

THE ADMINISTRATOR GENERAL'S ACT, 1913

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THE ADMINISTRATOR GENERAL'S ACT, 1913

ACT NO. III OF 1913

[27th February, 1913]

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

WHEREAS it is expedient to consolidate and amend the Law relating to the office and duties of Administrator General;

It is hereby enacted as follows:—

PART I

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Administrator General's Act, 1913.

(2) It extends to the whole of Bangladesh ¹[* * *].

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, direct.

Interpretation
clause

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

(1) "assets" means all the property, movable and immovable, of a deceased person, which is chargeable with, and applicable to, the payment of his debts and legacies, or available for distribution among his heirs and next-of-kin:

* Throughout this Act, except otherwise provided, the word, "Bangladesh", "Government", "Taka", "High Court Division" and "Muslim" were substituted, for the words "Pakistan" or "East Pakistan", "Central Government" or "Provincial Government", "Rupees", "High Court" and "Muhammadan" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The comma and words " , and applies also to all citizens of Pakistan in Acceding State" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

³[* * *]

- (4) "¹[Bangalee] Christian" means a person domiciled in Bangladesh who is or in good faith claims to be of unmixed Asiatic descent, and who professes any form of the Christian religion:

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

- (6) "next-of-kin" includes a widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased:

- (7) [*Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.*]

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

- (9)-(11) [*Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.*]

⁴[* * *]

¹ The word "Bangalee" was substituted, for the word "Pakistani" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, figures and comma "section 3 of the Succession Act, 1925" were substituted, for the words, figures and comma "section 332 of the Indian Succession Act, 1865" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Clause (3) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ Clauses (12) and (13) were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

PART II**THE OFFICE OF ADMINISTRATOR GENERAL**

Appointment of
Administrators
General

3. ¹[(1) The Government shall appoint an Administrator General for the whole of Bangladesh.

(2) No person shall be appointed to the office of the Administrator General who is not an advocate within the meaning of clause (a) of Article 2 of the Bangladesh Legal Practitioners and Bar Council Order, 1972.]

Appointment and
powers of Deputy
Administrators
General

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

Administrator
General to be a
corporation sole,
to have perpetual
succession and
official seal, and
to sue and be sued
in his corporate
name

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

¹ Sub-sections (1) and (2) were substituted, for sub-sections (1) and (2) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "the Division for which he is appointed" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

PART III

RIGHTS, POWERS, DUTIES AND LIABILITIES OF THE ADMINISTRATOR GENERAL

(a) Grants of Letters of Administration and Probate

6. So far as regards the Administrator General ¹[* * *], the High Court Division shall be deemed to be a Court of competent jurisdiction for the purpose of granting probate or letters of administration under any law for the time being in force wheresoever ¹[* * *] the estate to be administered is situated.

As regards Administrator General, High Court Division to be deemed a Court of competent jurisdiction for the purpose of granting probate or letters of administration

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

Administrator General entitled to letters of administration, unless granted to next-of-kin

8. The Administrator General ²[* * *] shall be deemed by all the Courts ²[* * *] to have a right to letters of administration other than letters *pendente lite* in preference to that of—

Administrator General entitled to letters of administration in preference to creditor, non-universal legatee or friends

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

¹ The words “of any Division” and “within the Division” were omitted respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words “of the Division” and “in the Division” were omitted respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

When Administrator General is to administer estates of persons other than exempted persons

9. If any person, not being an exempted person, has died leaving ¹[* * *] assets exceeding the value of two thousand taka,

and if no person to whom any Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied ¹[* * *] for probate of his will, or for letters of administration of his estate,

the Administrator General ²[* * *] shall, subject to any rules made by the Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court Division letters of administration of the estate of such person.

Power to direct Administrator General to apply for administration

10. Whenever any person, not being an exempted person, has died leaving assets within Bangladesh, or being an exempted person, has died leaving assets within the local limits of the ordinary original civil jurisdiction of the ³[High Court Division] or within any area notified by the Government in this behalf in the official Gazette, the Court, on being satisfied that danger is to be apprehended of misappropriation, deterioration or waste of such assets unless letters of administration of the estate of such person are granted, may upon the application of the Administrator General or of any person interested in such assets or in the due administration thereof, make an order, upon such terms as to indemnifying the Administrator General against cost and other expenses at the Court thinks fit, directing the Administrator General to apply for letters of administration of the estate of such person:

Provided that, in the case of an application being made under this section for letters of administration of the estate of an exempted person, the Court may refuse to grant letters of

¹ The words "within any Division" and "in such Division" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "of the Division in which such assets are" were omitted, by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

administration, if it is satisfied that such grant is unnecessary for the protection of the assets; and in such case the Court shall make such order as to the costs of the application as it thinks fit.

11. (1) Whenever any person, not being an exempted person, has died leaving assets within Bangladesh, or being an exempted person, has died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court Division or within any area notified by the Government in this behalf in the official Gazette,

Power to direct Administrator General to collect and hold assets until right of succession or administration is determined

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

the Court may, upon the application of the Administrator General or of any person interested in such assets, or in the due administration thereof, forthwith direct the Administrator General to collect and take possession of such assets, and to hold, deposit, realize, sell or invest the same according to the directions of the Court, and in default of any such direction according to the provisions of this Act so far as the same are applicable to such assets.

(2) Any order of the Court made under the provisions of this section shall entitle the Administrator General,

- (a) to maintain any suit or proceeding for the recovery of such assets, and
- (b) if he thinks fit, to apply for letters of administration of the estate of such deceased person, and

- (c) to retain out of the assets of the estate any fees chargeable under rules made under this Act, and to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

Grant of probate of letters of administration to person appearing in the course of proceedings taken by Administrator General under sections 9, 10 and 11

12. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, any person appears and established his claim—

- (a) to probate of the will of the deceased; or
- (b) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General the costs of any proceedings taken by him, under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Grant of administration to Administrator General in certain cases

13. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, no person appears and establishes his claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, within such period as to the Court seems reasonable,

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

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

Administrator General not precluded from applying for letters within one month after death

14. Nothing in this Act shall be deemed to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

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

15, 16 and 17. [Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.]

(c) Revocation of Grants

18. If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto establishes to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration granted in accordance with the provisions of this Act to the Administrator General may be revoked, and probate or letters of administration may be granted to such executor or next-of-kin as the case may be:

Recall of Administrator General's administration, and grant of probate, etc., to executor or next-of-kin

Provided that no letters of administration granted to the Administrator General shall be revoked for the cause aforesaid, except in cases in which a will of the deceased is proved in ¹[Bangladesh], unless the application for that purpose is made within six months after the grant to the Administrator General and the Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

19. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of the estate:

Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator General out of assets

Provided that nothing in this section shall affect the provisions of clause (c) of sub-section (2) of section 11.

¹ The word "Bangladesh" was substituted for the words "the Division" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act VIII of 1973.

After revocation, letters granted to Administrator General to be deemed as to him to have been voidable only

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

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator General or any person acting under his authority in pursuance of such letters unless, within the period of one month from the time of giving such notice, proceedings are commenced to prove the will, or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay.

Payments made by Administrator General prior to revocation

21. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(d) General

Administrator General's petition for grant of letters of administration

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

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner,
- (ii) the name and addresses of the surviving next-of-kin of the deceased if known,

- (iii) the particulars and value of the assets likely to come into the hands of the petitioner,
- (iv) particulars of the liabilities of the estate if known.

23. All probates or letters of administration granted to any Administrator General shall be granted to him by that name.

Name in which probate or letters to be granted.

24. Probate or letters of administration granted by the High Court Division to the Administrator General ¹[* * *] shall have effect over all the assets of the deceased throughout ²[Bangladesh], and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator General.

Effect of probate or letters granted to Administrator General

³[* * *]

25. (1) Any private executor or administrator may with the previous consent of the Administrator General ⁴[* * *] by an instrument in writing under his hand notified in the official Gazette, transfer the assets of the estate vested in him by virtue of such probate or letters to the Administrator General by that name or any other sufficient description.

Transfer by private executor or administrator of interest under probate or letters

(2) As from the date of such transfer the transferor shall be exempt from all liability as such executor or administrator, as the case may be, except in respect of acts done before the date

¹ The words "of any Division" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Bangladesh" was substituted, for the words "such Division" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Second, third and fourth paragraphs of section 24 were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The words "of the Division in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of administration, are situate" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

Distribution of assets

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

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

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator General shall affect him unless proceeding to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such proceedings are prosecuted without unreasonable delay.

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively.

(5) In computing the period of limitation for any suit, appeal or application under the provisions of any law for the time being in force, the period between the date of submission of the claim of a creditor to the Administrator General and the date of the final decision of the Administrator General on such claim shall be excluded.

Appointment of Official Trustee as trustee of assets after completion of administration

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

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

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

Power for High Court Division to give directions regarding administration of estate

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

29. (1) No Administrator General shall be required by any Court to enter into any administration-bond, or to give other security to the Court, on the grant of any letters of administration to him by that name.

No security nor oath to be required from Administrator General

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

Manner in which petitions to be verified by Administrator General and his Deputy

(3) The entry of the Administrator General by that name in the books of a Company shall not constitute notice of a trust, and a company shall not be entitled to object to enter the name of the Administrator General on its register by reason only that the Administrator General is a corporation and in dealing with assets the fact that the person dealt with is the Administrator General shall not of itself constitute notice of a trust.

Entry of Administrator General not to constitute notice of a trust

¹ The words "of the Division" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Power to
examine on
oath

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

(e) Grant of Certificates

In what case
Administrator
General may
Grant
certificate

31. Whenever any person has died leaving assets within ¹[Bangladesh], and the Administrator General ²[* * *] is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank, or in any Provident Fund to which the provisions of the ³[Provident Funds Act, 1925], apply did not at the date of death exceed in the whole two thousand Taka - in value, he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, grant to any person, claiming otherwise than as a creditor to be interested in such assets, or in the due administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased, within the ⁴[Bangladesh] to a value not exceeding in the whole two thousand taka:

¹ The word "Bangladesh" was substituted, for the words "any Division" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973),

² The words "of such Division" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words, comma and figure "Provident Funds Act, 1925" were substituted, for the words, comma and figure "Provident Funds Act, 1897" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The word "Bangladesh" was substituted, for the words "the Division" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Provided that no certificate shall be granted under this section—

- (i) where probate of the deceased's will or letters of administration of his estate has or have been granted, or
- (ii) in respect of any sum of money deposited in a Government Savings Bank or in any Provident Fund to which the provisions of the ¹[Provident Funds Act, 1925], apply.

32. If, in cases failing within section 31, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains, within three months of the death of the deceased, a certificate from the Administrator General under the same section, or probate of a will or letters of administration of the estate of the deceased, and such deceased was not an exempted person, or was an exempted person who has left assets within the ordinary original civil jurisdiction of the High Court Division, or within any area notified by the Government in this behalf in the official Gazette the Administrator General after the lapse of the said three months, or if he is required so to do in writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, before the lapse of the said three months may administer the estate without letters of administration, in the same manner as if such letters had been granted to him;

Grant of certificate to creditors and power to take charge of certain estates

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

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

¹ The words, comma and figure "Provident Funds Act, 1925" were substituted, for the words, comma and figure "Provident Funds Act, 1897" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

Administrator General not bound to grant certificate unless satisfied of claimant's title, etc.

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

Effect of certificate

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

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

- (a) to file accounts or inventories of the assets of the deceased before any Court or other authority, or
- (b) save as provided in section 32 to give any bond for the due administration of the estate.

Revocation of certificate

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

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

¹ The words "within the Division" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

Surrender of revoked certificate

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

¹[**36A.** When a certificate is revoked in accordance with the provisions of section 35, all payments made *bona fide* under such certificate to the holder thereof before such revocation, shall, notwithstanding such revocation, be a legal discharge to the person making the same, and the holder of such certificate may retain, and reimburse himself in respect of, any payments made by him which the person to whom a certificate or probate or letters of administration may afterwards be granted, might lawfully have made.]

Payment to holder of certificate before it is revoked

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

Administrator General not bound to take out administration on account of assets for which he has granted certificate

38. Where a person not having his domicile in ²[Bangladesh] has died leaving assets in ²[Bangladesh] and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in ²[Bangladesh] have been taken under section 31 or section 32, and there has been a grant of administration in the country of domicile with respect to the assets in that country,

Transfer of certain assets from Bangladesh to executor or administrator in country of domicile for distribution

¹ Section 36A was inserted by section 7 of Administrator-General's (Bengal Amendment) Act, 1940 (Act No. XI of 1940).

² The word "Bangladesh" was substituted, for the words "any Division" and "any such Division" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

(f) Liability

Liability of
Government

39. (1) The revenues of the Government shall be liable to make good all sums required to discharge any liability which the Administrator General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator General nor any of his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence have averted, and in either of those cases the Administrator General shall not, nor shall the revenues of the Government be subject to any liability.

(2) [*Sub-section (2) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

Creditors' suits
against
Administrator
General

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

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment of the amount decreed or ordered by the court to be paid out of the assets of the deceased equally and rateably with the other creditors.

41. Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply to any suit against the Administrator General in which no relief is claimed against him personally.

Notice of suit not required in certain cases

PART IV

FEES

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

Fees

¹[* * *]

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

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

Disposal of fees

¹ The first and second proviso were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

PART V

AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS

Audit of
Administrator
General's
accounts

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

Auditors to
examine
accounts and
report to the
Government

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

- (a) whether the accounts have been audited in the prescribed manner,
- (aa) whether, so far as can be ascertained by such audit, the accounts contain a full and true account of everything which ought to be inserted therein,
- (b) whether the books which by any rules made under this Act are directed to be kept by the Administrator General, have been duly and regularly kept, and
- (c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made thereunder,

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

46. (1) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908,—

Power of auditors to summon and examine witnesses, and to call for documents

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

(2) Any person who when summoned refuses, or without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the ¹[Penal Code] and the auditor shall report every case of such refusal or neglect to Government.

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

Costs of audit, etc.

PART VI

MISCELLANEOUS

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

General powers of administration

- (a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge; and

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (b) with the sanction of the High Court Division on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Power of person
beneficially
interested to
inspect
Administrator
General's
Accounts, etc.,
and take copies

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

Power to make
rules

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

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

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

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

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

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

False evidence

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

Assets unclaimed for twelve years to be transferred to Government

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

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

Mode of proceeding by claimant to recover principal money so transferred

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

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

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General

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

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

(2) The District Judge shall retain the assets under his charge, or appoint an officer under the provisions of ²[the Succession Act, 1925,] to take and keep possession of the same

¹ The words "of the Division" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, commas and figure "the Succession Act, 1925," were substituted, for the words, comma and figures "section 239 of the Indian Succession Act, 1865" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

until the Administrator General has obtained letters of administration, or until some other person has obtained probate or such letters or a certificate from the Administrator General under the provisions of this Act, when the assets shall be delivered over to the holder of such probate, letters of administrator or certificate:

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

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

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

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

¹ The words, commas and figure "in the Succession Act, 1925," were substituted, for the words, figures and commas "in section 279, section 280 or section 281 of the Indian Succession Act, 1865" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Succession Act and Companies Act not to affect Administrator General

55. (1) Nothing contained in the ¹[Succession Act, 1925,] or ²[Companies Act, 1913], shall be taken to supersede or affect the rights, duties and privileges of any Administrator General.

(2) [*Omitted by the Adaptation of Central Acts and Ordinances Order, 1949, Schedule.*]

Order of Court to be equivalent to decree

56. Any order made under this Act by any Court shall have the same effect as a decree.

Provision for administration by Consular Officer in case of death in certain circumstances of foreign subject

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

58. [*Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.*]

¹ The words, figure and commas "Succession Act, 1925," were substituted, for the words, commas and figure "Indian Succession Act, 1865," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, comma and figure "Companies Act, 1913" were substituted, for the words, comma and figure "Indian Companies Act, 1882." by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

Saving of provisions of Registration Act, 1908

59A. [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

60. [*Repealed by the Repealing Act, 1927 (Act No. XII of 1927), section 2 and Schedule.*]

THE SCHEDULE.—[*Repealed by the Repealing Act, 1927 (Act No. XII of 1927), section 2 and Schedule.*]
