

Probate and Administration (Amendment) Bill

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Bill No: 48/1965

Read the first time: 13th December 1965

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Probate and Administration (Amendment) Bill

Bill No. 48/1965

Read the first time on 13th December 1965.

An Act to amend the Probate and Administration Ordinance (*Chapter 17 of the Revised Edition*).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows: —

Short title and commencement

1. This Act may be cited as the Probate and Administration (Amendment) Act, 1965, and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Probate and Administration Ordinance (hereinafter in this Act referred to as “the Ordinance”) is hereby amended —

(a) by inserting immediately after the definition of “letters of administration

with the will annexed” appearing therein the following new definition: —

“ “Official Assignee” includes any officer appointed by the President to discharge the duties of Official Assignee in Bankruptcy;”;

- (b) by deleting the definition of “prescribed form” appearing therein and substituting therefor the following: —

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

- (c) by deleting the words “or a Deputy Registrar” appearing in the first line of the definition of “Registrar” therein and substituting therefor the words “or the Deputy Registrar or Assistant Registrar”.

Amendment of section 6

3. Section 6 of the Ordinance is hereby amended —

- (a) by deleting the words “under the Courts Ordinance” appearing in the last line of the proviso to subsection (1) thereof and in subsection (2) thereof and substituting therefor in each case the words “under any written law for the time being in force relating to the courts”; and
- (b) by deleting the marginal note “Cap. 3.” wherever it appears therein.

Amendment of section 34

4. Section 34 of the Ordinance is hereby amended by deleting subsection (1) thereof and substituting therefor the following: —

“(1) District Courts shall exercise the jurisdiction conferred on them by any written law for the time being in force relating to the courts in accordance with the foregoing provisions of this Ordinance, subject to the provisions of sections 35 and 36 of this Ordinance and to District Court Rules made or deemed to be made under any written law relating to the courts.”.

New section 36A

5. The Ordinance is hereby amended by inserting in PART IX and immediately before section 37 thereof the following new section: —

“Vesting of property of an intestate

36A.—(1) Where a person dies intestate his movable and immovable property

until administration is granted in respect thereof shall vest in the Chief Justice in the same manner and to the same extent as it vests in the Probate Judge in England.

(2) On the making of an order for a grant of administration by the court all such property shall vest in the administrator.”.

Amendment of section 44

6. Section 44 of the Ordinance is hereby amended —

(a) by inserting immediately after the definition of “court of probate” appearing therein the following new definition: —

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

(b) by deleting the words “British Commonwealth” appearing in the third line of the definition of “ “probate” and “letters of administration” ” therein and substituting therefor the word “Commonwealth”;

(c) by deleting the semi-colon appearing at the end of the definition of “ “probate” and “letters of administration” ” therein and substituting therefor a full-stop; and

(d) by deleting the definition of “British court in a foreign country” appearing therein.

Amendment of section 45

7. Section 45 of the Ordinance is hereby amended by deleting the words “British Commonwealth” appearing in the first and second lines thereof and substituting therefor the word “Commonwealth”.

Amendment of section 54

8. Section 54 of the Ordinance is hereby amended —

(a) by deleting the full-stop appearing at the end thereof and substituting therefor a colon; and

(b) by adding thereto the following proviso: —

“Provided that nothing in this section shall be construed so as to prevent the Official Assignee from applying for or being granted

letters of administration of the estate of a deceased person with or without the will annexed before the expiration of a period of six months of the death of the deceased.”.

Repeal and re-enactment of section 56

9. Section 56 of the Ordinance is hereby repealed and the following substituted therefor: —

“Administration of assets

56.—(1) Where the estate of a deceased person is insolvent his estate shall be administered in accordance with the rules set out in Part I of the First Schedule to this Ordinance.

(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; and subject as aforesaid, nothing in this Ordinance shall affect the right of retainer of a personal representative, or his right to prefer creditors.

(3) Where the estate of a deceased person is solvent his 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 and administration expenses, debts and liabilities payable thereout in the order mentioned in Part II of the First Schedule to this Ordinance.”.

New section 56A

10. The Ordinance is hereby amended by inserting immediately after section 56 thereof the following new section: —

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

56A.—(1) Where a person dies possessed of, or entitled to, or, under a general power of appointment, by his will disposes of an interest in property which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the