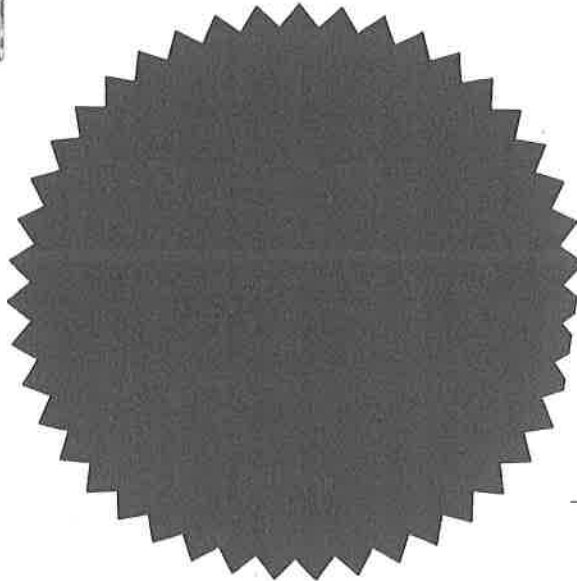


JAMAICA

No. 11 - 2015



I assent,

P. L. Allen

Governor-General.

25th day of June 2015

AN ACT to Amend the Administrator-General's Act and certain other Acts to effect reform of the law relating to the administration of estates; and for connected matters.

[26th day of June 2015]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Administrator-General's (Amendment) Act, 2015, and shall be read and construed as one with the Administrator-General's Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Short title and construction.

Amendment
of section 2 of
principal Act.

2. Section 2 of the principal Act is amended—

- (a) by renumbering the section as subsection (1) of the section;
- (b) in subsection (1), as renumbered, by inserting in the appropriate alphabetical sequence the following definitions—

“grant of representation” in relation to a deceased person, means a grant of probate, letters of administration, or letters of administration with will annexed, or any other representation granted by a court;

“Instrument of Administration” means the Instrument of Administration issued under section 53D(1);

“Instrument of Distribution” means the Instrument of Distribution issued under section 53D(3) in respect of a multi-generational estate;

“mental disorder” means —

- (a) a substantial disorder of thought, perception, memory, or orientation;
or
- (b) mental retardation, which substantially impairs a person’s behaviour, judgment, capacity to reason, or recognize reality or the person’s ability to meet the demands of life;

“minor” means a person under the age of eighteen years;

“multi-generational estate” shall be construed in accordance with subsection (2);

“primary beneficiary” and “primary estate” shall respectively be construed in accordance with subsection (2);

“succeeding estate”, in relation to a primary estate, means any of the following—

- (a) the estate of a primary beneficiary; and
- (b) any other estate referred to in subsection (2)(c);” and

(c) by inserting next after subsection (1), as renumbered, the following as subsection (2)—

“ (2) A reference in this Act to a multi-generational estate is a reference to a series of estates comprising—

- (a) the estate (referred to as a “primary estate”) in which a grant of representation has been made, of a person who has been dead for a period of not less than twenty-five years or such other period as the Minister may, by order, prescribe;
- (b) the respective estates of the beneficiaries of that primary estate (referred to as “primary beneficiaries”) who have died before the surplus of that primary estate has been distributed, whether or not a grant of representation has been made in respect of any or all of the estates of these primary beneficiaries; and
- (c) the respective estates of all beneficiaries whose claims arise, directly or indirectly,

under or through any primary beneficiary, and who died before the surplus of that primary beneficiary's estate has been distributed, whether or not a grant of representation has been made in respect of any or all of the estates of those beneficiaries,

and there is at least one surviving beneficiary (whether or not including any minors) entitled to take as a beneficiary of the primary estate or any succeeding estate, as the case may be.”.

Insertion of new section 2A in principal Act.

3. The principal Act is amended by inserting next after section 2 the following as section 2A—

“Construction of “letters of administration” to include Instrument of Administration.

2A. Unless the context otherwise requires, a reference in this Act to letters of administration shall be construed as including an Instrument of Administration.”.

Amendment of section 9 of principal Act.

4. Section 9 of the principal Act is amended by deleting the words “mentioned in the Schedule” wherever they appear and substituting therefor, in each case, the words “imposed, if any, by regulations made under this Act”.

Amendment of section 12 of principal Act.

5. Section 12 of the principal Act is amended by deleting the words “shall be entitled to, and it shall be his duty to” and substituting therefor the words “shall be entitled to and may”.

Amendment of section 14 of principal Act.

6. Section 14 of the principal Act is amended by—

- (a) renumbering the section, as subsection (1);
- (b) inserting in subsection (1) as renumbered, immediately after the word “Administrator-General” the words “or any Instrument of Administration”; and

- (c) inserting next after subsection (1), as renumbered, the following as subsection (2)—

“ (2) Subject to this Act—

(a) an Instrument of Administration shall be issued by the Administrator-General on the payment—

First
Schedule.

(i) for administering an estate of the appropriate category specified in column I of the First Schedule, of a stamping fee for the respective documents specified in column II of that Schedule in the respective amounts specified in relation thereto in column III thereof;

(ii) of duties in the amount prescribed and the manner required, in relation to letters of administration with any necessary modification;

(b) an Instrument of Distribution shall be issued by the Administrator-General on the payment for distributing the assets of the relevant primary estate of a stamping fee for the Instrument specified in column II of the First Schedule in the amount specified in relation thereto in column III thereof; and

(c) any fees in respect of proceedings to oppose the issuance or revocation of an Instrument of Administration, an Instrument of Distribution or otherwise in anyway relating thereto, shall be the

same as applies to letters of administration.”.

Amendment
of section 18
of principal
Act.

7. Section 18 of the principal Act is amended by inserting immediately after the words “on taking out letters of administration” the words “or on the administration of any estate under section 53B or distribution of any estate under section 53C”.

Amendment
of section 23A
of principal
Act.

8. Section 23A of the principal Act is amended by deleting—

(a) the marginal note and substituting therefor the following—

“Exercise of
certain
powers prior
to adminis-
tration.”; and

(b) subsection (2) and substituting therefor the following—

“ (2) Where, in relation to any estate, the Administrator-General—

(a) has the duty to apply for letters of administration; or

(b) is entitled to issue an Instrument of Administration,

the Administrator-General may exercise any of the powers specified in subsection (3) prior to the grant of letters of administration or the issue of the Instrument of Administration, as the case may be, in relation to the estate.”.

Amendment
of section 23B
of principal
Act.

9. Section 23B of the principal Act is amended by deleting paragraph (a) and substituting therefor the following as paragraph (a)—

“(a) the Administrator-General has obtained letters of administration or has issued an Instrument of Administration in relation to an estate;”.

10. Section 24 of the principal Act is amended by deleting the word “infant” and substituting therefor the word “minor”.

Amendment of section 24 of principal Act.

11. Section 25 of the principal Act is amended by deleting—

Amendment of section 25 of principal Act.

(a) the marginal note and substituting therefor the following—

“Power to appoint Administrator-General as committee of a person with a mental disorder.”;

and

(b) the words “any idiot or lunatic”, wherever they appear, and the words “an idiot or lunatic”, respectively, and substituting therefor, in each case, the words “a person with a mental disorder”.

12. Section 27 of the principal Act is repealed and the following substituted therefor—

Repeal and replacement of section 27 of principal Act.

“When not bound to act as guardian or committee.

27. The Administrator-General shall not (except with his own consent) act as the guardian of any minor, or as the committee of the estate and person of any person with a mental disorder, unless—

(a) the minor or person with a mental disorder has property to the amount of not less than fifty thousand dollars or such other amount as the Minister may, by order, prescribe; and

(b) all the property of the minor or person with a mental disorder is vested in the Administrator-General as trustee for that minor or person, or the Administrator-General is invested with the entire administration of the property.”.

Amendment of section 28 of principal Act.

13. Section 28 of the principal Act is amended by deleting the words “infant, idiot, or lunatic” and substituting therefor the words “minor or a person with a mental disorder”.

Amendment of section 44 of principal Act.

14. Section 44 of the principal Act is amended by deleting the words “petition” and “petitions” and substituting therefor, respectively, the words “fixed date claim form” and “fixed date claim forms”.

Insertion of new sections 53B, 53C, 53D, 53E, 53F, 53G, 53H, 53I, 53J and 53K in principal Act.

15. The principal Act is amended by inserting next after section 53A the following as sections 53B, 53C, 53D, 53E, 53F, 53G, 53H, 53I, 53J and 53K—

“Administration of an intestate estate with minor beneficiaries.

53B. Notwithstanding section 12 of the Intestates’ Estates and Property Charges Act, where the Administrator-General is satisfied that there is a minor among the persons having an interest in an intestate’s estate, the Administrator-General may, in accordance with section 53D, and without a grant of representation, administer that estate for the benefit of the persons interested therein and shall otherwise comply with the procedures for the administration of that estate and distribute the property of that estate to the same extent and in the same manner, with necessary modification, as if a grant of representation had been made to him.

Distribution of assets in multi-generational estates.

53C.—(1) Where the Administrator-General is satisfied that—

- (a) an estate is part of a multi-generational estate; and
- (b) the Administrator-General, by virtue of the grant of letters of administration, is the duly authorized personal representative of the primary estate of that multi-generational estate,

the Administrator-General may, in accordance with section 53D, proceed to effect the distribution of the assets of that primary estate for the benefit of the surviving beneficiaries (whether or not including minors) entitled to take as beneficiaries of the primary estate or any succeeding estate, as the case may be, and the assets of the primary estate shall be distributed in such manner or held in such trust as may be required by law.

(2) Where a succeeding estate referred to in subsection (1) is without a grant of representation, the Administrator-General is entitled to proceed under subsection (1) as if a grant of representation had been made in respect of that succeeding estate.

Instrument of
Administration;
Instrument of
Distribution.

53D.—(1) Where an estate is to be administered under section 53B—

Part I
Second
Schedule.

(a) the Administrator-General shall issue an instrument in writing, to be known as an Instrument of Administration which shall be in the form set out in Part I of the Second Schedule and shall cause notice thereof to be published in the *Gazette*; and

Part II.

(b) the Instrument of Administration shall be accompanied by the Oath of the Administrator-General which shall be in the form set out in Part II of the Second Schedule.

(2) An Instrument of Administration shall have full legal effect in all respects and for all purposes as a grant of representation made to the Administrator-General by the Court.

Part III.

(3) Where the assets of the primary estate of a multi-generational estate are to be distributed under section 53C, the Administrator-General shall issue an instrument in writing, to be known as an Instrument of Distribution, which shall be in the form set out in Part III of the Second Schedule.

(4) The Instrument of Distribution shall authorize the distribution of the assets of a primary estate of a multi-generational estate to surviving beneficiaries, including those entitled to take as beneficiaries of a succeeding estate, whether or not a grant of representation had been made by the Court in respect of any of such succeeding estate.

(5) In connection with the distribution of the assets of a primary estate to the surviving beneficiaries, in accordance with this section, an Instrument of Distribution shall have full legal effect in all respects and for all purposes as if a grant of representation had been made in each succeeding estate.

Filing with
Supreme
Court for
public record.

53E.—(1) Where an Instrument of Administration has been issued, the Administrator-General shall submit to the Registrar of the Supreme Court a duplicate of the Instrument of Administration and the Oath of the Administrator-General within fourteen days of the date of issue of the Instrument of Administration.

(2) Where an Instrument of Distribution has been issued, the Administrator-General shall submit to the Registrar of the Supreme Court a duplicate of the Instrument of Distribution within fourteen days of the date of issue of the Instrument of Distribution.

Notice to the
Supreme
Court of
intention to
issue
Instrument
and effect
thereof.

53F.—(1) Where the Administrator-General intends to issue an—

- (a) Instrument of Administration; or
- (b) Instrument of Distribution,

he shall give notice of his intention to do so, in writing, to the Registrar of the Supreme Court.

(2) A notice given under subsection (1) shall include, in the case of an estate administered under—

- (a) section 53B, the matters specified in Part I of the Third Schedule; or
- (b) section 53C, the matters specified in Part II of the Third Schedule.

Part I
Third
Schedule.

Part II.

(3) Subject to section 53G, the Administrator-General shall not proceed to issue an Instrument of Administration in respect of an estate if the Registrar of the Supreme Court advises the Administrator-General, within thirty days from the date of the notice of intention given under subsection (1)(a) or such other period as the Minister may, by order, prescribe, that a grant of representation by the Court or an application for a grant of representation has been made in respect of that estate.

(4) The Administrator-General may proceed to issue an Instrument of Administration in respect of an estate, where the Registrar of the Supreme Court does not advise the Administrator-General within the time specified in subsection (3) that an application for a grant of representation or a grant of representation by the court has been made in respect of the estate.

(5) The Administrator-General may proceed to issue an Instrument of Distribution thirty days from the date of the notice of intention given under subsection (1), or such other period as the Minister may, by order, prescribe.

Where
Administrator-
General
entitled to
proceed to
issue Instru-
ment of
Administration.

53G. Notwithstanding section 53F(3), the Administrator-General may proceed to issue an Instrument of Administration in respect of an estate where—

- (a) a grant of representation made by the Court is revoked; or
- (b) an application made to the Court for a grant of representation is discontinued.

Notice to
public of
intention to
distribute
assets of
primary estate.

53H.—(1) Where the Administrator-General issues an Instrument of Distribution in relation to a multi-generational estate, the Administrator-General shall cause to be published a notice—

- (a) advising of his intention to distribute the assets of the primary estate thereof after the expiration of the period (which shall not be less than sixty days) specified in the notice; and
- (b) inviting persons who believe themselves to be beneficiaries of the multi-generational estate, and who have not done so previously, to make themselves known to the Administrator-General,

and the notice shall also include the matters specified in Part III of the Third Schedule.

Part III.
Third
Schedule.

(2) The notice referred to in subsection (1) shall be published—

- (a) in a daily newspaper circulated in Jamaica;
- (b) in the *Gazette*; and
- (c) in any other manner or medium as the Administrator-General may determine.

Restriction on distribution of assets.

53I.—(1) The Administrator-General shall not commence the distribution of the assets of a primary estate of a multi-generational estate in respect of which he has issued an Instrument of Distribution until after the expiration of the period specified in the notice issued under section 53H.

(2) Upon being notified of a claim or identifying a claimant in a multi-generational estate, the Administrator-General shall acknowledge to the claimant, in writing, the claim made.

(3) Subsection (1) does not preclude a person making known his claim and submitting documents in support of his claim prior to the publication of the notice.

(4) The Administrator-General shall not be obliged to consider any claim received by him after expiration of the period specified in the notice issued under section 53H.

Distribution with respect to claims of which there is notice.

53J.—(1) Subject to section 53I, the Administrator-General may distribute the assets of the primary estate or any part thereof of a multi-generational estate to which an Instrument of Distribution under section 53D relates, for the benefit of the persons interested therein, having

regard only to the claims, whether formal or not, of which the Administrator-General has notice.

(2) The Administrator-General shall not, as respects a primary estate so distributed, be liable to any person of whose claim the Administrator-General did not have any notice at the time of distribution, whether the distribution is effected by way of conveyance or any other lawful means, or whose claim was received by the Administrator-General after expiry of the period specified in a notice issued under section 53H.

(3) Notwithstanding subsection (2), nothing in this section prejudices the right of any person to follow any real property or personal property that is or was a part of an estate, into the hands of any person who may have received it, other than a *bona fide* purchaser for value without notice.

53K.—(1) The Administrator-General shall keep and maintain, whether in electronic form or other form, a register of Instruments of Administration and Instruments of Distribution issued under this Act.

Administrator-General to keep registers of Instruments of Administration and Instruments of Distribution.

(2) The information contained in the register referred to in subsection (1) shall be *prima facie* evidence thereof in any proceedings.”

Insertion of new section 61 into Principal Act.

16. The principal Act is amended by inserting next after section 60 the following as section 61—

“Amendment of First Schedule.

First Schedule.

61.—(1) Subject to subsection (2), the Minister with responsibility for finance may, after consultation with the Administrator-General, by order, amend the fees specified in the First Schedule.

(2) The fees specified in the First Schedule shall not exceed the amount of any fees payable in respect of the Oath of an Administrator or a grant of letters of administration prescribed by the Rules Committee of the Supreme Court established under section 3 of the *Judicature (Rules of Court) Act*.”.

17. The principal Act is amended by repealing the Schedule and substituting therefor the following as the First Schedule, Second Schedule and Third Schedule, respectively—

Repeal of Schedule and insertion of new First, Second and Third Schedules into principal Act.

“ FIRST SCHEDULE (Sections 14 and 61)

*Stamping Fees Payable to the Consolidated Fund
in respect of Administration of Estate
under Instrument of Administration*

Column I	Column II	Column III
<i>Manner of Administration</i>	<i>Document to be stamped</i>	<i>Fees (\$)</i>
1. Administration of an Estate on Instrument of Administration where—	The Oath of the Administrator-General	
(a) the net value of the estate does not exceed \$3,000,000.00;		10.50
(b) the net value of then estate exceeds \$3,000,000.00;		2,000.00

Column I	Column II	Column III
<i>Manner of Administration</i>	<i>Document to be stamped</i>	<i>Fees (\$)</i>
2. Administration of an Estate on Instrument of Administration where—	The Instrument of Administration	
(a) the net value of the estate does not exceed \$3,000,000.00;		100.00
(b) the net value of the estate does not exceed \$10,000,000.00;		5,000.00
(c) the net value of the estate exceeds \$10,000,000.00 but does not exceed \$20,000,000.00;		10,000.00
(d) the net value of the estate exceeds \$20,000,000.00 but does not exceed \$30,000,000.00;		15,000.00
(e) the net value of the estate exceeds \$30,000,000.00 but does not exceed \$40,000,000.00;		20,000.00
(f) the net value of the estate exceeds \$40,000,000.00;		25,000.00

<u>Column I</u>	<u>Column II</u>	<u>Column III</u>
<i>Manner of Administration</i>	<i>Document to be stamped</i>	<i>Fees (\$)</i>
(g) notwithstanding paragraphs (b) to (f), the instrument is limited to settled land.		5,000.00
3. Distribution of Assets on Instrument of Distribution	The Instrument of Distribution	100.00

SECOND SCHEDULE

(Section 53D)

PART I

THE ADMINISTRATOR-GENERAL'S ACT

(Section 53D)

*Instrument of Administration
(in an Intestate Estate with Minor Beneficiary)*UNDER THE HAND OF THE
ADMINISTRATOR-GENERAL OF JAMAICA

In the Estate of *(state full name of deceased)*, late of *(state full address of deceased)*, deceased intestate.

BE IT KNOWN that _____, deceased
(name of deceased)

_____, late of _____,
(occupation of deceased) *(last address of deceased)*

died intestate on the _____,
(insert date)

BE IT FURTHER KNOWN that the Administrator-General is satisfied that there is a minor among the persons having an interest in the estate of the deceased.

AND BE IT FURTHER KNOWN that, pursuant to the Administrator-General's Act and by virtue of this Instrument of Administration, as of the _____,
(insert date)

personal property of the estate of the said deceased which by law devolves on and vests in the personal representatives of the said deceased NOW DEVOLVES ON AND VESTS in the Administrator-General for Jamaica, the duly authorized personal representative of the abovenamed deceased.

AND BE IT FURTHER KNOWN that the Administrator-General for Jamaica, in recognition of his responsibilities under the law, hereby undertakes well and faithfully to administer the estate according to law and to render a just and true account of all the real and personal estate of the deceased whenever required by law to so do.

Signed by:

Administrator-General for Jamaica

PART II
THE ADMINISTRATOR-GENERAL'S ACT
(Section 53D)

*Oath of Administrator-General
on Issue of Instrument of Administration
(in an Intestate Estate with Minor Beneficiary)*

In the Estate of (*state full name*), late of (*state full address*), deceased intestate.

I, (*Name of Administrator-General*), the Administrator-General for Jamaica of (*state full address*) [make oath and say] [do solemnly and sincerely affirm], that—

1. (*Full names of deceased*) late of (*state address*) deceased, died intestate on (*state date*) at (*state place of death*) domiciled in Jamaica, a (*state status of deceased, e.g, spinster, widower and, where necessary, account for any class entitled to priority to the applicants, e.g., "without issue" or "without parent"*).

2. The annexed document marked "A" is a certified copy of the death certificate of the deceased.

3. To the best of my knowledge, information and belief there was [no] land vested in the deceased which was settled previously to [his][her] death and not by [his][her] will and which remained settled land notwithstanding [his][her] death.

4. There is [no] minority and [no] life interest in the estate of the deceased.

5. I, by virtue of the functions conferred upon me by the Administrator-General's Act, on issue of an Instrument of Administration, am entitled to act on behalf of the deceased and to the best of my knowledge, information and belief there is no other person entitled in priority to his share in [his][her] estate by virtue of any enactment.

6. The annexed document marked "B" is the will of the deceased. (*Will of the deceased annexed, if applicable.*)

7. I will faithfully administer according to law the real and personal estate effects of the deceased.

8. I will render a just and true account of my administration whenever required by law to so do.

9. To the best of my knowledge, information and belief—

- (a) the gross personal estate of the deceased passing under the Instrument of Administration amounts to \$ _____ and the net personal estate amounts to \$ _____ ; and
- (b) the deceased did not die possessed of any real estate.

OR

- (c) the gross real estate of the deceased passing under the Instrument of Administration amounts to \$ _____ ; and the net real estate amounts to \$ _____ ; and
- (d) the gross annual value of the real estate amounts to \$ _____

Sworn/Affirmed

at

on the _____ day of _____, 20_____

before me—

Justice of the Peace
for the parish of:

Administrator-General for Jamaica