

Zambia

## Administrator-General's Act, 1925

### Chapter 58

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## Administrator-General's Act, 1925

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## Zambia

# Administrator-General's Act, 1925

## Chapter 58

Commenced on 13 June 1925

*[This is the version of this document at 31 December 1996.]*

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

### 1. Short title

This Act may be cited as the Administrator-General's 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;

"**Commonwealth**" means—

- (a) the self-governing members of the Commonwealth;
- (b) all British Colonies;
- (c) all states and territories under the protection of Her Britannic Majesty through Her Government in the United Kingdom; and
- (d) all territories administered by governments of the Commonwealth in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations;

"**Court**" means the High Court, or any court subordinate thereto to which jurisdiction hereafter may be given;

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

"**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.

*[As amended by No. 31 of 1959, S.I. No. 72 of 1964 and No. 14 of 1968]*

### 3. Appointment of Administrator-General

- (1) The Public Service Commission 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 and shall have perpetual succession, and an official seal, and may sue and be sued in his corporate name.
- (3) The Administrator-General shall be entitled to appear in Court, either in person or by counsel, in any proceeding to which he is a party.
- (4) The Administrator-General, in his capacity of personal representative of any estate, may institute and carry on proceedings against another estate notwithstanding that he is personal representative of such other estate:

Provided that in any such proceedings he shall not be entitled to appear in Court in person on behalf of both estates.

*[As amended by No. 31 of 1959 and G.N. No. 303 of 1964]*

#### **4. District Secretary to act as agent of Administrator-General**

The District Secretary of any District shall, at the request of the Administrator-General act as his agent within such District:

Provided that nothing herein contained shall affect the power of the Administrator-General to appoint such other agents as he shall think fit.

#### **5. Duties of District Secretary**

- (1) When a person dies in Zambia, the District Secretary of the District in which the death occurs shall, upon receiving notice of such death or upon such death coming to his knowledge, forthwith report such death to the Administrator-General.
- (2) When a person dies outside Zambia leaving property in Zambia, the District Secretary of the District in which such property is situate shall, upon such death coming to his knowledge forthwith report such death to the Administrator-General.
- (3) The District Secretary of the District in which the death occurs and the District Secretary of the District in which property belonging to such deceased person is situate shall perform such further duties in connection with the estate of the deceased person and provide such further information about the deceased person as the Administrator-General may from time to time require.

*[No. 31 of 1959]*

#### **6. Intermeddling with property of deceased prohibited**

- (1) When a person dies, whether within or without Zambia, leaving property within Zambia, any person who, without being duly authorised by law, or without the authority of the Administrator-General or a District Secretary, takes possession of, causes to be moved or otherwise intermeddles with any such property, save in so far as may be urgently necessary for the preservation thereof, shall be guilty of an offence; and any person taking any action in regard to any such property for the preservation thereof shall forthwith report particulars of the property and of the steps taken to the Administrator-General; and if he fails so to report, he shall be guilty of an offence.
- (2) Any person convicted of an offence under this section shall be liable to imprisonment with or without hard labour for a period not exceeding three months or to a fine not exceeding one thousand five hundred penalty units, or to both, but without prejudice to any civil liabilities he may have incurred.

*[As amended by [No. 31 of 1959](#) and Act [No. 13 of 1994](#)]*

#### **7. Cases in which Administrator-General may apply for probate or letters of administration**

When a person dies leaving property in Zambia, the Administrator-General may apply to the Court for probate or letters of administration (as the case requires) in the following cases:

- (a) where the deceased has left a will, but has failed to appoint an executor;
- (b) where the deceased has left a will, and the executor therein named has pre-deceased the testator or renounced probate or signified his intention of not applying for probate;
- (c) where the deceased has left a will appointing the Administrator-General his executor;

(d) where the deceased has died intestate as to his property in Zambia;

and if no person to whom the Court would have jurisdiction to grant probate or letters of administration has, in the opinion of the Administrator-General, taken or is taking action with reasonable expedition to obtain probate or letters of administration, the Administrator-General shall, within a reasonable time after he has had notice of the death of any such person or the death has come to his knowledge, apply to the Court for probate or letters of administration (as the case requires).

*[cases in which Administrator-General must apply]*

*[As amended by [No. 31 of 1959](#)]*

## **8. Administrator-General or agent may protect property pending application**

When any person dies leaving property within Zambia, the Administrator-General or the District Secretary within whose District such property may be, may, when he shall deem it advisable for the protection of such property, take possession thereof without any order of the Court, but shall not deal therewith otherwise than may be urgently necessary, before a grant of probate or letters of administration.

## **9. Administrator-General may be appointed executor**

Any person may appoint the Administrator-General to be executor of his will.

## **10. Notice of application to Court**

The Administrator-General shall cause notice of his intention to apply for probate or letters of administration to be published in the *Gazette* at least fourteen days before making the application and the cost of such publication shall in every case be deemed to be a testamentary expense and be payable out of the estate of the deceased, whether such estate be administered by the Administrator-General or any other person.

## **11. Granting of probate or letters of administration**

Upon such application, the Court may grant probate or letters of administration (as the case may be) to the Administrator-General accordingly:

Provided always that in any case where the Court is satisfied that danger of misappropriation, deterioration or waste of the estate is otherwise to be apprehended, or that great expense would be incurred by delay in the matter, the aforesaid notice of intention to apply may be dispensed with.

## **12. No bond required from Administrator-General**

The Administrator-General shall not be required by the 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.

## **13. Grant of probate or letters of administration vest property in Administrator-General**

Where probate or letters of administration of the estate of a deceased person is or are granted to the Administrator-General, all the property of the deceased person and the rights and duties of an executor or administrator in relation thereto, as the case may be, shall vest in the Administrator-General as holder of the office of Administrator-General.

## **14. Administrator-General as trustee**

(1) The Administrator-General may act as trustee in the administration of trusts, contained in any will or implied by law, to which property vested in him as the personal representative of a deceased person becomes subject by the terms of such will or by operation of law.

- (2) For the purposes of any law requiring that there be either two or more personal representatives or trustees or a trust corporation, the Administrator-General shall be deemed to be a trust corporation.

*[No. 31 of 1959]*

## **15. Where deceased member of partnership, surviving partner to account**

- (1) When a person dies being a member of a partnership carrying on business in Zambia, the surviving partner or partners shall, as soon as possible, and in no case later than two months after the death, furnish to the Administrator-General a full and true statement of the affairs of the partnership at the time of death:

Provided that when no surviving partner is in Zambia at the time of death, such statement shall be furnished within two months after the arrival of any partner within Zambia. Such statement shall contain—

- (i) particulars, including values, of the freehold and leasehold property of the partnership;
  - (ii) particulars of cash of the partnership in hand or in bank;
  - (iii) particulars of the book and other debts of the partnership showing the names and addresses of debtors;
  - (iv) particulars of the stock-in-trade, plant, machinery, fittings and other personal estate not included under the foregoing headings;
  - (v) particulars of the liabilities of the partnership with the names and addresses of the creditors;
  - (vi) such other particulars as the Administrator-General upon reasonable notice may require.
- (2) Any person refusing or neglecting to comply with this section shall be guilty of an offence and liable on conviction to imprisonment with or without hard labour for any period not exceeding six months or to a fine not exceeding three thousand penalty units, or to both.

*[As amended by Act No. 13 of 1994]*

## **16. Duty to supply information**

When the Administrator-General believes that any person is capable of giving information concerning a deceased person or his property, he may by written notice require such person to supply such information within the time stated in the written notice, and any person being capable of giving such information who fails to comply with such written notice shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding three months or to a fine not exceeding one thousand five hundred penalty units, or to both.

*[As amended by Act No. 31 of 1959 and Act No. 13 of 1994]*

## **17. Grant to Administrator-General may be revoked and grant made to other person**

At any time after grant of probate or letters of administration to the Administrator-General under this Act, any person to whom the Court might have granted administration if no such grant had been made to the Administrator-General, may apply to the Court for revocation of such grant, and for grant to himself of probate or letters of administration; but no such application shall be made until seven days after notice of intention to make it shall have been given to the Administrator-General.

## **18. Application to Court for revocation**

- (1) Upon such application, the Court, after hearing the Administrator-General if he appears, may revoke the grant to the Administrator-General and grant probate or letters of administration to the applicant, subject to such limitations and conditions as it may think fit.

- (2) Upon such revocation and new grant, all the interest, powers, rights and duties of the Administrator-General in regard to the estate affected by such grant, and all liabilities of the Administrator-General under any contract or agreement entered into by him in relation to such estate or any part thereof, shall cease; and such portion of the estate as shall be left unadministered by the Administrator-General shall vest in the executor or administrator obtaining such new grant, subject nevertheless to all lawful contracts theretofore made relating to such estate and to the allowance and payment of all outlays, disbursements, costs, fees, charges and expenses reasonably incurred in the administration thereof.

## 19. Administrator-General to make inventory and keep accounts

- (1) The Administrator-General shall cause a complete inventory to be made of every estate of which administration is committed to him, and shall keep an account of all receipts, payments and dealings with every such estate; and he shall retain all letters received, and copies of all letters written by him, and all deeds, writings and papers relating to such estate:

Provided that the Administrator-General may in his discretion destroy any private papers, bills, receipts, memoranda and other similar documents of no value, which he has received along with the estate.

- (2) For the purpose of keeping the said accounts, the Administrator-General shall cause to be opened at a bank to be approved by the Minister an account to be called the "Administrator-General's Account" and payments of money into and out of such account shall be made in such manner and subject to such conditions as the Minister may direct.
- (3) The Administrator-General's Account shall be audited by or on behalf of the Auditor-General at such intervals as the Auditor-General shall deem necessary.

[As amended by [No. 31 of 1959](#) and G.N. [No. 303 of 1964](#)]

## 20. Notice to creditors and claimants

In every case where administration shall have been committed to him, the Administrator-General shall cause a notice to be published in the *Gazette* calling upon creditors and others to send in to him their claims against the estate on or before the date mentioned in such notice, which shall not be less than one month after the date of the publication of such notice.

## 21. Distribution of assets

At the expiration of the time mentioned in the notice referred to in the preceding section for sending in claims, the Administrator-General shall be at liberty to distribute the assets or any part thereof amongst the parties entitled thereto, having regard to the claims of which he shall then have had notice, and he shall not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of the distribution of the said assets or any part thereof, as the case may be; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

## 22. Proof of claims may be required

When the Administrator-General has received notice of a claim against an estate, administration of which has been committed to him, he may by a written notice served personally or by post require the claimant prior to a date to be named in such notice, which shall not be less than one month from the service of such notice, either to institute proceedings to establish the claim, or to satisfy the Administrator-General of the validity of the claim by affidavit or otherwise; at the expiration of the time mentioned in such notice, the Administrator-General shall be at liberty to distribute the assets or any part thereof amongst the parties entitled thereto, without having regard to the claims of persons who shall have been served with such notice, but shall have failed to comply with the requirements thereof, and he shall not be liable to any such person for the assets or any part thereof; but nothing herein contained shall prejudice the right of

any such person to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

## 23. Fees of Administrator-General

- (1) There shall be charged in respect of the duties of the Administrator-General such fees as may from time to time be prescribed.
- (2) Expenses

Any expenses which might be retained or paid out of any estate in the charge of the Administrator-General, if he were a private administrator of such estate, shall be so retained and paid and the fees prescribed under subsection (1) shall be retained and paid in like manner 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.

## 24. Payments to executors, etc., in country of domicile

When the Administrator-General has been granted letters of administration of the estate in Zambia of any person who was at the time of his death domiciled, or who appears to the Administrator-General to have been then domiciled in any part of the Commonwealth other than Zambia, and probate of whose will or administration of whose estate in the place of such domicile or apparent domicile has been granted to some person there, the Administrator-General may pay over to such person the balance of the estate after payment of proved debts of creditors resident in Zambia and funeral and administration expenses, without seeing to the application of such balance and without incurring any liability in regard to such payment.

*[As amended by [No. 31 of 1959](#) and [No. 14 of 1968](#)]*

## 25. Assets received from outside Zambia

Where administration of an estate has been committed to the Administrator-General and he receives assets which at the time of the death of the deceased were situate outside Zambia, such assets shall be treated in the same manner as assets within Zambia at the time of death.

## 26. Court may appoint persons to receive minor's share

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 his behalf and, upon such appointment being made, the Administrator-General may pay the share of such minor to such person on behalf of such minor, and the receipt of such person shall be a full and complete discharge to the Administrator-General so far as regards such share.

## 27. Assets unclaimed for twelve years to be transferred to general revenues

- (1) All assets in charge of the Administrator-General which have been in his custody for a period of twelve years or upwards without any application for payment thereof having been made and granted by him, shall be transferred to the credit of the general revenues of the Republic:

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

- (2) If, before the end of such twelve years, it is claimed and proved by the Government to the satisfaction of the Court that any assets in the hands of the Administrator-General are *bona*



*vacantia*, then such assets shall at once become the absolute property of the Government, but shall be subject to the power of disposal conferred on the President by section twenty-eight.

[As amended by [No. 31 of 1937](#)]

## **28. Power of President to dispose of same**

It shall be lawful for the President to dispose of or distribute either the whole or any part of the assets transferred to the Government under the provisions of section twenty-seven to or amongst any kindred of the deceased or such other persons in such shares or manner as he shall think fit.

## **29. Power for Administrator-General to administer where assets are less than K200**

- (1) When the gross value of the estate situated in Zambia of a deceased person does not exceed two hundred kwacha, and the Administrator-General is entitled in terms of section seven to apply to the Court for probate or letters of administration (as the case requires), the Administrator-General may, if he thinks fit, himself undertake the administration of the estate without obtaining probate or letters of administration:

Provided that the Administrator-General shall not, under the power conferred by this section, undertake the administration of an estate if there has been any previous grant of probate of the will of the deceased or of letters of administration of his estate, unless and until such grant has been revoked.

- (2) The Administrator-General shall inform the Court of every administration which he undertakes under this section, and shall publish in the *Gazette* a notice (which may be combined with the notice for creditors) of his having undertaken the administration and, on the publication of such notice, the estate of the deceased shall vest in the Administrator-General as such:

Provided that when the gross value of the estate in Zambia does not exceed the sum of forty kwacha, the Court may direct that publication of any notice required under this Act may be dispensed with and, upon such direction being given, the estate of the deceased shall vest in the Administrator-General as such.

- (3) 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 him.
- (4) The Administrator-General shall have full power to settle finally and without appeal all disputes and questions which may arise in the course of an administration by him under this section, including claims by creditors, but may, if he thinks fit, allow an appeal to the Court or may himself apply to the Court for directions.
- (5) In settling such disputes or questions, the Administrator-General may, if he thinks it expedient in the interests of justice or with a view to saving expense, act on information which appears to him to be credible though it is not legal evidence.

[No. 10 of 1926 as amended by [No. 31 of 1959](#)]

## **30. Administrator-General or his agents not liable for acts done in performance of their duties**

Neither the Administrator-General nor any of his agents shall be personally liable to any person in respect of goods or chattels in the possession at the time of the death of any person whose estate shall be administered by the Administrator-General which shall be sold by the Administrator-General or such agents, unless the Administrator-General or agent shall know or have actual notice before the sale that such goods or chattels were not in fact the property of the person whose estate is being administered by him, and generally neither the Administrator-General nor any agent shall be liable for any act done by him *bona fide* in the supposed and the intended performance of his duties, unless it shall be shown that such act was done not only illegally, but wilfully or with gross negligence:

Provided always that, in case of any sale by the Administrator-General or any agent of goods or chattels belonging in fact to any third person, the amount realised by such sale shall be paid over to the owner upon proof by him of such ownership, unless the same shall have already been applied in payment of the debts of the deceased or shall have been distributed in the ordinary course of administration whilst the Administrator-General or agent was in ignorance and without actual notice of the claim of such person to the goods or chattels sold.

### **31. Estates being administered by Registrar of High Court**

The Administrator-General shall be deemed to have been granted letters of administration to all estates which would have been subject to this Act but which were at the commencement of this Act being administered by the Registrar of the High Court.

### **32. This Act not to apply to estates administered in terms of African customary law**

- (1) This Act shall not apply to the administration of the estate of any person to which the provisions of subsection (1) of section thirty-six of the Local Courts Act apply, unless the Court shall have first made an order or given directions that such estate shall not be administered in terms of African customary law.
- (2) Nothing contained in this Act or in any other written law shall require or be deemed to require the Administrator-General, except where he thinks it is in the interest of justice so to do, to make an application to a local court claiming that the estate of a deceased person should not be administered in terms of African customary law.

*[No. 14 of 1968]*

### **33. Rules**

The Minister may, by statutory instrument, make rules for the better carrying out of the purposes and provisions of this Act, and for regulating the proceedings of the Administrator-General.

*[As amended by G.N. No. 303 of 1964]*