

ANTIGUA AND BARBUDA

No. of 2004

BILL FOR

AN ACT to make provision for the Administration of Small Estates.

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ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the Administration of Small Estates Act, 2004. Short title.

2. In this Act — Interpretation.

“letters of administration” means all letters of administration of the estate of deceased persons whether with or without the will annexed and whether granted for general, special or limited purposes;

“Registrar means the Registrar of the High Court and in his absence the Deputy Registrar;

“small estate” means all the property, real and personal, of a deceased person which does not exceed twenty-five thousand dollars in value.

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Application for
grant of letters of
administration.

3. (1) In any case where a person dies intestate leaving a small estate, an application may be made to the Registrar at any time not earlier than one month after the death of such person for a grant of letters of administration in respect of such estate.

(2) An application under the preceding subsection may be made by any person being the husband, wife, issue, father, mother, or issue of the father or mother, of the deceased person.

Grant of probate.

4. Probate of the will of any deceased person leaving a small estate may, upon application to the Registrar and upon production of the will and of an affidavit verifying the due execution thereof, be issued to the executor named in the will or, in any case where it shall appear to the Judge to be necessary or proper so to do, the Judge may appoint an administrator of the estate and direct letters of administration with the will annexed to be issued to him.

Duties and
powers of
Registrar.

5. It shall be the duty of the Registrar to whom application is made if requested so to do by the applicant, to assist the applicant in filling up such papers as may be necessary to lead to a grant of letters of administration or of probate, as the case may be, and, for that purpose, he may require the applicant to furnish him with documentary evidence of the value of the estate, the identity of the applicant, and his relationship to the deceased, the identity of every beneficiary to the estate of the deceased and any other information as he may consider necessary.

Investigation and
Report by
Registrar.

6. (1) On receipt of an application under section 3(2) or 4, the Registrar shall notify the public of the application, the name of the applicant, the estate in respect of which the application is made and to invite any objections and inquiries.

(2) The Notice shall be posted up and remain posted up for a period of fourteen (14) days at the following places —

- (a) the Court House;
- (b) the General Post Office; and
- (c) the Magistrate Court for the District where the deceased resided.

(3) Subject to subsections (1) and (2), the Registrar shall investigate the application and prepare a report and shall lay the

report before a Judge and the Judge shall, if satisfied that the application ought to be granted, give a direction accordingly.

7. (1) Notwithstanding any law to the contrary, the fees specified in the Schedule shall be paid to the Registrar and no other fees, duties or charges of any description whatsoever shall be payable in respect of the grant of letters of administration or probate, including any application therefor.

Fees for grant of Letters of Administration or Probate.

(2) All fees received by the Registrar pursuant to subsection (1) shall be paid to the Accountant General for the benefit of the Treasury.

(3) The Minister may by regulation amend the Schedule.

(4) Any regulation made under this section shall be subject to affirmative resolution of the House of Representatives.

8. Any person who, for the purpose of deriving the benefit conferred by this Act, knowingly makes to the Registrar any statement which is false in any material particular commits an offence and on summary conviction, be liable to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding twelve months.

Offence and penalty.

9. The Administration of Small Estates Act Cap. 8 is repealed.

Repeal.

SCHEDULE

Section 7

Value of Estate

Fees payable

1. \$ 3,000.00 or less	Free
2. \$ 3,000.00 - 5,000.00	\$200.00
3. \$ 5,001.00 - 8,000.00	\$300.00
4. \$ 8,001.00 - 12,000.00	\$350.00
5. \$12,001.00 - 15,000.00	\$400.00
6. \$15,001.00 - 20,000.00	\$450.00
7. \$20,001.00 - 25,000.00	\$500.00

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Passed the House of Representatives

Passed the Senate

this day of 2004

this day of 2004

Speaker

President

Clerk to the House of Representatives

Clerk to the Senate

EXPLANATORY MEMORANDUM

This Bill seeks to revise the Administration of Small Estates Act by raising the threshold of the value of small estates from two thousand five hundred dollars to twenty five thousand dollars.

The scope of the new section 5 is expanded. Section 5 of the existing Act requires an applicant of letters of administration or probate to furnish the Registrar with a statement and give other proof of the value of the estate, the identity of the applicant and where necessary his relationship with the deceased. It also exempts the person making application under the Act from the entering into a bond or making a declaration on oath of the value of the estate, or from taking the oath of an administrator or executor.

The new section 5 seeks to require any application for letters of administration or probate to support the application by documentary evidence of the value of the estate, identity of the applicant and his relationship to the deceased and the identity of every beneficiary to the estate of the deceased. With the raising of the threshold of the value of a small estate, it has become necessary to remove the exempted provision in order to ensure proper administration and accountability of the estate to the beneficiaries.

Section 6 is a revised version of the existing provision. Under the new provision the Registrar is required to publish a notice informing the public of the application for the grant of letters of administration or probate, the identity of the applicant, the estate in respect of which the application is made, and to direct any objections or inquiries to the Registrar.

Under the revised version the Registrar is required to publish the notice as widely as possible at the places specified in the section, namely the Court House, the General Post Office and Magistrate Court at the District where the deceased resided.

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With the increase of the value of property that constitutes small estate under this Act, it has become necessary to adjust the fees paid in respect of letters of administration or probate granted under the Act to be commensurate with the size of the estate.

In section 8, the penalty for making a false statement in relation to the estate in any material particular has been increased from a fine of one thousand dollars and six months imprisonment to a fine not exceeding five thousand dollars or to imprisonment not exceeding twelve months.

Justin L. Simon
Attorney General and
Minister of Justice and
Legal Affairs

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ADMINISTRATION OF SMALL ESTATES ACT 2004

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Application for grant of Letters of Administration.
4. Grant of Probate.
5. Duties and powers of Registrar.
6. Investigation and Report by Registrar.
7. Fee for grant of Letters of Administration or Probate.
8. Offence and penalty.

SCHEDULE