette* in manner provided in section 36 and no person shall thereafter within six months after the grant of probate or letters of administration obtain any process in execution without first obtaining an order of the court.

Administration of assets where estate insolvent. Schedule II. Part I.

39.-(1) Where the estate of a deceased person is insolvent, his real and personal estate shall be administered in accordance with the rules set out in Part I of Schedule II.

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

(3) Subject as aforesaid, nothing in this Act affects the right of retainer of a personal representative, or his right to prefer creditors.

(4) Where the estate of a deceased person is solvent his real and personal estate 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

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and administration expenses, debts and liabilities payable there out in the order mentioned in Part II of Schedule II.

Schedule II. Part II.

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

40.-(1) Where a person dies possessed of, or entitled to, or under a general power of appointment including the statutory power to dispose of entailed interests, by his will disposes of, an interest in property, which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise, including a lien for unpaid purchase money, and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge, and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.

(2) Such contrary or other intention shall not be deemed to be signified–

(a) by a general direction for the payment of debts or of all the debts of the testator out of his personal estate, or his residuary real and personal estate; or

(b) by a charge of debts upon any such estate,

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

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

Effect of assent or transfer by personal representative.

41.-(1) A personal representative may assent to the vesting, in any person who, whether by devise, bequest, devolution, appropriation or otherwise, may be entitled thereto, either beneficially or as a trustee or personal representative, of any estate or interest in real estate to which the testator or intestate

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was entitled or over which he exercised a general power of appointment by his will, including the statutory power to dispose of entailed interests, and which devolved upon 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.

(3) An assent to the vesting of a legal estate shall be in writing signed by the personal representative and shall name the person in whose favour it is given and shall operate to vest in that person the legal estate to which it relates, and an assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate.

(4) Every person in whose favour an assent or transfer of a legal estate is made by a personal representative shall present that assent or transfer to the Registrar who shall, upon satisfying himself of the regularity thereof, issue to that person a certificate of title to the land in question which shall be the only evidence of the ownership of the legal estate.

(5) A transfer of a legal estate by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all the debts, liabilities, funeral and testamentary or administration expenses, duties and legacies of the deceased have not been discharged or provided for.

(6) An assent or transfer given or made by a personal representative shall not, except in favour of a purchaser of a legal estate, prejudice the right of the personal representative or any other person to be indemnified out of such estate or interest against any duties, debt or liability to which such estate or interest would have been subject if there had not been any assent or transfer.

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(7) A personal representative may, as a condition of giving an assent or making a transfer, require security for the discharge of any such duties, debt or liability, but shall not be entitled to postpone the giving of an assent merely by reason of the subsistence of any such duties, debt or liability if reasonable arrangements have been made for discharging the same, and an assent may be given subject to any legal estate or charge by way of a legal mortgage.

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

Obligations of personal representative as to giving possession of land powers of the Court.

42.-(1) A personal representative, before giving an assent or making a transfer in favour of any person entitled, may permit that person to take possession of the land, and such possession shall not prejudicially affect the right of the personal representative to take or resume possession, or his power to transfer the land as if he were in possession thereof, but subject to the interest of any lessee, tenant or occupier in possession or in actual occupation of the land.

(2) Any person who as against the personal representative claims possession of real estate, or the appointment of a receiver thereof, or a transfer thereof, or an assent to the vesting thereof or to be registered as proprietor thereof under the General Registry Act may apply to the court for directions with reference thereto, and the court may make such vesting or other order as may be deemed proper, and the provisions of the Trusts Act, relating to vesting, shall apply.

CAP. 327.

CAP. 202.

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

Right to follow property and powers of the court in relation thereto.

43.-(1) An assent or transfer by a personal representative to a person other than a purchaser does not prejudice the rights of any person to follow the property to which the assent or transfer relates, or any property representing it, into the hands of the person in whom it is vested by the assent or transfer, or of any

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other person, not being a purchaser, who may have received the same or in whom it may be vested.

(2) Notwithstanding any such assent or transfer, the court may, on the application of any creditor or other person interested–

(a) order a sale, exchange, mortgage, charge, lease, payment, transfer or other 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, not being a purchaser, in whom the property is vested is a trustee for those purposes;

(c) give directions respecting the preparation and execution of any transfer or other instrument or as to any other matter required for giving effect to the order;

CAP. 202.

(d) make any vesting order, or appoint a person to convey, in accordance with the Trusts Act.

(3) Nothing contained in sub-sections (1) and (2) shall operate to enable the title to any legal estate in land to be evidenced otherwise than by a certificate of title issued under Part III of the General Registry Act and the rights created by a vesting order or transfer under paragraph *(d)* sub-section (2) shall lead to the issue of a certificate of title by the Registrar under that Act.

CAP. 327.

(4) This section does not prejudice the rights of a purchaser or a person deriving title under him.

Validity of conveyance not affected by revocation of representation.

44.-(1) All transfers of any interest in real or personal estate made to a purchaser either before or after the commencement of this Act by a person to whom probate or letters of administration

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have been granted are valid, notwithstanding any subsequent revocation or variation, either before or after the commencement of this Act, of the probate or administration.

(2) This section takes effect without prejudice to any order of the court made before the commencement of this Act and applies whether the testator or intestate died before or after such commencement.

Powers of management.

45.-(1) In dealing with the real and personal estate of the deceased, his personal representatives shall, for purposes of administration, or during a minority of any beneficiary or the subsistence of any life interest, or until the period of distribution arrives, have–

(a) the same powers and discretions, including power to raise money by mortgage or charge, whether or not by deposit of documents, as a personal representative had before the commencement of this Act, with respect to personal estate vested in him, and such power of raising money by mortgage may in the case of land be exercised by way of legal mortgage;

(b) all the powers, discretions and duties conferred or imposed by law on trustees holding land upon an effectual trust for sale, including power to overreach equitable interests and power as if the same affected the proceeds of sale; and

(c) all the powers conferred by statute on trustees for sale, and so that every contract entered into by a personal representative shall be binding on and be enforceable against and by the personal representative for the time being of the deceased, and may be carried into effect, or be varied or rescinded by him and, in the case of a contract entered into by a

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predecessor, as if it had been entered into by himself.

(2) Nothing in this section shall affect the right of any person to require an assent or transfer to be made.

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

Powers of personal representative for raising money, etc.

46.-(1) For giving effect to beneficial interests, the personal representatives may demise land for a term of years absolute, with or without impeachment for waste, to trustees on usual trusts for raising or securing any principal sum and the interest thereon for which the land, or any part thereof, is liable, and may grant a rent charge for giving effect to any annual or periodical sum for which the land or the income thereof or any part thereof is liable.

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

Power to appoint trustees of infant's property.

47.-(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, in this sub-section called "the deceased", to a devise or legacy, or to the residue of the estate of the deceased, or any share therein, and such devise, legacy, residue or share is not under the will, if any, of the deceased, devised or bequeathed to trustees for the infant, the personal representatives of the deceased may appoint two or more individuals not exceeding four, whether or not including the personal representatives or one or more of the personal representatives, to be the trustee or trustees of any such devise, legacy, residue or share for the infant, and to be trustees of any land devised or any land being or forming part of such residue or share for the purposes of the Settled Land Act 1925, c.18, and of the statutory provisions relating to the management of land during a minority, and may execute or do any assurance or thing requisite for vesting such devise, legacy, residue or share in the trustee or trustees so appointed.

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(2) On such appointment, the personal representatives as such, shall be discharged from all further liability in respect of such devise, legacy, residue or share, and it may be retained in its existing condition or state of investment, or may be converted into money, and such money may be invested in any authorized investment.

(3) Where a personal representative has before the commencement of this Act retained or sold any such devise, legacy, residue or share, and invested it or the proceeds thereof in any investments in which he was authorized to invest money subject to the trust, then, subject to any order of the court made before such commencement, he shall not be deemed to have incurred any liability on that account, or by reason of not having paid or transferred the money or property into court.

Power to postpone distribution.

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

Duty of personal representative to file accounts.

49.-(1) Every executor and administrator shall administer and distribute the estate which he is appointed to administer according to law and the provisions of any valid will relating to that estate and, as soon as may be after the expiration of the period notified in the *Gazette* in accordance with rules of court and not later than twelve months from the day on which probate or letters of administration are issued to him, unless upon application to the Registrar on sufficient cause shown to his satisfaction further time is granted by the Registrar for that purpose, file in the Registry a full and true account, verified by affidavit and supported by vouchers, of the administration and distribution of the estate.

(2) If the account is not the final account it shall set forth all debts due to the estate still outstanding and all property, goods and effects, still unsold and unrealised, and the reason why they have not been collected, sold or realised, as the case may be.

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(3) The executor or administrator shall, every twelve months after the filing of the first account, render further accounts of his administration and distribution until the estate is fully administered, and if he fails to do so, shall be liable to be dealt with in accordance with section 50.

(4) The account shall be open at the Registry for inspection, during office hours for not less than twenty-one days after it is filed, by any person interested in the estate.

(5) The Registrar shall, immediately after the account is filed, give notice on two successive Saturdays that it is so open to inspection, by publication in the Gazette and in some newspaper circulating in the town or district in which the deceased ordinarily resided, and shall state in the notice the period and place during and at which the account will be open for inspection.

(6) Anyone interested in the estate may, at any time before the expiration of the period allowed for inspection, file with the Registrar objection in writing to the account with the reasons therefore.

(7) If the Registrar is of opinion that an objection ought to be sustained, he shall direct the executor or administrator to amend the account or shall give any other directions he thinks fit,

provided that–

(a) the executor or administrator or any other person aggrieved by the direction of the Registrar may, within twenty-one days after the date of that direction and after giving notice to all other interested parties, apply to the court for an order to set it aside, and the court may make any order it thinks just; and

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(b) when the direction affects the interests of a person who has not lodged an objection, the account so amended shall be again open for inspection in the manner and with the notices aforesaid, unless the person so affected consents in writing to the account being acted upon.

(8) The executor or administrator shall, forthwith after filing with the Registrar any account, forward through the post to every creditor, beneficiary and other person interested in the estate a notice stating that he has filed his account and shall, in the affidavit verifying the account, set forth the names and postal addresses of the persons to whom he intends to forward that notice.

(9) The executor or administrator shall, as against the estate, be entitled to the costs and expenses of and attendant on the rendering and filing of an account and the forwarding of notices, if the account is filed within the time prescribed, but not otherwise.

Procedure upon failure of legal personal representative to file an account.

50.-(1) Whenever an executor or administrator fails to file the account with the Registrar, or to comply with any direction or requirement mentioned in section 49, the Registrar or any person having an interest in the estate may apply to the court for an order calling upon him to show cause why the account has not been so filed or the direction or requirement complied with.

provided that–

(a) the Registrar or other person aforesaid shall, within one month before making that application, apply by letter to the executor or administrator in default requiring him to file his account or to comply with the direction or requirement on pain of being called upon to show cause under this section;

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(b) an executor or administrator who receives the last mentioned application may file with the Registrar any grounds and reasons he is able to state why he has not filed his account or complied with the direction or requirement, and the Registrar, if those grounds and reasons seem to him sufficient, may grant to the executor or administrator any extension of time which in the circumstances he deems reasonable, reserving always the right of any person having an interest in the estate to bring under review before the court the decision of the Registrar granting the extension; and

(c) any executor or administrator in default, if he fails to satisfy the Registrar that he ought to be granted an extension of time, may apply to the court, of which application notice shall be given to the Registrar and other person aforesaid, for an order granting to him an extension of time within which to file his account, or comply with the direction or requirement.

(2) Notwithstanding that the court may be of opinion that the grounds and reasons filed with the Registrar by an executor or administrator would have warranted the Registrar in granting an extension of time, the executor or administrator may be ordered to pay the costs of the application if in the opinion of the court the conduct of the executor or administrator was such as to render it just and equitable that he should bear the cost of the application.

(3) The costs adjudged to the Registrar or other person aforesaid upon any process sued out by him or on his behalf shall be payable by the executor or administrator in default personally and shall not be charged against the estate, unless the executor or administrator is authorized by the court to do so.

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Examination of accounts by the accountant.

51.-(1) At the request and cost of any interested party, every account filed by an executor or administrator with the Registrar as hereinbefore provided, together with all vouchers, books and other documents relating thereto may, at the expiration of three months after the filing of the account, be laid before an accountant who shall thereupon examine and investigate the account and, if it is in order, pass it by certificate indorsed thereon.

(2) If the account fails to carry out the terms of the will, if any, or is incomplete or out of order in any other way whatever, the accountant shall report to that effect in writing to the Registrar, giving particulars of the defect or incompleteness of the account, and the Registrar shall thereupon notify the executor or administrator of the estate of it, with a request to complete or amend the account in accordance with the report.

(3) The Registrar may, before the account is passed, refer any question of principle or point of law, or the interpretation of any Act arising thereon, to the court to be argued in chambers.

(4) The court may in its discretion decide the question without argument and direct the accountant to certify accordingly.

(5) For the purposes of this section, the Registrar may, with the approval of the Judge, appoint a fit and proper person as accountant.

Saving of right to institute proceedings.

52. Nothing in sections 49, 50 and 51 shall deprive any interested party of his right to institute an action for the administration of the estate of a deceased person or to proceed by summons under Order 55 of the Supreme Court Rules, or any other rules of law or equity for any relief to which he may be entitled.

Remuneration of executors and administrators.

53.-(1) Every executor and administrator shall, in respect of his administration, distribution and final settlement of any estate, be entitled to claim and receive out of the assets of the estate, or

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from anyone who, as legatee, devisee or creditor, is entitled on administration to the whole or any portion of the estate, any remuneration fixed by the will of the deceased or, in case no such remuneration is fixed or the deceased dies intestate, by the Registrar not exceeding the rates following–

(a) where the total value of the property does not exceed ten thousand dollars, five *per centum* on the amount of all receipts; and

(b) where the total value of the property exceeds ten thousand dollars, five *per centum* on ten thousand dollars and three *per centum* on the amount of all receipts over and above ten thousand dollars,

provided that where any plantation, farm, business or undertaking is carried on or is being administered, the remuneration shall not be payable on the gross receipts but shall be that determined and fixed by the Registrar according to the circumstances of each particular case.

(2) The amount assessed by the Registrar as the remuneration of an executor or administrator shall be subject to review by the court upon the application of the executor or administrator or of any person having an interest in the estate.

(3) If any executor or administrator fails to administer any estate with due diligence or fidelity, or to file or render the account of his administration and distribution of the estate in due course of law, and has no lawful and sufficient excuse for his failure, the Registrar may disallow the whole or any portion of the remuneration which he might otherwise have been entitled to receive in respect of his administration of the estate, subject, however, to review by the court.

(4) For the purposes of this section, the term "receipts" includes rent, interest and book debts, but does not include money in the hands of the deceased at the time of his death, the

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proceeds of the sale of effects and realisation of investments, and the like, and the remuneration assessed on the amount of such money, proceeds of sale and realisation of investments, and the like, shall not exceed one-half the rates allowed in sub-section (1) *(a)* and *(b)*.

PART VI

Distribution of Residuary Estate

Succession to real and personal estate on intestacy.

54.-(1) The residuary estate of an intestate shall be distributed in the manner mentioned in this section, namely–

(a) if the intestate leaves a wife or husband, with or without issue, the surviving wife or husband shall take the personal chattels absolutely, and the residuary estate of the intestate, other than the personal chattels, shall stand charged with the payment of a net sum of six hundred dollars free of costs to the surviving wife or husband;

(b) if the intestate leaves no issue, the surviving wife or husband shall, in addition to the interests taken under paragraph *(a)*, take one-half of the residuary estate absolutely;

(c) if the intestate leaves issue, the surviving wife or husband shall, in addition to the interests taken under paragraph *(a)* of this sub-section, take one-third only of the residuary estate absolutely, and the issue shall take the remaining two-thirds of the residuary estate absolutely;

(d) if the intestate leaves issue, but no wife or husband, the issue of the intestate shall take

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the whole residuary estate of the intestate absolutely;

(e) if the intestate leaves no issue but both parents, then, subject to the interests of a surviving wife or husband, the father and mother of the intestate shall take the residuary estate of the intestate absolutely in equal shares;

(f) if the intestate leaves no issue, but one parent only then, subject to the interests of a surviving wife or husband, the surviving father or mother shall take the residuary estate of the intestate absolutely;

(g) if the intestate leaves no issue or parent then, subject to the interests of a surviving wife or husband, the brothers and sisters of the whole blood of the intestate shall take the residuary estate of the intestate absolutely in equal shares, but if no person takes an absolutely vested interest under this paragraph, then the brothers and sisters of the half blood of the intestate shall take the residuary estate of the intestate absolutely in equal shares;

(h) if the intestate leaves no issue or parents or brothers or sisters (whether of the whole or half-blood) then, subject to the interests of a surviving wife or husband, the grandparents of the intestate shall take the residuary estate of the intestate absolutely (and if more than one survives the intestate they shall take absolutely in equal shares), but if there is no grandparent, then the uncles and aunts of the intestate, being brothers and sisters of the whole blood of a parent of the intestate, shall take the residuary estate of the intestate absolutely in equal shares, but if no person

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takes an absolutely vested interest as such uncle or aunt, then the uncles and aunts of the intestate being brothers and sisters of the half blood of a parent of the intestate, shall take the residuary estate of the intestate absolutely in equal shares;

(i) if the intestate leaves no relative entitled to his residuary estate under this sub-section, then a surviving wife or husband shall take the whole residuary estate of the intestate absolutely;

(j) in default of any person taking an absolute interest under the foregoing provisions, the residuary estate of the intestate shall belong to the State as *bona vacantia*, and *in lieu* of any right to escheat, and the State may, out of the whole or any part of the property devolving on it, provide, in accordance with the existing practice, for dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision.

(2) A husband and wife shall for all purposes of distribution or division under this section be treated as two persons.

Succession to the real and personal estate of a party to a common law union who dies intestate.
6 of 2001.

54A. Notwithstanding anything contained in this Act, where a party to a common law union dies intestate, the distribution of the residuary estate of such a party shall be governed by the provisions of this Part, and to give effect to the provisions of this section, this Part shall be read and construed with the following modifications–

(a) wherever the word "wife" occurs in this Part, it shall be substituted by the words "female party to the common law union";

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(b) wherever the word "husband" occurs in this Part, it shall be substituted by the words "male party to the common law union";

(c) wherever the words "issue," "leaving issue" or "leaving a child or other issue" occurs in this Part, such words shall be respectively substituted by the words "issue of the common law union", "leaving issue of the common law union", or "leaving a child or other issue of the common law union."

Statutory trusts in favour of issue and other classes of relatives of intestate.
3 of 1978.

55.-(1) Where under this Part the issue of the intestate takes the residuary estate, or any part thereof, it shall, until lawfully paid over to the issue, be held by the personal representatives upon the following trusts, namely–

(a) in trust, in equal shares if more than one, for all or any of the children or child of the intestate living at the death of the intestate, who attain the age of eighteen years or marry under that age, and for all or any of the issue living at the death of the intestate who attain the age of eighteen years or marry under that age of any child of the intestate who predeceased the intestate, such issue to take, through all degrees according to their stocks in equal shares if more than one, the share which their parent would have taken if living at the death of the intestate, and so that no issue shall take whose parent is living at the death of the intestate and so capable of taking;

(b) the statutory power of advancement, and the statutory provisions which relate to maintenance and accumulation of surplus income under sections 31 and 32 of the Trustee Act shall apply, but when an infant marries such infant shall be entitled to give

1925, c.19.

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valid receipts for the income of the infant's share or interest;

(c) where the property held on the trusts for issue is divided into shares, then any money or property which, by way of advancement or on the marriage of a child of the intestate, has been paid to such child of the intestate or settled by the intestate for the benefit of such child, including any life or less interest and including property covenanted to be paid or settled, shall, subject to any contrary intention expressed or appearing from the circumstances of the case, be taken as being so paid or settled in or towards satisfaction of the share of such child or the share which such child would have taken if living at the death of the intestate, and shall be brought into account at a valuation, the value to be reckoned as at the death of the intestate, in accordance with the requirements of the personal representatives;

(d) the personal representatives may permit any infant contingently interested to have the use and enjoyment of any personal chattels in such manner and subject to such conditions, if any, as the personal representatives may consider reasonable, and without being liable to account for any consequential loss.

(2) Where under this Part any class of relatives of the intestate takes the residuary estate, or any part thereof, it shall, until lawfully paid over to such relatives, be held by the personal representatives on trusts corresponding to the statutory trusts on which the residuary estate is to be held for the issue of the intestate (other than the provision for bringing any money or property into account) as if such trusts (other than the aforesaid) were repeated with the substitution of references to the members

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or member of that class for references to the children or child of the intestate.

Where trusts fail for want of issue attaining absolutely vested interest.

56. If the trusts in favour of the issue of the intestate fail by reason of no child or other issue attaining an absolutely vested interest–

(a) the residuary estate of the intestate and the income thereof and all statutory accumulations, if any, of the income thereof, or so much thereof as may not have been paid or applied under any power affecting it, shall go, devolve and be held under this Part as if the intestate had died without leaving issue living at the death of the intestate; and

(b) references in this Part to the intestate "leaving no issue" shall be construed as "leaving no issue who attain an absolutely vested interest"; and

(c) references in this Part to the intestate "leaving issue" or "leaving a child or other issue" shall be construed as "leaving issue who attain an absolutely vested interest".

Application to cases of partial intestacy.

57. Where any person dies leaving a will effectively disposing of part of his property, this Part shall have effect as respects the part of his property not so disposed of, subject to the following modifications–

(a) the requirements as to bringing property into account shall apply to any beneficial interests acquired by any issue of the deceased under the will of the deceased, but not to beneficial interests so acquired by any other persons;

(b) the personal representative shall, subject to his rights and powers for the purposes of

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administration, be a trustee for the persons entitled under this Part in respect of the part of the estate not expressly disposed of unless it appears by the will that the personal representative is intended to take such part beneficially.

Construction of documents.

58.-(1) References to any Statutes of Distribution in an instrument *inter vivos* made, or in a will coming into operation, after the commencement of this Act, shall be construed as references to this Part, and references in such an instrument or will to statutory next of kin shall be construed, unless the context otherwise requires, as referring to the persons who would take beneficially on an intestacy under this Part.

(2) Trusts declared in an instrument *inter vivos* made, or in a will coming into operation, before the commencement of this Act by reference to the Statutes of Distribution shall, unless the contrary thereby appears, be construed as referring to the enactments relating to the distribution of effects of intestates which were in force immediately before the commencement of this Act.

Interpretation of "real and personal estate" in Part VI.
6 of 2001.

59.-(1) In this Part "real and personal estate" means every beneficial interest, including rights of entry and reverter, of the intestate in real and personal estate which, otherwise than in right of a power of appointment or of the testamentary power conferred by statute to dispose of entailed interests, he could, if of full age and capacity, have disposed of by his will.

6 of 2001.

CAP. 91.

(2) The expression "common law union" as used in this Act shall have the meaning assigned to it in section 148:04 of the Supreme Court of Judicature Act.

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PART VII

Miscellaneous

Fees paid in excess repayable.

60. If any executor or administrator at any time within one year after having returned his account and paid the fees and duties thereon, discovers that the estate of the deceased person was estimated at too high a value in such return, and that the amount of fees or duties paid by him was consequently greater than he was liable to pay, and makes it appear to be the case to the satisfaction of the Minister, it shall be lawful for the Minister to issue his warrant on the Treasury for the return to such executor or administrator, of any excess of payment so shown to have been made by him.

40 of 1963.

Additional fees and amendment of return.

61. If any executor or administrator has, through mistake or misapprehension or otherwise without fraud, omitted out of such return any part of the personal effects or estate of the testator or intestate, such executor or administrator may at any time within three calendar months after the discovery of such omission amend his return, and pay the additional fees or duties due on the estate of the deceased, without being liable to any penalty or forfeiture under this Act.

Penalty for unauthorised intermeddling with effects, etc., of deceased.

62. Every person who takes possession of and in any way administers any part of the personal estate and effects of a deceased person without obtaining probate of the will of that deceased person, or letters of administration of his estate and effects commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars, in addition to such sums as are equal to the amount of fees and duties chargeable on the estate so taken possession of and administered by him.

General savings.

63. Nothing in this Act shall–

(a) derogate from the powers of the court which exist independently of this Act;

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(b) affect any un repealed enactment in a public general Act dispensing with probate or administration as respects personal estate not including chattels real.

Application of Act.

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

Application to State.

65.-(1) This Act binds the State as respects the estates of persons dying after the commencement of this Act, but not so as to affect the time within which proceedings for the recovery of real or personal estate vesting in or devolving on Her Majesty in right of Her Government of Belize may be instituted.

(2) Nothing in this Act in any manner affects or alters the descent or devolution of any property for the time being vested in Her Majesty in right of Her Government of Belize.

Administration to be recorded.

66. All grants of administration shall be recorded in a book, and in the manner heretofore in use, and such grants, together with all the papers in any wise relating thereto, shall be in all cases made up and filed together in a convenient form, and arranged and preserved in alphabetical order by the Registrar in his office.

Original will to be recorded.

67. All original wills shall also be recorded and shall have annexed to them a copy of any probate granted thereto, together with all other papers filed in the matter of such probate, and shall be arranged and kept conveniently in alphabetical order in like manner as grants of administration.

Places for deposit of original wills and other documents.

68. All original wills and other documents which are under the control of the court shall be deposited and preserved in such places as the Chief Justice may direct, and any wills or other documents so deposited shall, subject to the control of the court and the probate rules, be open to inspection.

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Official copies of will.

69. An official copy of the whole or any part of a will or an official certificate of any grant of administration may, on payment of the prescribed fee, be obtained from the Registrar.

Saving. CAP. 158, C. L. 1921.

70. All estates of intestates which escheated or went as *bona vacantia* to the State prior to the commencement of this Act but which have not been taken into possession by the State under the Procedure in Escheat Ordinance shall be treated as residuary estates under section 54 and shall belong to and vest in the State in accordance with section 54 (1) *(j)* and administration may be granted under section 30 in respect thereof.

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SCHEDULE I

Fees

(Section 32 (6) (a) (i))

Fees which the Registrar may charge under section 32(6)-

For assisting with the preparation of a Petition $10.00

For assisting with the preparation of an Inventory $5.00

For assisting with the preparation of an Affidavit $5.00

For assisting with the preparation of a notice of application for letters of administration $1.00

SCHEDULE II

Rules as to Payment of Debts Where the Estate is Insolvent

(Section 39 (1)(4))

PART I

1. The funeral, testamentary, and administration expenses have priority.

2. Subject as aforesaid, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities provable and as to the valuation of annuities and future and contingent liabilities respectively, and as to the priorities of debts and liabilities as may be in force for the time being under the law of bankruptcy with respect to the assets of persons adjudged bankrupt.

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PART II

Order of Application of Assets where the Estate is Solvent

1. Property of the deceased undisposed of by will, subject to the retention there out of a fund sufficient to meet any pecuniary legacies.

2. Property of the deceased not specifically devised or bequeathed but included (either by a specific or general description) in a residuary gift, subject to the retention out of such property of a fund sufficient to meet any pecuniary legacies, so far as not provided for as aforesaid.

3. Property of the deceased specifically appropriated or devised or bequeathed (either by a specific or general description) for the payment of debts.

4. Property of the deceased charged with, or devised or bequeathed (either by a specific or general description) subject to a charge for the payment of debts.

5. The fund, if any, retained to meet pecuniary legacies.

6. Property specifically devised or bequeathed, rateably according to value.

7. Property appointed by will under a general power, including the statutory power to dispose of entailed interests, rateably according to value.

8. The following provisions shall also apply–

(a) the Order of application may be varied by the will of the deceased;

(b) this part of this Schedule does not affect the liability of land to answer the death duty

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imposed thereon in exoneration of other assets.

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