



# Malaysian Legislation

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## **Probate and Administration Act 1959 (Revised 1972)**

LAWS OF MALAYSIA

REPRINT

Act 97

PROBATE AND

ADMINISTRATION ACT 1959

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# PROBATE AND ADMINISTRATION

ACT 1959

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PROBATE AND ADMINISTRATION

ACT 1959

An Act relating to probate and letters of administration. [Peninsular Malaysia-1 February 1960]

PART I

PRELIMINARY

## Short title and commencement

1. (1) This Act may be cited as the Probate and Administration Act 1959, and shall come into force on such date as the Minister may by notification in the Gazette appoint and the Minister may appoint different dates for the coming into force of this Act in different States, and in the case of Sabah and Sarawak, he may appoint different dates for different provisions of this Act. (2) In bringing this Act into force in Sarawak the Minister may by order make such modifications thereto as he deems necessary in consequence of any modifications made to the Small Estates (Distribution) Act 1955 [Act 98], under subsection 1(2) of that Act.

## Interpretation

2. In this Act, unless the context otherwise requires-- "administration" means, with reference to the estate of a deceased person, letters of administration issued by the Court whether general or limited or with the will annexed or otherwise authorizing the person therein named to administer the deceased person's estate in accordance with law;

"administrator" means a person to whom administration is granted;

"Chief Judge" has the meaning assigned thereto in the Courts of Judicature Act 1964 [Act 91];

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"commencement of this Act" in relation to any State means the date on which this Act comes into force in that State; "Corporation" means Amanah Raya Berhad, a company incorporated under the Companies Act 1965 [Act 125] and pursuant to section 3 of the Public Trust Corporation Act 1995 [Act 532]; "Court" means the High Court or a Judge and includes, in cases where any of them is empowered to act, the Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court;

"estate" means all property which if a person died intestate would vest in the Corporation under section 39;

"executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided and includes a person deemed to be appointed executor as respects settled land;

"intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his movable or immovable property; "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 general direction by a testator for the payment of money, including all death duties free from which any devise, bequest or payment is made to take effect; "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 death duties 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;

"person of unsound mind" means--

(a) a person found under section 10 of the Mental Disorders Ordinance 1952 [Ord. 31 of 1952], to be of unsound mind and incapable of managing himself and his affairs; (b) a person certified insane by a medical practitioner and by an Asylum Medical Officer under section 4 of the Lunatics Ordinance of Sabah [Cap. 74]; and

(c) a person found under section 5 of the Mental Health Ordinance 1961 of Sarawak [Ord. 16 of 1961] to be of unsound mind and incapable of managing himself or his affairs,

and includes any other person of unsound mind incapable of managing himself or his affairs;

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

"prescribed" means prescribed by rules of court;

"probate" means a grant under the seal of the Court authorizing the executor or executors therein named to administer the testator's estate;

"probate action" means a cause or matter in which a petition for probate or administration is contested by any person, and includes an application to alter or revoke any grant of representation; "property" includes a thing in action and any interest in movable or immovable property;

"purchaser" means a lessee, mortgagee or other person who in good faith acquires an interest in property for valuable consideration, also an intending purchaser, and "valuable consideration" includes marriage, but does not include a nominal consideration in money; "Registrar" means the Registrar of the High Court and includes the Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court;

"representation" means the probate of a will and administration, and the expression "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;

"specific legacy" means a legacy of specified property; "trust corporation" means the Corporation, or a company incorporated under the Trust Companies Act 1949 [Act 100], or the corresponding written law in force in Sabah or Sarawak; "will" includes any codicil or other testamentary document and a privileged will valid under section 26 of the Wills Act 1959 [Act 346], or the corresponding written law in force in Sabah or Sarawak.

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PART II

GRANTS OF REPRESENTATION

Grant of probate to executor

3. (1) Probate may be granted to an executor appointed by a will. (2) The appointment of an executor may be express or implied. (3) Subject to section 4, where several executors are appointed probate may be granted to them all simultaneously or at different times.

Restrictions on grant

4. (1) Representation shall not be granted to more than four persons in regard to the same property.

(2) If any beneficiary is an infant, or if a life interest arises under the will or intestacy, administration shall be granted either to a trust corporation (with or without an individual) or to not less than two individuals:

Provided that--

(a) the Court may in its discretion and for such special reasons as it may think fit grant administration to one individual; and

(b) 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.

(3) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest, and until the estate is fully administered, the Court may on the application of any person interested or of the guardian, committee or receiver of any such person, or of its own motion, appoint in accordance with rules of court one or more personal representatives in addition to the original personal representative.

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

Executor not to act while administration is in force

5. Where administration has been granted in respect of any estate of a deceased person, no person shall have power to bring any action or otherwise to 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.

Right of proving executors to exercise powers

6. (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.

Cesser of right of executor to prove

7. 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 the 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 estate shall devolve and be committed in like manner as if that person had not been appointed executor.

Express renunciation

8. (1) Any person who is or may become entitled to representation may expressly renounce his right to the representation. 12 Laws of Malaysia ACT 97



(2) Renunciation may be made orally by the person renouncing or his advocate, on the hearing of any petition or probate action, or in writing signed by the person so renouncing and attested either by an advocate or by any person before whom an affidavit may be sworn.

#### Constructive renunciation

9. (1) Any person having or claiming any interest in the estate of a deceased person, or any creditor of a deceased person, may, without applying for representation, cause to be issued a citation directed to the executor or executors appointed by the deceased's will, or to any person appearing to have a prior right to representation, calling upon the person cited to accept or renounce the right. (2) Any person so cited may enter an appearance to the citation, but if he makes default in appearance thereto, he shall be deemed to have renounced the right; and if, having appeared, he does not proceed to apply for representation, the person so citing may apply for an order that the person cited, unless he applies for and obtains a grant within a time limited by the order, shall be deemed to have renounced his right thereto, and an order may be made accordingly. (3) If the Court is satisfied that any person who is or may become entitled to representation has been personally served with the notice of hearing for the grant of representation, and the person fails to appear or file any objection, he shall be deemed to have renounced his right of representation.

#### Effect of renunciation

10. The renunciation, whether made expressly in the manner provided by section 8 or constructively in the manner provided by section 9, shall preclude the person so renouncing from applying thereafter for representation:

Provided that the Court may at any time allow the person so renouncing to withdraw his renunciation for the purpose of taking a grant, if it is shown that the withdrawal is for the benefit of the estate or of those interested under the will or intestacy. Withdrawal of renunciation

11. (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 Probate and Administration  
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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.

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

#### Executor of executor represents original testator

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

Provided that this provision 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 probate being granted.

(2) So long as the chain of representation is unbroken, the last executor in the chain is the executor of every preceding executor. (3) The chain of 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 if probate is subsequently granted.

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

#### Grant of representation to a trust corporation

13. (1) Where a trust corporation is appointed an executor in a will, either alone or jointly with another person, the Court may grant probate to the corporation either solely or jointly with another person, as the case may require, and the corporation may act as executor accordingly.

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(2) Administration may be granted to any trust corporation either solely or jointly with another person, and the corporation may act as administrator accordingly.

(3) Representation shall not be granted to a syndic or nominee on behalf of any trust corporation.

(4) Any officer authorized for the purpose by the corporation or the directors or governing body thereof may swear affidavits, give security, and do any other act or thing which the Court may require on behalf of the trust corporation with a view to the grant of representation to the corporation, and the acts of that officer shall be binding on the corporation, and he shall be entitled to be kept indemnified by the corporation in regard to matters so authorized as aforesaid.

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

#### Death of one of several executors, etc.

14. (1) Where representation has been granted to more than one executor or administrator, and one of them dies, the representation of the estate shall accrue to the surviving executors or, except in cases to which section 4 applies, administrator or administrators. (2) On the death of an executor or administrator, administration may be granted in respect of any estate not fully administered, and in granting administration in any such case the Court shall be guided by the same rules as apply to original grants. Codicil propounded after probate

15. Where, after probate has been granted, a codicil of the will is propounded, separate probate may be granted of the codicil: Provided that where the codicil expressly or impliedly revokes the appointment of any executor to whom probate has been granted, the probate shall be revoked, and a new probate granted of the will and codicil together.

#### On failure of executors

16. Where-- (a) no executor is appointed by a will;

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(b) the executor or all the executors appointed by will are legally incapable of acting as such, or have renounced; (c) no executor survives the testator;

(d) all the executors die before obtaining probate or before having administered all the estate of the deceased; or (e) the executors appointed by any will do not appear and extract probate,

letters of administration with the will annexed may be granted to such person as the Court deems fit to administer the estate: Provided that a prior right to the grant shall belong to the following persons in the following order:

(i) a universal or residuary legatee;

(ii) a personal representative of a deceased universal or residuary legatee;

(iii) such person or persons, being beneficiaries under the will, as would have been entitled to a grant of letters of administration if the deceased had died intestate; (iv) a legatee having a beneficial interest; and

(v) a creditor of the deceased.

#### Qualifications of administration with will annexed

17. Section 15 shall apply in the case of grant of letters of administration with the will annexed, in like manner as it applies in the case of a grant of probate; and in any case where administration with the will annexed is granted the will of a deceased shall be performed and observed in a like manner as if probate thereof had been granted to an executor.

#### Letters of administration until will is produced

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

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#### Letters of administration pendente lite

19. Pending any probate action, letters of administration may be granted to such person as the Court may appoint, limited so that the administrator shall not be empowered to distribute the estate, and shall be subject to such control by, and direction of, the Court, as the Court deems fit; and subject to that limitation the administrator so appointed shall have all the rights and powers of a general administrator.

#### Minors

20. (1) No representation shall be granted to a person while he is a minor; but where a minor would, but for his minority, be entitled to representation, letters of administration with or without the will annexed may, subject to section 4, be granted to the guardian of the person and property of the minor, or to such person as the Court thinks fit, limited until the minor shall obtain a grant himself.

(2) Where there are two or more minor executors or persons so entitled, any grant made under subsection (1) shall be limited until one or other of them shall obtain a grant.

#### Lunatics

21. No representation shall be granted to a person of unsound mind, but where any such person, if of sound mind, would be entitled to representation, letters of administration with or without the will annexed may, subject to section 4, be granted to the person to whom the care of his estate has been lawfully committed, or to such person as to the Court seems fit, for the use and benefit of the person of unsound mind, until he becomes of sound mind and obtains a grant to himself.

## Letters of administration of trust property

22. Where a person dies, leaving property in which he had no beneficial interest on his own account, and does not leave a representative who is able and willing to act, letters of administration, limited to that property, may be granted to the person beneficially interested in the property, or to some other person on his behalf. Probate and Administration 17

## Letters of administration to collect and preserve property

23. In any case in which it appears necessary for preserving the property of a deceased person, the Court may grant to any person whom the Court thinks fit, or to the Corporation, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharge of debts due to his estate, subject to the directions of the Court; and the person so appointed shall have power to dispose of all assets of the estate of a wasting or perishable nature and invest the proceeds of sale. Grant with exception

24. A grant of probate or letters of administration may be made subject to such exception as the will or the circumstances of the case require; and in any such case a further grant may be made of the part of the estate so excepted.

## Probate of copy or draft or of contents

25. Where a will has been lost or mislaid after the death of the testator, or where a will cannot for any sufficient reason be produced-- (a) if a copy or draft thereof is produced, and it appears that the copy or draft is identical in terms with the original, probate may be granted of the copy or draft, limited until the original is admitted to probate; and

(b) if no copy or draft thereof is produced, probate may be granted of the contents of the will, if they can be sufficiently established, limited as above described, unless the will is a privileged will not in writing.

## Destroyed will

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

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### Administration with copy annexed of authenticated copy of will proved abroad

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

### Administration when limited grant expired and still some part of estate unadministered

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

## Absent persons

29. Where a person who would be entitled to representation is absent from Malaysia, the following provisions shall apply: (a) where an executor appointed by a will is absent from Malaysia, and there is no other executor within Malaysia willing to act, letters of administration with the will annexed may be granted to a duly authorized attorney of the absent executor, limited until he obtains probate for himself, and in the meantime to any purpose to which the attorney's authority is limited;

(b) where any person to whom letters of administration with the will annexed might be granted under section 16 is absent from Malaysia, letters of administration with the will annexed may be granted to his duly authorized attorney, limited as described in paragraph (a);

(c) where a person entitled to letters of administration in case of intestacy is absent from Malaysia, and no person equally entitled is willing to act, letters of administration may be granted to an authorized attorney of the absent person, limited until he shall obtain a grant himself; and  
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(d) the Court shall have regard to section 7 of the \*Diplomatic and Consular Privileges Ordinance 1957 [Ord. 53 of 1957]. Discretion of Court as to persons to whom administration is to be granted

30. In granting administration the Court shall have regard to the rights of all persons interested in the estate of the deceased person or in 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, administration 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, where the deceased died wholly intestate as to his estate, administration shall, if application is made for the purpose, be granted to some one or more of the persons interested in the residuary estate of the deceased, unless by reason of the insolvency of the estate or other special circumstances the Court thinks it expedient to grant administration to some other person.  
Result of grant of administration

31. Every person to whom administration of the 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. Continuance of legal proceedings after revocation of temporary administration

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

\*NOTE--This Act has been repealed-see section 5 of the Diplomatic Privileges (Vienna Convention) (Amendment) Act 1999 [Act A1064].

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Caveat

33. Any person having, or claiming to have, any interest may, at any time after the death of a deceased person and before representation has been granted to his estate, enter a general caveat in the prescribed form, so that no representation shall be granted without notice to the caveator; and after entry of any such caveat no representation shall be made until the caveator

has been given opportunity to contest the right of any petitioner to representation. Revocation of grant

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

#### Administration bond

35. (1) Unless the Court in any particular case otherwise orders-- (a) in the case of administrations, whether with or without will annexed, the person to whom the grant is made or on whose behalf it is sealed shall give security for the due administration of the estate;

(b) no security shall be required where the gross value of the estate does not exceed fifty thousand ringgit.

(2) The security shall ordinarily be by bond in the prescribed form by the grantee and two sureties, in the amount at which the estate within the jurisdiction is sworn, without deduction of any debts due by the deceased, other than debts secured by mortgage or charge; but the Court may for any sufficient reason increase or decrease the number of sureties or dispense with them, and may reduce the amount of the bond, and the Court in exercising its discretion shall consider the standing of the parties, the nature of the property, the amount of the debts and the extent of the administrator's personal interest in the distributive share of the estate.

(3) Where a trust corporation has obtained administration it shall not be required to give security.

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

(5) Sureties may be required by the Registrar to justify. Probate and Administration 21

#### Bond by creditor who is administrator

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

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

38. Where an administrator who has given a bond under this Act or any written law hereby repealed is in possession of any part of the estate of the testator or intestate and is prevented from fully administering the estate by reason of inability to ascertain or to communicate with the persons beneficially entitled to the residue in his hands, he may exhibit in the Court an account showing how the estate has been administered, and may, after the account has been verified as the Court may direct, with the leave of the Court pay into the Court, or if the Court so directs to a trust corporation, the residue in his hands; and after any such payment the Court shall, unless good cause is shown to the contrary, discharge the administrator and his surety or sureties (if any) from the obligations of the said bond.

### PART III

#### ADDITIONAL POWERS OF COURT

Vesting of property of an intestate

39. (1) Where a person dies intestate his movable and immovable property until administration is granted in respect thereof shall vest in the Corporation 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. 22 Laws of Malaysia ACT 97

Power of the Court relating to proving and renunciation

40. The Court shall have power to summon any person named as executor in any will to prove or renounce probate of the will and do such other things concerning any will as the High Court in England could do.

Order to bring in will, etc.

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

Death of payee

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

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

43. (1) The Court may in its own discretion allow the executors or administrators a commission not exceeding five per centum on Probate and Administration 23

the value of the assets collected by them, but in the allowance or disallowance of the commission the Court shall be guided by its approval or otherwise of their conduct in the administration of the estate.

(2) The Registrar may in the course of the taking of the administration accounts of executors or administrators exercise the powers conferred on the Court by subsection (1). Funeral and testamentary expenses allowed

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

(2) The Registrar may in the course of the taking of the administration accounts of executors or administrators exercise the powers conferred on the Court by subsection (1). Receiver pending grant

45. Where any person dies leaving property within Malaysia, the Court may, if it appears on the application by motion of the Corporation or of any person claiming to be interested in the property, or having the custody or control thereof at the time of the death of the deceased, or being at that time an attorney or employee of the deceased, that there is danger that the property may be wasted, appoint the Corporation, or such other person as the Court thinks fit, to be a receiver of the property pending a grant of probate or letters of administration.

46. (Deleted by Act A912). Application of rules relating to receivers

47. A receiver appointed under section 45 shall be subject to all rules of court relating to receivers generally:

Provided that no trust corporation shall be required to furnish security.

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Offence in relation to property of which receiver appointed

48. Any person who, without lawful authority, removes or attempts to remove from any place any portion of the property of which a receiver has been appointed under section 45, or destroys, conceals or refuses to yield up the same to the Corporation or the receiver, as the case may be, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both. No suit against receiver

49. No suit shall be brought against the Corporation or receiver appointed under section 45 in relation to anything done or intended to be done by him in respect of the property of the deceased in exercise or intended exercise of the powers vested in him; but any person aggrieved by anything so done or intended to be done, may apply to the Court for directions in the matter, and the Court may make such order in the premises as is just.

Receiver's lien

50. A receiver appointed under section 45 shall have a lien upon the property entrusted to him for all costs and expenses properly incurred by him in the exercise of his duties as such receiver, and for such remuneration as the Court may allow.

PART IV

RE-SEALING OF PROBATES AND LETTERS OF

ADMINISTRATION GRANTED OUT OF MALAYSIA

Interpretation

51. In this Part-- "British Court in a foreign country" means any British Court having jurisdiction out of the Commonwealth in pursuance of an Order of Her Britannic Majesty in Council, whether made under any Act of the Parliament of the United Kingdom or otherwise; "the Commonwealth" shall, for the purposes of this Part, be deemed to include in addition any country which the Yang Probate and Administration 25



di-Pertuan Agong may by notification published in the Gazette direct to be included among the countries to which this Part applies; "Court of Probate" means any court or authority by whatever name designated, having jurisdiction in matters of probate; "probate" and "letters of administration" include confirmation in Scotland and any instrument having, in any part of the Commonwealth, the same effect as that which, under the law of Malaysia, is given to probate or letters of administration respectively. Powers of Court to re-seal

52. Where a Court of Probate in any part of the Commonwealth has, either before or after the passing of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters of administration so granted, or a certified copy thereof, sealed with the seal of the court granting the same, may, on being produced to and a copy thereof deposited in the High Court, be sealed with the seal of the High Court, and thereupon shall be of the like force and effect, and have the same operation in Malaysia, as if it were a grant made by the High Court:

Provided that--

(a) if it appears that the deceased was not, at the time of his death, domiciled within the jurisdiction of the court from which the grant issued, the seal shall not be affixed unless the grant is such as the High Court would have made; and (b) before the probate or letters of administration is sealed with the seal of the High Court, the Court may require such evidence, if any, as it thinks fit as to the domicile of the deceased person.

Application to British Courts in foreign countries

53. Any probate or letters of administration granted by a British Court in a foreign country may be sealed in Malaysia in the manner provided in section 52, and this Part shall apply accordingly with the necessary modifications.

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Provisions of Estate Duty

54. (1) The provisions of the Finance Act 1992 [Act 476]\*, of the Federated Malay States as extended to apply throughout Peninsular Malaysia by the Estate Duty (Transitional Provisions) (No. 2) Ordinance 1946 [Ord.35 of 1946], including the penal provisions thereof, shall apply as if the person who applies for sealing under this Part were an executor within the meaning of that Enactment, and section 45 of that Enactment shall apply mutatis mutandis to the re-sealing of grants under this Part.

(2) In the application of subsection (1) to Sabah and Sarawak references to the Estate Duty Enactment 1941, of the Federated Malay States, and provisions thereof shall be construed as references to the corresponding written laws and provisions of those laws in force in Sabah and Sarawak.

Security on re-sealing letters of administration

55. Before the sealing of letters of administration under this Part, the administrator or his attorney shall give security by a bond in the prescribed form for the due administration of the estate; and that security shall be subject to section 35 relating to security to be given in the case of a grant of letters of administration. Security for creditors in Malaysia

56. (1) Where the deceased has carried on business or resided in Malaysia within twelve months of his death, the Court may, on the application of a creditor of the deceased or otherwise, before a

grant of probate or letters of administration is re-sealed require adequate security to be given for the payment of debts due to creditors residing in Malaysia.

(2) Any such creditor may give notice in writing to the Registrar, requiring that he be notified of any application for the sealing of a grant of probate under this Part; and no such grant shall be sealed before the expiration of seven days after service on the creditor of a notice in writing of an application for sealing. \*NOTE--This Act have replaced the Estate Duty Enactment 1941 [En. 7 of 1941] w.e.f. 01-11-1991 眞ee section 46 [Act 476].

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### Notice of sealing

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

### Notice of revocation

58. When notice has been received by the Court of the re-sealing of a grant issued in Malaysia, notice of any revocation or alteration of any such grant shall be sent forthwith by the Registrar to the court so re-sealing the grant.

## PART V

### POWERS, RIGHTS, DUTIES AND OBLIGATIONS OF

### REPRESENTATIVES

#### Rights of action of personal representative

59. Subject to any other written law, a personal representative has the same powers to sue in respect of all causes of action that survive the deceased, and may exercise the same power for the recovery of debts due to him at the time of his death as the deceased had when living.

#### Power of personal representative to dispose of property

60. (1) In dealing with the property of the deceased his personal representative shall comply with this section.

(2) Unless the Court otherwise directs, no sale, transfer, conveyance or assent in respect of immovable property shall be made without the concurrence of all the personal representatives of the deceased; and subject as aforesaid, where there are several personal representatives the powers of all may, in the absence of any direction to the contrary in the will or grant of administration, be exercised by any one of them.

(3) A personal representative may charge, mortgage or otherwise dispose of all or any property vested in him, as he may think proper, subject to any restriction which may be imposed in this behalf by the will of the deceased, and subject to this section: Provided that an executor may dispose of any property notwithstanding any restriction so imposed, if he does so in accordance with an order of the Court.

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(4) An administrator may not, without the previous permission of the Court--

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property situate in any State and for the time being vested in him; or

(b) lease any such property for a term exceeding five years. (5) Nothing in this section shall affect subsection 15(2) of the Trustees Act 1949 [Act 208].

(6) The disposal of property by a personal representative in contravention of this section shall be voidable at the instance of any other person interested in the property.

#### Purchase by personal representative of deceased's property

61. If a personal representative purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

#### Duty of personal representative as to inventory

62. The personal representative of a deceased person shall, when lawfully required so to do, exhibit, by affidavit filed in the Court, a true and perfect inventory and account of the movable and immovable property of the deceased, and the Court shall have power to require personal representatives to bring in inventories. Transfer of assets to personal representative in country of domicile of deceased for distribution

63. Where-- (a) a person not having his domicile in Malaysia has died leaving assets both in Malaysia and in the country in which he had his domicile at the time of his death; and (b) there has been a grant of representation in Malaysia with respect to the assets there and a grant of representation in the country of domicile with respect to assets in that country,

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the personal representative in Malaysia, after having given due notice and after having discharged at the expiration of the time stated in the notice all lawful claims of which he has had notice, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of Malaysia who are entitled thereto, transfer, with the consent of the personal representative in the country of domicile, the surplus or residue to him for distribution to those persons.

#### Protection of persons acting on probate or administration

64. (1) Every person making or permitting to be made any payment or disposition in good faith under probate or letters of administration shall be indemnified and protected in so doing, notwithstanding any defect or circumstances whatsoever affecting the validity of the probate and letters of administration.

(2) Where a grant of representation is revoked, all payments and dispositions made in good faith to a personal representative under the grant 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.

(3) All transfers and conveyances of any interest in movable and immovable property made to a purchaser either before or after the commencement of this Act by a person to whom probate or letters of administration 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. (4) 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 the commencement.

#### Liability of a person fraudulently obtaining or retaining estate of deceased

65. If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives or holds any movable or immovable property of a deceased person or effects the release of 30 Laws of Malaysia ACT 97

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 property received or coming into 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

66. Where a person as personal representative of a deceased person (including the executor in his own wrong) wastes or converts to his own use any part of the movable or immovable property of the deceased, and dies, his personal representative shall, to the extent of the available assets of the defaulter, be liable and chargeable in respect of the waste or conversion, in the same manner as the defaulter would have been if living.

### PART VI

#### ADMINISTRATION OF ASSETS

##### Property of deceased is asset for payment of debts

67. (1) (a) The property of a deceased person, to the extent of his beneficial interest therein, and the property of which a deceased person in pursuance of any general power disposes by his will, are assets for payment of his debts and liabilities, and any disposition by will inconsistent with this Act is void as against the creditors; and the Court shall, if necessary, administer the property for the purpose of the payment of debts and liabilities.

(b) This subsection takes effect without prejudice to the rights of incumbrancers.

(2) 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. Probate and Administration 31

##### Duties of representative

68. (1) On the death of a person intestate as to any property, the property shall be held by his personal representatives-- (a) as to the immovable property upon trust, subject to section 60, to sell the same; and

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

with power to postpone the 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.

(2) Out of the net money to arise from the sale and conversion of the said movable and immovable property (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 representatives shall pay all such funeral, testamentary and administration expenses, debts and other liabilities as are properly payable thereout, and out of the residue of the said money the personal representatives 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 any written law for the investment of trust money, with power, at the discretion of the personal representatives, to change the investments for others of a like nature. (4) The residue of the said money and any investments for the time being representing the same, 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 purposes aforesaid, is in this Part referred to as "the residuary estate of the intestate".

(5) The income (including net rents and profits of immovable property after payment of rates, taxes, rents, costs of insurances, 32 Laws of Malaysia ACT 97

repairs and other outgoings properly attributable to income) of so much of the movable and immovable property of the deceased as may not be disposed of by his will, if any, or may not be required for the administration purposes aforesaid, may, however the estate is invested, as from the death of the deceased, be treated and applied as income, and for that purpose any necessary apportionment may be made between tenant for life and remainderman. (6) Nothing in this section affects the rights of any creditor of the deceased or the rights of the Government in respect of estate duty.

(7) Where the deceased leaves a will, this section has effect subject to the will.

#### Administration of assets

69. (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.

(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 Act affects 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.

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

70. (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 Probate and Administration 33

charge or otherwise (including lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.

(2) No contrary or other intention shall be deemed to be signified-- (a) by general direction for the payment of debts or of the debts of the testator out of his movable property or of his residuary estate; or

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

unless the 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. Contracts by personal representatives

71. (1) Subject to section 60 every contract entered into by a personal representative in exercise of his powers of administering an estate 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 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, transfer or conveyance to be made. (3) This section applies whether the testator or intestate died before or after the commencement of this Act.

Assent or conveyance by personal representative

72. (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 trustee or personal representative, of any 34 Laws of Malaysia ACT 97

immovable property to which the testator or intestate was entitled or over which he exercised a general power of appointment by his will, and which devolved upon the personal representative.

(2) No such assent shall be valid unless sanctioned by an order of Court and made by a transfer in the form required by any written law relating to the registration of title to land. (3) (Deleted by P.U. 18/1967).

Right to follow property and powers of the Court in relation thereto

73. (1) An assent, transfer or conveyance 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, transfer or conveyance relates, or any property representing the same, into the hands of the person in whom it is vested by the assent, transfer or conveyance, nor of any other person (not being a purchaser) who may have received the same or in whom it may be vested. (2)

Notwithstanding any such assent, transfer or conveyance 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 conveyance or other instrument, or as to any other matter required for giving effect to the order; or (d) make any vesting order or appoint a person to convey in accordance with provisions of the Trustees Act 1949. (3) This section does not prejudice the rights of a purchaser or a person deriving title under him, but applies whether the testator or intestate died before or after the commencement of this Act. Probate and Administration 35

#### Powers of personal representative as to appropriation

74. (1) The personal representative may appropriate any part of the movable or immovable property, including things in action, of the deceased in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased, or of any other interest or share in his property, whether settled or not, as to the personal representative may seem just and reasonable, according to the respective rights of the persons interested in the property of the deceased:

Provided that--

(a) an appropriation shall not be made under this section so as to affect prejudicially any specific devise or bequest; (b) an appropriation of property, whether or not being an investment authorized by law or by the will, if any, of the deceased for the investment of money subject to the trust, shall not (save as hereinafter mentioned) be made under this section except with the following consents: (i) when made for the benefit of a person absolutely and beneficially entitled to possession, the consent of that person; and

(ii) when made in respect of any settled legacy, share or interest, the consent of either the trustee thereof, if any (not being also the personal representative) or the person who may for the time being be entitled to the income,

and if the person whose consent is so required as aforesaid is a minor or a lunatic or defective, the consent shall be given on his behalf by his parent, testamentary or other guardian, committee or receiver, or if, in the case of a minor, there is no such parent or guardian, by the Court on the application of his next friend;

(c) no consent (save of such trustee as aforesaid) shall be required on behalf of a person who may come into existence after the time of appropriation, or who cannot be found or ascertained at that time;

(d) if no committee or receiver of a lunatic or defective has been appointed, then, if the appropriation is of an investment 36 Laws of Malaysia ACT 97

authorized by law or by the will, if any, of the deceased for the investment of money subject to the trust, no consent shall be required on behalf of the lunatic or defective; and

(e) if, independently of the personal representative, there is no trustee of a settled legacy, share or interest, and no person of full age and capacity entitled to the income thereof, no consent shall be required to an appropriation in respect of the legacy, share or interest:

Provided that the appropriation is of an investment authorized as aforesaid.

(2) Any property duly appropriated under the powers conferred by this section shall thereafter be treated as an authorized investment, and may be retained or dealt with accordingly.

(3) For the purposes of any such appropriation, the personal representative may ascertain and fix the value of the respective parts of the movable and immovable property and the liabilities of the deceased as he may think fit, and shall for that purpose employ a duly qualified valuer in any case where such employment may be necessary, and may make any transfer or conveyance (including an assent) which may be requisite for giving effect to the appropriation.

(4) An appropriation made pursuant to this section shall bind all persons interested in the property of the deceased whose consent is not made requisite.

(5) The personal representative shall, in making the appropriation, have regard to the rights of any person who may thereafter come into existence, or who cannot be found or ascertained at the time of appropriation, and of any other person whose consent is not required by this section.

(6) This section does not prejudice any other power of appropriation conferred by law or by the will (if any) of the deceased, and where an appropriation is made under this section in respect of a settled legacy, share or interest, the property appropriated shall remain subject to all trusts for sale and powers of leasing, disposition and management, or varying investments, which would have been applicable thereto or to the legacy, share Probate and Administration 37

or interest in respect of which the appropriation is made, if no such appropriation had been made.

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

(8) In this section, a settled legacy, share or interest includes any legacy, share or interest to which a person is not absolutely entitled in possession at the date of the appropriation, also an annuity, and "purchaser" means a purchaser for money or money's worth.

(9) This section applies whether the deceased died intestate or not, and whether before or after the commencement of this Act, and extends to property over which a testator exercises a general power of appointment, and authorizes the setting apart of a fund to answer an annuity by means of the income of that fund or otherwise, but is subject to section 60.

#### Power to appoint trustees of minor's property

75. (1) Where a minor is absolutely entitled under the will or on the intestacy of a person dying before or after the commencement of this Act (in this subsection called "the deceased") to a devise or legacy, or to the residue of the estate of the deceased, or any share therein, and the devise, legacy, residue or share is not under the will, if any, of the deceased, devised or bequeathed to trustees for the minor, the personal representatives of the deceased may appoint a trust corporation or 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 of the devise, legacy, residue or share for the minor, and may, subject to section 60, execute or do any assurance or thing requisite for vesting the devise, legacy, residue or share in the trustee so appointed; and on such an appointment the personal representatives, as such, shall be discharged from all further liability in respect of the devise, legacy, residue, or share, and the same may be retained in its existing condition or state of investment, or may be converted 38  
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into money, and the money may be invested in any authorized investment.



(2) Where a personal representative has before the commencement of this Act retained or sold any such devise, legacy, residue or share, and invested the same 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 the 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.

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

76. (1) A personal representative, before giving an assent or making a conveyance in favour of any person entitled, may permit that person to take possession of the land, and the possession shall not prejudicially affect the right of the personal representative to take or resume possession, nor his power to convey 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 immovable property, or the appointment of a receiver thereof, or a transfer or conveyance thereof, or an assent to the vesting thereof, or to be registered as proprietor thereof, 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 Trustees Act 1949, relating to vesting orders and to the appointment of a person to transfer or convey, shall apply.

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

Power to postpone distribution

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

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PART VII

POWERS OF REGISTRAR, DEPUTY REGISTRARS,

SENIOR ASSISTANT REGISTRARS AND

ASSISTANT REGISTRARS

Powers of Registrar

77A. (1) The Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court, other than Assistant Registrars constituted as such under subsection (2), shall have jurisdiction to seal any grant of probate or letters of administration granted by any court or authority in the Commonwealth outside Malaysia by whatever name designated, having jurisdiction in matters of probate and to hear and determine applications for, and to grant, probate or letters of administration-- (a) in all cases which are uncontested; and

(b) in all contested cases where it appears that the gross value of the estate of the deceased does not exceed twenty- five thousand ringgit.

(2) All First Class Magistrates, other than ex officio Magistrates, shall be Assistant Registrars of the High Court for the purpose of hearing and determining applications for probate or letters of administration under this section where it appears that the gross value of the estate of the deceased does not exceed twenty-five thousand ringgit, and shall have jurisdiction to grant

probate or letters of administration in those cases accordingly. (3) No grant of probate or letters of administration shall be invalid by reason of the assets and effects of the deceased being subsequently found to be of greater value than twenty-five thousand ringgit but the grantee shall be required to give such security for the due administration of the estate as is appropriate to the enhanced value.

(4) Unless in such case as is referred to in subsection (3) the grantee complies without delay with the requirements of that subsection the grant may be revoked at the instance of the Registrar or on the application of any person having any interest as beneficiary or creditor in the assets of the estate.

(5) Unless the Registrar in any particular case otherwise orders no security shall be required where the gross value of the estate 40 Laws of Malaysia ACT 97

does not exceed ten thousand ringgit except where the person for whose use and benefit the grant is made is a minor. (6) This section shall have no application to an estate which falls to be dealt with under the Small Estates (Distribution) Act

1955. PART VIII

APPOINTMENT, POWERS AND DUTIES OF OFFICIAL

ADMINISTRATOR

78-80. (Deleted by Act A912).

Grant of letters of administration to the Corporation in cases of delay

81. In the following cases, namely: (a) where, after the expiration of six months from the death of a deceased person, no application has been made for probate or letters of administration to his estate; (b) where any such application, though made within the said six months, has not within that period been proceeded with, or has been withdrawn or refused;

(c) where a receiver may be appointed under section 45, but it appears that the appointment would not be a sufficient protection for the estate; or

(d) where, after the death of a last surviving executor or administrator of a deceased person's estate, six months have elapsed and no application for the representation of the estate has been made,

letters of administration with or without the will annexed may be granted to the Corporation, or to such other person as the Court thinks fit:

Provided that nothing in this section shall be construed so as to prevent the Corporation 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.

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82-85. (Deleted by Act A912).

Undistributed funds may be passed to the Corporation

86. (1) Where upon the conclusion of the administration of the estate of a person dying testate or intestate, there remain in the hands of any personal representative funds of which he is unable to

dispose immediately by distribution in accordance with law by reason of the inability of the person entitled to give a discharge, through lack of legal capacity or otherwise, or by reason of any other cause which to the Corporation shall appear sufficient, the personal representative may, if the Corporation consents to accept the same, pay the funds to the Corporation which shall not be required to make any inquiry whether the administration has been conducted in accordance with law, but may accept the same for the benefit of that person and may for the purpose exercise all the powers conferred on the Corporation under section 19 of the Public Trust Corporation Act 1995.

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

(3) (Deleted by Act A912).

87-89. (Deleted by Act A912).

Saving and transitional

90. (1) Nothing in this Act shall affect the validity of proceedings instituted under the laws repealed by this Act but the same shall be carried on in accordance with this Act and any such proceeding may be amended as may appear to be necessary or proper to bring it into conformity with this Act.

(2) (Deleted by Act A912).

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## FIRST SCHEDULE

[Section 69]

### PART I

#### RULES AS TO PAYMENT OF DEBTS WHERE ESTATE

##### IS INSOLVENT

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.

### 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 thereof 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 the 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 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, 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 imposed thereon in exoneration of other assets. Probate and Administration 43

## SECOND SCHEDULE

[Section 89]

Reference Short title Extent of repeal

S.S. Cap. 51 ... The Probate and Administration The whole Ordinance

F.M.S. Cap. 8 ... The Probate and Administration The whole Enactment

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P.U. 18/1967 National Land Code (Repeals and 12-01-1967 Amendments) Order 1967

Act A128 Probate and Administration 23-06-1972

(Amendment and Extension)

Act 1972

Act A246 Probate and Administration 15-03-1974

(Amendment) Act 1974

Act 160 Malaysia Currency (Ringgit) Act 29-08-1975 1975

Act A400 Probate and Administration 10-06-1977

(Amendment) Act 1977

Act A508 Probate and Administration 06-02-1981

(Amendment) Act 1981

Act A569 Probate and Administration 16-12-1983

(Amendment) Act 1983

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2 Act 7/1964 16-09-1963

Act A128 23-06-1972

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Act A912 01-08-1995

8 Act A128 23-06-1972

9 Act A128 23-06-1972

16 Act A128 23-06-1972

23 Act A912 01-08-1995

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DICETAK OLEH

PERCETAKAN NASIONAL MALAYSIA BERHAD,

KUALA LUMPUR

BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA

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