



Application of Enactments Ordinance 1954 (FLK No.13 of 1954)

Application of Colony Laws Ordinance 1955 (DS No.1 of 1955)

Supreme Court of Judicature (Consolidation) Act, 1925

UK Legis LINK as [Supreme Court of Judicature \(Consolidation\) Act 1925 c.49](#)
originally enacted

English 30 September 1925
commencement

English status Repealed and replaced

AEO Schedule No. 29

Date applied in SGSSI: 1 November 1954

Extent of application: Sections 155. 159-166. 167(7). 185, 186. 187 and Section 188 except sub-section (4).

An Act to consolidate the Judicature Acts, 1873 to 1910, and other enactments relating to the Supreme Court of Judicature in England and the administration of justice therein.

[31st July 1925.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

155 Power to grant representation of real and personal estate separately or together

- (1) Probate or administration in respect of the real estate of a deceased person, or any part thereof, may be granted either separately or together with probate or administration of his personal estate, and may also be granted in respect of real estate only where there is no personal estate, or in respect of a trust estate only, and a grant of administration to real estate may be limited

in any way the court thinks proper :

Provided that where the estate of the deceased is known to be insolvent, the grant of representation to the estate shall not be severed except as regards a trust estate.

- (2) Provision may be made by probate rules and orders for adapting to the case of real estate the procedure and practice on the grant of administration.

159 Summons of executor to prove or to renounce

The High Court shall have power to summon any person named as an executor in a will to prove or renounce probate of the will, and to do such other things concerning the will as were customary before the commencement of this Act.

160 Provisions as to the number of personal representatives

- (1) Probate or administration shall not be granted to more than four persons in respect of the same property, and administration shall, if there is a minority or if a life interest arises under the will or intestacy, be granted wither to a trust corporation, with or without an individual, or to not less than two individuals:
Provided that the court in granting administration may act on such prima facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by probate rules and orders.
- (2) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest and until the estate is fully administered, the court may, on the application of any person interested or of the guardian, committee or receiver of any such person, appoint one or more personal representatives in addition to the original personal representative in accordance with probate rules and orders.
- (3) This section shall apply to grants made after the date of the commencement of this Act, whether the testator or intestate died before or after that date

161 Power to grant representation to a trust corporation

- (1) The High Court may—
- (a) where a trust corporation is named in a will as executor, whether alone or jointly with another person, grant probate to the corporation either solely or jointly with another person, as the case may require; and
 - (b) grant administration to a trust corporation, either solely or jointly with another person,

and the corporation may act accordingly as executor or administrator, as the case may be.

- (2) Probate or administration shall not be granted to a syndic or nominee on behalf of a trust corporation.
- (3) Any officer authorised for the purpose by a trust corporation or the directors or governing body thereof may, on behalf of the corporation, swear affidavits, give security and do any other act or thing which the court may require with a view to the grant to the corporation of probate or administration, and the acts of an officer so authorised shall be binding on the corporation.
- (4) Where, at the commencement of this Act, any interest in any estate is vested in a syndic on behalf of a trust corporation acting as the personal representatives of a deceased person, the said interest shall, by virtue of this Act, vest in the corporation, and the syndic shall be kept indemnified by the corporation in respect of the said interest.

This subsection shall not apply to securities registered or inscribed in the name of a syndic or to land or a charge registered under the Land Registration Act, 1925, in the name of a syndic, but any such securities, land or charge, shall be transferred by the syndic to the corporation or as the corporation may direct.
- (5) This section shall have effect whether the intestate died before or after the commencement of this Act, and no such vesting or transfer as aforesaid shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

162 Discretion of court as to persons to whom administration is to be granted

- (1) In granting administration the High Court shall have regard to the rights of all persons interested in the estate of the deceased person or the proceeds of sale thereof, and, in particular, administration with the will annexed may be granted to a devisee or legatee, and in regard to land settled previously to the death of the deceased and not by his will, may be granted to the trustees of the settlement, and any such administration may be limited in any way the court thinks fit:

Provided that where the deceased died wholly intestate as to his estate, administration shall —

 - (a) unless by reason of the insolvency of the estate or other special circumstances the court thinks it expedient to grant administration to some other person, be granted to some one or more of the persons interested in the residuary estate of the deceased, if they make an application for the purpose; and
 - (b) as regards land settled previously to the death of the deceased, be granted to the trustees, if any, of the settlement if willing to act.
- (2) This section shall apply only in the case of persons dying after the date of the commencement of this Act, and the High Court in granting administration in the case of persons dying at any time before that date shall act in accordance

with the principles and rules in accordance with which it would have acted if this Act had not passed.

163 Administration *pendente lite*

- (1) Where any legal proceedings touching the validity of the will of a deceased person, or for obtaining, recalling or revoking any grant, are pending, the High Court may grant administration of the estate of the deceased to an administrator, who shall have all the rights and powers of a general administrator, other than the right of distributing the residue of the estate, and every such administrator shall be subject to the immediate control of the court and act under its direction.
- (2) The court may, out of the estate of the deceased, assign to an administrator appointed under this section such reasonable remuneration as the court thinks fit.

164 Grant of special administration where personal representative is abroad

- (1) If at the expiration of twelve months from the death of a person any personal representative of the deceased to whom a grant has been made is residing out of the jurisdiction of High Court, the court may, on the application of any creditor or person interested in the estate of the deceased, grant to him in the prescribed form special administration of the estate of the deceased.
- (2) The court may, for the purpose of any legal proceedings to which the administrator under the special administration is a party, order the transfer into court of any money or securities belonging to the estate of the deceased person, and all persons shall obey any such order.
- (3) If the personal representative capable of acting as such returns to and resides within- the jurisdiction of the High Court while any legal proceedings to which a special administrator is a party are pending, that personal representative shall be made a party to the legal proceedings, and the costs of and incidental to the special administration and the legal proceedings shall be paid by such person and out of such fund as the court in which the proceedings are pending may direct.

165 Administration during minority of executor

- (1) Where an infant is sole executor of a will, administration with the will annexed shall be granted to his guardian, or to such other person as the court thinks fit, until the infant attains the age of twenty-one years, and on his attaining that age, and not before, probate of the will may be granted to him.
- (2) Where a testator by his will appoints an infant to be an executor, the appointment shall not operate to transfer any interest in the property of the

deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him under this section.

166 Administration with will annexed

Subject to the provisions of any enactment relating to special executors in the case of settled land, administration with the will annexed shall continue to be granted in every case where such a grant was customary before the commencement of this Act, and in such case the will of the deceased shall be performed and observed in like manner as if probate thereof had been granted to an executor.

167 Administration bonds

(1) ...

(7) Probate rules and orders may be made for providing that sureties to administration bonds shall not be required when the grant is made to a trust corporation or to two or more individuals, or in any other proper case.

185 Decree for Judicial Separation

(1) A petition for judicial separation may be presented to the court either by the husband or the wife on the ground of adultery or cruelty, desertion without cause for not less than two years, failure to comply with a decree for restitution of conjugal rights, or on any ground on which a decree for divorce *a mensa et thoro* might have been pronounced immediately before the commencement of the Matrimonial Causes Act, 1857.

(2) The court may, on being satisfied that the allegations contained in the petition are true and that there is no legal ground why the petition should not be granted, make a decree for judicial separation, and any such decree shall have the same force and effect as a decree for divorce *a mensa et thoro* had immediately before the commencement of the Matrimonial Causes Act, 1857.

(3) The court may, on the application by petition of the husband or wife against whom a decree for judicial separation has been made, and on being satisfied that the allegations contained in the petition are true, reverse the decree at any time after the making thereof, on the ground that it was obtained in the absence of the person making the application, or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

(4) The reversal of a decree for judicial separation shall not affect the rights or remedies which any other person would have had if the decree had not been reversed in respect of any debts, contracts or acts of the wife incurred,

entered into or done between the date of the decree and of the reversal thereof.

186 Decree for restitution of conjugal rights

A petition for restitution of conjugal rights may be presented to the court either by the husband or the wife, and the court, on being satisfied that the allegations contained in the petition are true, and that there is no legal ground why a decree for restitution of conjugal rights should not be granted, may make the decree accordingly

187 Periodical payments in lieu of attachment

- (1) A decree for restitution of conjugal rights shall not be enforced by attachment, but where the application is by the wife the court, at the time of making the decree or at any time afterwards, may, in the event of the decree not being complied with within any time in that behalf limited by the court, order the respondent to make to the petitioner such periodical payments as may be just, and the order may be enforced in the same manner as an order for alimony in proceedings for judicial separation.
- (2) The court may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure to the wife the periodical payments, and for that purpose may direct that it shall be referred to one of the conveyancing counsel of the court to settle and approve a proper deed or instrument to be executed by all necessary parties.

188 Declaration of legitimacy

- (1) Any person who is a natural-born subject of His Majesty, or whose right to be deemed a natural born subject of His Majesty depends wholly or in part on his legitimacy or on the validity of any marriage, may, if he is domiciled in England or Northern Ireland or claims any real or personal estate situate in England, apply by petition to the court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage or that his own marriage was a valid marriage.
- (2) Any person who is so domiciled or claims as aforesaid, may apply to the court for a decree declaring his right to be deemed a natural-born subject of His Majesty.
- (3) Applications under subsections (1) and (2) of this section may be included in the same petition and on any such application the court shall make such decree as the court thinks just, and the decree shall be binding on His Majesty and all other persons whatsoever :

- (4) [not applied]
- (5) In any application under this section such persons shall, subject to rules of court, be cited to see proceedings or otherwise summoned as the court* shall think fit, and any such persons may be permitted to become parties to the proceedings and to oppose the application.
- (6) The provisions of this Act relating to matrimonial causes shall, so far as applicable, extend to any proceedings under this section.
- (7) No proceedings under this section shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

Notes:

1. Please see www.legislation.gov.uk website for the original Act and subsequent amendments and then consider it in the light of extent of application noted above and the Principal Adaptive Provisions.
2. This Act, whilst of historic importance in England and elsewhere, notwithstanding its repeal and replacement, has next to no current application in South Georgia and the South Sandwich Islands

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2. The Government cannot guarantee that links to any other website, including www.legislation.gov.uk will remain current, active or accurate.
3. The only official publication of the laws of South Georgia and the South Sandwich Islands is made in the *Gazette*.

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