

THE ADMINISTRATOR GENERAL'S ACT, 1913.

(III of 1913.)

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THE SCHEDULE.—ENACTMENTS REPEALED.

ACT NO. III OF 1913.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.

(Received the assent of the Governor General on
the 27th February 1913.)

An Act to consolidate and amend the law
relating to the office and duties of
Administrator General.

WHEREAS it is expedient to consolidate and
amend the law relating to the office and
duties of Administrator General; It is hereby enacted
as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Administrator General's Act, 1913. Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan, and applies also to all British and Indian subjects of His Majesty in the territories of Native States in India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

2. In this Act, unless there is anything repugnant in the subject or context,— Interpreta-
tion clause.

(1) "assets" means all the property, moveable and immovable, of a deceased person, which is chargeable with, and applicable to, the payment of his debts and legacies, or available for distribution among his heirs and next-of-kin :

(2) "exempted person" means an Indian Christian

tian, a Hindu, Muhammadan, Parsi or Buddhist, or a person exempted under section 332 of the Indian Succession Act, 1865 from the operation of that Act : x of 1865.

(3) "Government" means the Governor General in Council, so far as the Act relates to the Presidency of Bengal and the Local Governments of Madras and Bombay respectively, so far as the Act relates to those Presidencies :

(4) "Indian Christian" means a Native of India who is or in good faith claims to be of unmixed Asiatic descent, and who professes any form of the Christian religion :

(5) "Letters of Administration" includes any letters of administration, whether general or with a copy of the will annexed, or limited in time or otherwise :

(6) "next-of-kin" includes widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

(7) "Official Gazette" means, in the case of the Presidency of Bengal, the Gazette of India, and in the cases of the Presidencies of Madras and Bombay, the Fort St. George and Bombay Government Gazettes, respectively :

(8) "Prescribed" means prescribed by rules under this Act :

(9) (a) "Presidency of Bengal" includes the territories for the time being under the government of the Governor of Fort William in Bengal in Council, the United Provinces of Agra and Oudh, the provinces of the Punjab, Burma, Bihar and Orissa, the Central Provinces, Assam, the North-West Frontier Province, the province of Delhi, Ajmer and Merwara, the Andaman and Nicobar Islands, and such of the territories of Native States

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States aforesaid as the Governor General in Council may, by notification in the Gazette of India, direct :—

(b) "Presidency of Bombay" includes the territories for the time being under the government of the Governor of Bombay in Council, the Province of British Baluchistan, and such of the territories of Native States aforesaid as the Governor General in Council may, by notification in the Gazette of India, direct :

(c) "Presidency of Madras" includes the territories for the time being under the government of the Governor of Fort St. George in Council, the province of Coorg, and such of the territories of Native States aforesaid as the Governor General in Council may, by notification in the Gazette of India, direct.

(10) "Presidency" means any of the Presidencies mentioned in clause (9).

PART II.

THE OFFICE OF ADMINISTRATOR GENERAL.

3. (1) In each of the Presidencies of Bengal, Madras and Bombay, the Government shall appoint an Administrator General.

(2) No person shall be appointed to the office of Administrator General of any of the said Presidencies who is not—

- (a) a Barrister ; or
- (b) an Advocate, Attorney or Vakil enrolled by a High Court ; or
- (c) a person holding the office of Deputy Administrator General at the commencement of this Act.

(3) The said Administrators General shall be called respectively the Administrator General of Bengal

Appointment and designation of the Administrators General in the three Presidencies.

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Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment and powers of Deputy Administrators General.

4. The Government may appoint a Deputy or Deputies to assist the Administrator General; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator General, be competent to discharge any of the duties and to exercise any of the powers of the Administrator General, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator General.

Administrator General to be a corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name.

5. The Administrator General shall be a corporation sole by the name of the Administrator General of the Presidency for which he is appointed and, as such Administrator General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF THE ADMINISTRATOR GENERAL.

(a) *Grants of Letters of Administration and Probate.*

As regards Administrator General, High Court at Presidency-town to be deemed a Court of competent jurisdiction for the purpose of granting probate or letters of administration.

6. So far as regards the Administrator General of any Presidency, the High Court at the Presidency-town shall be deemed to be a Court of competent jurisdiction for the purpose of granting probate or letters of administration under any law for the time being in force wheresoever within the Presidency the estate to be administered is situate.

8. Any

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7. Any letters of administration which are granted after the commencement of this Act by the High Court at any Presidency-town, shall be granted to the Administrator General of the Presidency, unless they are granted to the next-of-kin of the deceased.

Administrator General entitled to letters of administration, unless granted to next-of-kin. Administrator General entitled to letters of administration in preference to creditor, non-universal legatee or friend.

8. The Administrator General of the Presidency shall be deemed by all the Courts in the Presidency to have a right to letters of administration other than letters *pendente lite* in preference to that of—

- (a) a creditor ; or
- (b) a legatee other than an universal legatee ; or
- (c) a friend of the deceased.

9. If any person, not being an exempted person, has died leaving within any Presidency assets exceeding the value of one thousand rupees,

When Administrator General is to administer estates of persons other than exempted persons.

and if no person to whom any Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his will, or for letters of administration of his estate,

the Administrator General of the Presidency in which such assets are shall, subject to any rules made by the Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court at the Presidency-town letters of administration of the estate of such person.

10. Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at a Presidency-town, the Court, on being satisfied that danger is to be apprehended of misappropriation, deterioration or waste of such assets unless letters of administration of the estate of such person are granted, may upon the application of the Administrator General or of any person interested in such assets or in the due administration

Power to direct Administrator General to apply for administration.

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tration thereof, make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as the Court thinks fit, directing the Administrator General to apply for letters of administration of the estate of such person :

Provided that, in the case of an application being made under this section for letters of administration of the estate of an exempted person, the Court may refuse to grant letters of administration, if it is satisfied that such grant is unnecessary for the protection of the assets; and in such case the Court shall make such order as to the costs of the application as it thinks fit.

Power to direct Administrator General to collect and hold assets until right of succession or administration is determined.

11. (1) Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts,

and such Court is satisfied that there is no person immediately available, who is legally entitled to the succession to such assets, or that danger is to be apprehended of misappropriation, deterioration or waste of such assets, before it can be determined who may be legally entitled to the succession thereto, or whether the Administrator General is entitled to letters of administration of the estate of such deceased person,

the Court may, upon the application of the Administrator General or of any person interested in such assets, or in the due administration thereof, forthwith direct the Administrator General to collect and take possession of such assets, and to hold, deposit, realize, sell or invest the same according to the directions of the Court, and in default of any such directions according to the provisions of this Act so far as the same are applicable to such assets.

(2) Any order of the Court made under the provisions of this section shall entitle the Administrator General,

(a) to maintain any suit or proceeding for the recovery of such assets, and

(b) if

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- (b) if he thinks fit, to apply for letters of administration of the estate of such deceased person, and
- (c) to retain out of the assets of the estate any fees chargeable under rules made under this Act, and to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

12. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, any person appears and establishes his claim—

Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator General under sections 9, 10 and 11.

- (a) to probate of the will of the deceased ; or
- (b) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General the costs of any proceedings taken by him, under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

13. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, no person appears and establishes his claim to probate of a will or to a grant of letters of administration as next-of-kin of the deceased, within such period as to the Court seems reasonable,

Grant of administration to Administrator General in certain cases.

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law,

the Court may grant letters of administration to the Administrator General.

14. Nothing in this Act shall be deemed to preclude

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for General not precluded from applying for letters within one month after death.

clude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

(b) Estates of Persons subject to the Army Act.

Act not to affect Regimental Debts Act, 1893.

15. Nothing in this Act shall be deemed to affect the provisions of the Regimental Debts Act, 1893. 55 & 56 Vict., c. 57.

Letters of administration not necessary in respect of small estates administered by Administrator General in accordance with the Regimental Debts Act, 1893.

16. It shall not be necessary for the Administrator General to take out letters of administration of the estate of any deceased person which is being administered by him in accordance with the provisions of the Regimental Debts Act, 1893, if the value of such estate does not on the date when such administration is committed to him exceed rupees one thousand, but he shall have the same power in regard to such estate as he would have had if letters of administration had been granted to him. 55 & 56 Vict., c. 57.

Power to grant Administrator General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893.

17. If the Administrator General applies, in accordance with the provisions of the Regimental Debts Act, 1893, for letters of administration of the estate of any person subject to the Army Act, the Court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Regimental Debts Act, 1893. 55 & 56 Vict., c. 57.

(c) Revocation of Grants.

Recall of Administrator General's administration, and grant of probate, etc., to executor or next-of-kin.

18. If an executor or next-of kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto establishes to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General,

ral,

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ral, any letters of administration granted in accordance with the provisions of this Act to the Administrator General may be revoked, and probate or letters of administration may be granted to such executor or next-of-kin as the case may be :

Provided that no letters of administration granted to the Administrator General shall be revoked for the cause aforesaid, except in cases in which a will of the deceased is proved in the Presidency, unless the application for that purpose is made within six months after the grant to the Administrator General and the Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

19. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of the estate :

Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator General out of assets.

Provided that nothing in this section shall affect the provisions of clause (c) of sub-section (2) of section 11.

20. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void :

After revocation, letters granted to Administrator General to be deemed as to him to have been voidable only.

Provided that no notice of a will or of any other fact which would render any such letters void shall affect

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affect the Administrator General or any person acting under his authority in pursuance of such letters unless within the period of one month from the time of giving such notice, proceedings are commenced to prove the will, or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay.

Payments made by Administrator General prior to revocation.

21. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(d) General.

Administrator General's petition for grant of letters of administration.

22. Whenever any Administrator General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letters states,

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner,
- (ii) the names and addresses of the surviving next-of-kin of the deceased if known,
- (iii) the particulars and value of the assets likely to come into the hands of the petitioner,
- (iv) particulars of the liabilities of the estate if known.

Probates or letters to be granted to Administrator General by

23. (1) All probates or letters of administration granted to any Administrator General shall be granted to him by that name, and all probates or letters of administration

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administration heretofore granted to the Ecclesiastical Registrar or to the Administrator General of any Presidency shall authorise the Administrator General of the same Presidency to act as executor or administrator, as the case may be, of the estate to which such probate or letters relate.

his name of office, and powers of that officer in cases in which probate or letters of administration have been granted to the Ecclesiastical Registrar.

(2) All probates and letters of administration granted to the Ecclesiastical Registrar of any of the late Supreme Courts shall have the same effect in all respects as to any act hereafter done or required to be done under this Act as if they had been granted to the Administrator General.

24. Probate or letters of administration granted by the High Court at any Presidency-town to the Administrator General of any Presidency shall have effect over all the assets of the deceased throughout such Presidency, and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator General :

Effect of probate or letters granted to Administrator General.

Provided that the High Court may direct, by its grant, that such probate or letters of Administration shall have like effect throughout one or more of the other Presidencies.

Whenever a grant is made by a High Court to the Administrator General with such effect as last aforesaid, the Court shall send to the other High Courts a certificate that such grant has been made, and such certificate shall be filed by the Courts receiving the same.

25. (1) Any private executor or administrator may, with the previous consent of the Administrator General of the Presidency in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of

administration, Transfer by private executor or administrator of interest under probate or letters.

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administration; are situate, by an instrument in writing under his hand notified in the official Gazette, transfer the assets of the estate vested in him by virtue of such probate or letters to the Administrator General by that name or any other sufficient description.

(2) As from the date of such transfer the transferor shall be exempt from all liability as such executor or administrator, as the case may be, except in respect of acts done before the date of such transfer, and the Administrator General shall have the rights which he would have had, and be subject to the liabilities to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by that name at the date of such transfer.

Distribution
of assets.

26. (1) When the Administrator General has given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he has notice of.

(2) He shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution.

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator General shall affect him unless proceedings to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such proceedings are prosecuted without unreasonable delay.

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively.

(5) In

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(5) In computing the period of limitation for any suit, appeal or application under the provisions of any law for the time being in force, the period between the date of submission of the claim of a creditor to the Administrator General and the date of the final decision of the Administrator General on such claim shall be excluded.

27. (1) When the Administrator General has, so far as may be, discharged all the liabilities of an estate administered by him, he shall notify the fact in the official Gazette, and he may, by an instrument in writing, with the consent of the Official Trustee and subject to any rules made by the Government, appoint the Official Trustee to be the trustee of any assets then remaining in his hands.

Appointment of Official Trustee as trustee of assets after completion of administration.

(2) Upon such appointment such assets shall vest in the Official Trustee as if he had been appointed trustee in accordance with the provisions of the Official Trustees Act, 1913, and shall be held by him upon the same trusts as the same were held immediately before such appointment.

28. (1) The High Court at the Presidency-town may, on application made to it, give to the Administrator General of the presidency any general or special directions as to any estate in his charge or in regard to the administration of any such estate.

Power for High Court to give directions regarding administration of estate.

(2) Applications under sub-section (1) may be made by the Administrator General or any person interested in the assets or in the due administration thereof.

29. (1) No Administrator General shall be required by any Court to enter into any administration-bond, or to give other security to the Court, on the grant of any letters of administration to him by that name.

No security nor oath to be required from Administrator General.

(2) No Administrator General or Deputy Administrator General shall be required to verify, otherwise

Manner in which petitions to be verified by Administrator General and his Deputy.

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wise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Entry of Administrator General not to constitute notice of a trust.

(3) The entry of the Administrator General by that name in the books of a Company shall not constitute notice of a trust, and a Company shall not be entitled to object to enter the name of the Administrator General on its register by reason only that the Administrator General is a corporation and in dealing with assets the fact that the person dealt with is the Administrator General shall not of itself constitute notice of a trust.

Power to examine on oath.

30. The Administrator General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath (which he is hereby authorised to administer) any person who is willing to be so examined by him regarding such question.

(e) Grant of Certificates.

In what case Administrator General may grant certificate.

31. Whenever any person has died leaving assets within any Presidency, and the Administrator General of such Presidency is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank, or in any Provident Fund to which the provisions of the Provident Funds Act, 1897, apply, did not at the date of death exceed in the whole one thousand rupees—in value, he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, grant to any person, claiming otherwise than as a creditor to be interested in such assets, or in the due administration thereof, a certificate under his hand entitling the

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the claimant to receive the assets therein mentioned left by the deceased, within the Presidency to a value not exceeding in the whole one thousand rupees :

Provided that no certificate shall be granted under this section—

- (i) where probate of the deceased's will or letters of administration of his estate has or have been granted, or
- (ii) in respect of any sum of money deposited in a Government Savings Bank or in any Provident Fund to which the provisions of the Provident Funds Act, 1897, apply.

32. If, in cases falling within section 31, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains, within three months of the death of the deceased a certificate from the Administrator General under the same section, or probate of a will or letters of administration of the estate of the deceased, and such deceased was not an exempted person, or was an exempted person who has left assets within the ordinary original civil jurisdiction of the High Court, or within any area notified by the Government in this behalf in the official Gazette, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters had been granted to him ;

Grant of certificate to creditors and power to take charge of certain estates.

and if he neglects or refuses to administer such estate, he shall, upon the application of a creditor, grant a certificate to him in the same manner as if he were interested in such assets otherwise than as a creditor,

and such certificate shall have the same effect as a certificate granted under the provisions of section 31, and shall be subject to all the provisions of this Act which are applicable to such certificate :

Provided that the Administrator General may,

before
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before granting such certificate, if he thinks fit, require the creditor to give reasonable security for the due administration of the estate of the deceased.

Administrator
General not
bound to
grant
certificate
unless satisfied
of claimant's
title, etc.

33. The Administrator General shall not be bound to grant any certificate under section 31 or section 32, unless he is satisfied of the title of the claimant and of the value of the assets left by the deceased within the presidency, either by the oath of the claimant, or by such other evidence as he requires.

Effect of
certificate.

34. The holder of a certificate granted in accordance with the provisions of section 31 or section 32, shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him :

Provided that nothing in this section shall be deemed to require any person holding such certificate,

- (a) to file accounts or inventories of the assets of the deceased before any Court or other authority, or
- (b) save as provided in section 32 to give any bond for the due administration of the estate.

Revocation of
certificate.

35. The Administrator General may revoke a certificate granted under the provisions of section 31 or section 32 on any of the following grounds, namely :—

- (i) that the certificate was obtained by fraud or misrepresentation made to him,
- (ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

Surrender of
revoked
certificate.

36. (1) When a certificate is revoked in accordance

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

ance with the provisions of section 35, the holder thereof shall, on the requisition of the Administrator General, deliver it up to such Administrator General, but shall not be entitled to the refund of any fee paid thereon.

(2) If such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

37. The Administrator General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate, under section 31 or section 32, but he may do so if he revokes such certificate under section 35 or ascertains that the value of the estate exceeded one thousand rupees.

Administrator General not bound to take out administration on account of assets for which he has granted certificate.

38. Where a person not having his domicile in British India has died leaving assets in any Presidency and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in any such Presidency have been taken under section 31 or section 32, and there has been a grant of administration in the country of domicile with respect to the assets in that country,

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

the holder of the certificate granted under section 31 or section 32, or the Administrator General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as

the

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

(f) *Liability.*

Liability of Government.

39. (1) The revenues of the Government of India shall be liable to make good all sums required to discharge any liability which the Administrator General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator General nor any of his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence have averted, and in either of those cases the Administrator General shall not, nor shall the revenues of the Government of India, be subject to any liability.

(2) Nothing in sub-section (1) shall be deemed to render the Government of India or the Administrator General liable for anything done before the commencement of this Act, by or under the authority of the Administrator General.

Creditors' suit against Administrator General.

40. (1) If any suit be brought by a creditor against any Administrator General, such creditor shall be liable to pay the costs of the suit unless he proves that not less than one month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of his claim, and had given such evidence in support thereof as, in the circumstances of the case, the Administrator General was reasonably entitled to require.

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

Notice of suit not required in certain cases.

41. Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply to any suit against the Administrator General in which no relief is claimed against him personally. v. of 1908.

PART IV

PART IV.

FEES.

42. (1) There shall be charged in respect of ^{Fees.} the duties of the Administrator General such fees, whether by way of percentage or otherwise, as may be prescribed by the Government:

Provided that in the case of any estate, the administration of which has been committed to the Administrator General before the commencement of this Act, the fees prescribed under this section shall not exceed the fees leviable in respect of such estate under the Administrator General's Act, 1874, as ^{II of 1874.} subsequently amended:

Provided further that in respect of the duties of the Administrator General under the Regimental Debts Act, 1893, the fees prescribed in this section shall be determined in accordance with the provisions of that Act. ^{55 & 56 Vict, c. 57.}

(2) The fees under this section may be at different rates for different estates or classes of estates or for different duties, and shall so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act (including such sum as Government may determine to be required to insure the revenues of the Government of India against loss under this Act).

43. (1) Any expenses which might be retained ^{Disposal of fees.} or paid out of any estate in the charge of the Administrator General, if he were a private administrator of such estate, shall be so retained or paid and the fees prescribed under section 42 shall be retained or paid in like manner as and in addition to such expenses.

(2) The Administrator General shall transfer and pay to such authority, in such manner and at such time as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government of India.

PART V.

Administrator General. [ACT III,

(Part V.—Audit of the Administrator General's Accounts.)

PART V.

AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS.

Audit of Administrator General's accounts.

44. The accounts of every Administrator General shall be audited at least once annually, and at any other time if the Government so direct, by the prescribed person and in the prescribed manner.

Auditors to examine accounts and report to Government.

45. The auditors shall examine the accounts and forward to the Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by them showing—

- (a) whether they contain a full and true account of everything which ought to be inserted therein,
- (b) whether the books which by any rules made under this Act are directed to be kept by the Administrator General, have been duly and regularly kept, and
- (c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made thereunder,

or (as the case may be) that such accounts are deficient, or that the Administrator General has failed to comply with this Act or the rules made thereunder, in such respects as may be specified in such certificate.

Power of auditors to summon and examine witnesses, and to call for documents.

46. (1) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, V of 1908,

- (a) to summon any person whose presence he thinks necessary to attend him from time to time; and
- (b) to examine any person on oath to be by him administered; and
- (c) to issue a commission for the examination on

(Part VI—Miscellaneous.)

on interrogatories or otherwise of any person; and

- (d) to summon any person to produce any document or thing the production of which appears to be necessary for the purpose of such audit or examination.

(2) Any person who when summoned refuses, or without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code, and the auditor shall report every case of such refusal or neglect to Government. ^{XLV of 1860.}

47. The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the Government, and shall be defrayed in the prescribed manner. ^{Costs of audit, etc.}

PART VI.

MISCELLANEOUS.

48. The Administrator General may, in addition to, and not in derogation of, any other powers of expenditure lawfully exerciseable by him, incur expenditure— ^{General powers of Administration.}

- (a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge; and
- (b) with the sanction of the High Court at the Presidency-town on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Administrator General.
(*Part VI—Miscellaneous.*)

[ACT III,

Power of person beneficially interested to inspect Administrator General's accounts, etc. and take copies.

49. Any person interested in the administration of any estate, which is in the charge of the Administrator General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

Power to make rules.

50. (1) The Government shall make rules for carrying into effect the objects of this Act and for regulating the proceedings of the Administrator General.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the accounts to be kept by the Administrator General and the audit and inspection thereof,
- (b) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator General,
- (c) the remittance of sums of money in the hands of the Administrator General, in cases in which such remittances are required,
- (d) subject to the provisions of this Act, the fees to be paid under this Act, and the collection and accounting for any such fees,
- (e) the statements, schedules and other documents to be submitted to the Government or to any other authority by the Administrator General, and the publication of such statements, schedules or other documents,
- (f) the realization of the cost of preparing any such statements, schedules or other such documents,

(g) the

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Administrator-General.

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- (g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed,
- (h) the manner in which summonses issued under the provisions of section 46 are to be served and the payment of the expenses of any persons summoned or examined under the provisions of this Act and of any expenditure incidental to such examination, and
- (i) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

51. Whoever, during any examination authorised by this Act, makes upon oath a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

52. All assets in the charge of the Administrator General which have been in his custody for a period of twelve years or upwards whether before or after the commencement of this Act without any application for payment thereof having been made and granted by him shall be transferred, in the prescribed manner, to the account and credit of the Government of India :

Provided that this section shall not authorise the transfer of any such assets as aforesaid, if any suit or proceeding is pending in respect thereof in any Court.

53. (1) If any claim is hereafter made to any part of the assets transferred to the account and credit of the Government of India under the provisions of this Act, or any Act hereby repealed, and if such

False evidence.

Assets unclaimed for twelve years to be transferred to Government.

Mode of proceeding by claimant to recover principal money so transferred.

(Part VI—Miscellaneous.)

such claim is established to the satisfaction of the prescribed authority, the Government of India shall pay to the claimant the amount of the principal so transferred to its account and credit or so much thereof as appears to be due to the claimant.

(2) If the claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such assets, apply by petition to the High Court at the Presidency-town against the Secretary of State for India in Council, and such Court, after taking such evidence as it thinks fit, shall make such order in regard to the payment of the whole or any part of the said principal sum as it thinks fit, and such order shall be binding on all parties to the proceeding.

(3) The Court may further direct by whom the whole or any part of the cost of each party shall be paid.

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

54. (1) Whenever any person, other than an exempted person, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the Presidency, stating the following particulars so far as they may be known to him:—

- (a) the amount and nature of the assets,
- (b) whether or not the deceased left a will and, if so, in whose custody it is,
- (c) the names and addresses of the surviving next-of-kin of the deceased,

and, on the lapse of one month from the date of the death,

- (d) whether or not any one has applied for probate of the will of the deceased or letters of administration of his estate.

(2) The District Judge shall retain the assets under his charge, or appoint an officer under the provisions

provisions of section 239 of the Indian Succession Act, 1865, to take and keep possession of the same until the Administrator General has obtained letters of administration, or until some other person has obtained probate or such letters or a certificate from the Administrator General under the provisions of this Act, when the assets shall be delivered over to the holder of such probate, letters of administration or certificate:

Provided that the District Judge may, if he thinks fit, sell any assets which are subject to speedy and natural decay, or which for any other sufficient cause he thinks should be sold, and he shall thereupon credit the proceeds of such sale to the estate.

(3) The District Judge may cause to be paid out of any assets of which he or such officer has charge, or out of the proceeds of such assets or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely:—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration of his estate or a certificate, under this Act,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant,
- (c) the relief of the immediate necessities of the family of the deceased, and
- (d) such acts as may be necessary for the proper care and management of the assets left by the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons shall

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(Part VI—Miscellaneous.)

shall be held to affect the validity of any payment so caused to be made.

Succession Act and Companies Act not to affect Administrator General, and saving of provisions of Presidency Police Acts as to potty estates.

55. (1) Nothing contained in the Indian Succession Act, 1865, or the Indian Companies Act, 1882, shall be taken to supersede or affect the rights, duties and privileges of any Administrator General. X of 1865. VI of 1882.

(2) Nothing contained in the Indian Succession Act, 1865, or in this Act, shall be deemed to affect, or to have affected, any law for the time being in force relating to the moveable property under two hundred rupees in value of persons dying intestate within any of the Presidency-towns or in the town of Rangoon, which shall be or has been taken charge of by the police for the purpose of safe custody. X of 1865.

Order of Court to be equivalent to decree. Provision for administration by Consular Officer in case of death in certain circumstances of foreign subject.

56. Any order made under this Act by any Court shall have the same effect as a decree.

57. Notwithstanding anything in this Act, or in any other law for the time being in force, the Governor General in Council may, by general or special order, direct that, where a subject of a foreign State dies in British India, and it appears that there is no one in British India, other than the Administrator General, entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any Consular Officer of such foreign State, be granted to such Consular Officer on such terms and conditions as the Court may, subject to any rules made in this behalf by the Governor General in Council by notification in the Gazette of India, think fit to impose.

Division of Presidency into Provinces.

58. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council may, by notification in the Gazette of India,—

(a) remove any of the territories included in the presidency of Bengal from such presidency, and constitute the same into provinces for the purposes of this Act;

(b) direct

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- (b) direct that for the proposes of this Act any of the territories of any Native State in India shall be included in any province so constituted; and
- (c) appoint any person qualified in accordance with the provisions of sub-section (2) of section 3, or who holds office under Government to be an Administrator General for any such Province to be called the Administrator General of the Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

- (i) the Administrator General of a Province shall by that name have the like rights, powers, privileges and liabilities, and perform the like duties, in the Province as the Administrator General of the Presidency within which such territories were included had and performed as Administrator General therein and shall be deemed to be his successor in office:
- (ii) the powers and duties of the Government under this Act shall, as regards the Province, be exercised and discharged by the Governor General in Council or by such Local Government as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf; and the Gazette of the Government exercising and discharging such powers and duties shall be the official Gazette of the Province for the purposes of this Act:
- (iii) the powers and duties assigned by the foregoing provisions of this Act to the High Court shall be exercised and discharged in respect of such Province by such Court as the Governor General in Council may, by notification

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notification in the Gazette of India, appoint in this behalf; and probate or letters of administration granted to the Administrator General of the Province by the Court so appointed shall have the same effect throughout the Province, or, if the Court so directs, throughout the Presidencies of Bengal, Bombay and Madras, or any part thereof, as probate or letters of administration granted to the Administrator General by the High Court at a Presidency-town would or might have had :

- (iv) in the foregoing provisions of this Act the word "Presidency" shall be deemed to include a Province, and the expression "Presidency-town" the place of sitting of the Court appointed by the Governor General in Council under clause (iii) of this sub-section :
- (v) generally, the provisions of the foregoing sections of this Act with respect to the High Court at a Presidency-town and the provisions of those sections or of any other enactment with respect to the Administrator General of a Presidency shall, in relation to a Province, be construed, so far as may be, to apply to the Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification constituting the Province and, to or in which the Administrator General of any Presidency within which any of the territories constituted into a Province were situate was a party or was otherwise concerned, shall be continued as if the notification had not been published.

(3) If, by reason of the constitution of Provinces for the purposes of this Act, it appears to the Governor
General

General in Council that any property vested in the Administrator General of any Presidency should be vested in the Administrator General of a Province, he may direct that the property shall be so vested, and thereupon it shall vest in the Administrator General of the Province as fully and effectually for the purposes of this Act as if probate or letters of administration had been granted to him originally.

(4) If in accordance with the provisions of this section territories have been removed from the Presidency of Bengal and constituted a Province for the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India, direct that as regards the Presidency of Bengal excluding the territories so removed, the powers and duties of the Government under this Act shall be exercised and discharged by the Local Government of Bengal, and that the official Gazette shall be the Calcutta Gazette.

(5) Upon the rescission of a notification constituting a Province under sub-section (1), the territories comprised therein shall again form part of the Presidency within which they were originally included, the office of Administrator General of the Province shall determine and all properties vested in and all proceedings by or against such Administrator General pending at the date of the rescission shall vest in and be carried on by or against such Administrator General or Administrators General as the Governor General in Council may direct.

59. Nothing in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908.

Saving of provisions of Indian Registration Act, 1908. Repeals.

60. The enactments specified in the Schedule are hereby repealed to the extent specified in the third column thereof:

Provided that any administration, by or in pursuance of any Act hereby repealed, committed to any Administrator General at the commencement of this Act shall be deemed to be committed to the Administrator General under this Act.

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 (The Schedule.—Enactments repealed.)

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 60.)

Number and year.	Short title.	Extent of repeal.
II of 1874 . . .	The Administrator General's Act, 1874.	So much as has not been repealed.
IX of 1881 . . .	The Administrator General's Act, 1881.	Ditto.
II of 1890 . . .	The Probate and Administration Act, 1890.	So much of the title and preamble as relates to the Administrator General's Act, 1874, and sections 10 to 15.
XII of 1891 . . .	The Amending Act, 1891.	So much as relates to Act II of 1874.
VII of 1901 . . .	The Native Christian Administration of Estates Act, 1901.	In the Preamble the words "to exempt them from . . . are exempted" and section 4.
V of 1902 . . .	The Administrators General and Official Trustees Act, 1902.	So far as it relates to Administrators General and Deputy Administrators General.