

A BILL

ENTITLED

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

[ ]

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

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

Short title and construction.

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Amendment  
of section 2 of  
principal Act.

2. Section 2 of the principal Act is amended—

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

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

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

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

“mental disorder” means —

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

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

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

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

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

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

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

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

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

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

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

Insertion of new section 2A in principal Act.

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

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

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

Amendment of section 9 of principal Act.

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

Amendment of section 12 of principal Act.

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

Amendment of section 14 of principal Act.

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

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

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

“ (2) Subject to this Act—

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

First  
Schedule.

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

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

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

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

in anyway relating thereto, shall be the same as applies to letters of administration.”.

Amendment of section 18 of principal Act.

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

Amendment of section 23A of principal Act.

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

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

“Exercise of certain powers prior to administration.”;  
and

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

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

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

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

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

Amendment of section 23B of principal Act.

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

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

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

Amendment  
of section 24  
of principal  
Act.

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

Amendment  
of section 25  
of principal  
Act.

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

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

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

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

Repeal and  
replacement of  
section 27 of  
principal Act.

“When not  
bound to act  
as guardian  
or commit-  
tee.

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

- (a) the minor or person with a mental disorder has property to the amount of not less than fifty thousand dollars or such other amount as the Minister may, by order, prescribe; and
- (b) all the property of the minor or person with a mental disorder is vested in the Administrator-General as trustee for that minor or person, or the Administrator-General is invested with the entire administration of the property.”.

Amendment  
of section 28  
of principal  
Act.

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

Amendment  
of section 44  
of principal  
Act.

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

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

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

“Administration  
of an  
intestate  
estate with  
minor bene-  
ficiaries.

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

Distribution of  
assets in multi-  
generational  
estates.

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

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



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

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

Instrument of  
Administration;  
Instrument of  
Distribution.

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

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

Part I  
Second  
Schedule.

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

Part II.

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

Part III.

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

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

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

Filing with  
Supreme  
Court for  
public record.

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

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

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

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

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

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

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

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

Part I  
Third  
Schedule.  
Part II.

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

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

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

Where Administrator-General entitled to proceed to issue Instrument of Administration.

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

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

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

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

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

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

Part III.  
Third  
Schedule.

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

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

Restriction on distribution of assets.

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

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

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

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

Distribution with respect to claims of which there is notice.

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

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

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

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

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

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

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

Insertion of new section 61 into Principal Act.

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

“Amendment of First Schedule.

First Schedule.

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

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

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

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

FIRST SCHEDULE

(Sections 14 and 61)  
*Stamping Fees Payable to the Consolidated Fund  
 in respect of Administration of Estate  
 under Instrument of Administration*

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

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



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

SECOND SCHEDULE

(Section 53D)

PART I

THE ADMINISTRATOR-GENERAL'S ACT

(Section 53D)

*Instrument of Administration*

*(in an Intestate Estate with Minor Beneficiary)*

UNDER THE HAND OF THE  
ADMINISTRATOR-GENERAL OF JAMAICA

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

BE IT KNOWN that \_\_\_\_\_, deceased  
*(name of deceased)*  
\_\_\_\_\_, late of \_\_\_\_\_,  
*(occupation of deceased)* *(last address of deceased)*  
died intestate on the \_\_\_\_\_.  
*(insert date)*

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

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

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

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

Signed by:

\_\_\_\_\_  
Administrator-General for Jamaica

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OR

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

Sworn/Affirmed  
at  
on the    day of                    , 20  
before me—

\_\_\_\_\_  
Justice of the Peace  
for the parish of:

\_\_\_\_\_  
Administrator-General for Jamaica

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

*Instrument of Distribution (in a Multi-generational Estate)*

UNDER THE HAND OF THE  
ADMINISTRATOR-GENERAL OF JAMAICA

In the Estate(s) of:

1. *(state full name of deceased)*, late of *(state full address of deceased)*, deceased intestate (hereinafter referred to as the primary estate);
2. *(state full name of deceased)*, late of *(state full address of deceased)*, deceased, *(state whether testate or intestate)*, being a beneficiary of the primary estate identified at item 1 (hereinafter referred to as the primary beneficiary);
3. *(state full name of deceased)*, late of *(state full address of deceased)*, deceased, *(state whether testate or intestate)*, being a beneficiary of the estate of the primary beneficiary;

*(continue as necessary, identifying all estates comprising the multi-generational estate).*

BE IT KNOWN that the Administrator-General is satisfied that the estate of each of the aforementioned deceased persons is part of a multi-generational estate.

BE IT FURTHER KNOWN that \_\_\_\_\_, deceased  
*(name of deceased)*

\_\_\_\_\_, late of \_\_\_\_\_  
*(occupation of deceased) (last address of deceased)*

died intestate on \_\_\_\_\_ and that the  
*(insert date)*

Administrator-General, by virtue of a grant of Letters of Administration in Suit No. \_\_\_\_\_ is the duly authorized personal representative of the deceased and that all the real and personal property of the said deceased has by law devolved on and vested in the Administrator-General for Jamaica.

AND BE IT FURTHER KNOWN that, pursuant to the Administrator-General's Act and by virtue of this Instrument of Distribution, as of \_\_\_\_\_, distribution of all assets of the  
*(insert date)*

said deceased being the assets specified in the Schedule to this Instrument by the Administrator-General to the persons (whether or not including any minors) entitled to take as surviving beneficiaries under the abovementioned multi-generational estate, is hereby authorized; however, in the case of minors, the assets shall be distributed in such manner or held in such trust as may be required by law.

Signed by:

\_\_\_\_\_  
Administrator-General for Jamaica

SCHEDULE

*Assets of Primary Estate for Distribution to  
Surviving Beneficiaries*

*[List and describe assets for distribution here]*

THIRD SCHEDULE (Sections 53F and 53H)

*Contents of Notices*

PART I

*Contents of Notice to Supreme Court of Intention  
to Issue Instrument of Administration  
(in an Intestate Estate with Minor Beneficiary)*

A notice to the Registrar of the Supreme Court under section 53F in respect of an estate involving a minor beneficiary shall—

- (a) state the fact of the death of the deceased;
- (b) request that the Registrar of the Supreme Court advise, in writing, within thirty days from the date of the notice of intention or such other period as the Minister may by order prescribe, whether—
  - (i) a grant of representation by the court; or
  - (ii) an application for a grant of representation (but not yet determined by the court),

has been made in respect of that estate; and

- (c) include any other matter that the Administrator-General thinks necessary.

## PART II

*Contents of Notice to Supreme Court of Intention  
to Issue Instrument of Distribution*

A notice to the Registrar of the Supreme Court under section 53F in respect of a multi-generational estate shall—

- (a) state the fact of the original grant in the primary estate;
- (b) state that the Administrator-General intends to proceed to administer the primary estate in accordance with the provisions of the Act relating to multi-generational estates and distribute the assets thereof accordingly;
- (c) name the primary estate and any succeeding estates;
- (d) request that the Registrar of the Supreme Court advise, in writing, within thirty days from the date of the notice of intention or such other period as the Minister may by order prescribe, whether—
  - (i) a grant of representation by the court; or
  - (ii) an application for a grant of representation (but not yet determined by the court).

has been made in respect of the succeeding estates of that multi-generational estate; and

- (e) include any other matter that the Administrator-General thinks necessary.



## PART III

*Contents of Notice of Intention to Distribute Assets of the  
Primary Estate of a Multi-generational Estate*

A notice under section 53H shall—

- (a) identify the multi-generational estate and the relevant deceased persons of the primary estate and the succeeding estates;
- (b) state that an Instrument of Distribution has been issued in respect of that multi-generational estate and that the Administrator-General intends to distribute the assets of the primary estate thereof;
- (c) invite persons who believe themselves to be beneficiaries of the primary estate or any succeeding estate to make themselves known to the Administrator-General;
- (d) require such persons to provide the particulars of their claim in respect of any such estate and to provide documentation in support of their claim;
- (e) state the contact details and address of the office of the Administrator-General;
- (f) specify the time period, which shall not be less than sixty days, within which persons are to make their claims known;
- (g) advise that the Administrator-General is not obliged to consider any claim made after expiry of the period specified under paragraph (f); and
- (h) include any other matter that the Administrator-General thinks necessary.”.

**18.—(1)** The provisions of the enactments specified in the first column of the Schedule are amended in the manner specified respectively in relation to them in the second column of the Schedule.

Amendment  
of enact-  
ments and  
construction.  
Schedule.

**(2)** Each amendment shall be construed as one with the enactment specified in relation thereto.

## SCHEDULE

(Section 19)

*Amendment of Enactments*

| <u>Provision</u>  | <u>Amendment</u>   |
|---|--|
| <i>Intestates' Estates<br/>and Property<br/>Charges Act</i> |  |
| Section 2   | Delete the section and substitute therefor the following—  |
| “Interpre-<br>tation  | <p>2.—(1) In this Act, unless the context otherwise requires—</p> <p>“child” means a person under eighteen years of age and includes—</p> <p>(a) a child adopted in pursuance of an adoption order made under the Children (Adoption of) Act or a child adopted in pursuance of any law in a country other than Jamaica where that law is recognized by the law of Jamaica as conferring upon the child in question, in relation to the child's custody, maintenance and education, the status of a child of the adopter or adopters;</p> <p>(b) a child <i>en ventre sa mere</i> at the death of the intestate;</p> |

ProvisionAmendment

“intestate” includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate;

“issue” includes an adopted child or a child *en ventre sa mere* at the death of the intestate;

“Instrument of Administration” has the meaning assigned to it by the Administrator-General’s Act;

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

“personal chattels” means furniture and effects—

(a) including, where relevant—

- (i) articles of household or personal use or ornament, plate, plated articles, linen, china, glass, books, pictures, prints, jewellery, musical and scientific instruments and

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apparatus,  
w i n e s ,  
liquors and  
consumable  
stores;

(ii) bicycles,  
stables,  
horses and  
domestic  
animals;  
and

(iii) m o t o r  
vehicles  
a n d  
accessories  
therefor;

(b) but not in-  
cluding—

(i) furniture,  
m o t o r  
vehicles or  
o t h e r  
effects,  
used at the  
time of the  
death of the  
intestate  
exclusively  
or princi-  
pally for  
business  
purposes;  
or

(ii) money or  
securities  
for money;

“residuary estate” means  
every beneficial interest

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(including rights of entry and reverter) of the intestate in real and personal estate, after payment of all such funeral and administration expenses, debts and other liabilities as are properly payable there out, which (otherwise than in right of a power of appointment) the intestate could, if of full age and capacity, have disposed of by his will;

“single woman” and “single man” used with reference to the definition of “spouse” include a widow or widower, as the case may be, or a divorcee;

“spouse” includes—

- (a) a single woman who has lived and cohabited with a single man as if she were in law his wife for a period of not less than five years immediately preceding the date of his death; and
- (b) a single man who has lived and cohabited with a single woman as if he were in law her

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husband for a period of not less than five years immediately preceding the date of her death.

(2) For the purposes of this Act where a person who is a single woman or single man may be regarded as a spouse of an intestate then as respects such intestate—

- (a) only one such person shall be so regarded; and
- (b) to be identified as the surviving spouse, that single man or woman, as the case may be, shall make an application to the Court for an order declaring that person to be the surviving spouse of the intestate.”.

Section 10 Delete from subsection (1) the word “infant” and substitute therefor the word “minor”.

Section 12 Delete section 12 and substitute therefor the following as section 12—

“Administrator- 12. The Administrator General—

General to be administrator of intestates' estate not exceeding fifty thousand dollars.

- (a) may apply for letters of administration to an intestate's estate or where there is a minor entitled to a share thereof, issue an

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## Instrument of Administration, where—

- (i) the residuary estate of the intestate does not exceed fifty thousand dollars; or
  - (ii) a testator does not appoint an executor or the executor has died before the testator or the executor renounces;
- (b) shall be under a duty to issue an Instrument of Administration in respect of an estate where the residuary estate of the intestate exceeds the sum prescribed in paragraph (a) (i) and a minor is entitled to a share thereof.

so, however, that letters of administration shall not be granted to the Administrator-General or where applicable an Instrument of Administration shall not be issued (or if already issued, shall be revoked) where the court is satisfied that letters of

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administration ought to be granted to some other person.”.

New section  
13A

Insert next after section 13 the following as section 13A—

“Disclaimer  
of beneficial  
interest.

13A.—(1) Upon receipt of a notification from the administrator of an intestate’s estate, a beneficiary may disclaim his interest in the residuary estate of the intestate by, no later than six months after the receipt of the notification from the administrator—

- (a) executing a deed of disclaimer of his interest which shall be in the form set out in the Schedule and recording the deed at the Records Office in accordance with the Records of Deeds, Wills and Letters Patent Act;
- (b) delivery of the duly recorded deed to the administrator; and
- (c) filing a certified copy of the duly recorded deed of disclaimer with—
  - (i) the Registrar of the Supreme Court; and
  - (ii) where the recorded deed concerns a beneficial



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interest in  
land, the  
Registrar of  
Titles,

accompanied by a  
receipt in writing or a  
certified copy thereof  
to show proof of  
delivery of the deed to  
the administrator.

(2) The affixing by the  
beneficiary of his signature to the  
deed of disclaimer shall be done in  
the presence of—

- (a) a Justice of the Peace;
- (b) a Notary Public; or
- (c) an Attorney-at-Law.

(3) Notwithstanding sub-  
section (1), a beneficiary who has  
not been notified of his interest in  
the residuary estate of the intestate  
by the administrator may, in  
accordance with subsection (1),  
disclaim the beneficial interest that  
otherwise comes to the  
beneficiary's notice.

(4) On the filing of a deed  
of disclaimer with the Registrar of  
the Supreme Court by the  
beneficiary that interest shall be  
deemed to have failed or be  
incapable of taking effect.

(5) In this section—

“beneficiary” means a person  
who, solely or jointly,  
has an interest in and is  
a person to whom the

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residuary estate of an  
intestate or any portion  
thereof may be  
distributed under this  
Act;

“certified copy” means a copy  
certified by a Justice of  
the Peace, a Notary  
Public or an Attorney-  
at-Law or the Deputy  
Keeper of the Records.”.

New Schedule    Insert next after section 14 the following Schedule---

“                    SCHEDULE                    (Section 13A)

THE INTESTATE ESTATES AND  
PROPERTY CHARGES ACT

*(section 13A)*

*Deed of Disclaimer*

In the Estate of: \_\_\_\_\_,  
*(name of deceased)*

late of, \_\_\_\_\_,  
*(address of deceased)*

deceased.

To: \_\_\_\_\_,  
*(state full name)*

of \_\_\_\_\_,  
*(state address)*

the sole administrator/  
one of the  
administrators *(select as appropriate)*

I, \_\_\_\_\_,  
*(name of beneficiary)*

of \_\_\_\_\_,  
*(state address)*

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\_\_\_\_\_  
*(profession/occupation/vocation)*

having had notice that I am a beneficiary in the  
aforementioned intestate estate

I WHOLLY AND ABSOLUTELY DISCLAIM  
AND RENOUNCE ALL MY RIGHT AND TITLE  
TO AND INTEREST IN:

*(State interest in residuary estate disclaimed.  
Disclaimer may be general or limited to a  
specific part of the residuary estate to which the  
beneficiary is entitled.)*

IN WITNESS WHEREOF I have set my hand and  
seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Signed, sealed )  
and delivered )  
by the said:

\_\_\_\_\_  
*(print name of beneficiary) (signature of beneficiary)*

In the presence of: )

\_\_\_\_\_, )  
*(print name of Justice of  
the Peace, Attorney-at-  
law or Notary Public  
under line)".*

*The  
Judicature  
(Resident  
Magistrates)  
Act*

- Section 113 Delete the word "caveats" wherever it appears and substitute therefor, in each case, the word "cautions".
- Section 118 Repeal.

| <u>Provision</u>  | <u>Amendment</u>  |
|---|---|
| <p style="text-align: center;">Section 123</p> <p><i>The<br/>Judicature<br/>(Supreme<br/>Court) Act</i></p>       | <p>Repeal.</p>  |
| <p style="text-align: center;">Section 55</p>   | <p>Delete the section and substitute therefor the following—</p> <p style="margin-left: 40px;">“Fees to be paid to Consolidated Fund. 55. All fees receivable in the Supreme Court under this Act, or under any rules made pursuant to this Act, shall be paid into and shall form part of the Consolidated Fund.”.</p>   |
| <p><i>The<br/>Judicature<br/>(Supreme<br/>Court)<br/>(Additional<br/>Powers of<br/>the Registrar)<br/>Act</i></p> |   |
| <p style="text-align: center;">Section 2</p>  | <p>1. Insert next after the definition of “Chief Justice” the following definition—</p> <p style="margin-left: 40px;">“ “Deputy Registrar” means the Deputy Registrar of the Supreme Court;”.</p> <p>2. Delete the definition of “Registrar” and substitute therefor the following—</p> <p style="margin-left: 40px;">“Registrar” means the Registrar of the Supreme Court and includes, in respect of the exercise of any jurisdiction conferred by the Chief Justice under section 3(1)(b) of this Act, the Deputy Registrar.”.</p> |

| Provision<br>_____                   | Amendment<br>_____  |
|--------------------------------------|---|
| Section 3                            | <p>Delete subsection (1) and substitute therefor the following—</p> <p>“ (1) The Chief Justice may, by order published in the <i>Gazette</i> as from such date as shall be specified in that order, empower—</p> <p style="padding-left: 40px;">(a) the registrar to exercise jurisdiction in relation to all of the matters specified in the Schedule or in relation to the matters specified in the order;</p> <p style="padding-left: 40px;">(b) a Deputy Registrar to exercise jurisdiction in relation to the matters specified in paragraph 2 of the Schedule or in relation to the matters specified in the order.”.</p> |
| <i>The Limitation of Actions Act</i> |   |
| Section 8                            | Repeal.   |
| New Part IV                          | <p>Insert next after section 55 the following heading and section as section 56—</p> <p style="text-align: center;">“ PART IV. <i>Limitation of Actions</i><br/><i>(Administration of Estates)</i></p> <p>Actions by Administrator of estate. 56. Notwithstanding the provisions of this Act, the calculation of any period of limitation fixed for an action brought by an administrator or executor in respect of an estate shall not include a period of one year, commencing on the date of death of the deceased.”.</p>  |
| <i>The Probate of Deeds Act</i>      |   |
| Section 6                            | Delete all the words appearing after the words “seal of such Notary Public”.  |

| <u>Provision</u>                              | <u>Amendment</u>  |
|---|---|
| <i>The Probates<br/>Re-Sealing<br/>Act</i>    |   |
| Section 2                                     | Delete the definition of “British court in a foreign country”.  |
| Section 3                                     | Delete the words “in any part of the Commonwealth, or a British court in a foreign country,”.   |
| <i>The<br/>Registration<br/>of Titles Act</i> |   |
| Section 152                                   | Delete— <ul style="list-style-type: none"> <li>(a) the colon and all the words appearing between the words, “or a Notary Public” and the words “such witness” comprising the proviso; and</li> <li>(b) the words “, subject to the proviso hereinbefore contained as to any such instrument or power of attorney witnessed or certified by a Notary Public in any Foreign State or Country”.</li> </ul> |
| <i>The<br/>Transfer<br/>Tax Act</i>           |   |
| First<br>Schedule                             | Delete from paragraph 17 (1) the words “Before obtaining representation” and substitute therefor the words “On or before ninety days after obtaining representation,”.  |
| <i>The Wills<br/>Act</i>                      |   |
| Section 10                                    | <ol style="list-style-type: none"> <li>1. Renumber the section as subsection (1) .</li> <li>2. In subsection (1), as renumbered, delete the word “If” and substitute therefor the words “Subject to subsections (2), (3) and (4), if”.</li> </ol>   |

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3. Insert next after subsection (1), as renumbered, the following—

“ (2) Where any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts), is given or made in a will to a person attesting that will, the person attesting the will, or the wife or husband of that person or any person claiming under such person or wife or husband may, notwithstanding subsection (1), make an application to the Supreme Court for an order of that court to authorize the taking effect of the devise, legacy, estate, interest, gift or appointment of or affecting such real or personal estate as if the person attesting the will had not attested the execution of the will.

(3) The court may grant an application made under subsection (2), where it is satisfied that there has been no fraud, improper dealing, duress, undue influence or other unconscionable behavior affecting the claim of the person making the application under subsection (2) and that in the circumstances of the case it would be just and equitable for the court to authorize the taking effect of the devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate as if the person attesting the will had not attested the execution of the will.

(4) An application under subsection (2) shall be made within six months of the proving of the will.”

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Provision

Amendment

New section  
20A

Insert next after section 20 the following as section  
20A—

Disclaimer  
of beneficial  
interest.

20A.—(1) Upon receipt of a notification from an executor or administrator of an estate, a beneficiary may disclaim his beneficial interest by, no later than six months after the receipt of the notification from the executor or an administrator—

- (a) executing a deed of disclaimer of the interest which shall be in the form set out in the Schedule and recording the deed at the Records Office in accordance with the Records of Deeds, Wills and Letters Patent Act;
- (b) delivery of the duly recorded deed to the executor or administrator; and filing a certified copy of the duly recorded deed of disclaimer with the—
  - (i) Registrar of the Supreme Court; and
  - (ii) where the recorded deed concerns a beneficial interest in land,



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**Registrar of  
Titles,**

accompanied by a receipt in writing or a certified copy thereof to show proof of delivery of the deed to the executor or administrator.

(2) The affixing by the beneficiary of his signature to the deed of disclaimer shall be done in the presence of—

- (a) a Justice of the Peace;
- (b) a Notary Public; or
- (c) an Attorney-at-Law.

(3) Notwithstanding subsection (1), a beneficiary who has not been notified of a beneficial interest by the executor or administrator may, in accordance with subsection (1), disclaim the beneficial interest that otherwise comes to the beneficiary's notice.

(4) On the filing of a deed of disclaimer with the Registrar of the Supreme Court by the beneficiary the beneficial interest shall be deemed to have failed or be incapable of taking effect and shall be included in the residuary estate (if any) contained in the will.

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(5) In this section—

“beneficial interest” means any beneficial devise, legacy, estate, interest, gift or appointment affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts) given or made under a will;

“beneficiary” means a person who is solely or jointly entitled to a beneficial interest;

“certified copy” means a copy certified by a Justice of the Peace, a Notary Public, an Attorney-at-Law or the Deputy Keeper of the Records.”.

New Schedule    Insert next after section 29 the following Schedule—

“                    SCHEDULE                    (Section 20A)

THE WILLS ACT  
(section 20A)

*Deed of Disclaimer*

In the Estate of: \_\_\_\_\_,  
*(name of testator)*

late of, \_\_\_\_\_,  
*(address of testator)*

deceased.

To: \_\_\_\_\_,  
*(state full name)*

of \_\_\_\_\_,  
*(state address)*

the sole executor/sole administrator/  
one of the executors/one of the  
administrators *(select as appropriate)*  
of the aforementioned estate.

I, \_\_\_\_\_,  
*(name of beneficiary)*

of \_\_\_\_\_,  
*(address)*

\_\_\_\_\_,  
*(profession/occupation/vocation)*

having had notice that I am named as a beneficiary  
in the aforementioned estate and that the testator  
has given or made a beneficial devise, legacy,  
estate, interest, gift or appointment affecting any  
real or personal estate (other than and except  
charges and directions for the payment of any  
debt or debts) under his/her will to me, I WHOLLY  
AND ABSOLUTELY DISCLAIM AND  
RENOUNCE ALL MY RIGHT AND TITLE TO  
AND INTEREST IN:

(State beneficial interest disclaimed. Disclaimer  
may be general or specific to a particular gift or  
devise, for example—

*all beneficial devise, legacy, estate,  
interest, gift or appointment of or affecting  
any real or personal estate given or made  
to me by the testator's will;*

*or the gift or devise given or made to me  
under the testator's will in respect of:*

\_\_\_\_\_  
*(state specific gift or devise disclaimed)*

IN WITNESS WHEREOF I have set my hand and  
seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed, sealed            )  
and delivered            )  
by the said:

\_\_\_\_\_  
*(print name of beneficiary)   (signature of beneficiary)*

In the presence of:        )

\_\_\_\_\_,)  
*(print name of Justice of  
the Peace, Attorney-at-  
law or Notary Public  
under line)."*

Passed in the Senate this 10th day of April 2015 with two amendments.

FLOYD E. MORRIS  
*President.*

**MEMORANDUM OF OBJECTS AND REASONS**

The Administrator-General's Act establishes the office of the Administrator-General and empowers the Administrator-General to administer intestate estates in accordance with the provisions of that Act.

In relation to certain estates (hereinafter referred to as "primary estates"), despite having a grant of representation from the court, the Administrator-General has been unable, some twenty-five or more years after the death of the deceased, to distribute the assets of those estates to surviving beneficiaries.

The inability of the Administrator-General to distribute the assets of those estates has arisen as the direct beneficiaries to these estates have also died intestate, without any grant of representation having been made in those succeeding estates, with the result that the succeeding estates (which together with the primary estate is referred to as "a multi-generational estate") have not been settled. Accordingly, the Administrator-General is unable to distribute millions of dollars worth of primary estate assets to surviving beneficiaries.

The Administrator-General will be empowered to safeguard the interests of minor beneficiaries without the delays inherent in obtaining a grant from the Court.

The Bill seeks, therefore, to amend the Administrator-General's Act to establish a framework for the Administrator-General to efficiently administer multi-generational estates and intestate estates involving minors.

In addition, the Bill makes consequential amendments to the following Acts—

- (a) the Intestates' Estates and Property Charges Act;
- (b) the Judicature (Resident Magistrates) Act;
- (c) the Judicature (Supreme Court) Act;
- (d) the Judicature (Supreme Court) (Additional Powers of the Registrar) Act;
- (e) the Limitation of Actions Act;
- (f) the Probate of Deeds Act;
- (g) the Probate Re-Sealing Act;
- (h) the Registration of Titles Act;
- (i) the Transfer Tax Act; and
- (j) the Wills Act.

MARK J. GOLDING  
Minister of Justice

**A BILL**

**ENTITLED**

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

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**As passed in the Honourable Senate.**

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(GOVERNMENT PRINTERS), DUKE STREET, KINGSTON, JAMAICA.**

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SECTION 2 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

2. In this Act—

“estate” includes the estate of every deceased person which has vested in the Administrator-General, or which he is entitled to have vested in him as administrator or executor under this Act;

“prescribed” means prescribed by rules of court;

“trust” includes every guardianship, committee-ship, or receivership, vested in the Administrator-General under this Act, and all property vested in the Administrator-General as trustee under this Act, and all property administered by him under this Act.

SECTION 9 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

9. The Administrator-General shall keep a full, complete, and accurate 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. Such books shall be kept at the office of the Administrator-General, and shall be open for the inspection of all persons, on payment of the fees mentioned in the Schedule. All persons who shall apply for copies or extracts from any of the books shall be entitled to have the same on payment of the fees mentioned in the Schedule. Rules of court may from time to time be made prescribing in what manner the accounts, books, and documents of the Administrator-General shall be kept, and generally how the office shall be regulated, and at what times, and in what manner, and subject to what, if any, conditions searches in the books of the Administrator-General may be made, and copies or extracts from the same obtained.

SECTION 12 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

12. The Administrator-General shall be entitled to, and it shall be his duty to apply for, letters of administration to the estates of all persons who shall die intestate without leaving a widower, widow, brother, sister, or any lineal ancestor or descendant, or leaving any such relative if no such relative shall take out letters of administration within three months, or within such longer or shorter time as the Court to which application for administration is made, or the Judge thereof may direct; and also to the estates of all persons who shall die leaving a will but leaving no executor, or no executor who will act, if no such relative as aforesaid of such deceased shall, within the time aforesaid, take out letters of administration to his estate. The Administrator-General shall be entitled to such letters of administration in all cases in which, if this Act

had not been passed, letters of administration to the estates of such persons might have been granted to any administrator:

Provided that this section shall not apply to the estates of deceased persons for the administration of whose estates provision is made by law, nor to estates where the total value of the personal property does not exceed five thousand dollars, but it shall be lawful to appoint the Administrator-General, with his consent, administrator of any estate, notwithstanding that the total value of the personal property does not exceed five thousand dollars.

**SECTION 14 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND**

14. 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 shall be satisfied that he acted improperly in obtaining such administration, or in opposing the revocation thereof.

**SECTION 18 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND**

18. It shall not be necessary for the Administrator-General, 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 Registry of the Supreme Court an inventory of the estate of the deceased, or to take any oath duly to administer such estate.

**SECTION 23A OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND**

23A.—(1) This section applies to money or securities for money, including money in bank accounts, insurance policies, moneys owing to an estate or rental income (hereinafter called “the relevant assets”) in the estate of any deceased person.

(2) Where it is the duty of the Administrator-General to apply for letters of administration in relation to any estate he may exercise any of the powers specified in subsection (3) prior to the grant of letters of administration in relation to such estate.

**SECTION 23B OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND**

23B. Where—

- (a) the Administrator-General has obtained letters of administration in relation to an estate; and

...

...

...



SECTION 24 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

24. It shall be lawful for the Supreme Court, and for any person or corporation, to appoint the Administrator-General trustee of any real or personal property, or, subject to sections 27 and 28, to appoint him guardian of any infant, on the like occasions, in the same way, and to the same extent, that any other person might be appointed such trustee or guardian.

SECTION 25 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

25. The Administrator-General may be appointed, but it shall not be compulsory to appoint him committee of the estate of any idiot or lunatic or committee of the estate and person of any idiot or lunatic, but he shall not be appointed committee of the person only of an idiot or lunatic, except with his own consent.

SECTION 27 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

27. The Administrator-General shall not (except with his own consent) act as guardian of any infant, or as committee of any idiot or lunatic, unless such infant, idiot, or lunatic has property to the amount of one thousand dollars, and all the property of such infant, idiot or lunatic is vested in the Administrator-General as trustee for such infant, idiot, or lunatic, or the Administrator-General is invested with the entire administration of such property.

SECTION 28 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

28. The Administrator-General shall not (except with his own consent) be appointed guardian or committee *ad litem*, or for any other similar temporary purpose of an infant, idiot, or lunatic.

SECTION 44 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND

44. It shall be lawful for the Supreme Court to make any general orders respecting any application to the Supreme Court, or to the Judge thereof, under this Act. Until such orders are made, all applications to the Court shall be by petition, and the present procedure shall apply to all proceedings upon such petitions, and also to all proceedings at Chambers under this Act, except so far as such procedure may be varied by any direction of the Court or Judge.

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**SECTION 53A OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND**

53A.—(1) Where the Administrator-General is satisfied that an estate consists solely of personalty not exceeding one hundred thousand dollars or such higher amount as the Minister may by order prescribe, it shall be lawful for the Administrator-General, without the grant of letters of administration, to administer that estate for the benefit of the persons interested therein as if letters of administration had been granted to him.

(2) Notice of any estate administered pursuant to subsection (1) shall be published in such manner as may be prescribed.

**SECTION 60 OF THE PRINCIPAL ACT WHICH IT IS  
PROPOSED TO AMEND**

60. The Minister may make regulations subject to negative resolution prescribing anything required by this Act to be prescribed.

**SCHEDULE OF THE PRINCIPAL ACT WHICH IT  
IS PROPOSED TO REPEAL AND REPLACE**

| SCHEDULE  | (Section 9)   |
|---|---------------|
|   | Fees          |
|   | —             |
| For every search in books kept by the Administrator-General, for each two hours, or fractional part of two hours                   ...                   ...  | ten cents     |
| Copies of any books kept by the Administrator-General, or of any entries therein, or of any portion thereof, authenticated by the signature of the Administrator-General, for each sheet or portion of a sheet of one hundred and sixty words                   ...                   ... | fifteen cents |

SECTION 2 OF THE INTESTATES' ESTATES AND  
PROPERTY CHARGES ACT  
WHICH IT IS PROPOSED TO REPEAL AND REPLACE

2.—(1) In this Act—

- (a) “residuary estate” means every beneficial interest (including rights of entry and reverter) of the intestate in real and personal estate, after payment of all such funeral and administration expenses, debts and other liabilities as are properly payable thereout, which (otherwise than in right of a power of appointment) he could, if of full age and capacity, have disposed of by his will;
- (b) “intestate” includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate;
- (c) “personal chattels” means furniture and effects, including, where relevant—
  - (i) articles of household or personal use or ornament, plate, plated articles, linen, china, glass, books, pictures, prints, jewellery, musical and scientific instruments and apparatus, wines, liquors and consumable stores;
  - (ii) bicycles, stables, horses and domestic animals; and
  - (iii) motor vehicles and accessories therefor,but not including—
  - (iv) furniture, motor vehicles or other effects, used at the time of the death of the intestate exclusively or principally for business purposes; or
  - (v) money or securities for money;
- (d) “spouse” includes—
  - (i) a single woman who has lived and cohabited with a single man as if she were in law his wife for a period of not less than five years immediately preceding the date of his death; and
  - (ii) a single man who has lived and cohabited with a single woman as if he were in law her husband for a period of not less than five years immediately preceding the date of her death;
- (e) “single woman” and “single man” used with reference to the definition of “spouse” include a widow or widower, as the case may be, or a divorcee.

(2) Where for the purposes of this Act a person who is a single woman or a single woman may be regarded as a spouse of an intestate then, as respects such intestate, only one such person shall be so regarded.

SECTION 13 OF THE INTESTATES' ESTATES AND PROPERTY  
CHARGES ACT WHICH IT IS PROPOSED TO AMEND

13.—(1) Where a person dies possessed of, or entitled to, or, under a general power of appointment by his will disposes of, an interest in property, which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including a lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged, shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.

(2) Such contrary or other intention shall not be deemed to be signified—

- (a) by a general direction for the payment of debts or of all the debts of the testator out of his personal estate, or his residuary real and personal estate, or his residuary real estate; or
- (b) by a charge of debts upon any such estate, unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.

(3) Nothing in this section affects the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the deceased or otherwise.

SECTION 10 OF THE INTESTATES' ESTATES AND PROPERTY  
CHARGES ACT WHICH IT IS PROPOSED TO AMEND

10.—(1) Where an infant dies after the 1st June, 1937, without having been married, and independently of this subsection he would, at his death, have been equitably entitled under a settlement (including a will) to a vested estate in fee simple or absolute interest in freehold land, such infant shall be deemed to have had an entailed interest, and the settlement shall be construed accordingly.

SECTION 12 OF THE INTESTATES' ESTATES AND PROPERTY  
CHARGES ACT WHICH IT IS PROPOSED TO AMEND

12. Notwithstanding anything contained in the Administrator-General's Act, or any enactment amending or substituted for the same, where the residuary estate of the intestate does not exceed one thousand dollars, or where it exceeds that sum and a minor is entitled to a share thereof, or where a testator does not

appoint an executor or where the executor has died before the testator or renounces, it shall be the duty of the Administrator-General to apply for letters of administration to the estate and, unless the Court is satisfied that it would be for the benefit of the estate that letters of administration ought to be granted to some other person, letters of administration to such estate shall be granted to the Administrator-General.

**SECTION 14 OF THE INTESTATES' ESTATES AND  
PROPERTY CHARGES ACT**

14. Nothing in this Act shall affect any unrepealed enactment dispensing with probate or administration as respects personal estate not including chattels real.

**SECTION 113 OF THE JUDICATURE (RESIDENT MAGISTRATES) ACT  
WHICH IT IS PROPOSED TO AMEND**

113. Caveats against the grant of probates or administrations in a Court may be lodged in the office of the Clerk at the principal station thereof and, subject to any Resident Magistrate's Court Rules now or hereafter to be in force, the practice and procedure under such caveats shall, as near as may be, correspond with the practice and the procedure of the Supreme Court.

**SECTIONS 118 AND 123 OF THE JUDICATURE (RESIDENT  
MAGISTRATES) ACT WHICH IT IS PROPOSED TO REPEAL**

118. The period within which any person obtaining probate or administration of the estate of any deceased person shall be required to return the inventory of the estate and effects of his testator or intestate, shall be six months but the Magistrate shall have power to extend such time if need be.

123. Every person to whom any grant of administration shall be committed shall give bond to Her Majesty, with one or more surety or sureties, conditioned for duly collecting, getting in and administering, the estate of the deceased; and such bond shall be in a penalty of double the amount of the sworn value of the estate and effects of the deceased, unless the Magistrate shall in any case think fit to direct the same to be reduced, and such bond may also limit the liability of any surety to such amount as the Magistrate shall think reasonable.

**SECTION 55 OF THE JUDICATURE (SUPREME COURT) ACT  
WHICH IT IS PROPOSED TO REPEAL AND REPLACE**

55. All fees receivable in the Supreme Court under this Act, or under any rules made pursuant to this Act, shall be payable in stamps, subject to the provisions of the Stamp Duty Act, as fully as if they were specified in the Schedule to the Stamp Duty Act.

SECTIONS 2 AND 3 OF THE JUDICATURE (SUPREME COURT)  
(ADDITIONAL POWERS OF REGISTRAR) ACT  
WHICH IT IS PROPOSED TO AMEND

2. In this Act—

“this Act” includes any order made under this Act;

“Chief Justice” means the Chief Justice of Jamaica;

“the Court” means the Supreme Court;

“Judge” means a Judge of the Supreme Court;

“Registrar” means the Registrar of the Supreme Court.

3.—(1) The Chief Justice may by order published in the Gazette empower the Registrar to exercise, as from such date as shall be specified in such order, jurisdiction in relation to all of the matters specified in the Schedule or in relation to such of such matters as may be specified in such order.

SECTION 8 OF THE LIMITATION OF ACTIONS ACT  
WHICH IT IS PROPOSED TO REPEAL

8. An administrator claiming the estate or interest of the deceased person of whose chattels he shall have been appointed administrator shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

SECTION 55 OF THE LIMITATION OF ACTIONS ACT

55. In reference to the provisions of the Act of Parliament of the twenty-first year of the reign of King James the First, chapter 16, section 3, when there shall be two or more co-contractors or co-debtors, whether bound or liable jointly only or jointly and severally, or executors or administrators of any contractor, no such co-contractor, or co-debtor, executor, or administrator shall lose the benefit of the said enactment, so as to be chargeable in respect or by reason only of payment of any principal, interest, or other money by any other or others of such co-contractors, or co-debtors, executors or administrators.

SECTION 6 OF THE PROBATE OF DEEDS ACT  
WHICH IT IS PROPOSED TO AMEND

6. From and after the twenty-first day of April, 1886, deeds executed in any country outside the limits of this Island may be proved on the oath or affirmation of any subscribing witness thereto, or be acknowledged by any party or parties thereto, before any Notary Public or person exercising the functions of a Notary Public in such country; and every deed so proved or acknowledged in any such country shall be deemed to be sufficiently proved or acknowledged, provided

that such probate or acknowledgment purports to be certified under the hand and seal of such Notary Public, and provided that where any deed purports to have been proved or acknowledged before any Notary Public in any foreign state or country there be annexed to such deed a certificate, under the hand and seal of the appropriate officer of such foreign state or country, to the effect that the person before whom such deed is so proved is a Notary Public duly commissioned and practising in such foreign state or country, or some portion thereof, and that full faith and credit can be given to his acts.

SECTIONS 2 AND 3 OF THE PROBATES RE-SEALING ACT  
WHICH IT IS PROPOSED TO AMEND

2. In this Act—

“British court in a foreign country” means any British court having jurisdiction out of the Commonwealth in pursuance of an Order in Council, whether made under any law or otherwise;

“Court of Probate” means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

“probate” and “letters of administration” include confirmation in Scotland, and any instrument having in any other part of the Commonwealth the same effect which under English law is given to probate and letters of administration respectively;

“probate duty” includes any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted.

3. Where a Court of Probate in any part of the Commonwealth, or a British court in a foreign country, has, either before or after, the passing of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy thereof deposited with, the Supreme Court (in this Act referred to as “the Court”), be sealed with the seal of that Court, and thereupon shall be of the like force and effect, and have the same operation in this Island as if granted by that Court.

SECTION 152 OF THE REGISTRATION OF TITLES ACT  
WHICH IT IS PROPOSED TO AMEND

*Attestation of Instruments*

152. Instruments and powers of attorney under this Act signed by any person and attested by one witness shall be held to be duly executed; and such witness may be—

within this Island—The Governor-General, any of the Judges of the Supreme Court, or any Justice of the Peace, or the Registrar under

this Act, or a Notary Public, or a Solicitor of the Supreme Court; in Great Britain or Northern Ireland—the Mayor or Deputy Mayor, or the Chief Magistrate or Deputy Chief Magistrate, of any city, borough or town corporate, or a Notary Public;

in any other Commonwealth country—the Governor or person exercising the functions of Governor, the Commander-in-Chief, a Judge of any Court, the Mayor or Chief Magistrate of any city or town, or & Notary Public;

in any Foreign State or Country—the Jamaican or the British Consular Officer (which expression shall include Consul-General, Consul and Vice-Consul and any person for the time being discharging the duties of Consul-General, Consul, or Vice-Consul), or a Notary Public:

Provided that where any such instrument or power of attorney purports to have been witnessed or certified by any Notary Public in any Foreign State or Country, there shall be annexed to such instrument or power of attorney a certificate, under the hand and seal of the appropriate officer of such Foreign State or Country to the effect that the person by whom such instrument or power of attorney has been witnessed or certified is a Notary Public duly commissioned and practising in such Foreign State or Country, or some portion thereof, and that full faith and credit can be given to his acts.

Such witness, whether within or without this Island, may also be any other person, but in such case he shall appear before one of the officers or persons aforesaid, who, after making due enquiries of such witness, shall endorse upon the instrument or power a certificate in the Form in the Seventeenth Schedule and such certificate shall be deemed sufficient proof of the due execution of such instrument or power, subject to the proviso hereinbefore contained as to any such instrument or power of attorney witnessed or certified by a Notary Public in any Foreign State or Country.

Where an instrument or power of attorney shall be witnessed or certified out of this Island by any of the officers aforesaid the seal of office of such officer shall be affixed to his attestation or certificate on such instrument or power of attorney.



FIRST SCHEDULE OF THE TRANSFER TAX ACT  
WHICH IT IS PROPOSED TO AMEND

FIRST SCHEDULE (Sections 5, 12, 29  
and 44)

*Revenue Affidavit*

17.—(1) Before obtaining representation the personal representatives of the deceased shall deliver to the Commissioner of Taxpayer Audit and Assessment an affidavit (herein called the “revenue affidavit”) and, subject as may be prescribed under paragraph (f) of subsection (1) of section 44, shall specify in appropriate accounts annexed thereto particulars of all property of which the deceased was competent to dispose at his death and the values thereof in respect of which the tax is payable;

Provided that where the Administrator-General obtains representation he may deliver the revenue affidavit within such time thereafter as the Commissioner of Taxpayer Audit and Assessment may prescribe.

SECTION 10 OF THE WILLS ACT  
WHICH IT IS PROPOSED TO AMEND

10. If any person shall attest the execution of any will, to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts), shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void; and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will.

SECTION 20 OF THE WILLS ACT

20. Unless a contrary intention shall appear by the will, such real estate, or interest therein, as shall be comprised, or intended to be comprised, in any devise in such will contained, which shall fail or be void by reason of the death of the devise in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will.

SECTION 29 OF THE WILLS ACT

29. Every will re-executed or re-published or revived by any codicil shall, for the purposes of this Act, be deemed to have been made at the time at which the same shall be so re-executed, re-published or revived.

SECTIONS 2 AND 3 OF THE PROBATES RE-SEALING ACT  
WHICH IT IS PROPOSED TO AMEND

2. In this Act—

“British court in a foreign country” means any British court having jurisdiction out of the Commonwealth in pursuance of an Order in Council, whether made under any law or otherwise;

“Court of Probate” means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

“probate” and “letters of administration” include confirmation in Scotland, and any instrument having in any other part of the Commonwealth the same effect which under English law is given to probate and letters of administration respectively,

“probate duty” includes any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted.

3. Where a Court of Probate in any part of the Commonwealth, or a British court in a foreign country, has, either before or after, the passing of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letter so granted may, on being produced to, and a copy thereof deposited with, the Supreme Court (in this Act referred to as “the Court”), be sealed with the seal of that Court, and thereupon shall be of the like force and effect, and have the same operation in this Island as if granted by that Court.