

CHAPTER 27
THE ADMINISTRATOR-GENERAL (POWERS AND FUNCTIONS) ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 27

THE ADMINISTRATOR-GENERAL (POWERS AND FUNCTIONS) ACT

An Act to make provision for the appointment and duties of an Administrator-General.

[15th June, 1931]

Ords. Nos.

20 of 1921

19 of 1922

44 of 1931

19 of 1952

28 of 1953

4 of 1959

Acts Nos.

35 of 1961

9 of 1963

G.Ns. Nos.

478 of 1962

114 of 1992

1. **Short title**

This Act may be cited as the Administrator-General (Powers and Functions) Act.

2. **Interpretation**

In this Act unless the context otherwise requires—

"Administrator-General" means the Administrator of estates appointed under this Act and includes an Assistant Administrator-General;

"agent" means an agent of the Administrator-General duly appointed as provided in section 27 of this Act;

"asset" means all property movable and immovable of a deceased person, which is chargeable with and applicable to the payment of his debts and legacies or available for distribution amongst the heirs and next-of-kin, of the deceased;

"court" means the High Court of Tanzania, or any court subordinate to it to which jurisdiction has, or may have, been given;

"immovable property" includes land, benefits which arise out of land, not being charges for the security of money, and things attached to the earth, or permanently fastened to anything attached to the earth;

"letters of administration" include any letters of administration, whether general or with a copy of the will annexed, or limited in time or otherwise;

"Minister" means the Minister for the time being responsible for legal affairs;

"movable property" means property of every description except immovable property;

"next-of-kin" includes a widower or widow of a deceased person, or any other

person, who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased;

"prescribed" means prescribed by any rules made under this Act;

"taxing officer" means the Registrar of the High Court, or an officer duly appointed to act for such officer.

3. Estates to which Part IX of Probate and Administration of Estates Act applies

This Act shall not apply to an estate which may be administered according to customary law unless the Probate and Administration of Estates Act^{i*} or Part VIII of that Act has been applied to that estate under the provisions of Part IX of that Act.

4. Appointment of Administrator-General (1) The Minister may appoint an Administrator-General and as many Assistant Administrators-General as may from time to time be required.

(2) The Administrator-General shall be a corporation sole by the name of the Administrator-General of Mainland Tanzania and shall have perpetual succession and an official seal and may sue and be sued in the corporate name.

(3) The Administrator-General or an Assistant Administrator-General shall be entitled to appear in court, either in person or by counsel, in any proceedings to which he is a party and shall have precedence next after the Director of Public Prosecutions.

5. Administrator-General to apply for grant in certain cases (1) Where a person dies in Mainland Tanzania or where a person dies believed to be possessed of property in Mainland Tanzania, the administrative officer in charge of the district in which such death occurs, or in which such property is believed to exist, shall, upon receiving notice of such death or upon such death coming to the knowledge of the administrative officer, immediately institute inquiries to ascertain whether the deceased left any, and if so, what property in Mainland Tanzania, and if it appears that the deceased left property and—

- (a) that any such person died intestate; or
- (b) that the deceased having made a will devising or bequeathing the deceased's estate or part of it, has omitted to appoint an executor; or
- (c) that the person or persons named as executor or executors in the will, have died in the testator's life-time or have renounced the probate; or
- (d) that probate or letters of administration with the will annexed has not been obtained within six months from the death of the testator; or
- (e) that the deceased has appointed the Administrator-General as sole executor of the deceased's will,

the administrative officer shall immediately report to the Administrator-General and upon receiving such information the Administrator-General may apply to the court for letters of administration of the estate of such deceased person:

Provided that where it appears to the court that circumstances of the case require, for reasons recorded in its proceedings, the court may, of its own motion or otherwise, grant letters of administration to the Administrator-General or to any other person notwithstanding that there are persons who in the ordinary course, would be legally entitled to administration.

(2) The Administrator-General shall serve notice, in the prescribed manner, upon all executors and next-of-kin of the deceased known to be resident in Mainland Tanzania, of intention to apply to the court for letters of administration under the provisions of subsection (1) of this section fourteen days after the service of such notice:

Provided that it shall not be necessary for the Administrator-General to serve such notice as in any case where the Administrator-General shall have obtained the consent in writing of the executors if any or of all parties interested in the estate other

than creditors, as the case may be, to make such application to the court.

6. Assets in danger

Where any person has died leaving assets within Mainland Tanzania, the court, upon being satisfied that there is danger of misappropriation, deterioration, or waste of such assets unless letters of administration of the estate of that person are granted, may, upon the application of the Administrator-General or of any person who is interested in such assets or in the due administration of the assets, make an order upon such terms as to indemnifying the Administrator-General against costs and other expenses as the court thinks fit, directing the Administrator-General to apply for letters of administration of the estate of such person.

7. Uncertainty as to succession (1) Where—

- (a) any person dies leaving assets within Mainland Tanzania and the court is satisfied that there is no person immediately available who is legally entitled to succession to such assets, or that there is danger of misappropriation, deterioration, or waste of such assets before it can be determined who is legally entitled to the succession to such assets, or whether the Administrator-General is entitled to letters of administration of the estates of such person; or
- (b) the agent in charge of any assets in Mainland Tanzania belonging to any person not residing in Mainland Tanzania or belonging to a company not incorporated in Mainland Tanzania dies without leaving any responsible person in charge thereof,

the court may, upon the application of the Administrator-General or any person interested in the assets or in the due administration thereof, direct the Administrator-General to collect and take possession of the assets and to hold, possess, realise, and dispose of the same according to the direction of the court, and in the absence of any such directions according to the provisions, of this Act in so far as they are applicable to such assets.

(2) Any order of the court made under the provisions of this section shall entitle the Administrator-General—

- (a) to maintain any suit or proceedings for the recovery of such assets; and
- (b) to apply for letters of administration of the estate of such deceased person; and
- (c) to retain out of the assets of the estate any fees chargeable under rules made under this Act and to reimburse the Administrator-General for all payments made in respect of such assets which a private administrator might lawfully have made.

8. Grant to persons appearing

If in the course of proceedings to obtain letters of administration under the provisions of sections 5, 6, or 7, any person appears and establishes a claim—

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

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

9. Grant to Administrator-General notwithstanding

If in the course of the proceedings to obtain letters of administration under the provisions of sections 5, 6 or 7, no person appears and establishes a claim to probate of a will or to a grant of letters of administration as next-of-kin of the deceased within such period as the court thinks reasonable, or if a person who has established a claim to a

grant of letters of administration as next-of-kin of the deceased, fails to give such security as may be required by law the court may grant letters of administration to the Administrator-General.

10. Administrator-General not precluded from applying for grant within one month of death of deceased

Nothing in this Act shall be deemed to preclude the Administrator-General from applying to the court for letters of administration in any case within a period of one month from the death of the deceased.

11. Estates of persons subject to Army Act

Nothing in this Act shall be deemed to affect the provisions of the Regimental Debts Act, 1893.

12. Estates administered under the Regimental Debts Act, 1893

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

13. Power of court

If the Administrator-General applies in accordance with the provisions of the Regimental Debts Act, 1893, for letters of administration of the estate of any person subject to the Army Act, the court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Regimental Debts Act, 1893.

14. Administrative officer to take charge of assets In the case of a deceased person having assets in Mainland Tanzania the administrative officer in charge of the district or sub-district in which such assets are situated may, where in the opinion of the administrative officer it is advisable for the protection of the estate, take possession of the assets, and in such case he shall immediately report such action to the Administrator-General, who shall give such directions and take such proceedings in the matter as the Administrator-General shall think fit.

15. Estates of European officers (1) The Administrator-General—

- (a) shall apply for an order to administer the estate of any European officer leaving assets within the jurisdiction of the court where such officer—
 - (i) leaves no widow or next-of-kin; or
 - (ii) leaves a widow or next-of-kin who are all minors;
- (b) may apply for an order to administer the estate of any European officer leaving assets within the jurisdiction of the court where such officer leaves a widow or next-of-kin, one or more of whom are not minors.

(2) The administration of an estate referred to in subsection (1) shall be limited to getting in and realising the assets of the deceased within the jurisdiction, paying liabilities and remitting the balance to the legal personal representative of the deceased.

(3) Such remittances under subsection (2) shall be made by the Accountant-General, at the request of the Administrator-General, instructing the Crown Agents to pay the same:

Provided that the Administrator-General shall, if the estate proves to be solvent, cause any watches, jewellery, letters or other property of such deceased, which in his opinion ought not be sold, to be securely packed and forwarded to the Crown Agents, and if the estate shall prove insolvent, such watches, jewellery, letters or other property of the deceased shall only be forwarded by the Administrator-General to the Crown

Agents upon being satisfied, either by deposit of security or otherwise, that the legal personal representative shall remit the value of such property to the Administrator-General within such time as may be prescribed by the Administrator-General.

(4) The Administrator-General shall give notice to the Minister that what is required to be done under subsection (3) has been done and shall cause the Crown Agents to be notified that such articles have been despatched for delivery to the legal personal representative of the deceased or will be despatched upon the Crown Agents obtaining such security as hereinbefore mentioned:

Provided that when the legal personal representative of the European officer resides outside the United Kingdom, the Administrator-General may, subject to any general or special direction of the Minister make such arrangements as he may in each case think expedient for transmitting to the legal personal representative, in accordance with the provisions of this section, any balance of the estate, and any watches, jewellery, letters or other property of the deceased which, in the opinion of the Administrator-General, ought not to be sold.

(5) It shall be the duty of every administrative officer in charge of a district or sub-district to report to the Administrator-General the death of any European officer which may occur within his district or sub-district.

16. Administrator-General to transmit accounts to Minister (1) Where the accounts of the Administrator-General in connection with the estate of a European officer shall have been passed by the court, the Administrator-General shall immediately transmit to the Minister or where such European officer is in the service of the East Africa High Commission, to the Administrator of the East Africa High Commission, an office copy of the accounts filed in the court, of the affidavit in verification of and of the certificate of the passing thereof.

(2) In the event of an administration not being completed within the period of six months from the date of the death of such officer, the Administrator-General shall report the same to the Minister or to the Administrator of the East Africa High Commission, as the case may be, stating the cause of delay in the completion of such administration.

17. Revocation of grant to Administrator-General

If an executor or next-of-kin of the deceased who has not been personally served with a notice or who has not had actual notice in time to appear pursuant to that notice, establishes to the satisfaction of the court a claim to probate of a will or to letters of administration in preference to the Administrator-General, any letters of administration granted in accordance with the provisions of this Act to the Administrator-General may be revoked, and probate or letters of administration may be granted, to such executor or next-of-kin, as the case may be:

Provided that letters of administration granted to the Administrator-General shall not be revoked under this section, upon the application of the next-of-kin of the deceased, unless such application be made within six months after the grant to the Administrator-General and the court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which application is made.

18. Costs of Administrator-General on revocation of grant

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

Provided that nothing in this section shall affect the provisions of paragraph (c) of subsection (2) of section 7.

19. On revocation previous acts of Administrator-General voidable, not void

If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, the previous acts of the Administrator-General and of all persons acting in his authority pursuant to letters of administration be deemed to have been only voidable, except as to any act done by the Administrator-General or that other person, after notice of a will or of any other fact which would render such letters of administration void:

Provided that no notice of a will or of any other fact which would render any such letters of administration void shall affect the Administrator-General or any person acting under the authority of the Administrator-General in pursuance of such letters of Administration unless within the period of one month from the time of giving such notice proceedings are commenced to prove the will or to cause the letters of Administration to be revoked and such proceedings are prosecuted without unreasonable delay.

20. Payments made by Administrator-General prior to revocation of grant

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

21. Administrator-General's petition for grant

Whenever the Administrator-General applies for letters of administration in accordance with the provisions of this Act it shall be sufficient if the application required to be presented for the grant of such letters of administration states—

- (a) the time and place of the death of the deceased to the best of the knowledge and belief of the applicant;
- (b) the names and addresses of the surviving next-of-kin of the deceased, if known;
- (c) the particulars and value of the assets likely to come into the hands of the applicant;
- (d) the particulars of the liabilities of the estate, if known.

22. No security required from Administrator-General (1) The Administrator-General shall not be required to verify, otherwise than by signature, any application presented under the provisions of this Act and if the facts stated in any such application are not within the Administrator-General's own personal knowledge, the application may be subscribed and verified by any person competent to make the verification:

Provided that the facts stated in the reports of administrative officers to the Administrator-General, shall, for the purposes of this section, be deemed to be within the personal knowledge of the Administrator-General.

(2) The Administrator-General shall not be required by any court to enter into any administration bond, or to give other security to the court on the grant of any letters of administration to and in the name of the Administrator-General.

23. Grants to be made to Administrator-General by that name

All probates and letters of administration granted to the Administrator-General shall be granted to by that name, and shall authorise the Administrator-General to act as executor or administrator, as the case may be, of the estate to which such probate or letters of administration relate.

24. Effect of grant to Administrator-General

Probate or letters of administration granted by the court to the Administrator-General shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such assets to the Administrator-General, or to the agents.

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

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

Provided that the Administrator-General shall not be personally liable for any claim as a contributory.

26. Transfer by private executor or administrator to Administrator-General

(1) Any private executor or administrator may with the consent of the Administrator-General by instrument in writing under the hand of the executor or administrator, published in the *Gazette*, transfer the assets of the estate vested in the executor or administrator by virtue of the probate or letters of administration to the Administrator-General by that name.

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

27. Power of Administrator-General to appoint agents

(1) The Administrator-General may appoint such person or persons, to act as his agent or agents in the managing, collection of the assets, and in payment of the liabilities, and the distribution of the assets of deceased persons, whose estates are in the course of administration by the Administrator-General and such agent or agents shall in all respects act in such matters under the direction of the Administrator-General, who shall not be answerable for any act or omission of any agent, not acting in conformity with such direction, or which happened without the Administrator-General's own fault or neglect.

(2) Every agent shall give security, to the satisfaction of the Administrator-General, for the performance of the agent's duty and shall be remunerated either by salary or such fees as the Administrator-General may decide.

28. Distribution of assets

(1) Where the Administrator-General has given the prescribed notice for creditors and any other person to send in their claims against the estate of the deceased, the Administrator-General shall at the expiration of the time specified in that notice for sending in the claims, be at liberty to distribute the assets or any part of the assets in discharge of such lawful claims as the Administrator-General has notice of.

(2) Notwithstanding subsection (1), the Administrator-General shall not be liable for assets distributed to any person of whose claim he had not notice at the time of such distribution.

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator-General shall affect the Administrator General,

unless proceedings to enforce such claim are commenced within two months of the rejection or disallowance of such claim has been given and proceedings are prosecuted without unreasonable delay.

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part of the assets which are in the hands of the person who may have received them.

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

29. Liability of the Administrator-General

Neither the Administrator-General nor any agent shall be personally liable to any person, in respect of assets in the possession of the deceased at the time of death and whose estate administered by the Administrator-General or the agent, which shall be dealt with by the Administrator-General or such agent, unless the Administrator-General or agent respectively, knows, or has actual notice, before the property is not in fact the property of the deceased whose estate is being administered by the Administrator-General, or the agent and neither the Administrator-General nor the agent shall be liable for any act done by him *bona fide* in the supposed and intended performance of their duties, unless it is shown that such act was done not only illegally but wilfully or with gross negligence:

Provided that nothing in this section shall be deemed to restrict the provisions of section 7.

30. Power to apply to court for directions

(1) The court may on application, give to the Administrator-General any general or special directions as to any estate in his charge, or in regard to administration of estate.

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

31. Power to administer oath

The Administrator-General may, where it is desirable, for the purposes of this Act to satisfy himself regarding any question of fact, examine upon oath any person who is willing to be so examined regarding such question.

32. Liability of Government The Government shall be liable or required to discharge any liability which the Administrator-General, if he were a private administrator, would be personally liable to discharge except when the liability is one to which neither the Administrator-General nor any of the agents has in any way contributed, or which neither the Administrator-General nor any of his agents could, by the exercise of reasonable diligence have averted, and in either of those cases the Administrator-General shall not, nor shall the revenue of the Governments, be subject to any liability.

33. Costs of Administrator-General

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

(2) If any suit under subsection (1) is decreed in favour of the creditor, he shall, unless he is a secured creditor, be only entitled to payment out of the assets of the

deceased equally and rateably with the other creditors.

34. Omitted

[Omitted.]

35. Amendment

[Deletes the First Schedule of Act No. 35 of 1961.]

36. Fees

There shall be charged in respect of the duties of the Administrator-General such fees as may be prescribed.

[R.E. 1995]

37. Expenses

The Administrator-General may retain or pay out of any estate under the charge of the Administrator-General, such fees and expenses as may be retained or paid out of such estate by a private administrator and such fees and expenses shall be so retained and paid and the fees prescribed under section 36 shall be retained and paid in like manner as in addition to such expenses: such fees, charges and reimbursements shall have priority over all debts of the deceased and may be deducted from any moneys received by the Administrator-General in the course of the administration.

38. Payment of money into prescribed bank and investment of surplus funds

(1) The Administrator-General's account shall be kept by the Administrator-General with such bank as may be prescribed, and all moneys received by the Administrator-General in respect of proceedings under this Act shall be paid into that account and whenever the cash balance standing to the credit of the Administrator-General's account is in excess of the amount which in the opinion of the Administrator-General is required for the time being to answer demands in respect of the estates being administered by him, the Administrator-General may place that cash balance or any part of it on fixed deposit with the prescribed bank.

(2) Where any money placed on deposit under subsection (1) is, in the opinion of the Administrator-General, required to answer any demands in respect of estates administered by the Administrator General, the Administrator-General shall withdraw such money from the fixed deposit and repay the same to the credit of the cash balance of the Administrator-General's account.

(3) All interest accruing from any money placed on deposit shall be paid or transferred by the Administrator-General to the account of the public revenue.

(4) Where the realised assets of an estate are so small in value that the estate is practically indivisible amongst the entitled beneficiaries or creditors or where after division of the estate a balance remains which by reason of the number of the beneficiaries or creditors or by reason of the small amount of the balance, the balance is practically indivisible amongst such beneficiaries or creditors, such assets or balances shall be paid or transferred on the closing of the estate account, to the account of the public revenue.

39. Right of Administrator-General to costs

Where the court orders the costs of the proceedings to which the Administrator-General is a party, to be paid otherwise than out of the estate of a deceased person which is being administered by the Administrator-General, the Administrator-General shall be entitled to charge ordinary profit costs, whether or not the Administrator-General has appeared in person or not; and such costs shall be credited to the public revenue.

40. Power of Administrator-General to pay for improvements

The Administrator-General may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by the Administrator-General, incur expenditure—

On such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge; and

With the sanction of the court, on such religious, charitable, and other objects and on such improvements, as may be reasonable and proper in the case of such property.

41. Administrator-General to keep accounts

The Administrator-General shall make a complete inventory of every estate which he administers, and shall keep an account of all receipts, payments, and dealings with every such estate and shall retain all letters received, and copies of all letters written by him and all deeds, writings and other papers relating to such estate:

Provided that the Administrator-General may, destroy any private papers, bills, receipts, memoranda and other similar documents of no value, which are received along with the estate and which are not claimed by the beneficiaries, next-of-kin, or other persons entitled thereto.

42. Right of interested persons to inspect

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

43. Filing of final account

(1) On the completion of the administration of an estate, the Administrator-General shall file in court, the accounts and vouchers relating to the estate, together with an affidavit in verification, and after a notice of fourteen clear days has been given in the prescribed manner by the Administrator-General to all persons interested, who are resident in Mainland Tanzania, setting out the day and the hour to be appointed by the taxing officer for the passing of such accounts, the accounts and vouchers may be examined and taxed by the taxing officer in the presence of any person who may attend upon such notice, and objection may be taken to the account, or to any item or part of it and the taxation may be brought under review by the court in the same manner, as in the case of any proceedings in court.

(2) A certificate under the hand of a taxing officer or of a judge of the court to the effect that the accounts have been examined and found correct, shall be a valid and effectual discharge in favour of the Administrator-General as against all persons.

44. Power to file interim account

The Administrator-General may, on giving such notice in accordance with section 43 pass interim accounts prior to the completion of the administration.

45. Power to transfer share of minor to relative Where any person entitled to a share under the will or in the distribution of the estate of a deceased person whose estate is being administered by the Administrator-General is a minor, the court may, upon the application of the Administrator-General, appoint the father or mother of such minor or some other suitable person to receive the share of such minor on behalf of the minor, and upon such appointment, the Administrator-General may pay the share of such minor to such person on behalf of the minor and the receipt of such person shall be a full and complete discharge to the Administrator-General as regards such share:

Provided that where the share of such minor does not exceed three thousand shillings in value the Administrator-General may, without application to, or appointment by, the court, pay the share of such minor to the father or mother of such minor, or some other suitable person on behalf of such minor, and the receipt of the person to whom such share is so paid shall be a full and competent discharge to the Administrator-

General so far as regards such share.

46. Power to collect, realise and hand over assets to Administrator-General or Public Trustee of neighbouring countries

(1) Where a person dies leaving estate in the Mainland Tanzania consisting of only and also estate in Kenya, Uganda, Malawi whose administration is committed to the Administrator-General or Public Trustee of any such country, the Administrator-General may, if requested to do so by the Administrator-General or Public Trustee of any such country and if satisfied that reciprocal legislation exists in such country and that the interests of creditors in Mainland Tanzania will not be prejudiced, apply to the court for an order authorising the Administrator-General to collect the assets of the estate in Mainland Tanzania and hand them over to the Administrator-General or Public Trustee of such country; and upon making such an order the Administrator-General shall have the same rights and duties as regards the collection and realisation of the assets of the estate, as if administration had been committed to and the Administrator-General shall not be liable to the Administrator-General, any creditor or claimant, but shall be discharged from all liabilities upon handing over the assets or the proceeds of the realisation of the assets to the Administrator-General or Public Trustee of such country.

(2) There shall be chargeable in respect of proceedings under this section the following—

Fees payable to the Administrator-General under the provisions of rules made under this Act;

Estate duty in accordance with the Probate and Administration of Estates Act ii*,

Fees of court; and

Any out-of-pocket realisation expenses and other charges incurred by the Administrator-General in collecting, realising and disposing of or transmitting the assets, or the proceeds of realisation of the assets of the estate in Mainland Tanzania.

47. Assets of persons not domiciled in Mainland Tanzania

Where a person, who is not domiciled in Mainland Tanzania dies leaving assets in Mainland Tanzania, the Administrator-General may after giving the prescribed notice for creditors and other interested persons to send in their claims against the estate of the deceased and, after the expiry of the time prescribed in the notice discharge all lawful claims of which the Administrator-General has notice and may, instead of distributing any surplus or residue of the deceased's assets to entitled persons residing outside Mainland Tanzania, with the consent of the executor or administrator, in the country of the domicile of the deceased, if any, transfer the surplus or residue to such executor or administrator for distribution to such entitled persons:

Provided that such transfer may be made to a consular officer the of country of the domicile of the deceased whose receipt shall be a full and complete discharge to the Administrator-General in respect of the assets.

48. Assets unclaimed for twelve years to be transferred to Government (1) All assets in the charge of the Administrator-General, which have been in the custody of the Administrator-General for a period of twelve years or without any application for payment being made by any person and granted by the Administrator-General shall be transferred in the prescribed manner, to the account and credit of the Government:

Provided that this section shall not authorise the transfer of such assets if any suit or proceeding is pending in respect of the assets in any court.

(2) Where any assets in the charge of the Administrator-General which have been in the custody of the Administrator-General for a period of less than twelve years

are claimed and proved by the Government to the satisfaction of the court that the assets are *bona vacantia*, such assets shall become the absolute property of the Government and shall be subject to the power of disposal conferred upon the Minister by section 49.

49. Power of Minister to dispose of assets It shall be lawful for the Minister to dispose of or distribute either the whole or any part of any assets transferred to the Government under the provisions of section 48 or otherwise, to or among any kindred of the deceased or any other such persons in such shares or manner as the Minister shall think fit.

50. Preparation of balance sheet(1) The Administrator-General's accounts shall be closed on the last day of every financial year.

(2) As soon as practicable after the accounts have been closed the Administrator-General shall prepare a balance sheet with supporting particulars in respect of the preceding financial year and shall submit copies of the balance sheet to the Controller and Auditor-General and the Administrator-General:

Provided that the first balance sheet prepared by the Administrator-General under the provisions of this section shall be in respect of such period as may have elapsed since a statement of Administrator-General's accounts was last furnished to the Paymaster-General.

51. False evidence

Any person who, during any examination authorised by this Act, makes upon oath a statement which is false and which that person knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a judicial proceeding.

52. Power of Administrator-General to administer where assets do not exceed ten thousand shillings

(1) Where the gross value of the estate of a deceased person situated in Tanzania, does not exceed ten thousand shillings and either—

- (a) the Administrator-General is requested by any person, including a creditor, interested in the estate of the deceased or in the due administration of the estate, to exercise the powers conferred upon the Administrator-General by this section;
- (b) there is no person entitled to a grant of probate of the will of the Mainland Tanzania deceased or letters of administration of the deceased's estate; or
- (c) a grant of probate of the will of the deceased or of letters of administration of his estate or an appointment of an administrator of the deceased's estate under any Act passed or to be passed with reference to small estates is not made within one month from the death of the deceased,

the Administrator-General may, if he thinks fit, undertake the administration of the estate without obtaining probate or letters of administration.

(2) The Administrator-General shall not, under the power conferred by subsection (1), undertake the administration of an estate if there has been any previous appointment of an administrator under any Act referred to in that subsection or if there has been any previous grant of probate of the will of the deceased or of letters of administration of the deceased's estate, unless such appointment or grant has been revoked.

(3) The Administrator-General shall inform the High Court of every administration which the Administrator-General undertakes under this section, and shall publish in the *Gazette* a notice of having undertaken the administration, and upon the publication of such notice the estate of the deceased shall vest in the Administrator-General.

(4) The Administrator-General shall for the purpose of an administration under this section have the same powers and be subject to the same obligations as if letters of administration of the estate of the deceased had been duly granted to the Administrator-General under this Act, except that it shall not be obligatory on the Administrator-General to file in court the Administrator-General's account or vouchers unless required to do so by a beneficiary or creditor of the administration, and receives payment of such sum as the Administrator-General may reasonably require to cover the cost of preparing, filing and passing the accounts.

(5) The Administrator-General shall have full power to settle with finality and without appeal, all disputes and questions which may arise in the course of an administration under this section, including claims by creditors, but may, if the Administrator-General thinks fit, allow an appeal to, or apply to seek directions from, the High Court.

(6) In settling the disputes or questions referred to in subsection (5), the Administrator-General may, if it appears expedient in the interests of justice or with a view to saving expense, act upon information which appears to the Administrator-General to be credible.

53. Indian Succession Act not to supersede rights of Administrator-General

Nothing contained in the Indian Succession Act, 1865 shall be taken to supersede the rights, duties and privileges of the Administrator-General under this Act.

54. Order of court equivalent to a decree

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

55. Power of Minister to make rules (1) The Minister may make such rules to be published in the *Gazette* for carrying into effect the objects of this Act and for regulating the proceedings of the Administrator-General as the Minister shall think fit.

(2) In particular and without prejudice to the generality of the powers under subsection (1) rules may provide for—

- (a) the accounts to be kept by the Administrator-General;
- (b) notices and method of service to be given by the Administrator-General;
- (c) prescribed forms, scales of fees and any other matter which in this Act is directed to be prescribed.

ⁱCap. 352

ⁱⁱCap. 352