



Administration of Estates Act 1971

1971 CHAPTER 25

Miscellaneous and supplemental

11 Sealing of Commonwealth and Colonial grants.

- (1) The following provisions of section 2 of the ^{M1}Colonial Probates Act 1892, that is to say—
- (a) subsection (2)(b) (which makes it a condition precedent to sealing in the United Kingdom letters of administration granted in certain overseas countries and territories that a sufficient security has been given to cover property in the United Kingdom); and
 - (b) subsection (3) (power of the court in the United Kingdom to require that adequate security is given for the payment of debts due to creditors residing in the United Kingdom);

shall not apply to the sealing of letters of administration by the High Court in England and Wales under that section, and the following provisions of this section shall apply instead.

- (2) A person to whom letters of administration have been granted in a country or territory to which the said Act of 1892 applies shall on their being sealed by the High Court in England and Wales under the said section 2 have the like duties with respect to the estate of the deceased which is situated in England and Wales and the debts of the deceased which fall to be paid there as are imposed by section 25(a) and (b) of the ^{M2}Administration of Estates Act 1925 on a person to whom a grant of administration has been made by that court.
- (3) As a condition of sealing letters of administration granted in any such country or territory, the High Court in England and Wales may, in cases to which section [^{F1}120 of the [^{F2}Senior Courts Act 1981]] (power to require administrators to produce sureties) applies and subject to the following provisions of this section and subject to and in accordance with probate rules . . . ^{F3}, require one or more sureties, in such amount as the court thinks fit, to guarantee that they will make good, within any limit imposed by the court on the total liability of the surety or sureties, any loss which any person interested in the administration of the estate of the deceased in England and Wales may

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suffer in consequence of a breach by the administrator of his duties in administering it there.

- (4) A guarantee given in pursuance of any such requirement shall enure for the benefit of every person interested in the administration of the estate in England and Wales as if contained in a contract under seal made by the surety or sureties with every such person and, where there are two or more sureties, as if they had bound themselves jointly or severally.
- (5) No action shall be brought on any such guarantee without the leave of the High Court.
- (6) Stamp duty shall not be chargeable on any such guarantee.
- (7) Subsections (2) to (6) above apply to the sealing by the High Court in England and Wales of letters of administration granted by a British court in a foreign country as they apply to the sealing of letters of administration granted in a country or territory to which the ^{M3}Colonial Probates Act 1892 applies.
- (8) In this section—
 - “letters of administration” and “British court in a foreign country” have the same meaning as in the ^{M4}Colonial Probates Act 1892; and
 - ^{[F4} “ probate rules ” means rules of court made under section 127 of the ^{[F2}Senior Courts Act 1981].]

Textual Amendments

- F1** Words substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), **Sch. 5**
- F2** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 11 para. 1(2)**; [S.I. 2009/1604](#), art. 2(d)
- F3** Words repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1)(4), **Schs. 5, 7**
- F4** Definition substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), **Sch. 5**

Marginal Citations

- M1** 1892 c. 6.
- M2** 1925 c. 23.
- M3** 1892 c. 6.
- M4** 1892 c. 6.

12 Repeals and savings.

- (1) The enactments specified in Part I of Schedule 2 to this Act (which include an enactment of the Parliament of Northern Ireland) are hereby repealed to the extent specified in the third column of that Schedule and the Government of Ireland (Re-sealing of Probates etc.) Order 1923 is hereby revoked.
- (2) So far as they relate to England and Wales only, the enactments specified in Part II of Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Nothing in this Act shall affect the liability of any person for, or alter the incidence of, estate duty, including estate duty payable under the law for the time being in force in Northern Ireland.
- (4) The following provisions of this Act, that is to say—

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- (a) ^{F5}
- (b) section 11 (other than subsection (2)); and
- (c) the repeals specified in Part II of Schedule 2 to this Act, other than the repeal of section 34(2) of the ^{M5}Administration of Estates Act 1925;

shall not apply in relation to grants of administration made by the High Court before the commencement of this Act or to sealing by that court before the commencement of this Act of administration granted in any country or territory outside the United Kingdom.

- (5) Any administration bond given before the commencement of this Act . . . ^{F6} under the ^{M6}Colonial Probates Act 1892 may be enforced and assigned as if this Act had not been passed.
- (6) Section 10 of this Act and the repeal by this section of section 34(2) of the ^{M7}Administration of Estates Act 1925 shall not apply in relation to the estates of persons dying before the commencement of this Act.

Textual Amendments

- F5** S. 12(4)(a) repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\), s. 152\(4\), Sch. 7](#)
- F6** Words repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\), s. 152\(4\), Sch. 7](#)

Modifications etc. (not altering text)

- C1** The text of ss. 7, 9, and 12(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M5** 1925 c. 23.
- M6** 1892 c. 6.
- M7** 1925 c. 23.

13 ^{F7}

Textual Amendments

- F7** S. 13 repealed by [Northern Ireland Constitution Act 1973 \(c. 36\), Sch. 6 Pt. I](#)

14 Short title, commencement and extent.

- (1) This Act may be cited as the Administration of Estates Act 1971.
- (2) Section 13 of this Act and this section shall come into force on the passing of this Act and the remaining provisions of this Act shall come into force on 1st January 1972; and, notwithstanding anything in section 36 of the ^{M8}Interpretation Act 1889, any reference in this Act, or in any Act passed after the passing of this Act, to the commencement of this Act shall be construed as a reference to 1st January 1972.
- (3) Sections 1 and [^{F8}9] to 11 of this Act and subsections (2) and (4) to (6) of section 12 of this Act extend to England and Wales only.

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(4) Sections 3 and 6 of this Act extend to Scotland only.

(5) Section 2 of this Act extends to Northern Ireland only.

Textual Amendments

F8 Figure substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), **Sch. 5**

Marginal Citations

M8 1889 c. 63.

Changes to legislation:

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