



THE ADMINISTRATOR GENERAL'S ACT, 1913



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THE ADMINISTRATOR GENERAL'S ACT, 1913

¹ACT No. III OF 1913

[27th February, 1913]

An Act to consolidate and amend the Law relating to the office and duties of Administrator General.

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General ; It is hereby enacted as follows :—

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Administrator General's Act, 1913.

²[(2) It extends to the whole of Pakistan ³ * * *]

(3) It shall come into force on such date ⁴ as the ⁵[Federal Government] may, by notification in the ⁶[official Gazette], direct.

¹For Statement of Objectgs and Reasons, see Gazette of India, 1912, Pt. V, p.188 ; for Report of Select Committee, see ibid., Pt. V, p.3 ; and for proceedings in Council, see ibid, 1912, Pt. VI, p. 697 and ibid., 1913, Pt. VI, pp. 14, 28 and 64.

This Act has been extended to the Leased Areas of Baluchistan, see G.O.3 of 1950; and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt.I, p.1499.

²The original sub-section (2) has successively been amended by A. O., 1937, A. O., 1949, Arts. 3(2), 4 and Sch., the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), and A. O., 1961, Art. 2 and Sch. (with effect from the 23rd March, 1956), to read as above

³The words "and applies also to all citizens of Pakistan in Acceding States" omitted by the Federal Laws (Revision and Declaration) Ordinance 1981 (27 of 1981), s.3 and Sch. II.

⁴The 1st April, 1914, see Gen. R. & O.

⁵Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government", which was previously amended by A.O., 1937, for "G. G. in C. "

⁶Subs. ibid., for "Gazette of India".)

2. Interpretation clause.— In this Act, unless there is anything repugnant in the subject or context,—

(1) "assets" means all the 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 among his heirs and next-of-kin :

(2) "exempted person" means ¹[a] ²[Pakistani Christian], a Hindu, Muhammadan, Parsi or Buddhist, or a person exempted under section ³[3 of the Succession Act, 1925], from the operation of that Act:

⁴[(3) "Government" or "the Government" means, in relation to any Province, the Provincial Government ⁵* * *:]

(4) ⁶["Pakistani Christian" means a person domiciled in Pakistan] who is or in good faith claims to be of unmixed Asiatic descent, and who professes any form of the Christian religion :

(5) "letters of administration" includes any letters of administration, whether general or with a copy of the will annexed, or limited in time or otherwise:

(6) "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:

7* * * * *

(8) "prescribed" means prescribed by rules under this Act :

8* * * * *

9* * * * *

¹Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for "an".

²Subs. by A O , 1949, Sch., for "Indian Christian".

³Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., for "332 of the Indian Succession Act, 1865

⁴Subs. by A. O., 1937 for the original clause.

⁵Certain words omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II. The words were previously amended by various enactments from time to time.

⁶Subs. by A. O., 1949, Sch., for "Indian Christian" means a Native of India".

⁷Cls. (7), (9), (10) and (11), defining official Gazette, the Presidencies of Bengal, Bombay and Madras, Presidency and Revenues of the Govt., respectively, were rep. by A. O., 1937. Cl. (11) had been ins. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 5.

⁸See foot-note 10 on page 140, supra.

⁹Clauses (12) and (13) omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II. These clauses were previously amended by various enactments.

PART II

THE OFFICE OF ADMINISTRATOR GENERAL

¹[3.— **Appointment of Administrators General.**— (1) The Provincial Government for each Province shall appoint an Administrator General.

(2) No person shall be appointed to the office of the Administrator General who is not an advocate practising in a High Court or a person already in the service of the State.]

4. Appointment and powers of Deputy Administrators General. The Government may appoint a Deputy or Deputies to assist the Administrator General ; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator General, be competent to discharge any of the duties and to exercise any of the powers of the Administrator General, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator General.

5. Administrator General to be a corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name. The Administrator General shall be a corporation sole by the name of the Administrator General of the ² [Province] for which he is appointed and, as such Administrator General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

PART III

RIGHTS, POWERS, DUTIES AND LIABILITIES OF THE ADMINISTRATOR

GENERAL.

(a) Grants of Letters of Administration and Probate

³6. *[As regards Administrator General, High Court to be deemed a Court of competent jurisdiction for the purpose of granting probate or letters of administration.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Schedule II.*

7. Administrator General entitled to letters of administration, unless granted to next of kin. Any letters of administration, which are granted after the commencement of this Act by the High Court ⁴* * * shall be granted to the Administrator General of the ²[Province] unless they are granted to the next-of-kin of the deceased.

¹Subs. *ibid.*, for section 3, which was previously amended by various enactments from time to time.

²Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981). s. 3 and Sch. II, which was previously amended by A.O., 1937, for "Presidency".

³This section was previously amended by A. O., 1937.

⁴The words "at any Presidency-town" rep. by A. O., 1937.

8. Administrator General entitled to letters of administration in preference to creditor, non-universal legatee or friends. The Administrator General of the ¹[Province] shall be deemed by all the Courts in the ¹[Province] to have a right to letters of administration other than letters *pendente lite* in preference to that of—

- (a) a creditor ; or
- (b) a legatee other than an universal legatee ; or
- (c) a friend of the deceased.

9. When Administrator General is to administer estates of persons other than exempted persons. If any person, not being an exempted person, has died leaving within any ¹[Province] assets exceeding the value of ²[ten thousand] rupees,

and if no person to whom any Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such ³[Province] for probate of his will, or for letters of administration of his estate,

the Administrator General of the ¹[Province] in which such assets are shall, subject to any rules made by the Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court ³* * * letters of administration of the estate of such person.

10. Power to direct Administrator General to apply for administration. Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of ⁴[a High Court], the Court, on being satisfied that danger is to be apprehended of misappropriation, deterioration or waste of such assets unless letters of administration of the estate of the such person are granted, may upon the application of the Administrator General or of any person interested in such assets or in the due administration thereof, 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:

Provided that, in the case of an application being made under this section for letters of administration of the estate of an exempted person, the Court may refuse to grant letters of administration, if it is satisfied that such grant is unnecessary for the protection of the assets; and in such case the Court shall make such order as to the costs of the application as it thinks fit.

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981) s. 3 and Sch. II, for "Division", which was previously amended by A. O. 1937, for "Presidency".

²Subs. by the Administrator General (Amdt.) Act, 1974 (22 of 1974), s. 2, for two thousand", which was previously amended by Act 32 of 1926, s. 2, for "one thousand",

³The words "at the Presidency-town" rep. by A. O., 1937.

⁴Subs. by Ordinance 27 of 1981, s. 3 and Sch. II, for "the High Court of East Pakistan", which were previously amended by various enactments from time to time.

11. Power to direct Administrator General to collect and hold assets until right of succession or administration is determined.—(1) Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of ¹[a High Court],

and such Court is satisfied that there is no person immediately available, who is legally entitled to the succession to such assets, or that danger is to be apprehended of misappropriation, deterioration or waste of such assets, before it can be determined who may be legally entitled to the succession thereto, or whether the Administrator General is entitled to letters of administration of the estate of such deceased person,

the Court may, upon the application of the Administrator General or of any person interested in such assets, or in the due administration thereof, forthwith direct the Administrator General to collect and take possession of such assets, and to hold, deposit, realize, sell or invest the same according to the directions of the Court, and in default of any such directions according to the provisions of this Act so far as the same 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 proceeding for the recovery of such assets, and
- (b) if he thinks fit, 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 himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

12. Grant of probate or letter of administration to person appearing in course of proceedings taken by Administrator General under section 9,10 and 11.—If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, any person appears and establishes his 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 to the Administrator General the costs of any proceedings taken by him, under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

13. Grant of administration to Administrator General in certain cases. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, no person appears and establishes his 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 to the Court seems reasonable,

¹Subs. by Ordinance, 27 of 1981, s. 3 and Sch. II. for "any of the said High Court".

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law,

the Court may grant letters of administration to the Administrator General.

14. Administrator General not precluded from applying for letters with in one month after death. 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 the period of one month from the death of the deceased.

(b) Estates of Persons subject to the Army Act ¹[or the Air Force Act].

15. [Act not to affect Regimental Debts Act, 1893.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Second Schedule.

16. [Letters of administration not necessary in respect of small estates administered by Administrator General in accordance with the Regimental Debts Act, 1893.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Schedule II.

17. [Power to Grant Administrator General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Second Schedule.

(c) Revocation of Grants

18. Recall of Administrator General's administration, and grant of probate, etc., to executor or next-of-kin. If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto 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 no letters of administration granted to the Administrator General shall be revoked for the cause aforesaid, except in cases in which a will of the deceased is proved in the ²[Division], unless the application for that purpose is 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 the application is made.

¹Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

²Subs. by A. O., 1937, for "Presidency".

19. Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator General out of assets. 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 any 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 clause (c) of sub-section (2) of section 11.

20. After revocation letters granted to Administrator General to be deemed as to him to have been voidable only. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void:

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator General or any person acting under his authority in pursuance of such letters 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 to be revoked, and such proceedings are prosecuted without unreasonable delay.

21. Payments made by Administrator General prior to revocation. 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 him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(d) *General*

22. Administrator General's petition for grant of letters of administration. Whenever any Administrator General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letters states,—

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner,
- (ii) the names and addresses of the surviving next-of-kin of the deceased if known,
- (iii) the particulars and value of the assets likely to come into the hands of the petitioner,
- (iv) Particulars of the liabilities of the estate if known.

¹[**23. Name in which probate or letters to be granted.** All probates or letters of administration granted to any Administrator General shall be granted to him by that name.]

24. Effect of probate or letters granted to Administrator General. Probate or letters of administration granted by the High Court ²* * * to the Administrator General of any ³[Province] and shall have effect over all the assets of the deceased throughout such ³[Province], and 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 such Administrator General:

Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like affect throughout one or more of the other ⁴[provinces].

Whenever a grant is made by a High Court to the Administrator General with such effect as last aforesaid, the Court shall send to the other High Courts a certificate that such grant has been made, and such certificate shall be filed by the Courts receiving the same.

5* * * * * *

25. Transfer by private executor or administrator of interest under probate or letters.—(1) Any private executor or administrator may with the previous consent of the Administrator General of the ⁶[Province] in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of administration, are situate, by an instrument in writing under his hand notified in the official Gazette, transfer the assets of the estate vested in him by virtue of such probate or letters to the Administrator General by that name or any other sufficient description.

(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 done before the date of such transfer, and the Administrator General shall have the rights which he would have had, and be subject to the liabilities to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by that name at the date of such transfer.

26. Distribution of assets.—(1) When the Administrator General has given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he has notice of.

(2) He shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution.

¹Subs. by A.O., 1973, for the original section.

²The words "at any Presidency-town" rep., *ibid*.

³Subs. by the Federal Laws (Revision and Declaration) Ordinance 1981 (27 of 1981), s.3 and Sch. II for "Division", which was previously amended by A.O., for "Presidency".

⁴Subs. by Ord 27 of 1981 s.3 and Sch. II., for "Divisions", which was previously amended by A.O., 1937, for "Predidencies".

⁵Paragraph omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

⁶Subs. *ibid* for " Division ", which was previously amended by A. O., 1937, for " Presidency ".

(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 him unless proceedings to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such 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 thereof in the hands of the persons who may have received the same respectively.

(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 and the date of the final decision of the Administrator General on such claim shall be excluded.

27. Appointment of Official Trustee as trustee assets after completion of administration.—(1) When the Administrator General has, so far as may be, discharged all the liabilities of an estate administered by him, he shall notify the fact in the official Gazette, and he may, by an instrument in writing, with the consent of the Official Trustee and subject to any rules made by the Government, appoint the Official Trustee to be the trustee of any assets then remaining in his hands.

(2) Upon such appointment such assets shall vest in the Official Trustee as if he had been appointed trustee in accordance with the provisions of the Official Trustees Act, 1913 (**II of 1913**), and shall be held by him upon the same trusts as the same were held immediately before such appointment.

28. Power for High Court to give directions regarding administration of estate.—(1) The High Court ¹* * * may, on application made to it, give to the Administrator General of the ²[Division] any general or special directions as to any estate in his charge or in regard to the administration of any such estate.

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

29. No security nor oath to be required from Administrator General.—(1) No Administrator General shall 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 him by that name.

(2) Manner in which petitions to be verified by Administrator General and his Deputy.—No Administrator General or Deputy Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

¹The words "at the Presidency-town" rep. by A. O., 1937.

²Subs. *ibid.*, for "Presidency".

(3) 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.

30. Power to examine on oath. The Administrator General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath (which he is hereby authorised to administer) any person who is willing to be so examined by him regarding such question.

31. In what case Administrator General may grant certificate. Whenever any person has died leaving assets within any ¹ [Province], and the Administrator General of such ¹ [Province], is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank, or in any Provident Fund to which the provisions of the ² [Provident Funds Act, 1925] (XIX of 1925) apply, did not at the date of death exceed in the whole ³ [ten thousand] rupees-in value, he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, grant to any person, claiming otherwise than as a creditor to be interested in such assets, or in the due administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased, within the ² [Province] to a value not exceeding in the whole ³ [ten thousand] rupees:

Provided that no certificate shall be granted under this section—

- (i) where probate of the deceased's will or letters of administration of his estate has or have been granted, or
- (ii) in respect of any sum of money deposited in a Government Savings Bank or in any Provident Fund to which the provisions of the ² [Provident Funds Act, 1925] (XIX of 1925), apply.

32. Grant of certificate to creditors and powers to take charge of certain estates. If, in cases falling within section 31, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains, within three months of the death of the deceased a certificate from the Administrator General under the same section, or probate of a will or letters of administration of the estate of the deceased, and such deceased was not an exempted person, or was an exempted person who has left assets within the ordinary original civil jurisdiction of the High Court, or within any area notified by the Government in this behalf in the official Gazette, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters had been granted to him;

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II, for "Division", which was previously amended by A. O., 1937 for "Presidency".

²Subs. by Ord. 27 of 1981, s. 3 and Sch., for "Provident Funds Act, 1897".

³Subs. by the Administrator General's (Amdt.) Act, 1974 (22 of 1974), s. 3, for "two thousand", which was previously subs. by Act 32 of 1926, s. 2 for "one thousand".

and if he neglects or refuses to administer such estate, he shall, upon the application of a creditor, grant a certificate to him in the same manner as if he were interested in such assets otherwise than as a creditor.

and such certificate shall have the same effect as a certificate granted under the provisions of section 31, and shall be subject to all the provisions of this Act which are applicable to such certificate:

Provided that the Administrator General may, before granting such certificate, if he thinks fit, require the creditor to give reasonable security for the due administration of the estate of the deceased.

33. Administrator General not bound to grant certificate unless satisfied of claimants title, etc. The Administrator General shall not be bound to grant any certificate under section 31 or section 32, unless he is satisfied of the title of the claimant and of the value of the assets left by the deceased within the ¹[Province], either by the oath of the claimant, or by such other evidence as he requires.

34. Effect of certificate. The holder of a certificate granted in accordance with the provisions of section 31 or section 32, shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him:

Provided that nothing in this section shall be deemed to require any person holding such certificate,

(a) to file accounts or inventories of the assets of the deceased before any Court or other authority, or

(b) save as provided in section 32 to give any bond for the due administration of the estate.

35. Revocation of certificate. The Administrator General may revoke a certificate granted under the provisions of section 31 or section 32 on any of the following grounds, namely :-

(i) that the certificate was obtained by fraud or misrepresentation made to him,

(ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II, which was previously amended by Act 32 of 1940; s. 3 and Sch. II. for "Presidency".

36. Surrender of revoked certificate.—(1) When a certificate is revoked in accordance with the provisions of section 35, the holder thereof shall, on the requisition of the Administrator General, deliver it up to such Administrator General, but shall not be entitled to the refund of any fee paid thereon.

(2) If such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

37. Administrator General not bound to take out administration on account of assets for which he has granted certificate. The Administrator General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate, under section 31 or section 32, but he may do so if he revokes such certificate under section 35 or ascertains that the value of the estate exceeded ¹[ten thousand] rupees.

38. Transfer of certain assets from Pakistan to executor or administrator in country of domicile for distribution.— Where a person not having his domicile in ²[Pakistan] has died leaving assets in any ³[Province] and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in any such ³[Province] have been taken under section 31 or section 32, and there has been a grant of administration in the country of domicile with respect to the assets in that country,

the holder of the certificate granted under section 31 or section 32, or the Administrator General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of ²[Pakistan] who are entitled thereto transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

(f) Liability

39. Liability of Government.—(1) The revenues of the Government ⁴* * shall be liable to make good all sums 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 his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence have averted, and in either of those cases the Administrator-General shall not, nor shall the revenues ⁵[of the Government ⁶*] * *, be subject to any liability.

7* * * * * *

¹Subs. by the Administrator General's (Amdt.) Act, 1974 (22 of 1974), s. 4, for "two thousand", which was previously amended by Act 32 of 1926, s. 2, for "one thousand".

²Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation which had been subs. by .A.O., 1949; Arts. 3 (2) and 4, for "British India".

³Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch., II, for "Division", which was previously amended by A.O., 1937, for "Presidency".

⁴The words "of India" rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 6.

⁵The words "of the Government or" were ins., ibid.

⁶The words "or of the G. of I" rep. by A. O. 1937.

⁷Sub-section (2) omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II. This sub-section was previously amended by Act, 21 of 1922, s. 6.

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

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, 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.

41. Notice of suit not required in certain cases. Nothing in section 80 of the Code of Civil Procedure, 1908 (V of 1908), shall apply to any suit against the Administrator General in which no relief is claimed against him personally.

PART IV

FEES

42. Fees.—(1) There shall be charged in respect of the duties of the Administrator General such fees, whether by way of percentage or otherwise, as may be prescribed by the Government:

Provided that, in the case of any estate, the administration of which has been committed to the Administrator General before the commencement of this Act, the fees prescribed under this section shall not exceed the fees leviable in respect of such estate under the Administrator General's Act, 1874¹ (II of 1874), as subsequently amended:

2* * * * * * *

(2) The fees under this section may be at different rates for different estates or classes of estates or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act (including such sum as Government may determine to be required to insure the revenues of the Government³ * * against loss under this Act).

43. Disposal of fees.— (1) Any expenses which might be retained or paid out any estate in the charge of the Administrator General, if he were a private administrator of such estate, shall be so retained or paid and the fees prescribed under section 42 shall be retained or paid in like manner as and in addition to such expenses.

(2) The Administrator General shall transfer and pay to such authority, in such manner and at such time as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government³ * *.

¹ Rep. by the Administrator General's Act, 1913 (3 of 1913).

² Proviso omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II.

³ The words of "India" rep. by the Official Trustees and Administrator General's Acts Amdt Act, 1922 (21 of 1922), s. 7.

PART V

AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS

44. Audit of Administrator General's Accounts. The accounts of every Administrator General shall be audited at least once annually, and at any other time if the Government so direct, by the prescribed person and in the prescribed manner.

45. Auditors to examine accounts and report to Government.—The auditors shall examine the accounts and forward to the Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by them showing—

- (a) whether they contain a full and true account of everything which ought to be inserted therein,
- (b) whether the books which by any rules made under this Act are directed to be kept by the Administrator General, have been duly and regularly kept, and
- (c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made there under,

or (as the case may be) that such accounts are deficient, or that the Administrator General has failed to comply with this Act or the rules made there under, in such respects as may be specified in such certificate.

46. Power of auditors to summon and examine witnesses, and to call for documents.—(1) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, (V of 1908).

- (a) to summon any person whose presence he thinks necessary to attend him from time to time ; and
- (b) to examine any person on oath to be by him administered ; and
- (c) to issue a commission for the examination on interrogatories or otherwise of any person ; and
- (d) to summon any person to produce any document or thing the production of which appears to be necessary for the purpose of such audit or examination.

(2) Any person who when summoned refuses, or without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Pakistan Penal Code XLV of 1860), and the auditor shall report every case of such refusal or neglect to Government.

47. Costs of audit, etc. The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the Government, and shall be defrayed in the prescribed manner.

PART VI MISCELLANEOUS

48. General powers of administration. The Administrator General may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure —

- (a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge ; and
- (b) with the sanction of the High Court ¹* * * on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

49. Power of person beneficially interested to inspect Administrator General's accounts etc., and take copies. Any person interested in the administration of any estate, which is in the charge of the Administrator General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

50. Power to make rules.— (1) The Government shall make rules ² for carrying into effect the objects of this Act and for regulating the proceedings of the Administrator General.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for —

- (a) the accounts to be kept by the Administrator General and the audit and inspection thereof,
- (b) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator General,
- (c) the remittance of sums of money in the hands of the Administrator General in cases in which such remittances are required,
- (d) subject to the provisions of this Act, the fees to be paid under this Act, and the collection and accounting for any such fees,
- (e) the statements, schedules and other documents to be submitted to the Government or to any other authority by the Administrator General, and the publication of such statements, schedules or other documents,
- (f) the realization of the cost of preparing any such statements, schedules or other such documents,

3* * * * * *

¹The words "at the Presidency-town" rep. by A. O., 1937

²For such rules for Bombay and Punjab, see the latest editions of the Rules and Orders of those Provinces, see the local Gazette of 1914 or the latest.

³Cl. (ff), ins. by the Repealing and Amending Act, 1914 (10 of 1914), [was rep. by the Destruction of Records Act, 1917 (5 of 197), s. 6 and Sch.

- (g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed,
- (h) the manner in which summonses issued under the provisions of section 46 are to be served and the payment of the expenses of any person summoned or examined under the provisions of this Act and of any expenditure incidental to such examination, and
- (i) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

51. False evidence. Whoever, during any examination authorised by this Act, makes upon oath a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

52. Assets unclaimed for twelve years to be transferred to Government. All assets in the charge of the Administrator General which have been in his custody for a period of twelve years or upwards whether before or after the commencement of this Act without any application for payment thereof having been made and granted by him shall be transferred, in the prescribed manner, to the account and credit of the Government ¹* * :

Provided that this section shall not authorise the transfer of any such assets as aforesaid, if any suit or proceeding is pending in respect thereof in any Court.

53. Mode of proceeding by claimant to recover principal money so transferred.—(1) If any claim is hereafter made to any part of the assets transferred to the account and credit of the Government ¹* * under the provisions of this Act, or any Act hereby repealed, and if such claim is established to the satisfaction of the prescribed authority, the Government ¹* * shall pay to the claimant the amount of the principal so transferred to its account and credit or so much thereof as appears to be due to the claimant.

(2) If the claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such assets, apply by petition to the High Court ²* * * against the ³[Government], and such Court, after taking such evidence as it thinks fit, shall make such order in regard to the payment of the whole or any part of the said principal sum as it thinks fit, and such order shall be binding on all parties to the proceeding ⁴[.]

5* * * * *

(3) The Court may further direct by whom the whole or any part of the cost of each party shall be paid.

¹The words "of India" rep. by the Official Trustees and Administrator General's Acts Amdt. Act, 1922 (21 of 1922), s. 7.

²The words "at the Presidency-town" rep by A. O., 1937

³Subs. ibid-for "Secretary of State for India in Council."

⁴Subs by A. O., 1961, Art. 2 and Sch., for semi-colon (with effect from the 23rd March, 1956)

⁵Proviso as ins. by A. O., 1937, has been omitted by A. O., 1961, Art. 2 and Sch. (with effect from the 23rd March, 1956)

54. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.—(1) Whenever any person, other than an exempted person, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the ¹[Division] stating the following particulars so far as they may be known to him :—

- (a) the amount and nature of the assets,
- (b) whether or not the deceased left a will and, if so, in whose custody it is,
- (c) the names and addresses of the surviving next-of-kin of the deceased, and, on the lapse of one month from the date of the death,
- (d) whether or not any one has applied for probate of the will of the deceased or letters of administration of his estate.

(2) The District Judge shall retain the assets under his charge, or appoint an officer under the provisions of section ²[269 of the Succession Act, 1925] (XXXIX of 1925), to take and keep possession of same until the Administrator General has obtained letters of administration, or until some other person has obtained probate or such letters or a certificate from the Administrator General under the provisions of this Act, when the assets shall be delivered over to the holder of such probate, letters of Administration or certificate: [[XXXIX of 1925](#)]

Provided that the District Judge may, if he thinks fit, sell any assets which are subject to speedy and natural decay, or which for any other sufficient cause he thinks should be sold, and he shall thereupon credit the proceeds of such sale to the estate.

(3) The District Judge may cause to be paid out of any assets of which he or such officer has charge, or out of the proceeds of such assets or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely :—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration of his estate or a certificate under this Act,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant,
- (c) the relief of the immediate necessities of the family of the deceased, and
- (d) such acts as may be necessary for the proper care and management of the assets left by the deceased,

¹Subs. by A. O., 1937, for "Presidency".

²Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for "229 of the Indian Succession Act, 1865".

and nothing in section ¹[230, section 321 or section 322 of the Succession Act, 1925] (XXXIX of 1925), or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons shall be held to affect the validity of any payment so caused to be made.

55. Succession Act and Companies Act not to affect Administrator General.—(1) Nothing contained in the ²[Succession Act, 1925] (XXXIX of 1925), or the ³[Companies Act, 1913] (VII of 1913), shall be taken to supersede or affect the rights, duties and privileges of any Administrator General.

4* * * * * *

56. Order of Court to be equivalent to decree. Any order made under this Act by any Court shall have the same effect as a decree.)

57. Provision for administration by Consular Officer in case of death certain circumstances of foreign subject. Notwithstanding anything in this Act, or in any other law for the time being in force, the ⁵[Federal Government] may, by general or special order, direct that, where a subject of a foreign State dies in ⁶[Pakistan], and it appears that there is no one in ⁶[Pakistan] other than the Administrator General, entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any Consular Officer of such foreign State, be granted to such Consular Officer on such terms and conditions as the Court may, subject to any rules made in this behalf by the ⁵[Federal Government] by notification in the ⁶[official Gazette] think fit to impose.

58. *[Division of Presidency into Provinces.] Rep. by A. O., 1937.*

59. Saving of provisions Registration Act, 1908. Nothing in this Act shall be deemed to affect the provisions of the Registration Act, 1908. [XVI of 1908].

⁸**[59A.** *[Saving] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II*

60. *[Repeals.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE SCHEDULE.—*[Enactments Repealed.] Rep. by the Repealing. Act, 1927 (XII of 1927), s. 2 and Sch.*

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for "279, section 280 or section 281 of the Indian Succession Act, 1865".

²Subs. *ibid.*, for "Indian Succession Act, 1865".

³Subs. *ibid.*, for "Indian Companies Act, 1882".

⁴Sub-section (2) as amended by A. O., 1937, omitted by A. O., 1949, Sch.

⁵Subs. by F. A. O., 1975, Art. 2 and Table, for "Central Government", which was previously amended by A. O., 1937, for "G. G. in C".

⁶Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

⁷Subs. by A. O., 1937, for "Gazette of India".

⁸This section was previously amended by A. O., 1937.

