

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 18 of 1929.

AN ORDINANCE

Relating to the Administration of the Estates of Deceased Persons.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Administration and Probate Ordinance* 1929. Short title.
2. This Ordinance shall commence on the twenty-first day of October, 1929. Commencement.
3. The Acts of the State of New South Wales specified in the *First Schedule* to this Ordinance shall, to the extent therein expressed, cease to apply to the Territory. Repeal.

4. This Ordinance is divided into Parts, as follows:— Parts.

PART I.—Preliminary.

PART II.—Administration.

PART III.—Grant of Representation.

Division 1.—Jurisdiction of Court.

Division 2.—Caveats.

Division 3.—Effect of Grant of Representation.

Division 4.—Rights, Powers, Duties and Liabilities of
Executors and Administrators.

Division 5.—Commission, Charges and Costs.

PART IV.—Small Estates.

PART V.—Recognition of Foreign Grants.

PART VI.—Curator of Deceased Persons' Estates.

PART VII.—Maintenance of Widows and Young Children.

PART VIII.—Procedure.

PART IX.—Miscellaneous.

PART X.—Fees.

1874.—PRICE 1s. 6D.

Definitions.

5. In this Ordinance, unless the contrary intention appears—

“Administration” includes all letters of administration of the real and personal estate of deceased persons whether with or without the will annexed and whether granted for general, special, or limited purposes, exemplification of letters of administration and such other formal evidence of the letters of administration purporting to be under the seal of a Court of competent jurisdiction as is in the opinion of the Court sufficient, and orders to the Curator to collect;

“Administrator” includes the Curator and any other person to whom administration is granted;

“City Area” means the City Area as defined in the *City Area Leases Ordinance 1924-1926*;

“the Court” means the High Court of Australia;

“Curator” means the Curator of Estates of Deceased Persons appointed under this Ordinance;

“Deceased person” or “the deceased” means a person dying on or after the thirty-first day of July, 1929.

“Justice” means Justice of the Court;

“Prescribed” means prescribed by rules;

“Purposes of Administration” includes the payment in due course of administration of the debts, funeral and testamentary expenses duties and commission, and the costs, charges and expenses of the executor or administrator, and any costs which may be ordered to be paid out of the estate;

“Registrar” means Registrar of Probates and Administrations appointed under this Ordinance;

“Registrar of Titles” means the Registrar of Titles appointed under the *Real Property Ordinance 1925-1927*;

“Representation” means the probate of a will and administration;

“Rules” means rules made by the Court under any Act or this Ordinance.

PART II.—ADMINISTRATION.

Administration.

6. The Attorney-General shall be charged with the general administration of this Ordinance.

**Registrar,
Curator, &c.**

7.—(1.) For the purposes of this Ordinance there may be—

- (a) a Registrar of probates and administration;
- (b) a Curator of Estates of Deceased Persons; and
- (c) such other officers as are necessary for carrying out this Ordinance.

(2.) The officers mentioned in the last preceding sub-section shall be appointed under the *Commonwealth Public Service Act 1922-1928*.

(3) The Attorney-General may appoint any officer of the Commonwealth Public Service to be Acting Registrar or Acting Curator, as the case requires, until the appointment of a Registrar and a Curator, or during any temporary vacancy in the office of Registrar or Curator, and the Acting Registrar and the Acting Curator shall have all the powers and perform all the duties of the Registrar and the Curator respectively.

8. The Deputy Registrar or Deputy Curator, as the case may be, shall have such of the powers and perform such of the duties of the Registrar or Curator respectively as are assigned to him by the Registrar or Curator, as the case may be.

Powers and
duties of
Deputies.

PART III.—GRANT OF REPRESENTATION.

Division 1.—Jurisdiction of the Court.

9. The Court shall have jurisdiction to grant probate of the will or administration of the estate of any deceased person leaving property, whether real or personal, within the Territory.

Probate or
administration
may be granted
where any
person leaves
property in the
Territory.

10.—(1.) Subject to the provisions of this section, probate or administration may, upon application to the Registrar, supported by affidavits upon which for the time being the Court would, in the opinion of the Registrar, grant the probate or administration, be issued by the Registrar as of course in the name and under the seal of the Court, and every such probate or administration shall be deemed to have been granted by the Court.

Vic. No. 2611,
s. 5.

When probate
may be issued
by Registrar.
Ib. s. 6.

(2.) The Registrar shall not, without an order of the Court, issue probate or administration—

- (a) in any case where a caveat has been lodged; or
- (b) in any case in which it appears to him to be doubtful whether the probate or administration ought to be granted.

(3.) Whenever the Court makes an order for the grant of probate or administration, the probate or administration shall be issued by the Registrar in the name and under the seal of the Court.

11. Subject to this Ordinance and the Rules, the practice and procedure with reference to the granting of administration of the personal estate of an intestate shall be applicable so far as may be, to administration of real estate, and administration of both real and personal estate may be granted in and by the same letters.

Practice as to
granting
administration
of real and
personal estate.
N.S.W. No. 13,
1898, s. 62.

12. The Court may grant administration of the estate of an intestate person to any of the following persons, being of the full age of twenty-one years:—

To whom
administration
may be
granted.

- (a) the husband or wife of the deceased; or
- (b) one or more of the next of kin; or

Ib. s. 63.

(c) the husband or wife conjointly with one or more of the next of kin,
or if there is no such person, or no such person within the jurisdiction—

(i) who is, in the opinion of the Court, fit to be trusted; or

(ii) who, when duly cited, appears and prays for administration,

(d) such person, whether a creditor or not of the deceased, as the Court thinks fit.

Probates to
Trustee
company.
Vic. No. 2611,
s. 7.

13.—(1.) Any person named expressly or by implication as executor, either alone or jointly with any other persons may, any law or custom to the contrary notwithstanding, instead of himself applying for probate, authorize any trustee company to apply to the Court for probate, either alone, or jointly with any other persons entitled to apply for probate, in the same manner as if the trustee company had been originally named in the will in the place of the person authorizing the application.

(2.) The application may be granted unless the testator has by his will expressed his desire that the office of executor is not to be delegated, or that the trustee company so applying is not to act in the trusts of his will.

(3.) Where in any law in force in the Territory the next of kin, entitled to obtain administration of the estate of any intestate, is empowered to authorize a trustee company to apply for administration of the estate, the words "next of kin" shall be deemed to include, and to have included, the husband or wife of the intestate when entitled to administration.

(4.) In this section "trustee company" means any company authorized by or under any law in force in the Territory to act as executor, administrator or trustee.

Administration
bond to be
executed.
Ib. s. 18.

14. Every person to whom a grant of administration is made shall, previous to the issue of that administration, execute a bond to the Registrar to enure for the benefit of the Registrar for the time being, with two sureties, conditioned for duly collecting, getting in and administering the real and personal estate of the deceased, which bond shall be in such form as the Court by rule directs:

Provided that it shall not be necessary for the Curator or for any person obtaining administration to the use or for the benefit of His Majesty, or for any person or persons or body corporate specially exempted by law from the obligation to give or execute the bond, to execute any such bond.

Amount of
penalty on
administration
bond.
Ib. s. 19.

15. Subject to the provisions of the next succeeding section, the bond shall be in a penalty equal to the amount under which the property of the deceased is sworn, if that amount does not

exceed Five thousand pounds, and shall be in a penalty of Five thousand pounds, where the amount exceeds that sum; but the Court may, in any case, dispense with one or both of the sureties or direct that the penalty shall be reduced in amount, and may also, if it thinks fit, direct that more bonds than one shall be given so as to limit the liability of any surety to such amount as the Court thinks reasonable, and may, in place of the bond, accept the security of any incorporated company or guarantee society approved by the Attorney-General, in such form and under such regulations as the Court by rule directs.

16.—(1.) Notwithstanding anything contained in the last three preceding sections, but subject to the next following sub-section, the Registrar, without any direction from the Court, may—

Powers of Registrar as to sureties, penalty, &c. Vic., No. 2611, s. 21.

- (a) where the real and personal property of the testator or intestate is shown not to exceed Five hundred pounds, dispense with one or both of the sureties, or direct that the penalty of any bond required to be executed shall be reduced in amount, or direct that more bonds than one shall be given so as to limit the liability of any surety to such amount as the Registrar thinks reasonable; and
- (b) in any case, in place of the usual administration bond with two sureties, accept the bond of any incorporated company or guarantee society, approved by the Attorney-General, in such form and in such manner as is prescribed.

(2.) The Registrar shall not, without an order of the Court, take any action under the last preceding sub-section, in any case in which it appears to him to be doubtful whether he ought to do so, or in any case in which any person interested in the estate or any creditor of the deceased lodges with the Registrar notice in writing objecting thereto.

17. The Court may, on application made on motion in a summary way, and on being satisfied that the conditions of any administration bond have been broken, order the Registrar to assign the bond to some person to be named in the order, and that person, his executor or administrators shall thereupon be entitled to sue upon the bond in his or their own name or names as if it had been originally given to him, and shall be entitled to recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the conditions of the bond.

Order may be made to assign the bond. Ib. s. 22.

18.—(1.) On being satisfied that there has been negligence or mal-administration of the estate of which any person has obtained administration in the capacity of creditor, or that the condition of any administration bond executed by any person who has obtained administration in that capacity has been broken in any substantial

Court may in creditor's administration order assignment of administration bond to Curator or some other person. Ib. s. 23

particular, the Court may, if it thinks fit, order the Registrar to assign the administration bond to the Curator or to some person to be named in the order.

(2.) The Curator, or the person named in the order, shall thereupon be entitled to sue upon the bond as if it had been originally given to him, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond.

(3.) The Court may, if it thinks fit, upon making the order, remove the creditor from the position of administrator, and may grant a rule to the Curator, or some persons to be named in the order, to administer the estate.

Application by
surety for
relief.

N.S.W. No. 13,
1898, s. 68.

19. If, upon motion by a surety to an administration bond, it appears to the Court that—

- (a) the estate is being wasted, or is in danger of being wasted; or
- (b) the surety is being in any way prejudiced, or in danger of being prejudiced, by the act or default of the person administering the estate,

the Court may grant such relief as it thinks fit.

Renunciation or
non-appearance
by executor
renouncing
probate or not
acting or not
appearing to a
citation to be
treated as if he
had renounced.
Ib. s. 69.

20. Where—

- (a) any person renounces probate of the will of which he is appointed an executor; or
- (b) an executor appointed in a will survives the testator but dies without having taken probate; or
- (c) an executor named in a will is personally cited to take probate and does not appear to the citation,

the right of that person in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his estate shall, without any further renunciation, go, devolve, and be committed in like manner as if that person had not been appointed executor.

Administration
to guardian of
infant sole
executor.
Ib. ss. 70-71.

21.—(1.) Where an infant is sole executor, administration with the will annexed may be granted to—

- (a) the guardian of that infant; or
- (b) such other person as the Court thinks fit,

until the infant has attained the full age of twenty-one years, with full or limited powers to act in the premises until probate has been granted to the executor or administration has been granted to some other person.

(2.) The person to whom that administration is granted shall have the same powers vested in him as an administrator by virtue of an administration granted to him *durante minore aetate* of the next of kin.

22. When any person named as executor, or any husband or wife or the next of kin entitled to probate or administration is out of the jurisdiction, but has some person within the jurisdiction appointed under power of attorney to act for him or her respectively, administration may be granted to that attorney, but on behalf of the person entitled thereto, and on such terms and conditions as the Court thinks fit.

Administration to be granted to attorney in certain cases. N.S.W. No. 13, 1898, s. 72.

23.—(1.) The Court may—

- (a) pending any suit touching the validity of the will of any deceased person, or for obtaining recalling, or revoking any probate or any grant of administration; or

Administration pendente lite and receiver. Ib. s. 73.

- (b) during a contested right of administration,

appoint an administrator of the personal estate and the same or any other person to be receiver of the real estate of any deceased person, with such full or limited powers, and with or without a bond or sureties, as the Court thinks fit.

(2.) The Court may make such orders for the remuneration of the administrator or receiver out of the personal and real estate of the deceased as it thinks right.

24. The Court may, in any case where a person dies—

- (a) intestate; or
- (b) leaving a will, but without having appointed an executor thereof; or
- (c) leaving a will and having appointed an executor thereof, who—
 - (i) is not willing and competent to take probate; or
 - (ii) is resident out of the Territory,

Power as to appointment of administrator. Ib. s. 74.

if it thinks it necessary or convenient, appoint some person to be the administrator of the estate of the deceased or of any part thereof, upon his giving such security (if any) as the Court directs, and every such administration may be limited as the Court thinks fit.

25.—(1.) In any case where the executor named in a will—

- (a) neglects or refuses to prove the will or to renounce probate thereof within three months from the death of the testator or from the time of the executor attaining the age of twenty-one years; or
- (b) is unknown or cannot be found,

Proceeding where executor neglects to prove will. Ib. s. 75.

the Court may, upon the application of—

- (i) any person interested in the estate; or
- (ii) the Curator; or
- (iii) any creditor of the testator,

grant an order *nisi* calling upon the executor to show cause why probate of the will should not be granted to the executor, or, in the alternative, why administration with the will annexed should not be granted to the applicant.

(2.) Upon affidavit of service or of sufficient reasons for non-service of the order if the executor do not appear, or upon cause being shown, the Court may make such order thereon for the administration of the estate and as to costs as appears just.

Issue of special letters of administration. N.S.W. No. 13, 1898, s. 76.

26. If, at the expiration of six months from the death of any person, the executor to whom probate has been granted or the administrator is then residing out of the jurisdiction, the Court may, upon the application of any creditor, legatee, or next of kin, grant to the creditor, legatee or next of kin so applying special letters of administration of the estate of the deceased person, nevertheless to cease upon an order being made for the rescission thereof as mentioned in section twenty-nine of this Ordinance.

Special administrator to make certain affidavits. *Ib.* s. 77.

27. The person applying for any such special grant shall, in addition to the oath usually taken by administrators, satisfy the Court by affidavit that the executor or administrator of the estate of the deceased person is resident out of the jurisdiction; and that—

(a) the applicant is thereby delayed in recovering or obtaining payment of moneys or the possession of goods and chattels, or real estate, to which he is by law entitled; or

(b) the estate is liable to loss or waste.

On return of original executor or administrator special administration to be rescinded. *Ib.* s. 78.

28.—(1.) On the return within the jurisdiction of the executor to whom probate has originally been granted, or the administrator, the executor or administrator may apply to the Court by petition to rescind the special grant of administration.

(2.) The Court, on the hearing of the petition, may make an order to rescind the special grant of administration upon such terms and conditions as to security, costs, or otherwise as to the Court appear reasonable, and thereafter the original probate or administration shall be and remain as valid and effectual as if the special grant of administration had not been made.

Accounting by special administrator. *Ib.* s. 79.

29. Upon any order being made by the Court for the rescission of any grant of special administration the special administrator shall be bound duly to account to the original executor or administrator, and to pay over all moneys received by him as such special administrator, and then remaining in his hands undisposed of, as the Court may order.

Liability of executor or administrator neglecting to apply for rescission of special administration. *Ib.* s. 80. |

30. If the executor or administrator neglects to apply for an order for the rescission of the special administration, he shall, notwithstanding that the special administration remains unrescinded, be liable to answer and make good all claims and demands against the estate of the deceased to the extent of the assets which

have come to his hands or which might have come to his hands but for his wilful neglect, or default, including the neglect mentioned in this section.

31. If, while any legal proceeding is pending in any Court by or against any executor or administrator lawfully acting as such, the grant of probate or administration is revoked or rescinded, the Court may order that the proceeding be continued by or against the new personal representative in like manner, as if the proceeding had been originally commenced by or against him, but subject to such conditions and variations (if any) as that Court directs.

Revocation of grants not to prejudice actions or suits.
N.S.W. No. 13, 1898, s. 81.
15 Geo. V., c. 28, s. 17.

32.—(1.) Notwithstanding anything contained in any law in force in the Territory, where an executor or administrator to whom representation has been granted, or where an administrator who has been appointed under this section—

Discharge or removal of executor or administrator.
Vic. No. 2611, s. 8.

- (a) remains out of the Territory for more than two years;
- (b) desires to be discharged from his office of executor or administrator; or
- (c) after the grant or appointment, refuses, or is unfit, to act in the office, or is incapable of acting therein,

the Court, upon application in a summary way by summons in chambers, may order the discharge or removal of that executor or administrator, and the appointment of some proper person or trustee company as administrator in place of the executor or administrator so discharged or removed, upon such terms and conditions as the Court thinks fit, and may make all necessary orders for vesting the estate in the new administrator, and as to accounts, and such order as to costs, as the Court thinks fit.

(2.) Notice of the application may be served, if the Court thinks it necessary, upon such persons as it directs.

(3.) An executor or administrator so removed or discharged shall, from the date of the order, cease to be liable for acts and things done after that date.

(4.) Upon the appointment of the new administrator the property and rights vested in, and the liabilities properly incurred in the due administration of the estate by, the executor or administrator so discharged or removed, shall become and be vested in, and transferred to, the new administrator, who shall, as such, have the same privileges, rights, powers, duties, discretions and liabilities, as if probate or administration had been granted to him originally.

Division 2.—Caveats.

33.—(1.) Any person may lodge with the Registrar a caveat against any application for representation at any time previous to the representation being granted.

Caveat may be lodged.
Ib. s. 24.

(2.) Every such caveat shall set forth the name of the person lodging it, and an address within the City Area at which notices may be served on him.

Where a caveat lodged Court may grant order *nisi*.
Vic. No. 2611,
s. 25.

34. In every case in which a caveat is lodged, the Court may, upon motion on behalf of the person applying for representation supported by affidavits upon which, if there had been no caveat, representation would have been granted, make an order *nisi* for the grant of representation to the person applying, and every such order shall name a time for showing cause against it, and the Court may enlarge the order from time to time.

Service of order *nisi*.
Ib. s. 26.

35. Every such order *nisi* and every order enlarging it shall be served on the caveator by delivering a copy thereof at the address mentioned in his caveat.

Proceeding where caveat or does not appear.
Ib. s. 27.

36. If, upon the day named in the order *nisi* or upon the day to which the order has been enlarged, the caveator does not appear, the order *nisi* may be made absolute upon an affidavit of service, but, if the caveator appears, the hearing shall be conducted in the same manner as nearly as may be as upon a trial, and the order *nisi* may be made absolute or discharged with or without costs as may be just, and, if the Court so directs, the costs may be paid out of the estate.

Evidence on hearing of order *nisi*.
Ib. s. 28.

37. Upon the hearing of any order *nisi*, the parties shall be at liberty, subject to the rules, to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, be subject to be cross-examined by or on behalf of the opposite party orally in open court, and after the cross-examination may be re-examined orally in open court by or on behalf of the party by whom the affidavit was filed.

Costs where caveat lodged by Curator.
Ib. s. 30.

38. In any case in which a caveat is lodged by the Curator, the Court may, if it thinks fit, order costs to be paid to him out of the estate, whether the order *nisi* is discharged or not.

Division 3.—Effect of Grant of Representation.

Real and personal estate to vest in executor or administrator.
N.S.W. No. 13,
1898, s. 44.

39. Upon the grant of representation of the estate of any deceased person, all real and personal estate which any such person dies seised or possessed of, or entitled to, in the Territory, and which is unadministered at the date of the grant, shall, as from the death of that person, pass to and become vested in the executor to whom probate has been granted or the administrator (as the case may be) for all his estate and interest therein in the manner following, that is to say:—

- (a) On testacy, in the executor or administrator with the will annexed;
- (b) On intestacy, in the administrator; and
- (c) On partial intestacy, in the executor or administrator with the will annexed.

40. All real estate held by any person in trust or by way of mortgage, and vesting in pursuance of the last preceding section, shall, as from the death of that person, vest in his executor or administrator, subject to the trusts and equities affecting the estate.

Real estate held in trust, N.S.W. No. 13, 1898, s. 45.

41.—(1.) The real, as well as the personal, estate of every deceased person shall be assets in the hands of his executor to whom probate has been granted, or his administrator, for the payment of all duties and fees, and for the payment of his debts in the ordinary course of administration.

Property of deceased to be assets. Ib. s. 46.

(2.) The executor or administrator for purposes of administration, may, subject to the provisions of section fifty-one of this Ordinance, sell that real estate, or mortgage it with or without a power of sale, and convey it to a purchaser or mortgagee in as full and effectual a manner in law as the deceased person could have done in his lifetime.

42. Subject to the provisions of this Part, the real estate of every such deceased person devising that estate by his will, shall be held by his executor to whom probate has been granted, or the administrator with the will annexed, according to the trusts and dispositions of the will.

Real estate to be held upon trusts of will. Ib. s. 47.

43. The executor to whom probate has been granted shall have the same rights, and be subject to the same duties, with respect to the real estate of his testator, as executors have, by the law in force in the State of New South Wales immediately prior to the commencement of this Ordinance, had or been subject to with reference to personal assets.

Rights of executor as to real estate. Ib. s. 48.

44.—(1.) Subject to the preceding provisions of this Part and subject to the provisions of the next four succeeding sections, the administrator on intestacy, or, in case of partial intestacy, the executor or administrator with the will annexed, as the case may be, shall hold the real and personal estate, vesting in him under this Ordinance, as to which any person dies intestate, in trust, as to the personal estate, for the persons who would be entitled thereto under the Statute of Distributions, and as to the real estate, in trust for and as if the real estate had been devised to those persons as tenants in common.

Administrator to hold, subject to payment of debts, in trust for persons entitled. Ib. s. 49.

(2.) No executor as such shall be entitled to take beneficially any residue not expressly disposed of by the will of the testator, unless it appear by the will that he is intended so to take.

(3.) Nothing in this section shall affect or prejudice any right to which any executor, if this Ordinance had not been made, would have been entitled in cases where there is not any person who would be entitled to the testator's estate in respect of any residue not expressly disposed of.

Husband's
interest in
wife's estate
and vice versa.
N.S.W. No. 13,
1898 s. 50.

45. Any husband or wife shall be entitled on the death of the other, as to the property as to which he or she dies intestate, to the following shares only:—

- (a) Where there is issue surviving, one-third share of the property;
- (b) Where there is no issue surviving, and in case of total intestacy—

- (i) where the net value of the property of the deceased does not exceed the sum of Five hundred pounds, the whole of the property;
- (ii) where the net value of the property exceeds the sum of Five hundred pounds, the sum of Five hundred pounds absolutely and exclusively, which sum with interest thereon from the date of the death until payment, at the rate of Four pounds per centum per annum, shall be a charge upon the whole of the property; and in addition thereto, one-half share of the residue of the property after the payment of the sum of Five hundred pounds and interest (if any); and

- (c) Where there is no issue surviving and in case of partial intestacy, one-half share of the property.

Next of kin.
Ib. s. 51.

46. Subject to the last preceding section the property of a deceased husband or wife shall be divisible among the next of kin of the deceased.

No dower or
courtesy.
Ib. s. 52.

47. No estate by courtesy or right of dower or any equivalent estate shall arise, after the commencement of this Ordinance, out of the real estate as to which any person dies intestate.

Value to be
accepted in
lieu of
partition.
Ib. s. 53.

48. Any husband or wife so entitled to share in real estate shall be bound to accept the value thereof in lieu of partition if so desired by all the persons entitled jointly with him or her.

Net value.
Ib. s. 55.

49.—(1.) Where any person dies intestate, and the net value of the share of his real and personal property descending to an infant issue of the intestate does not, at the time of the death exceed Five hundred pounds, the Court may, on the application of the infant or of any such infants or of any person on his or their behalf, authorize the administrator to expend the whole or any portion of the share or shares of the infant or infants in his or their respective maintenance, advancement, or education.

(2.) The net value of the property referred to in this section and section forty-five of this Ordinance shall be ascertained by deducting from the gross value thereof all debts, funeral and testamentary expenses of the intestate, and all other lawful liabilities and charges to which the property may be subject.

Division 4.—Rights, Powers, Duties and Liabilities of Executors and Administrators.

50.—(1.) Subject to this section, executors and administrators may, without the consent of any person or the order of a court—

Powers of executors and administrators as to sale, mortgage, or lease of real estate.

- (a) sell or mortgage the real estate of the deceased person for purposes of administration;
- (b) sell the real estate of the deceased person as to which he died intestate, for purposes of distribution or division amongst the persons entitled; or
- (c) lease the real estate of the deceased person in possession for any term not exceeding three years.

Conveyancing Act 1919, N.S.W. s. 153.

(2.) Any conditions may be imposed on the exercise of any such power of sale, mortgage, or lease by an administrator or executor, and either generally or in the case of a particular sale, mortgage, or lease, by rules of court, or by the Court in the grant of administration (if any), or by other order.

(3.) No purchaser, nor the Registrar of Titles or other person registering or certifying title under any sale, mortgage, or lease under this section, shall be bound to inquire whether the powers mentioned in sub-section (1.) of this section or any of them are being or have been exercised for the purposes specified in that sub-section, and the receipt of the executor or administrator shall be a sufficient discharge, and shall exonerate the persons paying the moneys from any responsibility for the application of the moneys expressed to have been so received.

(4.) Some or one only of several executors or administrators shall be entitled to exercise those powers with the leave of the Court, and not otherwise, and the Court may make such orders as it thinks fit for the purpose of carrying out any such sale, mortgage, or lease.

51. The Court may, where administration has been granted, upon the application of the administrator, or in case of partial intestacy the executor or administrator with the will annexed, or of any person beneficially interested, and after such previous notice to the other parties and inquiry as the Court thinks fit, order and direct the course of proceedings which shall be taken in regard to—

Court may make special order.
N.S.W. No. 18,
1898, s. 57.

- (a) the time and mode of sale of any real estate;
- (b) the letting and management thereof until sale;
- (c) the application for maintenance or advancement or otherwise of shares or income of shares of infants; and
- (d) the expediency and mode of effecting a partition of applied for,

and generally in regard to the administration of the real estate for the greatest advantage of all persons interested.

Court may
order partition
in a summary
way.
N.S.W. No. 13,
1898, s. 58.

52.—(1.) Where, upon any such inquiry, the Court is satisfied that a partition of the real estate, or any part thereof, will be advantageous to the parties interested therein, the Court may appoint one or more arbitrators to effect the partition.

(2.) The report and final award of the arbitrators setting forth particulars of the land allotted to each party interested shall, when signed by them and confirmed by the order of the Court, and registered in the office of the Registrar of Titles, be effectual without the necessity of any further conveyance to vest in each party the land so allotted to him, and an office copy of the award so signed, confirmed, and registered, shall for all purposes be equivalent to an indenture of conveyance to each party of the lands allotted to him.

(3.) In the case of land subject to the provisions of the *Real Property Act* 1900 of the State of New South Wales or the *Real Property Ordinance* 1925-1927 each party shall be entitled to have issued to him a certificate of title for the land so allotted to him.

(4.) If the allotment be made subject to the charge of any money payable to any other party interested for equalizing the partition, the charge shall take effect according to the terms and conditions in regard to time and mode and otherwise which are expressed in the award without the necessity of any further instrument being made or executed.

(5.) In the case of land subject to the provisions of the *Real Property Act* 1900 of the State of New South Wales or the *Real Property Ordinance* 1925-1927, the certificate of title shall issue, subject to the charge, unless the charge is satisfied.

Personal
representative
not required
to continue to
act against
own consent.
Ib. s. 59.

53. A personal representative shall not be required against his own consent to continue the duty of a trustee by managing the property during an enforced suspension of sale, but shall be entitled, upon that suspension being ordered, to relinquish his trust to such person as the Court appoints.

In suits
executor or
administrator
to represent
real estate.
Ib. s. 60.

54. In all suits concerning the real estate of a deceased person, his executor to whom probate has been granted or administrator shall represent his real estate so long as it remains vested in him, and the persons interested therein, in the same manner and to the same extent as, in suits concerning personal estate, the executor or administrator represents the estate and the persons interested therein.

All debts to
stand in equal
degree.
Ib. s. 82.

55.—(1.) In the administration of the estate of every person dying after the commencement of this Ordinance, all the creditors of every description of that person shall, notwithstanding anything to the contrary contained in any law, be treated as standing in equal degree and be paid accordingly out of the assets of the deceased person.

(2.) In the administration of the estate of any person dying before or after the commencement of this Ordinance, in respect of which representation is granted under this Ordinance, no debt or liability of that person shall be entitled to any priority or preference by reason only that it is due to an executor or administrator of the estate.

(3.) This Ordinance shall not prejudice or affect any mortgage, lien, charge, or other security which any creditor may hold or be entitled to for payment of his debt.

(4.) Nothing in this Ordinance shall affect the provisions of any law protecting life assurance or other policies against creditors.

56.—(1.) When any real estate not under the provisions of the *Real Property Act* 1900 of the State of New South Wales or the *Real Property Ordinance* 1925-1927 is devised to any person by a will duly proved under the provisions of this Ordinance, the executor of the will or the administrator with the will annexed may, as the executor or administrator, instead of executing a conveyance to that person, sign an acknowledgment, in the prescribed form, that the devisee is entitled to that real estate for the estate for which it is devised to him.

Executor may sign acknowledgment in lieu of conveyance.
N.S.W. No. 13, 1898, s. 83.

(2.) The acknowledgment may be registered under the law in force regulating the registration of deeds, and upon registration thereof the real estate shall vest in the devisee for the estate for which it is devised to him in the same way, and subject to the same trusts and liabilities, as if the executor or administrator had executed a conveyance thereof.

57. If the executor or administrator, after request in writing, neglects or refuses to—

Summary application for legacy, &c.
Ib. s. 84.

(a) sign that acknowledgment; or

(b) execute a conveyance of land devised to the devisee; or

(c) pay or hand over to the person entitled any legacy or residuary bequest,

the devisee or person may apply by summons to the Court, calling upon the executor or administrator to show cause why he should not comply with the request, and the Court may make such order in the matter as it thinks fit.

58.—(1.) Every person to whom representation is granted shall file an inventory of the estate of the deceased and pass his accounts relating thereto within such time, and from time to time, and in such manner as is prescribed, or as the Court specially orders.

Executor or administrator to pass accounts.
Ib. s. 85.

(2.) Every such person shall be subject to any special order that the Court, on the motion of any person interested, makes as to the production and verification of his accounts.

(3.) The order of the Court allowing any such account shall be *prima facie* evidence of its correctness, and shall, after the expiration of three years from the date of the order, operate as a release to the person filing it, excepting so far as it is shown by some person interested therein that an error or omission or fraudulent entry has been made in the account.

If accounts not exhibited Registrar to summon administrator before Court, which may inflict penalty.
N.S.W. No. 13, 1898, s. 87.

59.—(1.) In case any such executor or administrator neglects, for one month after the expiration of the period fixed, to file that inventory, or to pass those accounts, the Registrar shall cause the executor or administrator to be notified of the neglect.

(2.) In case of further neglect for a period of one month, the Registrar shall cause the executor or administrator to be summoned before the Court to show cause why he should not be ordered to file the inventory or exhibit the account to the Court forthwith.

(3.) If the executor or administrator does not, within the prescribed time, or within such further time as is allowed him by the Court, file, pass, or exhibit the inventory or account in the prescribed manner, he shall be liable to attachment in accordance with the practice of the Court.

Proceedings under last section not to prejudice proceedings on bond.
Ib. s. 88.

60. Proceedings being taken under the last preceding section shall not prejudice the right to proceed against the executor or administrator for an account and administration, or prevent the Court from ordering the assignment of any bond to any person with a view to enforcing the penalty thereof.

Court may make order as to disposal of moneys in hands of executor, &c.
Ib. s. 89.

61.—(1.) The Court may make such order, as it thinks fit, with reference to the distribution or application of any moneys which the executor or administrator or curator has in hand, or as to the residue of the estate.

(2.) No final order for distribution shall be made except upon notice to all the parties entitled.

Payments under revoked probates or administrations valid.
Ib. s. 90.

62.—(1.) Where any probate or administration is revoked or rescinded under this Ordinance, any payment *bona fide* made to any executor or administrator under the probate or administration, before the revocation or rescission thereof, shall be a legal discharge to the person making the payment.

(2.) The executor or administrator who has acted under any such revoked or rescinded probate or administration may retain and reimburse himself, or shall be entitled to be reimbursed, in respect of any payments made by him with the person, to whom probate or administration is afterwards, or was originally granted, might have lawfully made.

Persons, &c., making payments upon probate granted for estate of deceased person to be indemnified.
Ib. s. 91.

63. All persons making or permitting to be made any payment or transfer, *bona fide*, upon any probate or administration or order granted in respect of the estate of any deceased person under the authority of this Ordinance shall be indemnified and protected in

so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of the probate or administration or order not then known to those persons.

64.—(1.) Where an executor or administrator has given such or the like notices as, in the opinion of the Court in which the executor or administrator is sought to be charged, would have been given by the High Court in an administration suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, the executor or administrator may, at the expiration of the time named in the notices, or the last of the notices, for sending in those claims, distribute the assets of the testator or intestate, or any part thereof, amongst the persons entitled thereto, having regard to the claims of which the executor or administrator has then notice.

Distribution of assets after notice given by executor or administrator.
N.S.W. No. 13,
1898, s. 92.

(2.) The executor or administrator shall not be liable for the assets or any part thereof so distributed to any person of whose claim he has not had notice at the time of the distribution.

65.—(1.) When an executor or administrator has given the notices mentioned in the last preceding section, and a claim against the estate is sent in to him, he may, if he disputes the claim, serve upon the person, by whom or on whose behalf the claim was sent in, a notice calling upon him to take proceedings to enforce his claim within a period of six months, and to duly prosecute the claim.

Claims barred against executor or administrator in certain cases.
Ib. s. 93

(2.) If, after that period of six months has expired, that person does not satisfy the Court that he is duly prosecuting his claim, the Court may, on application by the executor or administrator, make an order barring the claim against the executor or administrator, subject to such conditions as appear just, or make such other order as the Court thinks fit.

66.—(1.) Where an executor or administrator liable as such, under any lease or agreement for a lease, granted or assigned to, or made and entered into with, the testator or intestate whose estate is being administered, to the rents, covenants, or agreements contained in any such lease or agreement for a lease has—

Distribution of estate by executors and administrators.
Ib. s. 94.

- (a) satisfied all such liabilities under the lease, or agreement for a lease, as have accrued due and been claimed up to the assignment mentioned in paragraph (c) of this sub-section; and
- (b) set apart a sufficient sum to answer any future claim that may be made in respect of any fixed and ascertained sum, covenanted or agreed by the lessee, to be laid out on the property demised, or agreed to be demised, although the period for laying out the sum may not have arrived; and

- (c) assigned the lease, or agreement for a lease, to a purchaser, or to a legatee, devisee, or other person entitled to call for a conveyance thereof.

he may distribute the estate of the testator or intestate remaining in his hands amongst the parties entitled thereto respectively, without appropriating any part, or any further part thereof, as the case may be, to meet any future liability under any such lease, or agreement for a lease.

(2.) An executor or administrator so distributing the estate shall not, after having made or executed that assignment, and having, where necessary, set apart that sufficient fund, be personally liable in respect of any subsequent claim under any such lease, or agreement for a lease.

(3.) In this section "assignment" includes an acknowledgment within the meaning of section fifty-seven of this Ordinance, and "lease" includes an underlease.

Right to follow
assets.

N.S.W. No. 13,
1898, s. 95.

67. Nothing in the last three preceding sections contained shall prejudice the right of any creditor or claimant or lessor, or those claiming under any lessor, to follow the assets or estate, or any part thereof, into the hands of the persons, or any of them, among whom they may have been distributed, or who may have received them.

Executors may
compound, &c.
Ib. s. 96.

68. Any executor may—

- (a) pay any debts or claims upon any evidence that he thinks sufficient; or
- (b) accept any composition, or any security, real or personal, for any debts due to the deceased; or
- (c) allow any time for the payment of any such debts as he thinks fit; or
- (d) compromise, compound, or submit to arbitration, all debts, accounts, claims, and things whatsoever relating to the estate of the deceased; and
- (e) for any of the purposes mentioned in this section, enter into, give, and execute such agreements, instruments of composition, releases, and other things as he thinks expedient, without being responsible for any loss occasioned thereby.

Every executor
&c., to be
deemed
resident in the
Territory.
Ib. s. 97.

69.—(1.) Every executor or administrator—

- (a) named in any probate or letters of administration granted by any Court of competent jurisdiction in any portion of His Majesty's Dominions and making application under the provisions of this Ordinance for the sealing of the probate or administration; or

(b) appointed under this Ordinance,
shall be deemed to be resident in the Territory.

(2.) Where not actually so resident, he shall, before the issue or sealing of any probate or administration, file with the Registrar, an address within the City Area, at which notices and processes may be served upon him; and all services at that registered address shall be deemed personal service.

Division 5.—Commission, Charges and Costs.

70.—(1.) It shall be lawful for the Court or the Registrar to allow out of the assets of any deceased person to his executor administrator or trustee for the time being, in passing his accounts, such commission or percentage, not exceeding Five pounds per centum, for his pains and trouble as is just and reasonable.

Executors, &c.,
may be allowed
commission.
Vic. No. 2611,
s. 34.

(2.) No such allowance shall be made to any executor, administrator or trustee who neglects or omits, without a special order of the Court, to pass his accounts pursuant to any general or special rule or order of the Court.

71.—(1.) The charges which may be paid and allowed out of the estate of any deceased person for professional services rendered by any barrister or solicitor shall, where no contention has arisen, be as follows, namely:—

Limits of
professional
charges for
obtaining
probate or
letters of
administration.
N.S.W. Probate
Rules.
Rule 73.

	£	s.	d.
Where the net value of the estate does not exceed £500	10	0	0
Over £500, but not exceeding £1,000	12	12	0
Over £1,000, but not exceeding £2,000	15	15	0
Over £2,000, but not exceeding £5,000	18	18	0
Over £5,000, but not exceeding £10,000	26	5	0
Over £10,000	31	10	0

Provided that in all cases in which the net value of the estate exceeds £500, a solicitor may deliver a bill of costs to the executor or administrator and cause it to be submitted for taxation, and the amount of the bill when so taxed, and not more, shall be a charge upon the estate of the deceased, but if, after taxation, the amount of the bill, exclusive of the cost of submitting it for taxation, does not exceed the respective sums set out in the scale in this sub-rule, the cost of submitting the bill for taxation shall be paid by the solicitor.

(2.) The scale set out in the last preceding sub-rule shall include costs of any necessary briefs and all disbursements.

(3.) In cases in which the net value of the estate does not exceed £500, the Court may in any case where the work has been of exceptional length or difficulty, give leave to the solicitor to tax his bill of costs, and the terms of the proviso to sub-rule (1) of this rule shall in that case apply to the bill.

(4.) The leave required by the last preceding sub-rule may be obtained by the solicitor leaving at the Chambers of a Justice the bill of costs required to be taxed, together with an affidavit showing the exceptional circumstances upon which he relies.

Additional
charge where
necessary to
employ agent.
Vic. No. 2611,
s. 35.

72.—(1.) In addition to the charges mentioned in the last preceding section, a charge of Twenty shillings may in any case where the property left does not exceed Five hundred pounds, be paid and allowed out of the estate, if the probate or letters of administration are obtained by a barrister or solicitor who has no office in the City Area or within five miles thereof and employs a barrister or solicitor in the City Area as his agent to obtain the probate or letters of administration.

(2.) The charges mentioned in the last preceding section and in this section do not include the cost of necessary advertising or fees necessarily paid or the cost of preparing and passing the statement for duty or the payment of duty, nor do they include the cost of engrossing or copying any will to an extent beyond five folios.

Special or
unusual work.
Ib. s. 37.

73.—(1.) Notwithstanding the provisions of the last two preceding sections, in any case where, in respect of special or unusual work in obtaining probate or letters of administration, the barrister or solicitor claims extra costs beyond the limits authorized by those sections, the bill of costs shall be taxed and settled by a taxing officer of the Court, and the taxing officer shall be the sole and final judge as to whether special or unusual work has been done.

(2.) In taxing and settling the bill of costs, the taxing officer shall allow the sum provided in those sections for the work done, other than the special or unusual work, and shall tax and settle the extra costs pursuant to the provisions of this section.

Taxing rules to
apply.
Ib. s. 38.

74. Subject to the provisions of the last preceding section, the rules of the Court for the time being in force relating to the taxation of bills of costs shall, so far as practicable, apply to bills of costs so taxed and settled by a taxing officer.

PART IV.—SMALL ESTATES.

Application to
Registrar for
probate or
administration.
N.S.W. No. 13,
1898, s. 101.

75. In all cases where a person dies leaving property not exceeding Five hundred pounds in value, application for representation may be made direct to the Registrar.

Duties of
Registrar.
Ib. s. 102.

76.—(1.) The Registrar shall, upon being satisfied as to—

- (a) the identity of the applicant;
- (b) the right of the applicant to administer the estate of deceased; and
- (c) the value of the estate,

furnish him with all necessary information for the purpose of enabling him to fill up advertisements, affidavits, and documents necessary for obtaining representation.

(2.) The Registrar may—

- (a) swear the applicant and every deponent; and
- (b) attest the execution of the administration bond.

(3.) The Registrar shall receive payment, in connexion with the application, of all proper fees fixed by the rules of Court.

77.—(1.) The Registrar shall, upon being satisfied—

- (a) with the sufficiency of the evidence in support of the application;
- (b) that the estate does not exceed Five hundred pounds in value;
- (c) that no caveat has been entered against the application;
- (d) that no will has been deposited with the Registrar-General of the State of New South Wales or other proper officer (search for which it shall be the duty of the Registrar to make); and
- (e) that the fees have been duly paid,

cause probate or letters of administration (as the case may be) to be issued and delivered to the applicant on demand.

(2.) Probate or administration under this section shall be issued in the name and under the seal of the Court.

Registrar to issue probate or administration in the name of the Court.
N.S.W. No. 13,
1898, s. 104.

78. In any case where the Registrar is not satisfied as to the matters mentioned in the last preceding section, he shall state, to the applicant, the matters in respect of which he is not satisfied.

Matters as to which Registrar not satisfied.
Ib. s. 105.

79. In no case shall the Registrar be under any obligation by reason of this Part of this Ordinance to deal with any application which he may think proper to be dealt with by the Court, or to be placed in the hands of a barrister or solicitor.

Obligation of Registrar.
Ib. s. 106.

PART V.—RECOGNITION OF FOREIGN GRANTS.

80.—(1.) When any probate or letters of administration granted before or after the commencement of this Ordinance by any Court of competent jurisdiction in any portion of His Majesty's Dominions is or are produced to, and a copy thereof deposited with, the Registrar, by any person being the executor or administrator therein named, or by any person duly authorized by power of attorney in that behalf under the hand and seal of the executor or administrator, the probate or letters of administration may be sealed with the seal of the Court.

Probates and letters of administration granted in other colonies or the United Kingdom to be of like force as if granted in the Territory on being resealed.
Ib. s. 107.

(2.) When so sealed the probate or letters of administration shall have the like force and effect and the same operation in the Territory, and every executor and administrator thereunder shall perform the same duties and be subject to the same liabilities as if the probate or administration had been originally granted by the Court.

(3.) The Court may require any such executor or administrator or person so authorized to give security for the due administration of the estate in respect of matters or claims in the Territory.

Caveat.

Vic. No. 2611,
s. 52.

81. Any person may lodge with the Registrar a caveat against the sealing of any such probate or letters of administration, and any such caveat shall have the same effect, and shall be dealt with in the same manner, as if it were a caveat against the granting of probate or letters of administration.

Seal not to be
affixed till duty
is paid, &c.
N.S.W. No. 13,
1898, ss. 108,
109.

82.—(1.) The seal of the Court shall not be affixed to any such probate or letters of administration until all such probate, stamp, and other duties (if any) have been paid as would have been payable if the probate or administration had been originally granted by the Court.

(2.) The letters of administration shall not be so sealed until such bond has been entered into as would have been required if the administration had been originally granted by the Court.

(3.) The seal of the Court shall not be affixed to any such probate or letters of administration except upon an affidavit that notice of the intention to apply in that behalf has been published twice in one or more newspapers circulating in or near to the Territory fourteen days before the making of the affidavit, and that no caveat has been lodged in respect thereof.

Scotch
confirmation.
Vic. No. 2611,
s. 57.

83. Any reference in this Part to probate or letters of administration shall be deemed to include a confirmation of the executor or any person granted in any sheriff court in Scotland.

PART VI.—CURATOR OF DECEASED PERSONS' ESTATES.

Curator to give
security.
N.S.W. No. 13,
1898, s. 111.

84.—(1.) Every person appointed Curator shall, before entering upon the duties of his office, give security, for such sum and in such manner and form as the Attorney-General directs, for the collection and due payment of, and accounting for, all moneys which may come to his hands by virtue of his office.

(2.) Any surety found by him may withdraw from any future liability by giving the Attorney-General three months' written notice of his desire so to do, but the withdrawal shall not affect his liability for any breach which may have occurred prior to the date of actual withdrawal.

Successors to
have power of
administration
de bonis non.
Ib. s. 112.

85.—(1.) On the death, resignation, or removal of the Curator, his successor shall, immediately on his appointment, and by virtue thereof, become entitled to administer all the real and personal estate of every deceased person left unadministered by any predecessor.

(2.) Every such successor shall, immediately upon his appointment and by virtue thereof, become entitled to the possession of all books, accounts, letters, papers, and documents of every description used by or in the possession or under the control of any predecessor relating to any estate administered by him or to the office of Curator.

86.—(1.) In legal proceedings it shall not be necessary for the Curator or those suing him to prove his general authority to act as Curator, but only to prove the order to collect in the specific estate to which the proceedings relate.

Proceedings by
and against
Curator.
N.S.W. No. 13,
1898, s. 113.

(2.) Whenever the office of Curator becomes vacant by death, resignation, or removal from office or otherwise, and another person is appointed to the vacancy so created, any action or proceeding which has been taken against the Curator who has vacated office, shall not abate, but shall be continued by or against the person so appointed as such Curator, and no fresh order to collect shall be necessary.

87.—(1.) The Curator shall take and retain—

- (a) the fees set out in the Second Schedule hereto; and also
- (b) a commission of Five pounds per centum on all moneys collected by him.

As to fees and
commission.
Ib. s. 115.

(2.) The Curator shall, after deducting therefrom all expenses, pay such fees and commission into the Consolidated Revenue Fund.

88.—(1.) The Court may, on the application of the Curator, grant to the Curator an order to collect the estate of any deceased person leaving real or personal estate within the jurisdiction in any of the following cases:—

Order to
Curator to
collect.
Ib. s. 116.

- (a) Where the deceased leaves no executor, widow, or next of kin, resident within the jurisdiction, willing and capable of acting in execution of his will or administration of his estate;
- (b) Where the executors named renounce probate of the will of the deceased, and all the persons primarily entitled to administration by writing filed with the Registrar decline to apply for administration;
- (c) Where probate or administration is not applied for within three months after the death of the deceased;
- (d) Where, after the expiration of thirty days from the death, there is no reasonable probability of application being made within that period of three months;
- (e) Where the estate or any portion thereof is liable to waste, and the executor or widow or next of kin—
 - (i) is absent from the locality of the estate; or
 - (ii) is not known; or
 - (iii) has not been found; or
 - (iv) requests the Curator in writing to apply for the order;
- (f) Where the estate, or any portion thereof, is—
 - (i) of a perishable nature; or
 - (ii) in danger of being lost or destroyed;

- (g) Where great expense may be incurred by reason of delay; and
- (h) Where by the will of the deceased the Curator is appointed to act.

(2.) The Court may in any case require the Curator to—

- (a) give such notices; or
- (b) cite such persons; or
- (c) produce such evidence,

as it thinks fit before granting the order applied for, or may make a temporary order for collection and protection only or limited to a portion of the estate or otherwise.

Effect of order.
N.S.W. No. 13,
1898. s. 117.

89.—(1.) An order to collect the estate of any deceased person shall give to the Curator the same powers, rights, and obligations in respect of the estate, except as otherwise expressly provided, as he would have had if administration had been granted to him as next of kin to the person intestate.

(2.) All laws for the time being in force with reference to the administration of the estates of deceased persons shall apply to the administration of estates by the Curator.

Probates and
administrations
may be
granted
notwithstanding
appointment of
Curator.
Ib. s. 118.

90.—(1.) Notwithstanding any order which has been made authorizing the Curator to collect under this Part of this Ordinance, the Court may grant probate of the will or administration of the estate of any deceased person, to any person, in such manner, and subject to such limitations or conditions, as it thinks proper.

(2.) No application for any such grant shall be made until seven days after notice in writing of the intention to apply for the grant has been left at the office of the Curator.

On such grant
Curator's
duties and
liabilities to
cease.
Ib. s. 119.

91.—(1.) Immediately on the grant of any such probate or administration, all the interest, powers, rights, and duties of the Curator (except such rights as are conferred by this section) in regard to the estate of the deceased person whose estate is affected by the grant, and all liabilities of the Curator under any contract or agreement entered into by him in relation to the estate, or any part thereof, shall cease.

(2.) Such portion of the estate of the deceased as is left unadministered by the Curator, and all rights and obligations of the Curator in respect thereof, shall vest in the executor or administrator obtaining the probate or administration.

(3.) Nothing herein contained shall interfere with the allowance and payment of—

- (a) all money due for the commission of the Curator; and
- (b) the necessary outlay, disbursements, costs, charges, and expenses in relation to the estate; including
- (c) all costs of and incidental to appearing on the application for the probate or administration.

(4.) Nothing in this section shall relieve the Curator from any liability in respect of his management of the estate up to the time of granting the probate or administration.

92.—(1.) Whenever it is made to appear to the Court that there is reasonable ground to suppose that any person has died, either in or out of the jurisdiction of the Court, intestate, leaving property within the jurisdiction, the Court may order and empower the Curator to collect and manage the estate, both real and personal, of that person.

When there is reasonable ground to believe that any person has died out of jurisdiction of the Court the Curator may obtain order to manage, &c., without strict legal proof of death.

(2.) Every such order shall be valid until revoked, and shall empower the Curator to—

N.S.W. No. 13, 1898, s. 120.

- (a) collect, manage, and administer the personal estate of the supposed deceased person;
- (b) enter upon and receive the rents and profits and otherwise manage the real estate; and
- (c) pay and discharge the debts and liabilities of that person,

in like manner as if he were certainly dead and the Curator had obtained an order to collect the estate of the person under the preceding provisions of this Part.

(3.) The Curator shall not proceed to any distribution of the assets without an order of the Court specially authorizing him to make the distribution.

93. Within fourteen days after any order to collect has been granted, the Curator shall, unless the Court otherwise orders, cause notice of the fact that the order has been granted to be published twice in some newspaper circulating in or near to the Territory.

Notice of order to be published. Ib. s. 121.

94. The Curator shall, in the case of foreigners, give notice to the Consul of the country where the next of kin are supposed to reside, if there is any such Consul resident in the Territory, unless the Court in any case otherwise orders.

Like notices to next of kin. Ib. s. 122.

95.—(1.) Any person interested as creditor, next of kin, or otherwise in the real or personal estate of any deceased person, which the Curator has been ordered to collect, may—

Court to have summary jurisdiction over Curator. Ib. s. 123.

- (a) on the neglect or refusal of the Curator to do any act in relation to the administration of the estate; or
- (b) on his doing, or threatening to do, any act in breach of his duty with reference to the estate,

apply *ex parte* upon affidavit to a Justice in chambers—

- (i) for an order calling upon the Curator to show cause before the Court, upon a day not less than two days after the service of the order upon him, why he should not do or abstain from doing the act; and
- (ii) for an interim order in the nature of an injunction, if warranted by the facts of the case.

(2.) Any such order may be granted subject to such conditions as to giving security for costs as the Court imposes.

Applications
how heard.

96.—(1.) Upon the hearing of any such complaint the Court may receive proof of the matters in relation thereto orally or by affidavit, and may make such order thereon as the circumstances of the case require, and as to payment of costs—

- (a) by the complainant; or
- (b) by the Curator personally; or
- (c) from the state administered by him,

as, in his discretion, seems just.

N.S.W. No. 13,
1898, s. 124.

(2.) Any such orders shall have the same effect and be enforceable by the same process as if made by the High Court in its equitable jurisdiction in a suit between the parties to the complaint.

Curator to act
as the Court
direct.
Ib. s. 125.

97. In all cases where an order to collect is made under this Part of this Ordinance, the Court may, on the petition of the Curator or any person interested in the estate, make such orders touching the collection, sale, investment, and disposal of the estate as the Court thinks fit.

Mode of
proceeding
under this
Ordinance.
Ib. s. 126.

98.—(1.) In every case in which the estate of any deceased person is administered by the Curator under this Part of this Ordinance—

- (a) all disputes and matters touching the collection, management, or administration of the estate; and
- (b) all claims and demands thereon,

shall, subject to the next succeeding sub-section, be decided by the Court on petition.

(2.) In any case in which it appears to be not desirable that the matter in question should be so decided, the Court may direct such proceedings to be instituted as appear proper for the due decision thereof.

Payment of
debts.
Ib. s. 127.

99.—(1.) The Curator shall, at such times as he thinks fit, cause advertisements to be published in the *Gazette* and such public newspapers as he deems expedient, calling upon the creditors of the persons, whose estates he has been ordered to administer, to come in and prove their debts before him, on or before a time to be fixed in the notice.

(2.) The Curator may allow any claim which is made before him upon the affidavit of the claimant alone, or, where he thinks fit to call for further evidence, upon such further evidence as he requires.

(3.) The Curator shall, as soon, after the expiration of the time allowed for proof of debts, as he conveniently can do so—

- (a) pay the debts proved, if they can be paid in full; or
- (b) if they cannot be paid in full, declare and pay a dividend on the debts proved.

(4.) If he collects any further assets after making the payment, he shall pay any part of the proved debts remaining unpaid, and any debts subsequently proved before him, or a dividend thereon (as the case may be).

(5.) Such creditors as subsequently prove shall first be paid a dividend equal to the dividend paid to creditors having previously proved their debts.

(6.) After payment of all debts, fees, and expenses incident to the collection, management, and administration of the estate, the Curator shall pay over the residue to the personal representative, if any, of the intestate or testator (as the case may be) as soon as the representative is duly constituted.

100. If, at the expiration of three months after the time fixed by the advertisement for creditors to come in and prove their debts—

Payment to
relatives, &c.,
in petty cases.
N.S.W. No. 13,
1898, s. 128.

(a) no debt has been proved; or

(b) no creditor having proved his debt remains unpaid,

the Curator, with the approval of the Court, may pay any sum not exceeding One hundred pounds to any person claiming to be a party in distribution or to be a legatee under a will, without administration having been obtained or the will being proved, and upon such evidence of the right or title of the party so claiming as the Court, under the circumstances deems sufficient.

101.—(1.) The Curator shall—

Accounts to be
kept, &c.
Ib. s. 129.

(a) make or cause to be made an inventory or list of all the estates of the persons which he has been ordered to administer and retain it in his office;

(b) keep an account of all his receipts, payments, and dealings in every such estate;

(c) retain all letters received, and copies of all letters written by him, and all deeds, papers, and writings of and relating to those estates;

(d) permit all persons to inspect and take copies of those inventories, lists, accounts, letters, copies of letters, deeds, papers and writings, and of all proceedings relating thereto at all reasonable hours; or

(e) furnish office copies thereof on payment of the fees mentioned in the Second Schedule to this Ordinance.

(2.) The Curator shall, with due diligence—

(a) sell or mortgage such lands as he is authorized to deal with;

(b) convert into money all such other estate as does not consist of money,

unless otherwise ordered by the Court; and

- (c) forthwith pay all moneys received by him as such Curator into some bank to be approved of by the Court and the Attorney-General, to the credit of an official account to be operated on by him as such Curator.

Receipt of
Curator
sufficient
discharge.
N.S.W. No. 13,
1898, s. 130.

102. The receipt in writing of the Curator for any moneys payable to him under this Part of this Ordinance shall be a sufficient discharge for the moneys to the persons paying them, and those persons shall not afterwards be liable for any misapplication of the moneys.

Quarterly
returns to
Attorney-
General and
accounts.
Ib. s. 131.

103. The Curator shall—

- (a) transmit, in the months of January, April, July, and October in every year to the Attorney-General, a return of all moneys received and paid by him, during the three months immediately preceding in respect of the estate entrusted to him to collect, distinguishing the particular estates in which they have been so received or paid;
- (b) furnish at the same time a separate and distinct return of all balances or sums whatsoever then in his hands to the credit of each of those estates; and
- (c) keep proper books of account in reference thereto, which shall once in every three months, or oftener if necessary, be examined and passed by the Attorney-General, or some officer appointed by him in that behalf.

The Curator to
invest moneys
after expiration
of six months.
Ib. s. 132.

104. The Curator shall, after the expiration of six months after the date of the order for collection of any estate, invest all moneys then standing to the credit of that estate as the Court by any general or special rule or order directs, and, subject to any such order or rule, in accordance with the rules of Court with reference to the investment of suitors' moneys under the charge or control of the Court.

Curator not
liable for acts
done in the
performance of
his duties.
Ib. s. 133.

105.—(1.) The Curator shall not be personally liable to any person in respect of goods or chattels in the possession of any testator or intestate at the time of his death which are sold by the Curator as the goods of the testator or intestate, unless the Curator knows, or has actual notice before the sale, that the goods or chattels are not in fact the property of the testator or intestate.

(2.) The Curator shall not be personally liable to any person for any act done *bona fide* in the performance of his duties, unless it is shown that the act was done not only illegally, but wilfully, or with gross negligence.

Proceeds of
property of
third person to
be handed over
to him.
Ib. s. 134.

106. In case of any sale by the Curator of goods or chattels belonging to any third person, the amount realized by the sale thereof shall be paid over by him to the owner upon proof of

ownership, unless it has been applied in the payment of the debts of the deceased, or has been distributed according to any will of the deceased, or in the ordinary course of administration, while the Curator was in ignorance and without actual notice of the claim of the person to the goods or chattels so sold.

107.—(1.) If it appears on office found that any real estate vested in the Curator has escheated to His Majesty, the net proceeds of sale of the estate shall be paid by the Curator to the Attorney-General, and be by him carried to the credit of the Consolidated Revenue Fund.

Conveyance of escheated lands and disposal of proceeds of sale.
N.S.W. No. 13, 1898, s. 135.

(2.) The Curator's conveyance of the real estate to the purchaser thereof shall operate to pass the right, title and interest of the deceased intestate to the purchaser as in any other case.

108.—(1.) The Curator shall, in the first week in January in each year, cause all sums of money, which shall, on the first day of that month, have been invested in pursuance of section one hundred and five of this Ordinance, and lying to the credit of any estate under his control for the term of six years then next preceding, to be paid to the Attorney-General for the public service subject to the provisions of the next succeeding section:

Payment to Attorney-General after six years.
ib. s. 136.
N.S.W. No. 14 1906, s. 5.

Provided that the Curator may retain at credit of any such estate any sums of money which he considers likely to be required to answer payments to be made out of the estate under any order of the Court in force on that day.

(2.) The Attorney-General shall pay all moneys received by him under this section to the credit of a fund to be called the "Intestate Estates Fund" which shall be a trust account within the meaning of section sixty-two A of the *Audit Act* 1901-1926.

109.—(1.) The Court may at any time—

(a) upon the petition of any person claiming to be entitled to any moneys so paid over to the Attorney-General; and

Parties entitled may apply subsequently.
N.S.W. No. 13, 1898, s. 137.

(b) upon being satisfied by affidavit, or other sufficient evidence, that that person is so entitled,

make an order for payment of those moneys, or any portion thereof, but—

(i) without interest thereon from the time of payment to the Attorney-General in pursuance of the last preceding section; and

(ii) after deducting any costs and expenses which have been incurred by the Curator or otherwise in respect of the application.

(2.) The Attorney-General, on being served with the order, shall, within a reasonable time, pay the amount mentioned therein to the person therein named, and the receipt of that person shall be a sufficient voucher for the payment.

PART VII.—MAINTENANCE OF WIDOWS AND YOUNG CHILDREN.

Definition.
Vic. No. 2611,
s. 108.

110. In this Part, unless the contrary intention appears—
“ Children ” does not include any male person who is over eighteen years of age or any female person who is over twenty-one years of age or married.

Court may
make order for
widow's or
children's
maintenance.
Ib. s. 109.

111. If any person disposes of his property, either wholly or partly, by will or codicil, in such a manner that, upon his death, his widow or children or any of them is or are left without sufficient means for their maintenance and support, or if any person disposes of her property, either wholly or partly, by will or codicil, in such a manner that, upon her death, her children or any of them are left without sufficient means for their maintenance and support, the Court may, in its discretion, if it thinks fit, upon the application by or on behalf of the widow, or children, or any of them, order such provision as to the Court seems proper, having regard to all the circumstances of the case, to be made out of the estate of the deceased person in or towards the maintenance and support of the widow, or children, or any of them.

Application by
summons in
chambers.
Ib. s. 110.

112.—(1.) Every such application shall be made by summons in chambers.

(2.) The summons shall be taken out by the applicant and served on the executor of the will of the deceased person or on the administrator with the will annexed of the estate of the deceased person.

(3.) The justice may, if he thinks fit, adjourn the summons into Court.

Service of
notice of
application.
Ib. s. 111.

113.—The Court may order such other persons as it thinks fit to be served with notice of the application.

Powers of
Court.
Ib. s. 112.

114. At the hearing of the application the Court shall inquire fully into the deceased person's estate, and for that purpose may—

- (a) summon and examine the widow and also such witnesses as may be necessary; and
- (b) require the executor or administrator to furnish full particulars of the deceased person's estate.

Court to
consider net
estate and
widow's or
children's
means.
Ib. s. 113.

115. In granting or refusing any such application and in fixing the amount of the provision to be made under this Part for the widow, or children, or any of them, the Court shall have regard (*inter alia*) to—

- (a) the net value only of the estate of the deceased person, as ascertained by deducting from the gross value thereof all debts, testamentary and funeral expenses, and all other lawful liabilities and charges to which the estate is subject; and

- (b) whether the widow, children, or any of them, are entitled to independent means, whether secured by any covenant, settlement, transfer, gift or other provision made by the deceased person during his or her life, or derived from any other source whatsoever.

116.—(1.) The Court may refuse any application if the character or conduct of the applicant is such as, in the opinion of the Court, to disentitle him or her to the benefit of any provision under this Part.

Cases in which Court may refuse application.
Vic. No. 2611,
s. 114.

(2.) The Court may, in making any order under this Part, impose such conditions, restrictions and limitations, whether to prevent, restrict or defeat any alienation or charge of or upon the benefit of any provision made under the order or otherwise, as it thinks fit.

117.—(1.) Every order under this Part making provision for any widow or child shall specify (*inter alia*)—

Contents of order.
Ib. s. 115.

- (a) the amount and nature of the provision;
- (b) the manner in which the provision shall be raised or paid out of some, and what, part or parts of the estate of the deceased persons; and
- (c) any conditions restrictions or limitations imposed by the Court.

(2.) The provision for a widow under this Part shall in no case exceed One thousand pounds per annum nor be more than the income or interest on such portion of the estate of the deceased persons as the widow would have been entitled to had the deceased person died intestate.

(3.) The burden of any such provision shall, as between the persons beneficially entitled to the estate of the deceased person, be borne by those persons in proportion to the values of their respective estates and interests in the estate:

Provided that the estates and interests of persons successively entitled to any property which is settled by the will, shall not, for the purposes of this sub-section, be separately valued, but the proportion of the provision made under this Part to be borne by that property shall be raised out of or charged against the corpus of the property.

(4.) The Court shall, in every case in which provision is made under this Part, direct that a certified copy of the order be made upon the probate of the will or letters of administration with the will annexed of the estate of the deceased person, and, for that purpose, shall retain in its custody the probate or letters of administration until the copy is made.

(5.) Every provision made under this Part shall, subject to the provisions of this Part, operate and take effect as if it had been made by a codicil to the will of the deceased person executed immediately before his or her death.

(6.) The Court may, at any time and from time to time, on the application by motion of the executor or administrator of the testator's estate or of any person beneficially entitled to or interested in any part of the estate of the deceased person, rescind or alter any order making provision for any widow or child.

(7.) Notice of the motion shall be served on all persons taking any benefit under the order sought to be rescinded or altered.

(8.) The Court may make such order as to the costs of any proceeding under this Part as it deems just.

Adjustment of
duty.
Vic. No. 2611,
s. 116.

118. For the purpose of apportioning the duty payable on the estate of any deceased person, any provision made under this Part shall be deemed to be a bequest made by the deceased person by a codicil executed immediately before his or her death, and payable in the manner provided by this Part.

Time within
which
application to
be made.
Ib. s. 117.

119. The Court shall have no jurisdiction to hear any application or to make any order under this Part, unless the summons referred to in section one hundred and thirteen of this Ordinance is taken out not later than six months after the date of the grant of probate of the will or of letters of administration with the will annexed, as the case may be.

PART VIII.—PROCEDURE.

Practice.

N.S.W. No. 13,
1898, s. 138.

120. Except where otherwise provided by this Ordinance, the practice of the Court shall be regulated by Rules of Court, and in the absence of a Rule of Court by order made by the Justice dealing with the matter.

Mode of taking
evidence.

Ib. s. 139.

121.—(1.) Subject to the Rules, the witnesses, and, where necessary, the parties in all matters where their attendance can be had, shall be examined orally in open court, whether the trial or proceeding be with or without a jury.

(2.) By leave of the Court in every case the parties may verify their respective cases in whole or in part by affidavit.

(3.) The deponent in every such affidavit shall be subject to be cross-examined by or on behalf of the opposite party orally in open court, and upon that cross-examination may be re-examined orally in open court by or on behalf of the party using the affidavit.

Trial of
question of fact
by jury.

Ib. s. 140.

122. The Court may direct any question of fact arising in any suit or proceeding under this Ordinance to be tried by a special or common jury.

123. When any question is so directed to be tried the question shall be reduced into the form of an issue, and shall be tried before the Court and a jury of four or twelve men at such time and place as the Court directs.

Question to be stated.
N.S.W. No. 13,
1893, s. 141.

124.—(1.) The Court may, on motion, or petition, or otherwise, in a summary way, whether any suit or other proceeding is or is not pending in the Court with respect to any probate or administration, order any person to produce and bring into the registry any paper or writing, being or purporting to be testamentary, or otherwise material to the matter before the Court, which is shown to be in the possession or under the control of that person.

Order to produce an instrument purporting to be testamentary.
Ib. s. 150.

(2.) If it is not shown that any such paper or writing is in the possession or under the control of that person, but it appears that there are reasonable grounds for believing that he has the knowledge of any such paper or writing, the Court may direct him to attend for the purpose of being examined in open court or upon interrogatories respecting the paper or writing.

(3.) Any such person directed so to attend shall be bound to answer such questions or interrogatories, and (if so ordered) to produce and bring in the paper or writing, and shall be subject to the like process of contempt in case of default in not attending or in not answering those questions or interrogatories, or not bringing in that paper or writing, as he would have been subject to in case he had been a party to a suit in the Court and had made that default.

(4.) The costs of any such motion, petition, or other proceeding shall be in the discretion of the Court.

PART IX.—MISCELLANEOUS.

125.—(1.) The Registrar shall cause entries to be made in a book to be kept for that purpose of—

Registrar to keep record of probates, &c.
Ib. s. 152.

- (a) all grants of probate and administration;
- (b) the filing, passing, and allowance of the accounts of all executors and administrators; and
- (c) any special order extending the time for passing those accounts.

(2.) The book referred to in the last preceding sub-section shall set forth—

- (a) the dates of the grants;
- (b) the names of the testators or intestates;
- (c) the place and time of death;
- (d) the names and description of the executors or administrators;
- (e) the sworn value of the estates; and
- (f) the dates of the filing, passing, allowance of, and special orders with reference to, the accounts.

Costs.

N.S.W. No. 13,
1898, s. 155.

126. In all matters under this Ordinance the question of costs and how they shall be paid shall be in the discretion of the Court subject to appeal as provided in this Ordinance.

**Concealment of
will a
misademeanour.
Vic. No. 2611,
s. 39.**

127.—(1.) Any person who retains or conceals or endeavours to retain or conceal any will or codicil, or aids or abets any person in that retention or concealment, with intent to defraud any person interested under the will or codicil, shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for two years, or both.

(2.) No prosecution for any such offence shall be commenced without the sanction of the Attorney-General, and no such sanction shall be given unless such previous notice of the application for leave to prosecute as the Attorney-General directs has been given to the person for whose prosecution the sanction is sought.

(3.) In addition to any punishment under this section, the person punished shall also be liable to an action for damages at the suit of the persons defrauded or those claiming under them for any loss sustained by them or any of them in consequence of such retention or concealment.

Prosecutions,

128.—(1.) All proceedings for offences (other than indictable offences) against this Ordinance may be heard and determined by any Court of Petty Sessions having jurisdiction in the Territory.

(2.) All proceedings for indictable offences against this Ordinance may be heard and determined by the High Court or by any Court of Quarter Sessions having jurisdiction in the Territory.

Rules.

N.S.W. No. 13,
1898, s. 154.

129.—(1.) The Justices of the High Court or a majority of them may make rules prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular for prescribing matters providing for and in relation to the regulation of the times and form and mode of procedure, and generally the practice of the Court, in respect of the several matters to which this Ordinance relates.

(2.) All rules made under this Ordinance shall—

- (a) be notified in the *Gazette*;
- (b) take effect from the date of notification or from a later date specified in the rules;
- (c) be laid before both Houses of the Parliament within forty days after they are made if the Parliament is then sitting, or if the Parliament is not then sitting then within forty days after the next meeting of the Parliament.

(3.) If an Address is presented to the Governor-General by either House of the Parliament within forty sitting days after any Rule is laid before it, praying that any such Rule be annulled the

Governor-General may thereupon annul it; and the Rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which have in the meantime been taken under it.

(4.) Evidence of any rule made under this Ordinance may be given in all courts by the production of the *Gazette* purporting to contain it, or by the production of a document purporting to be a copy thereof and purporting to be printed by the Government Printer or by the authority of the Government of the Commonwealth.

(5.) Subject to rules made under the *Judiciary Act* 1903-1927 or under this Ordinance and so far as such rules do not extend, the practice and procedure of the Court shall be regulated as nearly as may be according to the practice and procedure for the time being of the Supreme Court of New South Wales in its Probate Jurisdiction.

PART X.—FEES.

130. The fees set out in the Third Schedule hereto shall be payable to the Curator in connexion with matters to which this Ordinance relates.

Fees N.S.W.
Probate Rules.
Rule 74.

THE SCHEDULES.

THE FIRST SCHEDULE.

Short Title of Act.	Number of Act.	Extent to which Act ceases to Apply.
<i>Wills, Probate and Administration Act</i> 1898 ..	No. 13, 1898 ..	Part II.
<i>Stamp Duties Act</i> 1898	No. 27, 1898 ..	The whole so far as applicable
<i>Administration (Validity) Act</i> 1900 ..	No. 38, 1900 ..	The whole
<i>Companies (Death Duties) Act</i> 1901 ..	No. 30, 1901 ..	The whole
<i>Stamp Duties (Amendment) Act</i> 1904 ..	No. 24, 1904 ..	Part III.
<i>Stamp Duties (Deductions) Act</i> 1904..	No. 34, 1904 ..	The whole
<i>Administration Amending Act</i> 1906 ..	No. 14, 1906 ..	The whole

THE SECOND SCHEDULE.

	£	s.	d.
For every order to administer where effects appear to be above £50	0	7	6
Where effects appear to be £50 or under—			
For every order to pay money if £10 and under £20 ..	..	0	2 6
If £20 and under £50 .. ..	..	0	5 0
If £50 and under £100 .. ..	..	0	10 0
And on every £100 above the first .. ..	..	0	2 6
For every common order .. ..	..	0	2 6
For every special order .. ..	..	0	5 0
For every office copy (per folio) .. ..	..	0	0 6
On every audit of accounts, including the direction to invest assets if the amount which shall have been in the Curator's hands be			
under £20 .. ..	..	0	5 0
If £20 and under £50 .. ..	..	0	7 6
If £50 and under £100 .. ..	..	0	10 0
For every £100 above the first .. ..	..	0	2 6

THE THIRD SCHEDULE.

	£	s.	d.
1. Every search (other than search for objections to accounts) ..	0	1	6
2. Filing documents in support of any application for probate or administration, including search for caveat (except those in support of any application under Part IV. of the Ordinance)— Where gross value of the estate does not exceed £500 ..	0	12	6
Where gross value of estate exceeds £500 ..	1	0	0
3. Filing any subsequent affidavit or other document in response to Registrar's requisition or otherwise in support of application for probate or administration ..	0	1	6
4. Filing accounts ..	0	5	0
5. Vouching accounts, including appointment filing all documents in support of accounts, certificates, and order, and making search for objections ..	0	10	0
6. Additional vouching fee, in exceeding one hour—for every additional hour ..	0	5	0
7. Citation and praecipe ..	0	6	6
8. Subpoena and praecipe ..	0	6	6
9. Caveat ..	0	5	0
10. Chamber summons ..	0	2	6
11. Filing Petition ..	0	2	6
12. Notice of motion ..	0	5	0
13. Exemplification (including seal of Court) ..	1	0	0
14. Office copy of Will (per folio), or other document, per folio ..	0	0	6
15. Examination and certificate of same ..	0	2	6
16. Order and filing ..	0	4	6
17. Decree and filing ..	0	7	6
18. Certificate of Registrar ..	0	5	0
19. Filing bill of costs ..	0	1	6
20. Appointment to tax costs ..	0	3	0
21. Taxing costs, whether in suits or between proctor and client, up to £10 ..	0	5	0
22. Taxing costs, whether in suits or between proctor and client, over £10 on amount allowed ..	2½	per cent.	
23. For every allocatur, on taxation ..	0	5	0
24. Moderating costs—same fee as on taxing costs ..			
25. Filing any other document not specified ..	0	1	6
26. Copy probate or administration ..	1	0	0

Dated this eighth day of October, One thousand nine hundred and twenty-nine.

STONEHAVEN

Governor-General.

By His Excellency's Command,

J. G. LATHAM

for Minister of State for Home Affairs.

By Authority: H. J. GREEN, Government Printer, Canberra.