



ANALYSIS

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1957, No. 38

An Act to amend the Administration Act 1952

[18 October 1957]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Administration Amendment Act 1957, and shall be read together with and deemed part of the Administration Act 1952 (hereinafter referred to as the principal Act).

2. Certificates of administration—(1) The principal Act is hereby amended by inserting, after section eight, the following section:

“8A. (1) Subject to the provisions of subsection two of this section, at any time after the grant of the relevant probate or letters of administration the Registrar may, on the request of the administrator, issue under his hand and seal such number of certificates of administration, in the form set out in the Third Schedule to this Act, as may be required.

“(2) No such certificate shall be issued until the Registrar is satisfied, by the production of the probate or letters of administration or of other satisfactory evidence, that the Commissioner of Inland Revenue has issued the probate or letters of administration under section thirty-nine of the Estate and Gift Duties Act 1955:

“Provided that, on request as aforesaid, the Registrar may complete any such certificate and send it to the Commissioner of Inland Revenue for issue by the Commissioner with the probate or letters of administration.

“(3) Every such certificate shall, in the absence of proof to the contrary, be sufficient evidence for all purposes of the death and the date of death of the testator or intestate and of the grant of administration to the administrator; and shall be sufficient for the purpose of registering the administrator as proprietor of any estate or interest in any land under the Land Transfer Act 1952, or of any mining privilege under the Mining Act 1926, or of any shares or stock or property in any bank or company or body or association. No District Land Registrar or Mining Registrar or bank or company or body or association to which any such certificate is produced shall be concerned to inquire concerning the trusts on which the administrator holds any such land or mining privilege or shares or stock or property, or (except where a caveat has been lodged under the authority of the Land Transfer Act 1952) as to his authority to transfer or deal with the same.

“(4) The fee payable to the Registrar in respect of each such certificate shall be ten shillings or such other amount as may from time to time be prescribed by the Governor-General by Order in Council.”

(2) The principal Act is hereby further amended by adding the Third Schedule set out in the Schedule to this Act.

3. Transfer of liability of Public Trustee—Section ten of the principal Act is hereby amended by omitting the word “cease”, and substituting the words “pass to the executor obtaining probate, and no claim shall thereafter lie against the Public Trustee in respect of any such liability”.

4. Form of order to Public Trustee—Section thirty-six of the principal Act is hereby amended by adding the words “or in such other form or forms as may be prescribed by regulations”.

5. Right of illegitimate child and mother of illegitimate child to succeed on intestacy—Section fifty-eight of the principal Act is hereby amended by inserting, after the word “Act”, the words “other than the proviso to paragraph (a) of subsection one of section fifty-seven of this Act”.

6. Priority of debts—(1) Section seventy-five of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The deceased debtor’s estate shall be distributed in accordance with the following priorities:

“(i) Payment shall first be made of all proper costs, charges, and expenses attending the due administration of the estate, whether incurred before or after the making of the order:

“(ii) Payment shall then be made of funeral expenses proportioned, as the appointee thinks proper, to the position of the deceased in his lifetime:

“(iii) Payment shall then be made of medical expenses, and (so far as they are lawfully recoverable) of reasonable hospital and maintenance expenses in any institution or separate institution or licensed hospital within the meaning of the Hospitals Act 1926, being medical, hospital, and maintenance expenses incurred during the three months immediately before the date of the death of the deceased:

“(iv) Payment shall then be made of other claims in accordance with the priorities prescribed by section one hundred and twenty of the Bankruptcy Act 1908:”.

(2) Section seventy-five of the principal Act is hereby further amended by adding the following subsection as subsection two:

“(2) For the purposes of paragraph (b) of subsection one of this section, section one hundred and twenty of the Bankruptcy Act 1908 shall be read as if every reference to the relevant date in paragraph (c) of subsection one of that section (as substituted by subsection one of section twelve of the Bankruptcy Amendment Act 1956), and every reference to the date of adjudication in paragraphs (c), (d), and (f) of the said subsection one, were a reference to the date of death of the deceased.”

(3) Section forty-nine of the Public Trust Office Act 1908, section forty of the Public Trust Office Amendment Act 1913, and section sixty-five of the Public Trust Office Amendment Act 1921–22 are hereby consequentially repealed.

(4) This section shall come into force on the first day of April, nineteen hundred and fifty-eight.

SCHEDULE

Section 2 (2)

THIRD SCHEDULE TO PRINCIPAL ACT

Section 8A

THIRD SCHEDULE

Certificate of Administration

In the Supreme Court of New Zealand,
District

In the estate of _____, of _____,
, deceased.

PURSUANT to section 8A of the Administration Act 1952, I hereby certify that, on the _____ day of _____ 19____, probate of the will [*or* letters of administration in the estate]* of the above-named deceased who died on or about the _____ day of _____ 19____, was [*were*] granted to _____, of _____.

Dated at _____ this _____ day of _____ 19____.

[Seal]

Registrar.

*In the case of a limited or special grant the exact nature of the grant should be shown.
