

Administration of Estates (Small Estates) (Special Provisions) Act 1972 (Ch 156)

CHAPTER 156

THE ADMINISTRATION OF ESTATES (SMALL ESTATES) (SPECIAL PROVISIONS) ACT.

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CHAPTER 156

THE ADMINISTRATION OF ESTATES (SMALL ESTATES) (SPECIAL PROVISIONS) ACT.

Commencement: 6 June, 1972.

An Act to confer jurisdiction on magistrates courts to grant probate or letters of administration in respect of small estates of deceased persons and for other matters connected therewith.

1. Interpretation.

In this Act, unless the context otherwise requires—

(a) “small estate” means any estate the value of which is specified in section 2(1);

(b) “Minister” means the Minister to whom functions under this Act are assigned.

2. Jurisdiction to grant probate, etc. of small estates.

(1) Notwithstanding any provision of the Succession Act or the Administrator General’s Act to the contrary, jurisdiction to grant probate or letters of administration in respect of small estates of deceased persons shall be exercised by—

a magistrate grade II, where the total value of the estate does not exceed ten thousand shillings;

a magistrate grade I, where the total value of the estate exceeds ten thousand shillings but does not exceed fifty thousand shillings;

a chief magistrate, where the total value of the estate exceeds fifty thousand shillings but does not exceed one hundred thousand shillings.

(2) Grant of probate or letters of administration shall be made in the prescribed form under the seal of the court, and the grant shall have effect over all the property of the deceased, movable and immovable, in all parts of Uganda and shall be conclusive evidence as to the representative title against all debtors of the deceased and all persons holding property which belongs to the deceased.

(3) No grant shall be made by a magistrate’s court—

in any case in which there is contention until the contention is disposed of;

in respect of an estate of a deceased person who at the time of his or her death had no fixed place of abode within the jurisdiction of the court.

The grant of probate or letters of administration may be revoked, altered or annulled for just cause, and any errors appearing in the grant of probate or letters of administration may be rectified by the court.

A grant of probate or letters of administration shall not be revoked or annulled for want of jurisdiction if during the administration of the estate it is subsequently discovered that the total value of the estate is greater than the total value of the estate declared in an application for the grant unless the court is satisfied that the interests of the beneficiaries are thereby prejudiced.

The Minister may, by statutory order, amend the jurisdiction of magistrates courts under subsection (1).

3. Application for grant of probate, etc.

An application for the grant of probate or letters of administration shall be made in the prescribed form and shall contain such matters as may be prescribed.

4. Grantee of probate or administration alone to sue.

After any grant of probate or letters of administration have been made, no person other than the holder of the grant may sue or otherwise act as representative of the deceased, until the grant is revoked.

5. Effect of payment to executor or administrator.

Where any probate or letters of administration are revoked, all payments bona fide made to any executor or administrator under the probate or administration before its revocation shall, notwithstanding the revocation, be a legal discharge to the person making the payments; and an executor or administrator who has acted under the revoked probate or administration may retain and reimburse himself or herself in respect of any payments made by

him or her, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

6.

Appeals.

An appeal shall lie—

from any order or decision of a magistrate's court presided over by a chief magistrate or a magistrate grade I in the exercise of its original jurisdiction, to the High Court;

from any order or decision made in appeal by a chief magistrate to the High Court;

from any order or decision of a magistrate's court presided over by a magistrate grade II to a court presided over by a chief magistrate.

7. Appeals to the Court of Appeal.

(1) An appeal shall lie to the Court of Appeal from any order or decision made in appeal by the High Court on any of the following grounds, namely that—

the order or decision is contrary to law or usage having the force of law;

the order or decision has failed to determine some material point of law or usage having the force of law; or

a substantial error in the procedure has occurred which may have produced error or defect in the decision of the case upon merits.

(2) No appeal shall lie to the Court of Appeal in any probate action where the value of the subject matter of the action is less than ten thousand

shillings, unless special leave is obtained from the Court of Appeal.

8.

Probate rules.

The Minister may, in consultation with the Chief Justice, make rules—

(a)

(b)

(c) (d)

for regulating the practice and procedure of the magistrates courts

in probate business;

prescribing the fees and costs payable on and incidental to

probate business;

prescribing the forms to be used in probate business; and

prescribing anything required to be prescribed under this Act.

9. Punishment for false averment in petition or declaration.

If any person makes in his or her application or declaration which is required to be made or verified under this Act any averment which he or she knows or believes to be false, he or she commits an offence and is liable to the penalties provided by the law for the time being in force for the punishment of the offence of giving or fabricating false evidence.

10. Application.

Subject to subsection (3), this Act shall be read and construed as one with the Succession Act; and where they conflict, this Act shall prevail.

This Act shall apply to small estates specified in section 2 of persons dying before or after the coming into force of this Act.

The provisions of Part V of the Succession Act shall, *mutatis mutandis*, apply to the administration of small intestate estates.

Part XXXI of the Succession Act (which relates to the practice of granting and revoking probate and letters of administration) shall not apply to the administration of small estates.

Section 5 of the Administrator General's Act shall not apply to an application made under this Act for letters of administration.

11. Saving for jurisdiction of the High Court.

Nothing in this Act shall affect the jurisdiction of the High Court to grant probate or letters of administration in respect of estates of persons having no fixed place of abode in Uganda.

12. Administrator General not precluded from grant.

Nothing in this Act shall be deemed to preclude—

the Administrator General from applying to the court for letters of administration;

the court from granting letters of administration to the Administrator General, in any case where the court is empowered under this or any other part of this Act to grant letters of administration to any person other than an executor appointed under the will of the testator.

History: Decree 13/1972; Decree 22/1972, s. 4; Decree 12/1977.

Cross References

Administrator General's Act, Cap. 157. Succession Act, Cap. 162.