

**LAWS OF GUYANA**

**DECEASED PERSONS ESTATES' ADMINISTRATION ACT**

**CHAPTER 12:01**

**Act**

**10 of 1917**

Amended by

17 of 1917  
36 of 1919  
11 of 1922  
8 of 1924  
13 of 1932  
5 of 1935  
34 of 1936  
26 of 1952  
14 of 1956  
4 of 1972  
11 of 1983  
6 of 1991

**Current Authorised Pages**

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1 - 54 ...	1/2012

**Index**  
**of**  
**Subsidiary Legislation**

	Page
<b>Deceased Persons Estates' Administration Rules</b> (R. 18/12/1894)	50

**Note**  
**on**  
**Repeal**

This Act repealed the Deceased Persons Estates' Ordinance (9 of 1909)

**CHAPTER 12:01**

**DECEASED PERSONS ESTATES' ADMINISTRATION ACT**

**ARRANGEMENT OF SECTIONS**

SECTION

**PRELIMINARY**

1. Short title.
2. Interpretation.

**NOTICE OF DEATH**

3. Notice of death.
4. Registrar may call for further information.

**WILLS**

5. Lodgement of wills with the Registrar for safe custody.
6. Duty of persons in possession of will on testator's death.
7. Compelling attendance of witness to prove due execution of will.
8. Probate.
9. Applications to Court or a judge for an order on persons refusing to give up wills.

**INVENTORIES**

10. Inventory of estate in community by surviving spouse.
11. Penalties on omission from inventory.
12. Inventory on the death of persons not married in community.
13. Inventory of property liable to process fee.
14. Inventory by order of court.
15. Particulars required as to immovable property.
- 15A. Forms
- 15B. Affirmations.
- 15C. Duty of public officer to furnish information.
- 15D. Certificate of proper officer.
- 15E. Commissioner may require explanations and proof in support of declaration.
- 15F. Late delivery of inventory and declaration.

## LAWS OF GUYANA

### SECTION

- 15G. Repayment of excess process fee.
- 15H. Payment of further process fee.
- 15I. Alteration of assessment or certificate.
- 15J. Procedure on default of inventory or declaration.
- 15K. Recovery of sum due for process fee or as penalty.

### ADMINISTRATION

- 16. Power of Court to appoint administrator.
- 17. Power to limit appointment of administrators.
- 18. Letters of administration and powers thereunder.
- 19. Where Registrar may summarily appoint administrator.
- 20. Proceeds of small intestate estates in certain banks.

### CUSTODY OF ESTATE PENDING PROBATE OR LETTERS OF ADMINISTRATION

- 21. Possession of joint estate until administration.
- 22. Custody of estate of person not married in community.
- 23. Appointment of receiver.

### PROBATE AND LETTERS OF ADMINISTRATION

- 24. Probate and letters of administration.
- 24A. Inventory of property to be attached to probate or letters of administration.
- 25. (1) When letters of administration not required.  
(2) Vesting of estate in Official Receiver or Public Trustee.  
Inventory.  
(3) Exemption from requirements of this Act.
- 26. Probate to executors appointed by will.
- 27. Assumption of executors under powers contained in will.
- 28. Death, incapacity or removal of executors or administrators.
- 29. Revocation of probate and letters of administration.
- 30. Security for due administration.
- 31. Executor of executor represents original testator.

## SECTION

**RECOGNITION OF COMMONWEALTH PROBATES**

32. (1) Interpretation.
- (2) Sealing of probates and letters of administration granted outside Guyana.

**DUTIES OF EXECUTORS AND ADMINISTRATORS**

33. Inventory by executors and administrators.
34. Making false inventory.
35. Liability in certain cases by persons intermeddling with estates and by persons to whom probate or letters of administration have been granted in respect of property not contained in inventory.
36. Notice by executors and administrators for lodgement of claims.
37. Suspension of execution of judgments against deceased.
38. Duties of executors after expiration of period for lodging claims.
39. Priority of certain claims.
40. Affidavit may be required in support of claim.
41. If an estate is insolvent.
42. Sale and realisation of estate of deceased person.
43. Surviving spouse or heirs and legatees may take over estate at appraisalment.
44. Claims of unrepresented infants, lunatics and absent persons.
45. Moneys of infants, lunatics, or absent persons.
46. Administrators' accounts.
47. (1) If administrator fails to file accounts.
- (2) Registrar's costs in certain cases.
- (3) Incidence of costs.
48. Remuneration of executors and administrators.
49. When property bequeathed with limited interest with eventual right to heir in remainder.
50. Holder of limited interest compelled to accept transport.
51. Inheritances of infants.
52. Delivery of grosse or deed.

**THE GUARDIANS FUND**

53. The guardians fund.
54. Duties of Public Trustee.

SECTION

55. Claims to moneys paid over.

GENERAL

56. Records and searches.  
57. Registrar not personally liable for costs.  
58. Fees.  
59. Rules of court.

SCHEDULE—Forms.

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CHAPTER 12:01

DECEASED PERSONS ESTATES' ADMINISTRATION  
ACT

1929 Ed.  
c. 149  
1953 Ed.  
c. 46

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10 of 1917 **An Act to declare and amend the Law relating to the  
Administration of Estates of Deceased Persons.**

[1<sup>ST</sup> JANUARY, 1920]

PRELIMINARY

Short title. **1.** This Act may be cited as the Deceased Persons  
Estates' Administration Act.

Interpretation.  
[6 of 1991] **2.** In this Act—

c. 5:01 "the accountant" means the accountant appointed under the  
Deeds Registry Act;

"Commissioner" has the same meaning as in the Income Tax

c. 81:01

Act;

“the Court” means the High Court and includes any judge thereof;

“deposit,” when used in connection with any instrument or document, means the formal lodgement of the instrument or document with an act of deposit, accompanied by an affidavit of the due execution of the instrument or document;

“proper officer” means the Commissioner or any officer of his department appointed by him to discharge any particular duty under this Act, and includes any person designated by the Minister to discharge that duty in any part of Guyana other than the City of Georgetown;

“property” includes movable and immovable property, rights and effects of any kind situate or having their seat in Guyana, and the proceeds of sale thereof, and any investment for the time being representing them, and, in the case of a deceased person who was at the time of his death domiciled in Guyana, also includes movable property and effects wherever situate;

“the Registrar” means the Registrar of the Supreme Court;

“will” includes any codicil or other testamentary instrument or writing whatsoever.

### NOTICE OF DEATH

Notice of death.  
Schedule.  
Form 1.

3. (1) When anyone dies leaving property in possession, reversion, or expectancy, or leaving a will, the nearest relative or connection of the deceased who is in or near the house or place of death, or, in default of the nearest relative or connection, the person who at or immediately after the death has the chief charge of that house or place, shall within thirty days of the death cause a notice thereof to be

given in the form contained in the Schedule and shall himself sign the notice.

(2) The notice shall be forthwith transmitted or delivered to the Registrar and be filed in his office.

Registrar may call for further information. [6 of 1997]

4. (1) If it appears that the person signing the notice of death was not present at the death the Registrar may call upon him for proof of the death.

(2) When the information in a notice of death is defective or insufficient, the Registrar may call upon the person who signed it, or any executor or administrator of the deceased after appointment, to furnish any further information required, and everyone so called upon shall without delay return his written answer to the questions put to him by the Registrar for that purpose.

(3) Anyone who fails to comply with the provisions of this or the preceding section, or who gives information which is to his knowledge false, shall be liable on summary conviction (at the instance of the Registrar or any interested party) to a fine of nine thousand seven hundred and fifty dollars for each default.

## WILLS

Lodgement of wills with the Registrar for safe custody.

5. (1) Anyone may lodge for safe custody with the Registrar, either open or enclosed under a sealed cover, any will made by him; and the Registrar shall keep a register of the names and descriptions of every person so lodging a will and the date of the lodgement; and the will shall be kept by the Registrar until the death of the maker unless re-delivery of it is demanded by the maker or in his lifetime by his agent specially authorised in writing for that purpose, when the Registrar shall re-deliver it accordingly.

(2) On production of proof to the Registrar's satisfaction of the death of the maker of a will which is still in

his custody he shall take the necessary action to have the will duly deposited by any party interested in accordance with section 9.

Duty of persons in possession of will on testator's death. [6 of 1997]

6. (1) Everyone other than the Registrar who, at the time of the death of the maker thereof, has in his possession any document purporting to be the last will of any other person, or into whose possession that document comes after the death of the maker thereof, shall within fourteen days from the date of the death—

- (a) either deposit the document in the registry; or
- (b) deliver the document to the executor and at the same time notify the Registrar in writing that he has done so; or
- (c) if he claims no interest under the will, or if there is no executor, or the executor is unknown to him, lodge the document with the Registrar for safe custody.

(2) Anyone failing to comply with this section shall, on summary conviction at the instance of the Registrar or any interested party, be liable to a fine of four thousand eight hundred and seventy-five dollars, and, if he continues in default after conviction, to a further fine of nine hundred and seventy-five dollars for each and every day that he is in that default.

Compelling attendance of witness to prove due execution of will. [6 of 1997]

7. (1) Everyone who deposits a will as aforesaid, or any person claiming any interest under it, may apply to the Registrar in writing for a summons addressed to anyone who has witnessed the execution of the will requiring him to attend at the time stated therein before a sworn clerk and notary public and swear an affidavit of the due execution of

the will, and the person attending upon the summons shall be entitled to be paid by the person making the application the sum to which he would be entitled if he had been summoned to attend and give evidence in a civil cause before the Court.

(2) The rules of the Supreme Court for the time being in force relating to the summoning and payment of witnesses shall apply to witnesses summoned under this section.

(3) Everyone so summoned who refuses or neglects to attend, or who refuses to swear the affidavit aforesaid, shall on summary conviction thereof be liable to a fine of nineteen thousand five hundred dollars.

Probate.

8. The deposit of a will under section 6 coupled with the grant of probate thereof or letters of administration as hereinafter provided, shall have within Guyana the same effect as probate in common form has by the law of England.

Applications to Court or a judge for an order on persons refusing to give up wills.

9. Where the Registrar or any interested party has reasonable grounds for believing that any person is in possession of a will which he refuses or fails to deposit, he may, in addition to any proceedings taken under section 6, apply forthwith by summons or motion *ex parte* to the Court for a rule calling on that person to show cause why he should not forthwith deposit the will, and at the hearing of the matter the Court may make any order (including an order as to costs) it deems proper.

## INVENTORIES

Inventory of estate in community by surviving spouse.  
[6 of 1991]

10. When one of two spouses married in community of property dies, the survivor shall, within thirty days thereafter, cause an inventory of all property, goods and effects, movable and immovable, of what kind so ever which at the time of the death formed part of or belonged to the estate possessed in community between the predeceasing and surviving spouses (hereinafter called the joint estate) to be

made in the manner prescribed by section 13 of this Act in the presence of two impartial witnesses, being persons of good credit and repute, and of those persons having an interest in the distribution of the joint estate as heirs or legatees of the predeceased spouse who choose to attend; and the inventory shall be subscribed by the surviving spouse, the witnesses aforesaid, and the heirs or legatees present when it is made. In the event of the default or absence of the survivor section 12 shall, *mutatis mutandis*, be deemed to apply.

Penalties on omission from inventory.

11. (1) Every surviving spouse who wilfully neglects to cause an inventory of the joint estate to be made in the manner and within the period hereinbefore provided, or knowingly omits to enter therein any property of whatsoever kind, shall in the distribution of that estate forfeit all right to and share in anything accruing to the joint estate after the death of the predeceasing spouse and in and to the property so omitted from the inventory.

(2) Every loss caused by the destruction or deterioration of any property so omitted from the inventory, or accrued to the joint estate after the death of the predeceasing spouse by the loss or deterioration of any part thereof, shall in the distribution of the estate fall upon and be borne by the surviving spouse solely and exclusively:

Provided that nothing herein contained shall free or exempt anyone who wilfully or for any fraudulent purpose makes or causes to be made a false inventory of the joint estate aforesaid from any fine or punishment hereinafter or by any other law prescribed with respect to the offence of making false inventories.

Inventory on the death of persons not married in community. [14 of 1956 6 of 1991]

12. On the death of any person, not being one of two spouses married in community of property, the wife or husband (if any) of the deceased, or in the event of the default, absence, or death of the wife or husband, the child or children (if any) of the deceased, or in the event of the default, absence, death, or infancy, of the child or children, the next of

kin (if any) of the deceased, or in the event of the default, absence, death, or infancy of the next of kin, the person who, at or immediately after the death, has the chief charge of the house or the place where the death occurs, shall, within thirty days after the death, make or cause to be made in the presence of two impartial witnesses, being persons of good credit and repute, an inventory, in the manner prescribed by section 13 of this Act, of all property, goods and effects, movable and immovable, of what kind soever —

- (a) belonging to the deceased and in the house or upon the premises at the time of the death;
- (b) known by the person making or causing the inventory to be made to have belonged to the deceased at the time of his death, and the inventory shall be subscribed by the person making it or causing it to be made and by the witnesses aforesaid.

Inventory of  
property liable  
to process fee.  
[6 of 1991]

**13.** (1) Within two months after the death of any person who has died in Guyana, and within six months after the death of any person who has died out of Guyana, the person or persons set forth in sections 10, 12 and 33 of this Act, shall appear before the proper officer, and —

- (a) deliver a full and articulate inventory of all the property which the deceased person possessed at the time of his death, together with a statement of the deductions specified in subsection (2) exhibiting at the same time the will (if any) of the deceased; and
- (b) make a declaration verifying the inventory and statement and stating that the property is of the value of a

certain sum therein specified, to the best of the deponent's knowledge, information and belief.

(2) The deductions referred to in subsection (1) (a) are as follows—

- (a) funeral expenses;
- (b) all debts or encumbrances incurred or created by the deceased *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit.

(3) The High Court may, on motion made and good cause shown, extend the period hereinbefore fixed for making the inventory and declaration aforesaid.

Inventory by  
order of court.

14. Notwithstanding anything hereinbefore contained, the Court may, on application and on sufficient cause appearing, at any time order that an inventory of property belonging to anyone, or to the joint estate of any deceased person and the surviving spouse shall be taken by anyone named in the order.

Particulars  
required as to  
immovable  
property.

15. Everyone required by sections 10, 12 and 14 to make an inventory shall include therein a specific list of all immovable property wherein to his knowledge the deceased had an interest at the date of his death, and if possible a reference to the title under which the deceased held that interest and the date of the title and full particulars concerning the interest.

Forms.  
[6 of 1991]

15A. (1) The Commissioner may from time to time frame, and when framed, alter or annul, such forms as may be required for all or any of the purposes of this Act.

(2) The forms or any alteration or annulment

thereof shall be subject to the approval of the Minister and shall be published in the *Gazette*.

Affirmations.  
[6 of 1991]

**15B.** Any affirmation or declaration required for the purposes of this Act may be taken before the proper officer, who is hereby authorised to administer the necessary affirmation.

Duty of public officer to furnish information.  
[6 of 1991]

**15C.** Every public officer shall furnish the Commissioner, on application in writing for that purpose, with any information which may be in his possession or which he may be able to procure with reference to any matter connected with the estate of a deceased person.

Certificate of proper officer.  
[6 of 1991]  
c. 80:01

**15D.** (1) The proper officer shall cause to be made on the declaration a memorandum of the amount of the process fee payable in accordance with section 14 of the Income Tax Act.

(2) The person making the declaration, or his agent, shall thereupon pay to the Accountant General the process fee so assessed, and the Accountant General shall give a receipt therefor.

(3) The proper officer shall then prepare a certificate under his hand, setting forth that the inventory and declaration have been duly delivered and that the process fee, if that is payable, has been paid, and stating the value as shown by the inventory of the property on which it is payable.

(4) No will shall be received by any officer of the registry for deposit or for recording therein unless there is delivered therewith the certificate referred to in subsection (3).

Commissioner may require

**15E.** (1) The Commissioner may, at any time and from time to time within three years after the date of the certificate,

explanations  
and proof in  
support of  
declaration.  
[6 of 1991  
6 of 1997]

as he may think necessary, require the heir or executor of any deceased person to furnish such information or explanations and to produce such documentary or other evidence respecting the contents of, or the particulars verified by, the declaration of the property of the deceased subject to the process fee as the case seems to him to require.

(2) Anyone failing to comply with that requisition shall be liable to a fine of three thousand dollars.

Late delivery of  
inventory and  
declaration.  
[6 of 1991  
6 of 1997]

**15F.** If anyone who ought to deliver an inventory and make a declaration, or a further declaration (as hereinafter mentioned), neglects to do so within the period prescribed by law for that purpose, he shall be liable on summary conviction to a fine of three thousand dollars.

Repayment of  
excess process  
fee.  
[6 of 1991]

**15G.** If at any time during the administration of the estate of a deceased person the value mentioned in the certificate of the proper officer is found to exceed the true value of the property on the death of the deceased, the Commissioner, on proof of the facts to his satisfaction may return the amount of the process fee which has been overpaid, and cause a fresh certificate to be written by the proper officer setting forth the true value, and that certificate shall be substituted for, and have the same force and effect as, the certificate hereinbefore mentioned.

Payment of  
further process  
fee.  
[6 of 1991]

**15H.** (1) If at any time it is discovered that the property of the deceased was, at the time of the delivery of the certificate, of greater value than the value mentioned in the certificate, the heir or executor shall, within six months after the discovery, deliver a further declaration, with an account, to the proper officer.

(2) The person making the declaration or his agent, shall thereupon pay to the officer whose duty it is to receive it the amount which, with the process fee previously paid on a declaration of the estate and effects, is sufficient to cover the process fee chargeable according to the true value thereof,

and shall at the same time pay to the Commissioner interest upon that amount at the rate of forty-five per cent per annum from the date of the certificate or from such subsequent date as the Commissioner thinks proper.

(3) The Commissioner, on receipt of that declaration and account, shall cause a fresh certificate to be written by the proper officer, setting forth the true value of the estate and effects as then ascertained, and that certificate shall be substituted for, and have the same force and effect as, the certificate hereinbefore mentioned.

Alteration of  
assessment or  
certificate.  
[6 of 1991  
6 of 1997]

**15I.** Everyone who alters any word, letter, figure, or number, in any assessment or certificate made or given under this Act, after it has been signed by the proper officer, or alters, or publishes as true, that altered assessment or certificate, with intent to defraud the State or any other person, shall be liable to a fine of nine thousand dollars and to imprisonment for three years.

Procedure on  
default of  
inventory or  
declaration.  
[6 of 1991]

**15J.** If any person who is made accountable by this Act makes default in delivering any inventory or making a declaration required by the Commissioner under this Act, the Commissioner may apply by motion to the High Court for an order calling upon the person in default to show cause why he should not deliver the account, or make the declaration, forthwith, or within such time as the Court may order, and whether cause be so shown or not, such order on the motion shall be made as to the Court seems just.

Recovery of  
sum due for  
process fee or  
as penalty.  
[6 of 1991]

**15K.** (1) Subject to article 187 of the Constitution, any criminal proceedings under this Act may be instituted and carried on by the Commissioner under and in accordance with the Summary Jurisdiction Acts and any amount owing to the State under this Act may be recovered, with costs, in any court of competent civil jurisdiction in an action at the suit of the Commissioner.

(2) Notwithstanding anything contained in the

- c. 10:02 Summary Jurisdiction (Procedure) Act, any prosecution may be instituted for any offence against this Act, and any penalty or fine recovered thereunder, although more than six months have elapsed since the commission of the offence, if proceedings have been instituted before the expiration of six months from the time when the offence came to knowledge of the proper officer.

### ADMINISTRATION

Power of Court to appoint administrator. **16.** Where it appears expedient to the Court to do so, it may on the application of any interested party appoint any person or persons to be an administrator to administer the estate of a deceased person in any of the following cases, namely, where—

- (a) the person dies intestate;
- (b) the person dies leaving a will but appoints no executor;
- (c) the person dies leaving a will appointing an executor or executors, but the executor or executors are or become insolvent, or have died, or are absent from and unrepresented in Guyana, or renounce, or are unwilling to act;
- (d) an executor or administrator is for just cause removed from his office; and
- (e) it appears to the Court to be expedient to do so for the better realisation or protection of the estate or for the benefit or protection of anyone interested therein.

Power to limit **17.** Where it appears expedient to the Court to do so,

appointment of administrators. the Court may limit the appointment of an administrator or administrators—

- (a) to part only of the estate or property of the deceased person; or
- (b) to a particular object; or
- (c) for a specified time; or
- (d) till the happening of a specified event; or
- (e) dispensing with the duty of rendering accounts; or
- (f) in any other respect which to the Court seems proper.

Letters of administration and powers thereunder. Schedule.

**18.** (1) The appointment of an administrator or of administrators shall be in the form given in the Schedule.

(2) The administrator or administrators shall have the same powers as if he or they had been appointed executor or executors by the last will of the deceased person.

(3) Where there is a last will the administrator or administrators shall, subject to the terms and conditions of his or their appointment, administer the estate in accordance with the terms and provisions of the will.

Where Registrar may summarily appoint administrator. [4 of 1972]

**19.** Whenever it appears, from the notice of death or the inventory filed in respect of the estate of a deceased person, or from other information for which the Registrar calls, that the value of the assets of the estate does not exceed one thousand dollars, the Registrar, in the case of an intestate estate, or in the case of a testate estate in which no executor has been appointed or the executor is unable or unwilling to act, may, summarily and without reference to the Court but

subject to an appeal to the Court, at the instance of any party claiming to be interested, or of the Attorney-General or anybody authorised by him, appoint the Public Trustee or anyone else to administer the estate.

Proceeds of  
small intestate  
estates in  
certain banks.  
[5 of 1935  
4 of 1972]

20. (1) Notwithstanding the provisions of this Act, if any person dies leaving in a savings bank account at any bank licensed or otherwise authorised by law to carry on banking business in Guyana a sum of money which together with the interest at the date of his death does not exceed two hundred and fifty dollars, the manager may, in the absence of a grant of letters of administration and upon application in writing by any person or persons claiming to be the surviving spouse or heir or heirs on intestacy of the deceased depositor stating that the deceased died intestate and that the value of the entire estate of the deceased does not exceed two hundred and fifty dollars, pay the sum in that savings bank account to the claimant or claimants:

Provided always that the manager may in any case call for such proof as to identity or as to the statements in the application as he may think fit.

(2) Where any sum is so paid a receipt from the person or persons receiving payment shall be a legal, valid and effectual discharge to the bank for the amount in such savings bank account:

Provided that payment of any such sum shall not affect any remedy which any person claiming to be entitled thereto may have against the person or persons to whom payment has been made.

#### CUSTODY OF ESTATE PENDING PROBATE OR LETTERS OF ADMINISTRATION

Possession of  
joint estate  
until

21. (1) When one of the two spouses married in community of property dies, the joint estate shall remain under the charge of the survivor until the executor of the

administration. deceased or other person interested takes proceedings for the administration, distribution, or final settlement of the joint estate; but nothing in this section contained shall prevent a joint estate from being declared insolvent.

(2) In the event of the default, death, or absence of the survivor, the next ensuing section shall, *mutatis mutandis*, be deemed to apply.

Custody of estate of person not married in community.

**22.** (1) On the death of any person, not being one of two spouses married in community of property, the husband or wife (if any) of the deceased, or in the event of the default, absence, or death of the husband or wife, the child or children (if any) of the deceased, or in the event of the default, absence, death, or infancy of the child or children, the next of kin (if any) of the deceased, or in the event of the default, absence, death, or infancy of the next of kin, the person who at or immediately after the death has the chief charge of the house or place where the death occurs, shall secure and take charge of all goods and effects of whatever description belonging to the deceased in the house or upon the premises at the time of death and retain them in his possession and custody until delivery thereof is demanded by the executor or administrator lawfully appointed.

(2) The Court may order, on the application of any interested party and for good cause shown, any sum of money the property of the estate in the possession of any person and the payment of which is not sufficiently secured to be immediately paid by that person into the guardians' fund pending a grant of probate or letters of administration.

Appointment of receiver.

**23.** Whenever it is necessary or expedient to do so the Court may appoint a receiver to take the custody and charge of any estate until probate or letters of administration is or are granted, and the receiver may collect the debts and sell or dispose of perishable property belonging to the estate as the Court specially authorises. The appointment may be varied or revoked as to the Court seems proper.

**PROBATE AND LETTERS OF ADMINISTRATION**

Probate and letters of administration. [6 of 1991] Schedule. Forms 2 and 3.

**24.** The estates of all persons dying testate or intestate shall vest in the personal representative or representatives of the deceased and shall be administered and distributed according to law under a grant of probate or of letters of administration by the Registrar upon an order of the Court, in the manner and the form prescribed by this Act.

Inventory of property to be attached to probate or letters of administration. [11 of 1983 6 of 1991 6 of 1997]

**24A.** (1) There shall be attached to every probate or letters of administration issued by the Registrar an inventory of all the property which the deceased person possessed at the time of his death in the manner prescribed by section 13 of this Act.

(2) No one shall distribute, transfer or in any way dispose of any property, goods or effects belonging to the deceased person which is not contained in the inventory of the property attached to the probate or letters of administration.

(3) Anyone who contravenes the provisions of subsection (2) shall be liable on summary conviction to a fine of six thousand dollars.

When letters of administration not required. [4 of 1972]

**25.** (1) Notwithstanding the provisions of this Act, a grant of letters of administration shall not be required in the following cases, namely, where—

c. 98:02

(a) the Official Receiver administers the estate of any immigrant in pursuance of the provisions of the Indian Labour Act;

c. 13:01

(b) the Public Trustee in pursuance of section 6 of the Public Trustee Act has undertaken to administer the estate of a deceased person which in his opinion does not exceed in value the

- c. 13:01
- (c) sum of one thousand dollars;  
the Court in pursuance of section 6(5) of the Public Trustee Act has made an order that an estate shall be administered by the Public Trustee;
  - (d) the Registrar under section 19 of this Act has appointed the Public Trustee to administer an estate and has certified to him in writing the fact of the appointment.

Vesting of estate in Official Receiver or Public Trustee.

(2) The estate of a deceased person to which the preceding subsection applies shall vest—

- (a) in the Official Receiver when he enters into and takes possession of the estate of a deceased immigrant;
- (b) in the Public Trustee—
  - (i) when he deposits an undertaking in the registry under section 6(2) of the Public Trustee Act;
  - (ii) when the Court makes an order under section 6(5) of the Public Trustee Act;
  - (iii) when the Registrar has delivered a certificate to the Public Trustee under paragraph (d) of the preceding subsection;

Inventory.

and the Official Receiver or the Public Trustee shall thereupon be deemed to be the personal representative of the deceased person, and the Public Trustee shall, if required by the Registrar, make or cause to be made an inventory or inventories as required of an administrator by section 33 of

this Act and transmit or deliver it or them to the Registrar to be filed as of record.

Exemption from requirements of this Act.

(3) In the case of the estate of a deceased person to which the last preceding section applies, the Official Receiver or the Public Trustee shall administer and distribute the estate according to law, but shall not be required to conform with the requirements of this Act other than as provided in this section.

Probate to executors appointed by will.  
[13 of 1932]

**26.** Whenever any deceased person has by will duly appointed any person to be executor, the Registrar shall, upon his written application and on order of the Court, forthwith grant probate to him as soon as the will, as hereinbefore provided, has been deposited as required in the registry:

Provided that—

- (a) probate shall not be granted where a caveat is entered until that caveat shall be cleared off; and
- (b) probate shall not be granted to any executor aforesaid who, at the time of making his written application is or resides beyond the limits of Guyana, or who the Registrar has reason to believe will not remain within Guyana until he has fully administered the estate to be administered by him, unless he finds security to the satisfaction of the Registrar for the due administration of the estate and appoints an attorney within Guyana.

Assumption of executors under powers

**27.** (1) Nothing in this Act contained shall prevent any executor who has obtained probate from assuming any other person or persons as executor or executors of the testator

contained in will. under and by virtue of any power for that purpose granted to him by the testator in the will:

Provided that no one shall be entitled or qualified to act as assumed executor unless probate is granted to him as assumed executor during the lifetime of the testamentary executor by the Registrar, who shall do so as provided in section 24, after reference to the deposited will by which that assumption is authorised and on the deposit in the registry of the instrument by which the testamentary executor has assumed that person as executor.

(2) Every provision of this Act and of every other enactment applicable or relating to or affecting executors shall apply and relate to and affect every executor so assumed.

Death, incapacity or removal of executors or administrators.

**28.** When, by reason of the death, or incapacitation to act, or removal from his office by the decree of a competent court, of any testamentary or assumed executor to whom probate has been granted, there remains for the administration of the estate no executor whatever nor as many executors, either testamentary or assumed, as, by the provisions of the will by which they were appointed or permitted to be assumed, are required to form a quorum of executors, and when any administrator appointed by the Court dies or becomes incapacitated or is removed in manner aforesaid after letters of administration have been granted to him, then proceedings for the appointment of an administrator in place of that executor or administrator shall be taken in like manner in all respects as hereinbefore provided by sections 16, 17 and 18.

Revocation of probate and letters of administration.

**29.** Probate granted to an executor may be revoked and annulled by the Court on proof to its satisfaction that the will in respect of which the grant was made is null, or has been revoked either wholly or in so far as it relates to the nomination of that executor, and letters of administration granted to an administrator may be revoked and annulled by the Court on proof of the deposit of a will whereby another

person (then legally capable and qualified and consenting to act as executor) has been legally nominated executor of the estate which the administrator has been appointed to administer:

Provided that if the non-deposit of the will prior to the grant of letters of administration has been due to the fault or negligence of the person therein nominated as executor, he shall be personally liable for, and may be compelled at the instance of any person interested to make good to the estate, all expenses incurred in respect of and with reference to the appointment of the administrator.

Security for due administration.

**30.** (1) The Court shall have power, on the application of any person interested, to require the executor or executors of any deceased person to whom probate has been granted to give security for the due administration of, and the due accounting for, the estate, and the care and custody of any property, in the amount and with the sureties in the circumstances of each particular case the Court deems reasonable.

(2) The Court may require the administrator of the estate of any deceased person, before the issue of letters of administration, to give security, in the amount and with the sureties in the circumstances of each particular case the Court deems reasonable for the due administration of and due accounting for, the estate and the care and custody of the property, and may give any orders or directions with reference to the administration, accounting, and care and custody the circumstances seem to require.

Executor of executor represents original testator.  
[26 of 1952]

**31.** (1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

This provision shall not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that

testator, it shall cease to apply on such probate being granted.

(2) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

(3) The chain of such representation is broken by—

- (a) an intestacy; or
- (b) the failure of a testator to appoint an executor; or
- (c) the failure to obtain probate of a will; but is not broken by a temporary grant of administration if probate is subsequently granted.

(4) Every person in the chain of representation to a testator—

- (a) has the same rights in respect of the estate of that testator as the original executor would have had if living; and
- (b) is, to the extent to which the estate of that testator has come to his hands, answerable as if he were an original executor.

**RECOGNITION OF COMMONWEALTH PROBATES**

32. (1) In this section—

Interpretation.  
[34 of 1936]

“Commonwealth court in a foreign country” means any court of a Commonwealth territory having lawful jurisdiction outside the Commonwealth;

“Court of probate” means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

“probate” and “letters of administration” include confirmation in Scotland, and any instrument having in any other part of the Commonwealth the same effect which under the law of Guyana is given to probate and letters of administration respectively;

“probate duty” includes any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted.

Sealing of  
probates and  
letters of  
administration  
granted outside  
Guyana.  
[34 of 1936]

(2) Where a Court of probate in any part of the Commonwealth, or a Commonwealth court in a foreign country, has, either before or after the passing of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to and a copy thereof deposited with, the Court, be sealed with the seal of the Court, and thereupon shall be of the like force and effect, and have the same operation in Guyana as if granted by that Court.

(3) The Court shall, before sealing a probate or letters of administration under this Act, be satisfied—

- (a) that probate duty has been paid in respect of so much, if any, of the estate as is liable to probate duty in Guyana; and
- (b) in the case of letters of administration, that security has been given in a sum sufficient in amount to cover the property, if any, in Guyana to which the letters of administration relate;

and may require such evidence, if any, as it thinks fit as to the

domicile of the deceased person.

(4) The Court may also, if it thinks fit, on the application of any creditor, require, before sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in Guyana.

(5) For the purposes of this section, a duplicate of any probate or letters of administration sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

c. 3:02

(6) Rules of court for regulating the procedure and practice including fees and costs, on and incidental to an application for sealing a probate or letters of administration under this section may be made under the High Court Act. Subject to any exceptions and modifications made by those rules, the enactments for the time being in force in relation to probate duty (including the penal provisions thereof) shall apply as if the person who applies for sealing under this section were a person applying for probate or letters of administration.

### DUTIES OF EXECUTORS AND ADMINISTRATORS

Inventory by executors and administrators.

33. (1) Every executor and administrator shall, as soon as probate or administration has been granted to him in manner aforesaid, make or cause to be made an inventory in the manner prescribed by section 13 of this Act, showing the value of all property, goods and effects movable and immovable, of what kind so ever, whether in possession, reversion, or expectancy, belonging to the estate he is to administer, unless in the opinion of the Registrar a sufficient inventory and valuation in terms of either of sections 10, 12 and 13 of this Act have already been furnished, and shall in like manner, from time to time thereafter and so soon as he finds or knows of any other property, goods, or effects belonging to the estate and not contained in the first

mentioned inventory, cause to be made an additional inventory, showing the value of all the last mentioned property, goods, and effects; and shall forthwith transmit or deliver the inventory to the Registrar to be filed as of record.

(2) Every executor and administrator shall have the power, where the interests of an estate require it, to obtain a sworn appraisement, and the necessary costs occasioned thereby shall be paid out of the estate.

Making false  
inventory.  
[6 of 1991  
6 of 1997]

**34.** Anyone required or authorised under the provisions of sections 10, 12, 13, and 33 to make or cause to be made an inventory of any property, goods and effects, who wilfully makes a false inventory thereof shall be liable on summary conviction to a fine of six thousand dollars.

Liability in  
certain cases by  
persons  
intermeddling  
with estates  
and by persons  
to whom  
probate or  
letters of  
administration  
have been  
granted in  
respect of  
property not  
contained in  
inventory.

**35.** If, previous to a grant of probate or letters of administration to any executor or administrator for the administration of an estate, any person takes upon himself to administer, distribute, or in any wise dispose of, that estate or any part thereof except so far as authorised by this Act or as absolutely necessary for the safe custody or preservation thereof, or for providing a suitable funeral for the deceased, or for the subsistence of the family or livestock left by the deceased; or if any person after a grant to him of probate or letters of administration, administers, distributes, or in any wise disposes of, any property, goods, or effects belonging to the estate of which he is the executor or administrator not contained in the inventory or inventories thereof furnished to the Registrar previous to that grant, or not contained in any inventory or additional inventory made or caused to be made by him and delivered or transmitted to the Registrar and filed in the registry in terms of section 33, that person shall thereupon become personally liable to pay to the creditors and legatees respectively of the deceased all debts due by him at the time of his death or which have thereafter become due from his estate, and all legacies bequeathed by him so far as the proceeds and assets of the estate are insufficient for the full payment thereof:

Provided that when anyone sued for the payment of any debt or legacy he has rendered himself personally liable to pay in manner aforesaid proves to the satisfaction of the Court before which he is sued that the true amount and value of the property which has actually been unduly administered, distributed, or disposed of, by him did not exceed a certain sum, and that his administration, distribution, or disposal of it was not fraudulent, then he shall be personally liable for only so much of that sum as he fails to prove has been administered, distributed, or disposed of according to law, and for the amount of the costs incurred in and concerning the action as well by him as by the plaintiff therein, notwithstanding that by reason of his personal liability having been restricted in manner aforesaid the plaintiff has not recovered from him any part of the debt or legacy sued for.

Notice by executors and administrators for lodgement of claims.

36. (1) Every executor or administrator to whom probate or letters of administration is or are granted shall, so soon as he enters on the administration of the estate and within fourteen days after the date of the grant, cause a notice to be published in the *Gazette* and in some newspaper circulating in the district or county in which the deceased ordinarily resided, calling upon all persons having claims as creditors against the deceased or his estate to lodge them with the executor or administrator within three months from the date of the first publication of the notice.

(2) The notice shall be published at least twice, with an interval of a week between each publication.

(3) All claims which would be provable in case of the insolvency of the estate shall be deemed to be claims of creditors for the purposes of this Act.

Suspension of execution of judgments

37. No one who has obtained the judgment of a court against a deceased person in his lifetime, or against his executor or estate, shall sue out or obtain any process in

against  
deceased.

execution thereon before the expiration of the period notified in the *Gazette* in manner provided in the last preceding section, and no person shall thereafter within six months after the grant of probate or letters of administration obtain any process in execution without first obtaining an order of the Court.

Duties of  
executors after  
expiration of  
period for  
lodging claims.

38. (1) On the expiration of the period notified in the *Gazette* in manner hereinbefore provided, every executor or administrator aforesaid shall forthwith proceed to rank, according to their legal order of preference, all claims of creditors against the deceased or his estate lodged with him, or of the existence of which he knows, and shall pay them in that order of preference as soon as the funds necessary for that purpose have been realised out of the estate.

(2) If the proceeds of the estate are found to be insufficient for the payment of all the valid claims of creditors against it, the executor or administrator shall be liable to pay to anyone having a valid claim the amount which that person would have been entitled to receive in respect of his claim if ranked according to the legal order of preference, so far as the executor or administrator has, within the period last mentioned, or afterwards at any time when he knew of the existence of the claim, paid that amount to any person the payment of whose claim against the deceased or his estate according to the legal order of preference ought to have been postponed until the valid claim aforesaid had been satisfied; reserving always to the executor or administrator recourse against the person to whom payment of his claim was improperly made:

Provided that—

- (a) when the notice to creditors aforesaid has been duly published, no creditor claiming against the estate of any deceased person who has not lodged his claim with the executor or

administrator within the period aforesaid, or thereafter before the distribution of the estate has been completed, shall in respect of his claim be entitled to recover from any person having a valid claim as a creditor against the estate restitution of any portion of that estate paid to that person in satisfaction of his claim after the expiry of that period and before the claim of the person seeking restitution was lodged with the executor or administrator, although if lodged in due time the last-mentioned claim would, according to the legal order of preference, have been preferred to that of the person to whom payment was previously made; and

- (b) that creditor shall have no claim against an executor or administrator duly appointed in respect of any distribution aforesaid of the funds of any estate made by him after the expiry of the period aforesaid and before the claim of the creditor was known to the executor or administrator.

Priority of  
certain claims.  
[6 of 1991]

**39.** In the distribution of any of the claims against the estates of deceased persons according to their rank or priority of preference after payment of the fees and expenses properly incurred in complying with the provisions of this Act, the executor or administrator of the estate shall class as preferent, and in the order in which they are hereafter set down, the following claims:

- (a) funeral expenses in so far as suitable

to the condition of the deceased person in life;

- (b) medical attendance and medicine for the four months preceding the decease;
- (c) taxes, imposts, dues, debts, and sums of money due to the State;
- (d) local, municipal, village, and parochial rates, taxes and assessments;
- (e) wages due to clerks for six months and to salesmen in retail provision shops and menial and other servants for the month preceding the death and the month in which the death takes place;
- (f) arrears of rent due for a period of six months antecedent to the grant of probate or letters of administration;
- (g) tacit and conventional mortgages according to their nature and priority.

Affidavit may be required in support of claim.

**40.** An executor or administrator may, if he thinks fit, require anyone preferring a claim as creditor against the estate which he is administering to substantiate it by an affidavit setting forth its details with the particularity reasonably required by him, and may refuse to recognise it until that affidavit has been furnished, and any court by which the claim is adjudged in favour of the claimant may decline to grant him his costs against the estate if the court deems the information given by the claimant to the executor or administrator to have been insufficient and the executor or administrator to have acted with prudence and discretion in

contesting it.

If an estate is insolvent.

**41.** If an executor or administrator finds after inquiry that the estate is insolvent he shall immediately take the necessary proceedings for having it administered in insolvency unless the creditors consent to receive a dividend in full satisfaction of their claims and proof of that consent is filed with the Registrar.

Sale and realisation of estate of deceased person.

**42.** If no provision be made in the will of the deceased to the contrary, or if the terms of appointment of an administrator be not opposed thereto, every executor and administrator shall have full power to sell all the property, goods, and effects of the deceased and to transport any immovable property for the purpose of the realisation and distribution of the estate:

Provided that—

- (a) the sale shall be by public auction unless the Registrar, at the request of any interested party after due inquiry, is of opinion that it will be to the advantage of persons interested in an estate to sell out of hand instead of by public auction any property, goods, or effects belonging to the estate and grants the necessary authority to the executor or administrator so to act; and
- (b) if, at the request of any interested party it is expedient to subdivide or to make a division of any movable or immovable property belonging to the estate without proceeding to sale, the Registrar may, after due inquiry and if he is satisfied that the proposed division is fair and equitable, grant

the necessary authority to the executor or administrator so to act.

Surviving spouse or heirs and legatees may take over estate at appraisalment.

**43.** (1) If one of two spouses married in community of property dies intestate, or dies testate and makes no provision to the contrary in the will, the survivor may take over, or in the case of immovable property receive by transport, from the executor or administrator the share of the joint estate belonging to the deceased spouse at a valuation made by the sworn appraisalment of a competent and practising appraiser, instead of being realised according to law, unless in the opinion of the Court that course will be to the prejudice of any minor children of the deceased spouse; but no person having any lawful claim against the estate of the deceased spouse shall be delayed, prejudiced, or defeated in obtaining payment of that claim by virtue of anything in this section contained.

(2) Under the like conditions and on any further conditions decided by the Court, any of the heirs or legatees of any estate may take over, or in the case of immovable property receive by transport, from the executor or administrator the whole or any portion of the estate, or any asset thereto belonging, at a valuation.

Claims of unrepresented infants, lunatics and absent persons.  
[13 of 1932]

**44.** An executor or administrator who, in administering and distributing an estate, finds that any infant who has no lawful guardian, or any lunatic who has no lawful committee, or any person absent from Guyana who has no lawful representative therein, has any valid right or claim to that estate or any portion thereof, shall forthwith transmit to the Public Trustee a statement in writing containing the name of the infant, lunatic, or absent person, and specifying the nature and value of the property to which he has that right or claim.

Moneys of infants, lunatics, or

**45.** (1) Any executor or administrator who, in administering and distributing any estate, discovers that any sum of money has devolved upon, or become due from the

absent persons.  
[13 of 1932] estate, to any infant, lunatic, or person absent from Guyana who has no guardian, committee, or lawful representative therein, shall, unless the will directs that money to be otherwise dealt with, within fourteen days after the discovery, pay the money to the Public Trustee to be paid into the guardians fund.

(2) Nothing in this section contained shall be taken to limit any power possessed by the Court to order the money to be paid by the executor or administrator to any person for any purpose.

Administrators'  
accounts.  
[13 of 1932]

**46.** (1) Every executor and administrator shall administer and distribute the estate which he is appointed to administer according to law and the provisions of any valid will relating to that estate and shall, as soon as may be after the expiration of the period notified in the *Gazette* in manner hereinbefore provided and not later than twelve months from the day on which probate or letters of administration are issued to him, (unless upon application to the Registrar upon sufficient cause shown to satisfaction of the Registrar further time is given from time to time for that purpose), file with the Registrar a full and true account, verified by affidavit and supported by vouchers, of the administration and distribution of the estate.

(2) If the account is not the final account it shall set forth all debts due to the estate still outstanding and all property, goods, and effects, still unsold and unrealised, and the reason why they have not been collected, sold, or realised, as the case may be.

(3) The executor or administrator shall, every twelve months after the filing of the first account, render further accounts of his administration and distribution until the estate is fully administered and if he fails to do so shall be liable to be dealt with in terms of the next succeeding section.

(4) The account shall be open at the registry for

inspection during office hours for not less than three weeks after it is filed by any person interested in the estate.

(5) The Registrar shall, immediately after the account is filed, give due notice on two successive Saturdays that it is so open to inspection, by publication in the *Gazette* and in some newspaper circulating in the district or county in which the deceased ordinarily resided, and shall state in the notice the period and place during and at which the account will be open for inspection.

(6) Anyone interested in the estate may, at any time before the expiration of the period allowed for inspection, file with the Registrar objection in writing to the account with reasons therefor.

(7) If the Registrar is of opinion that an objection ought to be sustained, he shall direct the executor or administrator to amend the account or shall give any other directions he deems fit:

Provided that—

- (a) any person aggrieved by the direction of the Registrar may, within twenty-one days after the date of that direction, and after giving notice to the executor or administrator and to any person affected thereby, apply to the Court for an order to set it aside, and the Court may make any order it thinks fit; and
- (b) when the direction affects the interests of a person who has not lodged an objection, the account so amended shall be again open for inspection in the manner and with the notices aforesaid, unless the person so

affected consents in writing to the account being acted upon.

(8) The executor or administrator shall, forthwith after filing with the Registrar any account, forward through the post a notice stating that he has filed an account to every creditor, beneficiary and other person interested in the estate, and shall, in the affidavit verifying the account, set forth the names and postal addresses of the persons to whom he intends to forward a notice.

(9) The executor or administrator shall, as against the estate, be entitled to the costs and expenses of and attendant on the rendering and filing of an account and the forwarding of notices, if the account is filed within the time prescribed, but not otherwise.

If administrator fails to file accounts.  
[13 of 1932]

47. (1) Whenever an executor or administrator fails to file the account with the Registrar, or to comply with any direction or requirement as mentioned in the preceding section, the Registrar or any person having an interest in the estate may apply to the Court for an order calling upon him to show cause why the account has not been so filed or the direction or requirement complied with:

Provided that—

- (a) the Registrar or other person aforesaid shall, within one month before making that application, apply by letter to the executor or administrator in default requiring him to file his account or to comply with the direction or requirement on pain of being called upon to show cause under this section; and
- (b) an executor or administrator who receives the last mentioned

application may file with the Registrar any grounds and reasons he is able to state why he has not filed his account or complied with the direction or requirement, and the Registrar, if those grounds and reasons seem to him sufficient, may grant to the executor or administrator any extension of time which in the circumstances he deems reasonable; reserving always the right of any person having an interest in the estate to bring under review before the Court the decision of the Registrar granting the extension; and

- (c) any executor or administrator in default, if he fails to satisfy the Registrar that he ought to receive an extension of time, may apply to the Court (of which application notice shall be given to the Registrar and other person aforesaid) for an order granting to him an extension of time within which to file his account, or comply with the direction or requirement.

Registrar's costs in certain cases.

(2) Although the Court may be of opinion that the grounds and reasons filed with the Registrar by an executor or administrator would have warranted the Registrar in granting an extension of time, the Registrar, or other person at whose instance application is made, shall nevertheless be entitled to his costs if, before applying to the Court for an order on the executor or administrator whose grounds and reasons the Registrar has overruled and declared insufficient, he has allowed the executor or administrator sufficient time to apply to the Court for an order granting to the executor or administrator an extension of time, or if the Court finds that

the Registrar acted in good faith.

Incidence of costs.

(3) The costs adjudged to the Registrar or other person aforesaid upon any process sued out by him or on his behalf shall be payable by the executor or administrator in default personally and shall not be chargeable to the estate under administration unless the executor or administrator is authorised by the Court to do so.

Remuneration of executors and administrators.

**48.** (1) Every executor and administrator shall, in respect of his administration, distribution, and final settlement, of any estate, be entitled to claim and receive out of the assets of the estate, or from anyone who, as heir, legatee, or creditor, is entitled on administration to the whole or any portion of the estate, to any remuneration fixed by the deceased by will, otherwise to an amount to be assessed by the Registrar not exceeding the rates following:

- (a) where the total value of the property does not exceed ten thousand dollars, ten per cent on the amount of all receipts; and
- (b) where the total value of the property exceeds ten thousand dollars, ten per cent on ten thousand dollars and five per cent on the amount of all receipts over and above ten thousand dollars:

Provided that where any plantation, farm, business, or undertaking is carried on or is being administered, the remuneration shall not be payable on the gross receipts but shall be that determined and fixed by the Registrar according to the circumstances of each particular case;

subject to review by the Court upon the application of the executor or administrator or of any person having an interest in the estate.

(2) If any executor or administrator fails to administer any estate with due diligence or fidelity, or to file or render the account of his administration and distribution of the estate in due course of law, and has no lawful and sufficient excuse for his failure, the Registrar may disallow the whole or any portion of the remuneration which he might otherwise have been entitled to receive in respect of his administration of the estate, subject, however, to review by the Court.

(3) For the purposes of this section the term "receipts" includes rent, interest, and book debts, but does not include money in the hands of the deceased at the time of his death, the proceeds of the sale of effects and realisation of investments, and the like, and the remuneration assessed on the amount of that money, those proceeds of sale, that realisation of investments, and the like shall not exceed one-half the rates allowed in subsection (1)(a) and (b).

When property bequeathed with limited interest with eventual right to heir in remainder.

**49.** (1) If the owner of any immovable property has at his death bequeathed a fiduciary, usufructuary, or other limited interest in the property to anyone and has directed by his will that the property shall devolve after the expiration of that limited interest upon any other person or persons certain or uncertain, then the executor or administrator of the estate of the deceased owner shall, upon or before drawing up any administration and distribution account of the estate, transport the property to the person immediately entitled to the limited interest therein, with an express reservation in the transport of the rights of the other person or persons.

(2) Nothing herein contained shall affect the right of any executor or administrator to sell and transport any immovable property for the purpose of paying the debts of the deceased owner thereof, but the sanction of the Court must be obtained for the sale and transport if there are infant children surviving.

(3) The passing of any transport under this section

shall not be deemed to determine whether the interest bequeathed is usufructuary or fiduciary.

Holder of limited interest compelled to accept transport.

**50.** If a person to whom a fiduciary, usufructuary, or other limited interest has been bequeathed as in the last preceding section mentioned does not renounce the bequest and yet refuses to accept transport thereof in terms of that section, or if it is impossible for the executor or administrator of the former owner of the property to pass transport of the limited interest to him for any reason whatsoever, the executor or administrator may apply to the Court for an order compelling him to do all things in his power necessary to enable a transport of the limited interest to be passed as required by the preceding section; and the Court may make any order in the circumstances it deems proper.

Inheritances of infants.

**51.** A surviving spouse shall have the right to receive from the executor or administrator the inheritance of his or her infant children and to retain it until their majority, and in the case of immovable property, to accept transport in the name of any of them:

Provided that—

- (a) if the deceased spouse has by will directed that the inheritance shall be otherwise dealt with, nothing herein contained shall be taken to prevent the executor or administrator from carrying into effect the provisions of the will;
- (b) the right of a surviving parent may at any time be limited or revoked by the Court on application, subject to any conditions the Court imposes;
- (c) in the event of the death of an infant before reaching majority his or her inheritance shall become payable at once.

Delivery of  
grosse or deed.  
[6 of 1997]

**52.** Anyone in possession of a grosse transport, mortgage, or title deed, required by an executor or administrator in order to comply with any of the provisions of this Act, who refuses to deliver it or unreasonably delays its delivery to the executor or administrator shall be liable to pay all reasonable costs which the executor or administrator incurs in obtaining the order of a competent Court for its possession, or in obtaining a certified copy thereof, and shall be liable in addition to any penalty (not exceeding nine thousand seven hundred and fifty dollars) the Court imposes, but the legal rights or position of that person shall not be affected by his delivery of the grosse or deed in terms of this section.

### THE GUARDIANS FUNDS

The guardians  
fund.  
[13 of 1932]

**53.** All moneys paid to the Public Trustee under section 45 shall form and become part of the fund to be known as the guardians fund, and whenever that money is received by the Public Trustee he shall open an account in his books with the person to whom, or who represents the estate to which, the money belongs, or, if in the case of infant heirs or beneficiaries it is more convenient, the account may be opened in the matter of the estate from which the money is derived.

Duties of Public  
Trustee.  
[13 of 1932]

**54.** (1) All moneys paid to the Public Trustee under this or any other Act to be placed to the credit of the guardians fund shall be invested by him in any of the securities authorised by law for the investment of trust moneys.

(2) The Public Trustee shall pay out of the fund any sum of money placed to the credit of any person in the books aforesaid to any person entitled by law to receive it.

(3) The Public Trustee shall in the month of January in each year draw up a list of all amounts standing in the books of the guardians fund to the credit of any person

unknown or not residing and not having any known legal representative in Guyana and shall cause the list to be published in the *Gazette*.

Claims to  
moneys paid  
over.  
[13 of 1932]

55. Anyone claiming a sum of money paid over to the Public Trustee to the credit of the guardians fund which the Public Trustee for any reason is unable to certify to be due and payable to the claimant shall apply by petition to the Minister responsible for finance, who may, if he sees fit, authorise the Public Trustee to pay out that sum of money or refer the party to establish the claim by due course of law, and in the latter case the Public Trustee shall make any defence in law he may be legally advised:

Provided that nothing herein contained shall be construed to hinder or prevent the making of provision on the annual estimates for the payment of any sum of money paid into the guardians fund under the provisions of this or of any other Act to anyone whom he considers to have an equitable claim thereto notwithstanding that the claim may be statute-barred.

**GENERAL**

Records and  
searches.

56. The Registrar shall preserve of record in his office all original wills, notices of death, inventories, and liquidation, administration, and distribution accounts, deposited, lodged, or filed with him under this Act, and any person may at any time during office hours inspect any of those records and obtain a copy thereof or extract therefrom on payment of the prescribed fee or fees:

Provided that any government officer shall be allowed and is hereby authorised without the payment of any fee to inspect any record aforesaid and to take a copy thereof or extract therefrom whenever it is necessary or expedient that that should be done by the officer in the discharge of the duties of his office.

Registrar not personally liable for costs.

57. When the Registrar is plaintiff, applicant, defendant, or respondent in any action or matter instituted by or against him in his official capacity in terms of the provisions of this Act, he shall not be made personally liable for any costs in and with respect to the action or matter that the Court orders to be paid.

Fees.

58. The Registrar shall and is hereby authorised and required to charge and demand, receive, retain, or recover, in respect of the acts, matters, and things done or caused to be done by him or in his office the fees prescribed by rules of court.

Rules of court. c. 3:02

59. (1) Rules of court may be made under section 67 of the High Court Act for any of the purposes of this Act.

(2) Until other forms are prescribed by rules so made the forms given in the Schedule shall be used in respect of the acts, matters and things therein set forth.

s. 3

SCHEDULE

FORMS

1.

NOTICE OF DEATH

*Pursuant to the provisions contained in the Deceased Persons Estates Act*

1. Name of the deceased.....

2. Birthplace and nationality of the deceased .....

3. Names and addresses ..... father ..... of the parents of ..... mother

..... deceased.

4. Age of the deceased .....years.....  
.....months.

5. Occupation in life of the  
deceased.....

6. Married or unmarried, widower or  
widow.....

(a) Name of surviving spouse (if any), and whether  
married in community of property or not

(b) Name or names and approximate date of death of  
predeceased spouse or spouses

(c) Place of last marriage

7. The day of the decease..... on ..... 20 .....  
house .....

8. Where the person died town or place  
.....  
county .....

9. Names of children of deceased, and whether majors or  
minors.

State separately the children born of different marriages and give the date of birth of each minor. Names must be written out in full. If there are no children, and either or both parents are dead, then give the names and addresses of the brothers and sisters of deceased.

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

- 10. Has the deceased left any movable property?  
.....
- 11. Has the deceased left any immovable property?  
.....
- 12. Estimated value of the estate .....
- 13. Has the deceased left a will?.....

Dated at ..... the ..... day of  
 ..... 20.....

.....  
 [State in what capacity]

This notice must be filled up and signed by the nearest relative or connection of the deceased, who shall at the time be at, or near, the place of death—or, in the default of a near relative or connection, by the person who at, or immediately after, the death has the chief charge of the house or the premises in which the death occurs, and must be sent to the Registrar at Georgetown and filed in the registry within thirty days of the death.

LAWS OF GUYANA

s. 24

2.

PROBATE

Sworn at.

IN THE HIGH COURT OF THE SUPREME COURT OF GUYANA

BE IT KNOWN that..... of ..... died on the.....of ..... 20..... at .....

AND BE IT FURTHER KNOWN that on the..... day of ..... the last will and testament (a copy whereof is hereunto annexed) of the said deceased was deposited with proof of due execution in the registry of court and that administration of all the estate which by law devolves to and vests in the personal representative of the said deceased was granted by the above-mentioned Court to..... of.....

Dated the ..... day of ..... 20 ..... (L.S.) Registrar

s. 24

3.

LETTERS OF ADMINISTRATION

Sworn at.

IN THE HIGH COURT OF THE SUPREME COURT OF GUYANA

BE IT KNOWN THAT ..... of ..... died on the..... of ..... at ..... intestate.

AND BE IT FURTHER KNOWN that on the..... day of ..... Letters of Administration of all the estate (a) which by law devolves to and vests in the personal

LAWS OF GUYANA

(a) or as the case  
may be. representative of the said intestate were granted by the Court  
above-mentioned to..... of .....

Dated the ..... day of ....., 20 .....

.....

Registrar

(L.S.)

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SUBSIDIARY LEGISLATION

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R. 18/12/1894

**DECEASED PERSONS ESTATES'  
ADMINISTRATION RULES**

*made under section 32*

Citation.

1. These Rules may be cited as the Deceased Persons Estates' Administration Rules.

Application to record grant of probate.

2. Application to record a grant of probate or letters of administration in the Registrar's office may be made by the executor or administrator or the attorney (lawfully authorised for the purpose) of such executor or administrator, either in person or through a barrister, advocate or solicitor.

Bond to be given on application to record letters of administration.

3. Such application must be accompanied by an oath of the executor, administrator or attorney in the form in the Schedule, or as nearly thereto as the circumstances of the case will allow.

Advertisement of *Gazette* to satisfaction of Registrar.

4. The Registrar shall be satisfied that notice of such application has been advertised in the *Gazette*.

Oath of executive to accompany application.

5. On application to record letters of administration the administrator or his attorney shall give a bond (in the form set out in the Schedule) to cover the estate of the deceased within Guyana.

[Subsidiary]

*Deceased Persons Estates' Administration Rules*

Registrar may require further evidence as to domicile.

6. In every case, and especially when the domicile of the deceased at the time of death as sworn to in the affidavit differs from that suggested by the description in the grant, the Registrar may require further evidence as to domicile.

Grant of probate not to be registered if deceased was not domiciled in jurisdiction of the Court.

7. If it should appear that the deceased was not at the time of death domiciled within the jurisdiction of the Court from which the grant of probate or letters of administration issued, the grant shall not be recorded unless the grant is such as might lawfully, by the law of Guyana, be recorded in the Registrar's office.

Authenticated copies of all testamentary papers to be recorded.

8. Together with the grant to be recorded and the copy to be deposited in the registry, duly authenticated copies of all testamentary papers admitted to probate must be recorded or deposited in the registry.

Reason of delay to be certified to Registrar if application to record made after three years.

9. When application to record a probate or letters of administration is made after the lapse of three years from the death of the deceased the reason of the delay is to be certified to the Registrar. Should the certificate be unsatisfactory, the Registrar shall require such proof of the alleged cause of delay as he may deem necessary.

Registrar to send notice of recording to Court issuing grant.

10. Notice of the recording in Guyana of a grant is to be sent by the Registrar to the Court from which the grant is issued.

Affidavit for revenue purposes is prescribed for.

11. The affidavit for testamentary duty and other revenue purposes shall be in the form in the Schedule, or in such form as may be prescribed by the Chancellor.

SCHEDULE

FORMS TO BE USED, WITH SUCH MODIFICATIONS AS MAY BE NECESSARY

*Affidavit*

THE DECEASED PERSONS ESTATES' ADMINISTRATION ACT

In the goods of A.B., deceased.

I, C.D., of....., make oath and say –

1. That a grant of probate of the will (or letters of administration of the estate) of A.B., late of....., deceased, was granted to me by the Court at..... on ..... the ..... day of.....20.....

2. That the said deceased was at the time of his death domiciled at.....within the jurisdiction of the said Court.

3. That the notice hereunto annexed was inserted in the *Gazette*.

4. That I am the attorney lawfully appointed by C.D. by power of attorney, under his hand and seal, dated this.....day of ..... 20..., and recorded in the Registrar's office .....20..., and am duly authorised to apply for the recording of the said grant.

5. That the value of the estate in Guyana amounts to the sum of ..... and no more, to the best of my knowledge, information and belief.

Sworn, etc.

*Advertisement*

In the goods of A.B., deceased.

Notice is hereby given that after the expiration of fourteen days from the publication hereof application will be

[Subsidiary]

Deceased Persons Estates' Administration Rules

made to the Registrar for the recording of the probate of the will (or letters of administration of the estate) of A.B., late of....., deceased, granted by the Court at.....on the.....day of .....20.....

(Signed).....

Solicitor or Applicant (if acting in person)

Administration Bond (with or without will)

Know all men by these presents that we, A.B., of....., C.D., of....., and E.F., of....., are.....jointly and severally bound unto.....the Registrar of Guyana, in the sum of .....dollars, current money of Guyana, to be paid to the Registrar for the time being, for which payment well and truly to be made we bind ourselves and each of us for the whole, our heirs, executors and administrators firmly by these presents.

Dated the.....day of.....in the year of our Lord two thousand and.....

The condition of this obligation is such that if the above-named A.B., the administrator (with the will dated the.....day of .....20.....,annexed), by authority of the.....acting under letter of administration granted to..... on the.....day of .....20....., and now about to be recorded in the office of the Registrar of Guyana under the Deceased Persons Estates Administration Act, of the estate of K.L., late of....., deceased, who died on the..... day of.....20....., do, when lawfully called on in that behalf, make or cause to be made true and perfect inventory of the estate of the said deceased in Guyana, which has or shall come to the hands, possession, knowledge or into the hands and possession of any other person for..... and the same to exhibit

LAWS OF GUYANA

or cause to be exhibited as required by law or as may be required by any order made by the High Court of Guyana, and the same estate do well and truly administer according to law; and further do make a just and true account of..... said administration, whenever required by law so to do, then this obligation to be void and of none effect or else to remain in full force and virtue.

Signed      and      sealed      by      the      within  
named.....in                      the                      presence  
of.....

(Signed).....  
A Commissioner for  
Oaths to Affidavits

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