



ANNO QUARTO

EDWARDI VII REGIS.

A.D. 1904.

No. 854.

An Act to amend "The Administration and Probate Act, 1891," and for other purposes.

[*Assented to, November 24th, 1904.*]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Administration and Probate Amendment Act, 1904." Short title.

2. This Act shall be read and construed as one Act with "The Administration and Probate Act, 1891" (hereinafter called the principal Act), and together therewith may be cited as the Administration and Probate Acts. Incorporation.

3. In the construction of this Act, unless inconsistent with the context— Interpretation.

"State" includes province and colony:

"Curator of any (or such) other State" means and includes the Curator of Intestate Estates or the Public Trustee for the time being of any State of the Commonwealth of Australia other than South Australia, and also of the colony of New Zealand, or the officer discharging in any such State duties corresponding or similar to those discharged in South Australia by the Public Trustee.

4. In

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Court may order administration to be granted to Public Trustee in certain cases.

4. In addition to the cases specified in section 48 of the principal Act, the Court may make an order authorising the Public Trustee to administer the estate of a deceased person :

- i. When the deceased shall have died wholly or partially intestate, leaving estate within the State of South Australia, but not a husband or lawful next of kin, of the age of twenty-one years :
- ii. Where the estate, or portion thereof, is liable to waste, or is of a perishable nature, or is in danger of being lost or destroyed, or where great loss or expense may be incurred by reason of delay, and the executor or person entitled to administration, with the will annexed, or husband, or the widow or next of kin—
 - (a) Is absent from the locality of the estate ; or
 - (b) Is not known ; or
 - (c) Has not been found ; or
 - (d) Is unfit or incapable :
- iii. Where such executor, person entitled to administration, with will annexed, or husband, or widow, or lawful next of kin requests or request the Public Trustee, in writing, to apply for such order :
- iv. Where part of an estate, already partly administered, is unadministered owing to the death or incapacity of the executor or administrator.

Application of secs. 49 and 51 of principal Act.

5. The provisions of sections 49 and 51 of the principal Act shall apply to orders made under section 4 hereof.

Public Trustee may pay over to Curator of another State.

6. When the Public Trustee has obtained an order to administer the estate in South Australia of any person who at the time of his death was domiciled in one of the other States of the Commonwealth of Australia, or in the colony of New Zealand, and whose estate in the other State is being administered by the Curator of such other State, or by an executor or administrator duly appointed by the Supreme Court of such State, the Public Trustee may pay over to the Curator of the State in which the deceased was domiciled at the time of his death, or to such executor or administrator, the balance of the estate, after payment of his debts in South Australia and the charges provided for in the Administration and Probate Acts, without seeing to the application of any money so paid, and without incurring any liability in regard to such payment.

Public Trustee may receive from the Curator of another State.

7. (1) When the Curator of any other State has in the said State obtained administration to the estate of any deceased person whose estate in South Australia is being administered by the Public Trustee, and who at the time of his death was domiciled in South Australia, the Public Trustee may receive from the Curator of such other State the balance of the deceased's estate in that State, after payment of creditors and all charges provided for under the law of such State.

(2) Such

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(2) Such balance shall, when so received, form part of the estate of the deceased, and shall be dealt with according to the law of South Australia, but no commission shall be paid to or deducted by the Public Trustee.

8. (1) The Court may allow to the Public Trustee such commission as may be just and reasonable on all property, real or personal other than money and over the value of One Hundred Pounds, which shall come to the hands of the Public Trustee under the authority of this or the principal Act, and on any money or property received by him under this Act, or under or in pursuance of the provisions of any Act of Parliament in which no provision for any allowance to the Public Trustee is made.

Court may allow Public Trustee commission on property conveyed in specie.

9. Sub-section 2 of section 88 of the principal Act shall be read as though the following words had been originally included therein after clause (c) —

Investment.

“(d) On loan to the Treasurer of the said State.”

10. The figures “41” in the third line of sub-section 2 of section 63 of the said Act are hereby repealed, and the figures “44” inserted in lieu thereof; and that the figures “41” in the third line of section 45 of the said Act are hereby repealed, and the figures “40” inserted in lieu thereof; and the word “the” at the end of the second line of sub-section 3 of section 64 of the said Act is hereby repealed and the word “are” inserted in lieu thereof.

Amendment of secs. 63 and 64 of the principal Act.

11. The Judge of the Northern Territory shall possess and exercise in the Northern Territory, in relation to the Public Trustee for the Northern Territory, the like powers and jurisdictions as are exercised by the Court under this and the principal Act in relation to the Public Trustee.

Powers of Judge of Northern Territory.

12. In addition to, and without restricting or limiting, the powers vested in the Court or any one or more Judges thereof under section 112 of the principal Act, the Court or any one or more of the Judges shall have power, subject always to the provisions of sub-section 2 of section 112, to revoke, amend, alter, or vary the scale of charges, or any of the rules, forms, and fees mentioned and prescribed in the Second and Third Schedules of the said Act.

Rules may be amended.

13. Section 72, sub-sections (1) and (2) of the principal Act, shall be read as though the words “under any will or” had been originally inserted after the word “estate” in the first line of the said sub-sections (1) and (2).

Amendment of section 72 of the principal Act.

14. In addition to the provisions contained in sections 93 and 95 of the principal Act the Court, in any case in which it sees fit, may, on the application of the trustee or executor under any will, make an order authorising the Public Trustee to receive and administer any money or property subject to the trusts of the same will.

Public Trustee may receive properties subject to trusts.

15. Whenever

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Payment by bank
three months after
death of customer to
the widow or husband
of sums not exceeding
£50 without proof.

15. Whenever on the death of an ordinary customer or depositor the moneys standing to his credit on the books of any bank shall not exceed Fifty Pounds, and probate of his will or letters of administration of his estate shall not be produced to the manager of the bank within three months after the death of the customer or depositor, the manager of such bank may pay such money to the widow or husband of such customer or depositor without any proof other than the death of such customer or depositor and the identity of the widow or husband, as the case may be, and every payment so made shall be valid, and be an effectual release to the bank against all claims and demands on account thereof; but nevertheless the next of kin, legatees, executors, or administrators of the deceased customer or depositor shall have all the remedies against the persons to whom such moneys were paid as they would have had against the bank if such payment had not been made by the bank as aforesaid.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

GEORGE R. LE HUNTE, Governor.