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APPENDIX

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE FOR THE APPOINTMENT OF AN
ADMINISTRATOR GENERAL; AND TO PROVIDE FOR INCIDENTAL
AND CONNECTED PURPOSES**

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to establish the office of Administrator-General which will, among other things, administer the estates of intestates and the affairs of the physically or otherwise disabled persons pursuant to the direction of the court.

PART 1- PRELIMINARY

Clause 1 provides the short title of the Bill and commencement provisions.

Clause 2 is the interpretation clause.

PART 2- APPOINTMENT OF ADMINISTRATOR-GENERAL AND OTHER OFFICERS

Clause 3 provides for the appointment of the Administrator-General, his deputy and other officers.

PART 3- DUTIES, FUNCTIONS AND LIABILITY

Clause 4 provides that the Administrator-General has such functions and duties as are specified in this legislation and prescribed by regulations, Rules of Court and any other law.

Clause 5 provides that the Administrator-General and the Deputy Administrator-General shall be considered to be officers of the Grand Court.

Clause 6 provides for the administration of small estates. Any person who, in the opinion of the Administrator-General, would be entitled to apply to the court for an order for the administration by the court of a small estate of a deceased person, may apply to the Administrator-General for him to administer the estate. A small estate is defined in clause 2 as being an estate the value of which is proved to the satisfaction of the Administrator-General to be less than twenty thousand dollars or such other amount as may be prescribed.

Where an application is made under this clause and it appears to the Administrator-General that the persons beneficially entitled are persons whom the Administrator-General determines to be of small means, the Administrator-General shall administer the estate unless he gives a good reason for refusing to do so.

Clause 7 provides for the administration of estates which are not small estates. The Administrator-General, upon notice of a death being given to him by the Registrar-General pursuant to clause 20, shall apply for letters of administration-

- (a) to the estates of all persons who have died intestate without leaving any person who would be entitled to take out letters of administration or who has left such a person but no such person has taken out letters of administration within three months, or within such longer or shorter time as the court may direct; and
- (b) to the estates of all persons who have died leaving a will but no executor, or no executor who will act, and no relative of the deceased or any other person who would be entitled to take out letters of administration has, within the time specified in paragraph (a), taken out letters of administration to the estate.

The Administrator-General shall be entitled to letters of administration in all cases in which, if this legislation had not been passed, letters of administration to the estates of such persons might have been granted to any administrator.

Clause 8 provides that in cases falling within clause 7, the Administrator-General may apply for letters of administration to any deceased person's estate within three months after the death of that person, if it appears likely that no other person will take out letters of administration to the estate and that injury to the estate is likely to result from delay in obtaining administration to the estate.

Clause 9 provides that at any time after grant of letters of administration to the Administrator-General under this legislation, any person to whom the court might have granted letters of administration or probate if such grant had been made, may apply to the court for revocation of the grant and for the grant to himself of letters of administration or probate; but no application shall be made until seven days after notice in writing of intention to make it is given to the Administrator-General.

Clause 10 provides that letters of administration to the Administrator-General shall, subject to this legislation, be granted on similar occasions, to the same extent, on the payment of the same fees and duties and in the same way, as letters of administration would have been granted if this legislation had not been passed.

Clause 11 provides for the vesting of property in the Administrator-General upon the grant of letters of administration to him.

Clause 12 provides that a testator may appoint the Administrator-General to be the sole executor of his will. The Administrator-General shall not act as co-executor with any other person, and if any testator appoints any person as co-

executor with the Administrator-General, the appointment of such person shall be void and the Administrator-General shall be the sole executor.

Clause 13 provides that the Administrator-General is not required, on taking out letters of administration, or on proving any will, to file any declaration of the value of the property, or to give any administration bond, or will bond, or to take any oath to bring into the Clerk of the Court an inventory of the estate of the deceased, or to take any oath to administer such estate.

Clause 14 provides that the Administrator-General shall make, as soon as possible after obtaining letters of administration or a grant of probate to an estate, a true and accurate inventory of all the personal and real property of the deceased person and return the inventory to the Clerk of the Court. It shall also be the duty of the Administrator-General to properly administer the estates of deceased persons vested in him.

Clause 15 provides that where letters of administration or a grant of probate are to be granted under this legislation, they shall be granted by the court to the Administrator-General, according to the practice of the Court as nearly as may be, as such letters of administration and grant of probate would be granted to any other executor or administrator; and the letters of administration and grant of probate shall bear the stamp duty to which they would have been liable if granted to a private person.

Clause 16 provides that, subject to this legislation, the rights, duties, powers, and liabilities of the Administrator-General, in applying for and obtaining letters of administration or grant of probate, and in acting as administrator or executor, shall be the same in all respects as under similar circumstances the rights, duties, powers, and liabilities of private persons applying for and obtaining letters of administration or grants of probate, or acting as administrators or executors would have been if this legislation had not been passed.

Clause 17 deals with the jurisdiction of the court before or pending proceedings for administration. The clause provides that whenever it appears to the court -

- (a) that there is a good reason to believe that the Administrator-General is, or is likely to become, entitled to the administration of any estate; and
- (b) that the property of the estate is likely to be damaged or diminished for want of a proper person to take charge of it, before letters of administration or grant of probate can be taken out; or
- (c) there is uncertainty who will apply for and obtain letters of administration or grant of probate,

the court may authorise the Administrator-General to take possession of the property for such time, in such manner, and subject to such conditions, if any, as the court may direct.

Clause 18 deals with the exercise of certain powers by the Administrator-General prior to the grant of letters of administration or probate. Such powers are as follows-

- (a) collecting the relevant assets, obtaining advances from the assets and otherwise dealing with the relevant assets; and
- (b) making payments out of the relevant assets-
 - (i) to meet the costs and expenses connected with obtaining the grant of letters of administration; or
 - (ii) for the advancement or benefit of any beneficiary.

“Relevant assets” mean money or securities for money, including money in bank accounts, insurance policies, moneys owing to an estate or rental income (“the relevant assets”) in the estate of any deceased person.

Clause 19 provides that where-

- (a) the Administrator-General has obtained letters of administration in relation to an estate;
- (b) property is to be distributed among the beneficiaries of that estate; and
- (c) the Administrator-General is unable to obtain the signatures of those beneficiaries or any of them in order to effect the distribution,

he may apply to the court for an order directing that the property be vested in the beneficiaries.

Clause 20 provides that the Registrar-General shall ascertain to the best of his ability, and report to the Administrator-General, the names of all persons who have died in the Islands under such circumstances as would entitle the Administrator-General to the administration of their estates.

Clause 21 provides that subject to clause 22, the Administrator-General may be appointed to be trustee under any instrument creating an inter vivos trust or to perform any trust or duty belonging to a class which he is authorised by Rules of Court to accept.

Clause 22 provides that the Administrator-General may decline, either absolutely or on prescribed conditions, to accept any trust but he shall not decline any trust on the ground only of the small value of the trust property.

Clause 23 provides that for the purposes of the Bankruptcy Law (1997 Revision) the Administrator-General shall be the trustee in bankruptcy and he shall administer the estates of debtors in bankruptcy subject to that Law and any law relating to bankruptcy.

Clause 24 provides that if it appears to the court that there is no fit and proper person who is willing and able to act as next friend or guardian ad litem for a person under a disability, the court shall appoint the Administrator-General who shall carry out his duties in accordance with Rules of Court.

Clause 25 provides that the Administrator-General, upon the direction of the court and in accordance with Rules of Court, may apply for the appointment of a guardian of a person under a disability.

Clause 26 provides that where in any proceeding the court considers that the interests of a person under a disability are not adequately represented the court may direct that the Administrator-General shall act as the legal representative for the person either generally or in the proceedings or for any particular purpose connected with the proceedings, so, however, that it shall not be necessary to appoint the Administrator-General to be guardian ad litem for the person.

Clause 27 provides for the appointment of Administrator-General as guardian of a child's estate.

Clause 28 provides that the Administrator-General shall be appointed guardian or receiver by the court -

- (a) under section 13 of the Mental Health Law (1997 Revision); and
- (b) under section 14 of the Grand Court Law (2008 Revision),

unless it is proved to the satisfaction of the court that it would be more beneficial that some other person should be appointed guardian or receiver.

Clause 29 provides that, subject to this legislation, the rights, duties, powers, and liabilities of the Administrator-General acting as next friend, guardian, guardian ad litem, legal representative or receiver, shall be the same in all respects as the rights, duties, powers, and liabilities of any next friend, guardian, guardian ad litem, legal representative or receiver.

Clause 30 provides that the court shall appoint the Administrator-General to be a receiver in any legal proceedings in the court, unless it is proved to the satisfaction of the court that it would be more beneficial that some other person should be appointed receiver. As receiver, the Administrator-General shall have

such duties as are determined by the court or prescribed by Rules of Court and such duties may include those set out in clause 28.

Clause 31 provides that the court may appoint the Administrator-General to be an official liquidator in any proceedings where a company is being wound up by order of the court and upon such appointment the Administrator-General shall have the same duties and powers as an official liquidator appointed under the Companies Law (2011 Revision).

Clause 32 provides that where in any proceedings the court considers that the interests of an estate of a deceased person are not adequately represented the court may direct that the Administrator-General shall act as the legal representative for that estate either generally in the proceedings or for any particular purpose connected with the proceedings.

Clause 33 provides that the Administrator-General may upon application of any person with a relevant interest and payment of the prescribed application fee, if any, by that person investigate and audit the affairs, dealings and accounts of-

- (a) a trust under which a beneficiary is or may be a person under a disability;
- (b) an attorney under a power of attorney if the Administrator-General has reason to believe that the person who granted the power of attorney is incapable of managing his financial affairs, business or assets; or
- (c) a guardian,

if the Administrator-General has reason to believe that the interest in the trust, or the assets of the person under a disability, may be at risk, or that the trustee, attorney or guardian has failed to comply with his duties.

The Administrator-General may also investigate any personal care and health care decisions made by a guardian if he has reason to believe the guardian has failed to comply with his duties.

Clause 34 provides that in conducting an investigation or audit under clause 33, the Administrator-General may request the production of certain documents including accounts, securities or such other records as the Administrator-General considers necessary for the investigation or audit.

Clause 35 provides that if the Administrator-General has reason to believe that the financial affairs, business or assets of a person under a disability are in need of immediate protection, the Administrator-General may take certain action to protect any relevant of assets.

PART 4- ACCOUNTS

Clause 36 provides that the Administrator-General shall keep full, complete and accurate books of account of all transactions with respect to all estates and trusts vested in or administered by him and shall keep all such books as may be necessary for that purpose.

Clause 37 deals with the keeping of funds by the Administrator-General. All sums of money received by the Administrator-General in that capacity shall forthwith or within such time as may be prescribed-

- (a) be paid by him into a Class A bank or a specified financial institution to the credit of an account to be entitled “Administrator-General’s Account”; or
- (b) be invested by him in securities approved by the Government.

Clause 38 provides that the provisions of the Public Management and Finance Law (2010 Revision) that apply to the financial administration, audit and financial reporting of statutory authorities apply to and in respect of the Administrator-General and the operations of his office.

Clause 39 provides that the Administrator-General shall, within three months of the beginning of each year, prepare and submit to the Minister responsible for social services a report containing a summary of the operations of the office for the preceding year in such form and containing such information the Minister may direct. The Minister shall thereafter lay such report in the Legislative Assembly.

PART 5- LEGAL PROCEEDINGS

Clause 40 provides how the Administrator-General is to sue and be sued.

Clause 41 provides how process may be served on the Administrator-General.

Clause 42 provides that all judgments, decrees, or orders, recovered or made in any legal proceeding by or against the Administrator-General, shall be in the same form and, subject to this legislation, shall have the same effect as such judgments, decrees, or orders would have had under similar circumstances, if this legislation had not been passed, against a private person occupying, in relation to such proceedings, a position similar to that of the Administrator-General.

Clause 43 deals with execution against the Administrator-General. An execution shall not issue without the leave of the court on any judgment, decree or order against the Administrator-General, but the Administrator-General, unless an order

is made under clause 45, shall pay forthwith the amount of such judgment, decree, or order, and costs, if any, in the same way, to the same extent, that a private person, under similar circumstances, would be bound to pay the amount of such a judgment, decree, or order and costs.

Clause 44 provides that all sums required to discharge any liability which the Administrator-General, if he were a private trustee, would be personally liable to discharge, shall be charged on and paid out of the revenue of Government, but neither the revenue nor the Administrator-General shall be liable for any loss which would not have imposed liability on a private trustee.

Clause 45 provides that when a judgment, decree or order has been recovered against the Administrator-General, and there are any circumstances which render it doubtful whether he ought to pay the amount thereof, or out of what funds he ought to pay the amount, he may apply to the court for an order authorising him to pay, or to refuse to pay, or directing out of what funds he should pay the amount of such judgment, decree, or order.

Clause 46 provides that the Administrator-General may at any time apply to the court for the opinion, advice, or direction of the court respecting his rights or duties with regard to the exercise of his functions under this legislation.

Clause 47 provides that the Administrator-General, obtaining in good faith the opinion or direction of the court or acting in good faith on such opinion or direction, shall be deemed, so far as regards his own responsibility, to have discharged his duty as administrator, executor, trustee, guardian, committee, or receiver, with regard to the estate or trust with respect to which the opinion or direction was given.

Clause 48 provides that where any person interested in any estate, trust, judgment, decree, order, or other matter under this legislation-

- (a) has reason to believe that the Administrator-General, has acted improperly in carrying out his duties and functions under this legislation in respect of such matter or has failed to act; or
- (b) has reasonable ground to think that the Administrator-General is about to improperly act, or to omit to act, with respect to any such duty or function,

he may apply to the court for an order requiring the Administrator-General to do, or refrain from doing, the act in respect of which the person complains and the court may thereupon make any order as it thinks fit.

Clause 49 provides for the winding up of estates by the Administrator-General.

Clause 50 provides that in all applications under this legislation to the court, the court may make any order authorised by this legislation, either absolutely, or subject to any terms or conditions, and the costs of all such applications shall be in the discretion of the court.

Clause 51 provides for the power of court to make Rules of Court under this legislation in relation to applications to the court.

Clause 52 provides that estates and trusts under the management of or vested in the Administrator-General, or which the Administrator-General is entitled to administer, or to have vested in him, shall not be administered by the court, unless it be proved to the satisfaction of the court that the estate or trust cannot be properly administered by the Administrator-General.

Clause 53 provides that all applications that may be made to, and whatever may be done by, the court under this legislation may be made to, and may be done by, a judge of the court in chambers.

Clause 54 provides that, in addition to other specified remuneration and expenses, the Administrator-General shall be entitled to a commission of six per centum-

- (a) on all payments made by him in respect of debts, liabilities, cost of management, and other similar charges;
- (b) on all payments in respect of dividends, interests, rents, or other produce, or receipts of any estate or trust; and
- (c) on all property, real and personal, conveyed, assigned, or distributed by him, including the final transfer of the corpus of any trust fund, or of any part thereof.

PART 6-MISCELLANEOUS

Clause 55 provides that all commissions and fees payable to, or receivable by, the Administrator-General, under or in pursuance of the provisions of this legislation, shall be paid into the Government and shall form part of the general revenue.

Clause 56 provides that in any case in which the consent of the Administrator-General is required, before he is bound to accept a trust or to act under this legislation, the giving or withholding such consent shall be absolutely in the discretion of the Administrator-General.

Clause 57 provides that in all cases in which the consent of the Administrator-General is not required, it shall be the duty of the Administrator-General to accept and forthwith to enter upon the duties of the administration of any estate or trust to which he may be appointed or entitled under this legislation.

Clause 58 provides that when the Administrator-General is appointed by the court as receiver of any estate, he shall receive reasonable remuneration at a rate comparable to that which any other person would have been entitled to, if appointed receiver under similar circumstances; and when he is a co-trustee or co-guardian, he shall be entitled to deduct the same fees as if he were the sole trustee or guardian.

Clause 59 provides that when, in the performance of the duties of his office, the Administrator-General has incurred any expense, or made himself liable to any claim or demand, and there is no fund out of which he may or can lawfully recoup or reimburse himself in respect of the claim or demand, then, on the court certifying that the expense was properly and reasonably incurred, or that the liability was properly and reasonably undertaken, the expense shall be reimbursed out of, or such liability be assumed by the general revenue.

Clause 60 provides, among other things, that all conveyances, transfers, mortgages, charges, grants, deeds, contracts or instruments to which the Administrator-General as such may be party shall be expressed to be granted to or by or made with him in his style of office as “The Administrator-General for the Cayman Islands, administrator (or executor) of the estate (or of the Will) of A.B. deceased”, or, “trustee of the marriage settlement of X and Y” (or otherwise as the case may be).

Clause 61 provides that all entries made in the ordinary course of business, in the books kept under this legislation at the Administrator-General's office, with respect to any estate or trust vested in or administered by him under this legislation, shall be in any legal proceedings prima facie evidence of the facts therein stated.

Clause 62 provides that copies, authenticated by the signature of the Administrator General, of any entries in the books kept under this legislation at the Administrator-General's office, with respect to any estate or trust vested in or administered by him under this legislation, shall be admissible in evidence in accordance with clause 64, and shall have the same effect in evidence, in all respects, as the originals from which such copies were made.

Clause 63 provides that in all legal proceedings judicial notice shall be taken of the signature of the Administrator-General.

Clause 64 provides that the books kept under this legislation at the Administrator-General's office shall be produced in evidence in legal proceedings only by order of the court.

Clause 65 provides for the making of regulations by the Governor in Cabinet to prescribe anything required by this legislation to be prescribed.

Clause 66 empowers the court to make such Rules of Court as appear to be necessary or proper with respect to applications, orders, and matters and otherwise for regulating practice, procedure, costs and fees so as to give full effect to this legislation.

Clause 67 provides that nothing contained in the Succession Law (2006 Revision) shall be taken to supersede the rights, duties and privileges of the Administrator-General under this law.

Clause 68 contains transitional provisions.

THE ADMINISTRATOR-GENERAL BILL, 2012

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CAYMAN ISLANDS

A BILL FOR A LAW TO PROVIDE FOR THE APPOINTMENT OF AN ADMINISTRATOR GENERAL; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

PART 1- PRELIMINARY

1. (1) This Law may be cited as the Administrator-General Law, 2012.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by order made by the Governor in Cabinet; and different dates may be appointed for different provisions of this Law and in relation to different matters.

2. In this Law-

Interpretation

“administer” in relation to an estate, means to administer an estate pursuant to this Law, letters of administration or a grant of probate and “administration” shall be construed accordingly;

“Chief Officer” means the Courts Administrator;

“child” means a person under the age of eighteen;

“Class A bank” means a bank with an “A” banking licence issued under the Banks and Trusts Companies Law (2009 Revision);

(2009 Revision)

“court” means the Grand Court;

“disability” means a legal, physical or mental inability or a difficulty, diagnosed by a registered practitioner, to perform some or all of the tasks of daily life;

“estate” includes every description of movable and immovable property, goods, chattels, money, securities and all writings relating to and evidencing any right or title to any property and all rights of action and claims;

“Minister” means the minister responsible for social services;

“person under a disability” includes a child or a person with a disability;

(2007 Revision)

“Registrar-General” means the holder of the office established by section 4 of the Births and Deaths Registration Law (2007 Revision);

“small estate” means the estate of a deceased person the value of which is proved to the satisfaction of the Administrator-General to be less than twenty thousand dollars or such other amount as may be prescribed;

“stock” includes fully paid up shares and, so far as relates to vesting orders made by the court under this Law, includes any fund, annuity or security transferable in books kept by any company or society, or by instrument of transfer either alone or accompanied by other formalities, and any share or interest therein; and

“trust” does not include the duties incident to an estate conveyed by way of charge, but with this exception the expressions “trust” and “trustee” extend to implied and constructive trusts, to cases where the trustee has a beneficial interest in the trust property and to the duties incident to the office of a personal representative.

PART 2- APPOINTMENT OF ADMINISTRATOR-GENERAL AND OTHER OFFICERS

Administrator-General
and other officers

3. (1) The Governor shall appoint an Administrator-General to carry out the duties under this Law.

(2) The Administrator-General shall be a public officer who is an attorney-at-law of seven or more years call to the Bar and shall have such other qualifications as the Governor considers necessary for the performance of his duties under this Law.

(3) Nothing in this section shall prevent the appointment of a person who already holds another public office to be Administrator-General where the Governor is of the opinion that that person can properly hold two such offices together.

(4) The Governor may appoint a deputy to assist the Administrator-General, and a deputy so appointed shall-

- (a) be a public officer who is an attorney-at-law of five or more years call to the Bar and shall have such other qualifications as the Governor considers necessary for the performance of his functions under this Law;
- (b) be subject to the control of the Administrator-General; and
- (c) be competent to discharge any of the duties and 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) The Administrator-General shall also be assisted in the discharge of his duties by such other public officers as the Chief Officer may appoint.

(6) The Administrator-General shall be supervised in the performance of his duties by the [Chief Justice].

PART 3- DUTIES, FUNCTIONS AND LIABILITY

4. The Administrator-General has such functions and duties as are specified in this Law and prescribed by regulations, Rules of Court and any other Law.

Powers as executor, administrator, trustee or attorney, etc.

5. The Administrator-General and the Deputy Administrator-General shall be considered to be officers of the Grand Court.

An officer of the Grand Court

6. (1) Any person who, in the opinion of the Administrator-General, would be entitled to apply to the court for an order for the administration by the court of a small estate of a deceased person, may apply to the Administrator-General for him to administer the estate.

Administration of small estates

(2) Where an application is made under subsection (1) and it appears to the Administrator-General that the persons beneficially entitled are persons whom the Administrator-General determines to be of small means, the Administrator-General shall administer the estate unless he gives a good reason for refusing to do so.

(3) Where the Administrator-General receives an application under subsection (1) he shall cause notice of his intention to proceed under this section to be published in the Gazette for a period of not less than fourteen days before taking any action under this section; and the costs of the publication shall be deemed to be a testamentary expense and payable out of the estate whether the estate is administered by the Administrator-General or by any other person.

(4) At any time before the end of the fourteen day period specified in subsection (3), any person to whom the court may grant letters of administration or probate in relation to the estate, may apply to the court for the grant to himself of letters of administration or a grant of probate; but the court may only grant such letters or probate if the court is of the opinion that it would be economical to the estate to do so.

(2011 Revision)

(5) Where no letters of administration or grant of probate are granted under subsection (4) the Administrator-General shall, after the end of the notice period under subsection (3) undertake, by declaration in writing given to the court and published in the Gazette, to administer the estate and any trust property, other than stock, shall by virtue of this Law vest in him; and the right to transfer or call for the transfer of any stock forming part of the estate shall also vest in him in the same manner as if vesting orders had been made for the purpose by the court under the Trusts Law (2011 Revision), and that Law shall apply accordingly.

(6) When an estate vests in the Administrator-General pursuant to this section, from the date of such vesting any trustee entitled under the trust to administer the estate shall be discharged from all liability attaching to the administration, except in respect of past acts.

(7) Notwithstanding subsection (5), the Administrator-General shall not exercise the right of transferring to himself any stock without the leave of the court.

(8) For the purposes of administration the Administrator-General may exercise such of the administrative powers and authorities of the court as may be conferred upon him by Rules of Court, subject to conditions as may be imposed by the Rules.

(9) Where proceedings have been instituted in the court for the administration of an estate, and by reason of the small value of the estate it appears to the court that the estate can be more economically administered by the Administrator-General than by the court, or that for any other reason it is expedient that the estate should be administered by the Administrator-General instead of the court, the court may order that the estate shall be administered by

the Administrator-General; and thereupon, subject to any directions by the court, this section shall apply as if the administration of the estate had been undertaken by the Administrator-General under this section.

(10) Notwithstanding subsection (3), in any case where the court is satisfied that the estate or any portion of it may be pilfered, lost, destroyed or damaged or that great expenses would be incurred by delay in the matter, the notice of intention to apply may be dispensed with by the court.

(11) Administration under this section shall be conducted without the grant of letters of administration and notice of any estate administered pursuant to this section shall be published in the Gazette.

7. (1) The Administrator-General, upon notice of a death being given to him by the Registrar-General pursuant to section 20, shall apply for letters of administration-

Administration of estates
which are not small
estates

- (a) to the estates of all persons who have died intestate without leaving any person who would be entitled to take out letters of administration or who has left such a person but no such person has taken out letters of administration within three months, or within such longer or shorter time as the court may direct; and
- (b) to the estates of all persons who have died leaving a will but no executor, or no executor who will act, and no relative of the deceased or any other person who would be entitled to take out letters of administration has, within the time specified in paragraph (a), taken out letters of administration to the estate.

(2) The Administrator-General shall be entitled to letters of administration in all cases in which, if this Law had not been passed, letters of administration to the estates of such persons might have been granted to any administrator.

(3) Where the Administrator-General intends to act in accordance with this section he shall cause notice of intention to proceed under this section to be published in the Gazette for a period of not less than fourteen days before taking any such action; and the costs of the publication shall be deemed to be a testamentary expense and payable out of the estate whether the estate is administered by the Administrator-General or by any other person.

8. (1) In cases falling within section 7, the Administrator-General may apply for letters of administration to any deceased person's estate within three months after the death of that person, if it appears likely that no other person will take out letters of administration to the estate and that injury to the estate is likely to result from delay in obtaining administration to the estate.

Time for application

(2) On any application under subsection (1) the court may give any decision as it thinks fit.

Revocation of
administration to
Administrator-General

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

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

(3) Notwithstanding subsection (2), letters of administration to the Administrator-General shall not be revoked unless the application 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.

(4) Upon a revocation and a new grant under subsection (2)-

- (a) all the interest, powers, rights and duties of the Administrator-General in regard to the estate affected by the grant and all liabilities of the Administrator-General under any contract or agreement entered into by him in relation to the estate or any part of it shall cease; and
- (b) such portion of the estate as is left unadministered by the Administrator-General, shall vest in the executor or administrator obtaining the new grant,

subject to all lawful contracts previously made relating to the estate and to the allowance and payment of all outlays, disbursements, costs, fees, charges and expenses, reasonably incurred in the administration of it.

(5) This section does not apply in the case of estates being administered by the Administrator-General under section 6.

(6) If any letters of administration granted to the Administrator-General are revoked, he shall not be adjudged to pay any of the costs of such revocation, unless the court is satisfied that he acted improperly in obtaining administration or in opposing the revocation thereof.

10. (1) Letters of administration to the Administrator-General shall, subject to this Law, be granted on similar occasions, to the same extent, on the payment of the same fees and duties, and in the same way, as letters of administration would have been granted if this Law had not been passed.

Administration proceedings by Administrator-General, same as in other cases

(2) All proceedings to obtain or to oppose administration by the Administrator-General, or otherwise in any way relating to such administration, shall, subject only to the provisions of this Law, be the same as if this Law had not been passed.

11. (1) On the grant of letters of administration to the Administrator-General, the property of the deceased shall vest in the Administrator-General, and shall be assets in his hands for the payment of the debts and liabilities of the deceased, in the same way, and to the same extent in all respects, as such property would have vested in and been assets in the hands of any other administrator, as if this Law had not been passed.

Vesting of property

(2) The Administrator-General shall discharge the debts and liabilities of the deceased, and shall distribute the surplus, in the same way, and in the same order of priority, and to the same extent, that any other administrator would have been bound to discharge such debts and liabilities, and to distribute such surplus, as if this Law had not been passed.

12. (1) A testator may appoint the Administrator-General to be the sole executor of his will.

Appointing Administrator-General executor of will

(2) The Administrator-General shall not act as co-executor with any other person, and if any testator appoints any person as co-executor with the Administrator-General, the appointment of such person shall be void and the Administrator-General shall be the sole executor.

(3) Notwithstanding subsection (2), a testator may appoint the Administrator-General the sole executor in substitution for any other executor in the event of the executor dying, neglecting, refusing, or becoming incapable to act as executor.

13. The Administrator-General is not required, on taking out letters of administration, or on proving any will, to file any declaration of the value of the property, or to give any administration bond, or will bond, or to take any oath to bring into the Clerk of the Court an inventory of the estate of the deceased, or to take any oath to administer such estate.

No administration bond or oath of office required from Administrator-General

Duty to return inventories and administer estate vested in Administrator-General

14. (1) The Administrator-General shall make, as soon as possible after obtaining letters of administration or a grant of probate to an estate, a true and accurate inventory of all the personal and real property of the deceased person and return the inventory to the Clerk of the Court.

(2) It shall also be the duty of the Administrator-General to properly administer the estates of deceased persons vested in him.

Letters of administration, etc. granted to Administrator-General by court

15. Where letters of administration or a grant of probate are to be granted under this Law, they shall be granted by the court to the Administrator-General, according to the practice of the court as nearly as may be, as such letters of administration and grant of probate would be granted to any other executor or administrator; and the letters of administration and grant of probate shall bear the stamp duty to which they would have been liable if granted to a private person.

Rights, duties, powers, and liabilities of Administrator-General

16. Subject to this Law, the rights, duties, powers, and liabilities of the Administrator-General, in applying for and obtaining letters of administration or grant of probate, and in acting as administrator or executor, shall be the same in all respects as under similar circumstances the rights, duties, powers, and liabilities of private persons applying for and obtaining letters of administration or grants of probate, or acting as administrators or executors would have been if this Law had not been passed.

Jurisdiction of court before or pending proceedings for administration

17. (1) Whenever it appears to the court -

- (a) that there is a good reason to believe that the Administrator-General is, or is likely to become, entitled to the administration of any estate; and
- (b) that the property of the estate is likely to be damaged or diminished for want of a proper person to take charge of it, before letters of administration or grant of probate can be taken out; or
- (c) there is uncertainty who will apply for and obtain letters of administration or grant of probate,

the court may authorise the Administrator-General to take possession of the property for such time, in such manner, and subject to such conditions, if any, as the court may direct.

(2) The Administrator-General shall hold and deal with the property under this section as may be directed by the court until letters of administration or probate have been granted.

(3) The Administrator-General is not entitled to any commission in respect of property under this section unless he ultimately obtains the administration of it, but he shall be entitled to be repaid out of the property all costs and expenses to which he may be put in respect thereof, and for applying to the court if the court thinks fit.

18. (1) Where it is the duty of the Administrator-General to apply for letters of administration or grant of probate in relation to any estate he may exercise any of the powers specified in subsection (2) prior to the grant of letters of administration or grant of probate made in relation to such estate.

Exercise of certain powers prior to grant of administration

(2) The powers exercisable by the Administrator-General under this section shall be-

- (a) to collect the relevant assets, obtain advances from the assets and otherwise deal with the relevant assets; and
- (b) to make payments out of the relevant assets-
 - (i) to meet the costs and expenses connected with obtaining the grant of letters of administration; or
 - (ii) for the advancement or benefit of any beneficiary.

(3) In this section “relevant assets” mean money or securities for money, including money in bank accounts, insurance policies, moneys owing to an estate or rental income in the estate of any deceased person.

19. Where-

Vesting of property by order of court

- (a) the Administrator-General has obtained letters of administration in relation to an estate;
- (b) property is to be distributed among the beneficiaries of that estate; and
- (c) the Administrator-General is unable to obtain the signatures of those beneficiaries or any of them in order to effect the distribution,

he may apply to the court for an order directing that the property be vested in the beneficiaries.

20. The Registrar-General shall ascertain to the best of his ability, and report to the Administrator-General, the names of all persons who have died in the Islands under such circumstances as would entitle the Administrator-General to the administration of their estates.

Duty of Registrar-General to report deaths

21. (1) Subject to section 22, the Administrator-General may be appointed to be trustee under any instrument creating an inter vivos trust or to perform any

Appointment of Administrator-General to be trustee

trust or duty belonging to a class which he is authorised by Rules of Court to accept.

(2) The Administrator-General may be appointed under subsection (1) whether the instrument creating the trust or duty was made or came into operation before or after the passing of this Law, and either as an original or as a new trustee, or as an additional trustee, in the same cases, and in the same manner, and by the same persons or court, as if he were a private trustee.

(3) The Administrator-General may be appointed sole trustee notwithstanding that the trustees originally appointed were two or more, or though the instrument creating the trust requires two or more trustees.

(2011 Revision)

(4) Where the Administrator-General has been appointed a trustee of any trust, a co-trustee may retire from the trust under and in accordance with section 8 of the Trusts Law (2011 Revision), notwithstanding that there are not more than two trustees, and without such consents as are required by that section.

(5) The Administrator-General shall not be appointed either as a new or additional trustee where the instrument creating the trust or duty contains a direction that the Administrator-General shall not be appointed to be a trustee, unless the court otherwise orders.

(6) Notice of any proposed appointment of the Administrator-General either as a new or additional trustee shall, where practicable, be given in the prescribed manner to all persons beneficially interested who are resident in the Islands and whose addresses are known to the persons proposing to make the appointment, or, if such beneficiaries are infants, to their guardians.

(7) If any person to whom notice under subsection (6) has been given, within twenty-one days from the receipt of the notice applies to the court, the court may, if having regard to the interests of all the beneficiaries it considers it expedient to do so, make an order prohibiting the appointment being made.

(8) A failure to give a notice under subsection (6) shall not invalidate any appointment made under this section.

(9) Subject to this Law, the Administrator-General when acting as trustee shall have all the same powers, duties and liabilities, shall be entitled to the same rights and immunities and shall be subject to the control and orders of the court as a private trustee acting in the same capacity.

22. (1) The Administrator-General may decline, either absolutely or on prescribed conditions, to accept any trust but he shall not decline any trust on the ground only of the small value of the trust property. Power to decline to act
- (2) The Administrator-General shall not accept any trust under a deed of arrangement for the benefit of creditors.
23. For the purposes of the Bankruptcy Law (1997 Revision) the Administrator-General shall be the trustee in bankruptcy and he shall administer the estates of debtors in bankruptcy subject to that Law and any law relating to bankruptcy. Trustee in bankruptcy
(1997 Revision)
24. If it appears to the court that there is no fit and proper person who is willing and able to act as next friend or guardian ad litem for a person under a disability the court shall appoint the Administrator-General who shall carry out his duties in accordance with Rules of Court. Appointment of
Administrator-General
as next friend or
guardian ad litem for
person under disability
25. The Administrator-General, upon the direction of the court and in accordance with Rules of Court, may apply for the appointment of a guardian of a person under a disability. Administrator-General
may appoint guardian
26. Where in any proceeding the court considers that the interests of a person under a disability are not adequately represented the court may direct that the Administrator-General shall act as the legal representative for the person either generally or in the proceedings or for any particular purpose connected with the proceedings, so, however, that it shall not be necessary to appoint the Administrator-General to be guardian ad litem for the person. Legal representation of
person under disability
by Administrator-
General
27. (1) The court, may in the circumstances specified in subsection (2) and where it appears to the court that there is no fit and proper person who is willing and able to do so, appoint the Administrator-General to be guardian of the estate of a child provided that- Appointment of
Administrator-General
as guardian of child's
estate
- (a) the appointment shall subsist only until the child reaches the age of eighteen; and
- (b) the consent of the child's parents has been signified to the court, or, in the opinion of the court, cannot be obtained or may be dispensed with.
- (2) The circumstances referred to in subsection (1) are -
- (a) where money is paid into court on behalf of the child in accordance with directions given under Rules of Court;
- (b) where a court or tribunal outside the Islands notifies the court that it has ordered or intends to order that money be paid to the child;

- (c) where the child is absolutely entitled to proceeds of a pension fund;
- (d) where the child is absolutely entitled to a trust fund; or
- (e) where such an appointment seems desirable to the court.

(3) The Administrator-General shall carry out his duties and functions under this section in accordance with Rules of Court.

(4) An application for the removal of the Administrator-General may only be made-

- (a) by the child's parents;
- (b) if the child has no parents, by any guardian appointed under the Children Law, 2003; or
- (c) on the direction of the court.

Appointment of Administrator-General as guardian or receiver under Mental Health Law (1997 Revision) and Grand Court Law (2008 Revision)

28. (1) The Administrator-General shall be appointed guardian or receiver by the court -

- (a) under section 13 of the Mental Health Law (1997 Revision); and
- (b) under section 14 of the Grand Court Law (2008 Revision),

unless it is proved to the satisfaction of the court that it would be more beneficial that some other person should be appointed guardian or receiver.

(2) As guardian or receiver under this section, the Administrator-General has duties as may be determined by the court or prescribed by Rules of Court and such duties may include-

- (a) taking possession of a property;
- (b) managing, selling, acquiring, charging or dealing with property;
- (c) incurring capital expenditure in respect of a property;
- (d) entering into any settlement;
- (e) providing for the management of a business;
- (f) dissolving a partnership;
- (g) completing a contract;
- (h) conducting legal proceedings; and
- (i) acting as trustee.

Rights, duties, powers and liabilities as trustee, guardian or receiver, etc.

29. Subject to this Law, the rights, duties, powers, and liabilities of the Administrator-General acting as next friend, guardian, guardian ad litem, legal representative or receiver, shall be the same in all respects as the rights, duties, powers, and liabilities of any next friend, guardian, guardian ad litem, legal representative or receiver.

Administrator-General as receiver

30. (1) The court shall appoint the Administrator-General to be a receiver in any legal proceedings in the court, unless it is proved to the satisfaction of the

court that it would be more beneficial that some other person should be appointed receiver.

(2) As receiver the Administrator-General shall have such duties as are determined by the court or prescribed by Rules of Court and such duties may include those set out in section 28(2).

31. The court may appoint the Administrator-General to be an official liquidator in any proceedings where a company is being wound up by order of the court and upon such appointment the Administrator-General shall have the same duties and powers as an official liquidator appointed under the Companies Law (2011 Revision).

Administrator-General
as official liquidator
(2011 Revision)

32. (1) Where in any proceedings the court considers that the interests of an estate of a deceased person are not adequately represented the court may direct that the Administrator-General shall act as the legal representative for that estate either generally in the proceedings or for any particular purpose connected with the proceedings.

Legal representative for
estate of deceased

(2) As legal representative under this section, the Administrator-General has duties as may be determined by the court or prescribed by Rules of Court.

33. (1) The Administrator-General may-

- (a) upon application of any person with a relevant interest; and
- (b) payment of the prescribed application fee, if any, by that person,

Power to investigate and
audit

investigate and audit the affairs, dealings and accounts of-

- (i) a trust under which a beneficiary is or may be a person under a disability;
- (ii) an attorney under a power of attorney if the Administrator-General has reason to believe that the person who granted the power of attorney is incapable of managing his financial affairs, business or assets; or
- (iii) a guardian,

if the Administrator-General has reason to believe that the interest in the trust, or the assets of the person under a disability, may be at risk, or that the trustee, attorney or guardian has failed to comply with his duties.

(2) In addition to the duties set out in subsection (1), the Administrator-General may investigate any personal care and health care decisions made by a guardian if he has reason to believe the guardian has failed to comply with his duties.

(3) The Administrator-General, may direct that payment of any fee relating to his duties under this section shall be payable out of the relevant estate instead or that no fees are required in accordance with regulations made under section 54(5).

Production of accounts
and records

34. (1) In conducting an investigation or audit under section 33, the Administrator-General may do one or more of the following-

- (a) for an investigation or audit under section 33(1)-
 - (i) require the trustee, attorney or guardian to produce any accounts, securities or other records the Administrator-General considers necessary for the investigation or audit; and
 - (ii) require a person, institution or other body having records relating to the financial affairs, business or assets of the person under a disability to produce any accounts, securities or other records, the Administrator-General considers necessary for the investigation or audit;
- (b) for an investigation under section 33(2)-
 - (i) require the guardian to produce any records relating to the personal care and health care decisions; and
 - (ii) require a person, institution or other body having records relating to the personal care or health care decisions to produce any personal care or health care records;
- (c) inspect and copy any records produced under paragraph (a) or (b); or
- (d) for an investigation or audit under section 33(1) or (2), require the trustee, attorney or guardian to provide any report, information or explanation the Administrator-General considers necessary for the investigation or audit.

(2) A person, institution or other body that is required under subsection (1) to produce accounts, securities or other records or to provide a report, information or explanation is not liable for breach of confidentiality for releasing information under this section.

(3) If a person, institution or other body mentioned in subsection (1) refuses or fails to produce the accounts, securities or other records or to provide the reports, information or explanations required under that subsection, the Administrator-General may apply to the court for an order.

(4) On application under subsection (3), the court may order the person, institution or other body to produce the accounts, securities or other records, or to provide the reports information or explanations, to the Administrator-General within a time set by the court.

(5) If the person, institution or other body does not comply with the order under subsection (4), the court may, on the application of the Administrator-General, make an order authorising the Administrator-General to-

- (a) enter any premises where the accounts, securities or other records sought by the Administrator-General are believed to be located; and
- (b) inspect, or copy anything the Administrator-General considers relevant to the investigation or audit.

35. (1) If the Administrator-General has reason to believe that the financial affairs, business or assets of a person under a disability are in need of immediate protection, the Administrator-General may do one or more of the following-

Protection of assets in urgent cases

- (a) instruct any institution where the person under a disability has an account that no funds are to be withdrawn from or paid out of that account until further notice;
- (b) direct any source of income for the person under a disability to send the income to the Administrator-General or to a person named by the Administrator-General-
 - (i) to be held in trust for the person under a disability; or
 - (ii) to be used to protect or maintain the health or safety of the person under a disability;
- (c) halt any disposition of real or personal property belonging to the person under a disability; or
- (d) take any other step that is necessary to protect the financial affairs, business or assets of the person under a disability and that is reasonable in the circumstances.

(2) A step taken under subsection (1) remains in effect for seven days or such other period set by the Administrator-General.

PART 4- ACCOUNTS

36. (1) The Administrator-General shall keep full, complete and accurate books of account of all transactions with respect to all estates and trusts vested in or administered by him and shall keep all such books as may be necessary for that purpose.

Duties as to keeping accounts

(2) The books of account shall be kept at the office of the Administrator-General.

(3) The court may make Rules of Court prescribing-

- (a) the manner in which the accounts, books, and documents of the Administrator-General shall be kept;

- (b) how the office shall be regulated; and
- (c) the times, and the manner, and any conditions applicable to how and by whom searches in the books of the Administrator-General may be made, and how copies or extracts from the same may be obtained.

Keeping of funds

37. (1) All sums of money received by the Administrator-General in that capacity shall forthwith or within such time as may be prescribed-

- (a) be paid by him into a Class A bank or a specified financial institution to the credit of an account to be entitled "Administrator-General's Account"; or
- (b) be invested by him in securities approved by the Government.

(2) The Administrator-General may, for the purposes of the proper administration of any estate or trust-

- (a) withdraw from the bank or a specified financial institution referred to in subsection (1) any money standing to the credit of the Administrator-General's Account; or
- (b) sell any securities purchased pursuant to subsection (1)(b),

and until any money so withdrawn or derived from the sale of any securities, is applied to purposes of administration, the Administrator-General shall, subject to any order of the court, deal with the money in accordance with any general or special directions as may be given by the Minister.

(3) The Administrator-General shall not expend the money of one trust or estate for the purposes of another trust or estate.

Audit

(2010 Revision)

38. The provisions of the Public Management and Finance Law (2010 Revision) that apply to the financial administration, audit and financial reporting of statutory authorities apply to and in respect of the Administrator-General and the operations of his office.

Administrator-General's
annual report

39. (1) The Administrator-General shall, within three months from the beginning of each year, prepare and submit to the Minister a report containing a summary of the operations of the office for the preceding year in such form and containing such information the Minister may direct.

(2) The Minister shall promptly lay a copy of the report before the Legislative Assembly if it is in session and, if it is not then in session, within thirty days after the beginning of the next session.

PART 5- LEGAL PROCEEDINGS

40. In all legal proceedings in respect of any estate or trust vested in the Administrator-General, or in respect of any act or omission of the Administrator-General, with regard to such estate or trust, he shall sue and be sued as “The Administrator-General, administrator (or executor) of the estate (or of the Will) of A.B deceased”, or trustee of the marriage settlement of X and Y” (or otherwise as the case may be).

How Administrator-General is to sue and be sued

41. Writs, complaints, summonses, notices, pleadings, process, and all other documents in any legal or other proceeding by or against the Administrator-General, may be served by being left at his office, and such service shall have the same effect as if it had been made personally.

How process served on Administrator-General

42. All judgments, decrees, or orders, recovered or made in any legal proceeding by or against the Administrator-General, shall be in the same form and subject to this Law, shall have the same effect as such judgments, decrees, or orders would have had under similar circumstances, if this Law had not been passed, against a private person occupying, in relation to such proceedings, a position similar to that of the Administrator-General.

Judgments, etc., in proceedings by or against Administrator-General

43. (1) Subject to subsections (2) and (3), an execution shall not issue without the leave of the court on any judgment, decree or order against the Administrator-General, but the Administrator-General, unless an order is made under section 45, shall pay forthwith the amount of such judgment, decree, or order, and costs, if any, in the same way, to the same extent, that a private person, under similar circumstances, would be bound to pay the amount of such a judgment, decree, or order and costs.

Execution against Administrator-General

(2) If a private person, under similar circumstances, would be personally liable on such judgment, decree, or order, and would be entitled to reimburse himself out of the estate or trust in respect of which it was recovered, the Administrator-General may, in the first instance, pay the amount of such judgment, decree, or order, and costs, out of the estate or trust in respect of which it was recovered, to the extent that a private person would be so entitled to be reimbursed.

(3) The court may, if it thinks that the justice of the case requires it, order that the amount for which such judgment, decree, or order is obtained, or such part thereof as the court thinks fit, shall be paid by the Administrator-General personally, and not out of any trust or estate.

- Payment out of revenue 44. All sums required to discharge any liability which the Administrator-General, if he were a private trustee, would be personally liable to discharge, shall be charged on and paid out of the revenue of Government, but neither the revenue nor the Administrator-General shall be liable for any loss which would not have imposed liability on a private trustee.
- Power to submit to the court questions of doubt 45. When a judgment, decree or order has been recovered against the Administrator-General, and there are any circumstances which render it doubtful whether he ought to pay the amount thereof, or out of what funds he ought to pay the amount, he may apply to the court for an order authorising him to pay, or to refuse to pay, or directing out of what funds he should pay the amount of such judgment, decree, or order.
- Power to apply for the opinion and direction of the court 46. The Administrator-General may at any time apply to the court for the opinion, advice, or direction of the court respecting his rights or duties with regard to-
- (a) applying for, or obtaining administration of any estate, or trust, or probate of any will;
 - (b) assuming the management of any estate or trust;
 - (c) any estate or trust vested in or administered by him under this Law; or
 - (d) any matters arising out of the management or conduct of any estate or trust.
- Relief from personal responsibility 47. (1) The Administrator-General, obtaining in good faith the opinion or direction of the court or acting in good faith on such opinion or direction, shall be deemed, so far as regards his own responsibility, to have discharged his duty as administrator, executor, trustee, guardian, committee, or receiver, with regard to the estate or trust with respect to which the opinion or direction was given.
- (2) The Administrator-General may, prior to acting as trustee under section 21, seek by way of contract indemnification or exemption from liability for any damage or loss caused by mere negligence by him as trustee.
- Power to apply to court against Administrator-General 48. Where any person interested in any estate, trust, judgment, decree, order or other matter under this Law-
- (a) has reason to believe that the Administrator-General, has acted improperly in carrying out his duties and functions under this Law in respect of such matter or has failed to act; or

- (b) has reasonable ground to think that the Administrator-General is about to improperly act, or to omit to act, with respect to any such duty or function,

he may apply to the court for an order, requiring the Administrator-General to do, or refrain from doing, the act in respect of which the person complains and the court may thereupon make any order as it thinks fit.

49. When the management of an estate or trust, vested in or administered by the Administrator-General, is or ought to be determined, the Administrator-General, or any person interested in the estate or trust, may apply to the court for an order, declaring that the duties of the Administrator-General with respect to the estate or trust are at an end, and making such provision for the winding up of the estate or trust, and the transfer of the property thereof, as may be necessary.

Winding up estates
vested in Administrator-
General

50. In all applications under this Law to the court, the court may make any order authorised by this Law, either absolutely, or subject to any terms or conditions and the costs of all such applications shall be in the discretion of the court.

Power of court in
making orders

51. The court may make Rules of Court respecting any application to the court under this Law and until the Rules are made, all applications to the court shall be by originating summons, and the present procedure shall apply to all proceedings upon such petitions, and also to all proceedings at chambers under this Law, except so far as the procedure may be varied by any direction of the court.

Power of court to make
Rules of Court under
this Law in relation to
applications

52. (1) Estates and trusts under the management of or vested in the Administrator-General, or which the Administrator-General is entitled to administer, or to have vested in him, shall not be administered by the court, unless it be proved to the satisfaction of the court that the estate or trust cannot be properly administered by the Administrator-General.

Administering by the
court of estates, etc.,
vested in Administrator-
General

(2) The court may, where it considers it necessary, substitute any person for the Administrator-General to perform the duties with regard to any estate or trust vested in or administered by the Administrator-General.

53. All applications that may be made to, and whatever may be done by, the court under this Law may be made to, and may be done by, a judge of the court in chambers.

Powers of judge in
Chambers

54. (1) The Administrator-General shall be entitled to a commission of six per centum-

Charges for
administration of estates

- (a) on all payments made by him in respect of debts, liabilities, cost of management, and other similar charges;
- (b) on all payments in respect of dividends, interests, rents, or other produce, or receipts of any estate or trust; and
- (c) on all property, real and personal, conveyed, assigned, or distributed by him, including the final transfer of the corpus of any trust fund, or of any part thereof.

(2) The commission under this section shall be the remuneration for the time and responsibility of the Administrator-General in the general administration of the estate or trust.

(3) Any expenses in respect of any other matters, including travelling expenses relating to any estate or trust, may be charged against the estate or trust, in the same way, and to the same extent, that such expenses might be charged under similar circumstances by any administrator, executor, trustee, or guardian, other than the Administrator-General.

(4) In addition to the charges specified in subsections (1) and (3), the Administrator-General may, in connection with any other duty or service provided by him under this or any other Law charge such fees as may be prescribed under subsection (5).

(5) The Governor in Cabinet, in relation to any duty or service of the Administrator-General not specified in this section, may make regulations prescribing fees or a scale of fees payable to the Administrator-General and such regulations may-

- (a) prescribe at what time any fee shall be paid;
- (b) prescribe the source of funds, including the estate of a person, from which fees may be taken;
- (c) prescribe the manner in which fees are to be calculated, including, alone or in combination, any of the following-
 - (i) as a percentage of the income or capital of the estate;
 - (ii) based on a flat rate;
 - (iii) as an hourly charge;
 - (iv) based on the actual costs incurred; and
- (d) allow the Administrator-General to excuse a person from paying a fee or to refund a fee in cases of hardship, unfairness or for any other similar reason.

PART 6-MISCELLANEOUS

55. All commissions and fees payable to, or receivable by, the Administrator-General, under or in pursuance of the provisions of this Law, shall be paid into the Government and shall form part of the general revenue.

Commissions and fees to be paid into the general revenue

56. (1) In any case in which the consent of the Administrator-General is required, before he is bound to accept a trust or to act under this Law, the giving or withholding such consent shall be absolutely in the discretion of the Administrator-General.

Consent of Administrator-General in optional cases

(2) In all cases referred to in subsection (1), the Administrator-General, with the sanction of the court, may agree with any person as to the remuneration, if any, which the Administrator-General will receive for accepting and acting in the matter for which his consent is required.

(3) An agreement under subsection (2) made without sanction of the court is void.

57. (1) In all cases in which the consent of the Administrator-General is not required, it shall be the duty of the Administrator-General, subject to subsection (2), to accept and forthwith to enter upon the duties of the administration of any estate or trust to which he may be appointed or entitled under this Law.

Duties in all other cases

(2) The court may authorise the Administrator-General to refuse to take out letters of administration or grant of probate, or to accept any trust, if, from the special circumstances of the case, it appears to the court that such authorisation ought to be given.

58. When the Administrator-General is appointed by the court as receiver of any estate he shall receive reasonable remuneration at a rate comparable to that which any other person would have been entitled to, if appointed receiver under similar circumstances; and, when he is a co-trustee or co-guardian, he shall be entitled to deduct the same fees as if he were the sole trustee or guardian.

Remuneration as receiver or co-trustee or co-guardian

59. (1) When, in the performance of the duties of his office, the Administrator-General has incurred any expense, or made himself liable to any claim or demand, and there is no fund out of which he may or can lawfully recoup or reimburse himself in respect of the claim or demand, then, on the court certifying that the expense was properly and reasonably incurred, or that the liability was properly and reasonably undertaken, the expense shall be reimbursed out of, or such liability be assumed by the general revenue.

Reimbursement of expenses

(2) The provisions of this section shall apply to the Deputy Administrator-General in the same manner as they apply to the Administrator-General.

Conveyances, etc., to which Administrator-General a party

60. (1) All conveyances, transfers, mortgages, charges, grants, deeds, contracts or instruments to which the Administrator-General as such may be party shall be expressed to be granted to or by or made with him in his style of office as “The Administrator-General for the Cayman Islands, administrator (or executor) of the estate (or of the Will) of A.B. deceased”, or, “trustee of the marriage settlement of X and Y” (or otherwise as the case may be).

(2004 Revision)

(2) All estates, trusts and property dealt with by the Administrator-General under this Law shall be vested in him and he shall be entered in the Land Registry as the proprietor under the Registered Land Law (2004 Revision) of any relevant land, mortgage, charge or lease or interest.

Books prima facie evidence

61. All entries made in the ordinary course of business, in the books kept under this Law at the Administrator-General's office, with respect to any estate or trust vested in or administered by him under this Law shall be in any legal proceedings prima facie evidence of the facts therein stated.

Authenticated copies of entries as evidence

62. Copies, authenticated by the signature of the Administrator-General, of any entries in the books kept under this Law at the Administrator-General's office, with respect to any estate or trust vested in or administered by him under this Law, shall be admissible in evidence in accordance with section 64, and shall have the same effect in evidence, in all respects, as the originals from which such copies were made.

Proof of signature of Administrator-General

63. In all legal proceedings judicial notice shall be taken of the signature of the Administrator-General but any court may require the signature of the Administrator-General to be proved in the ordinary way, if the court thinks it is doubtful that the alleged signature is genuine.

When books producible in evidence

64. The books kept under this Law at the Administrator-General's office shall be produced in evidence in legal proceedings only by order of the court.

Regulations

65. The Governor in Cabinet may make regulations subject to affirmative resolution prescribing anything required by this Law to be prescribed.

Rules of Court

66. The court may make such Rules of Court as appear to be necessary or proper with respect to applications, orders, and matters and otherwise for regulating practice, procedure, costs and fees so as to give full effect to this Law.

67. Nothing contained in the Succession Law (2006 Revision) shall be taken to supersede the rights, duties and privileges of the Administrator-General under this law.

Succession Law (2006 Revision) not to supersede rights of Administrator-General

68. Any power, duty or function given to the Administrator-General by virtue of this Law but which at the date of the commencement of this Law is being exercised in respect of any matter or proceeding by any person to whom such power, duty or function was given prior to the date of the commencement of this Law, shall continue to be exercised by such person in relation to such matter or proceeding until such matter or proceeding is completed as if this Law had not come into force unless the court otherwise directs.

Transitional provisions

Passed by the Legislative Assembly this day of 2012

Speaker

Clerk of the Legislative Assembly