

# 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 M1Colonial 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 M2Administration 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 [F120 of the [F2Senior 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

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 M3Colonial 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 M4Colonial Probates Act 1892; and

[F4 " probate rules" means rules of court made under section 127 of the [F2Senior 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.

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# **Changes to legislation:**

There are currently no known outstanding effects for the Administration of Estates Act 1971, Section 11.