

Probates (Re-sealing) Act

Principal Act

Act. No. 1934-01

Commencement

31.1.1934

Assent

31.1.1934

Amending
enactment

Relevant current provisions

Commencement
date

Act.1975-10 s.2(2)-(3), (3A)-(3D)

English sources

Colonial Probates Act 1892 (55 & 56 Vict. c.6)

Administration of Estates Act 1971 (1971 c.25)

Rules of Court made under s.3(5) and under other powers appear under the title Supreme Court

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Sealing of probates and letters of administration granted in the United Kingdom or a British possession or by British courts in foreign countries.

AN ACT TO PROVIDE FOR THE RECOGNITION IN GIBRALTAR OF PROBATES AND LETTERS OF ADMINISTRATION GRANTED IN THE UNITED KINGDOM OR IN A BRITISH POSSESSION OR BY A BRITISH COURT IN A FOREIGN COUNTRY.

Short title.

1. This Act may be cited as the Probates (Re-sealing) Act.

Interpretation.

2. In this Act, unless the context otherwise requires, –

“British court in a foreign country” means any British court having jurisdiction out of Her Majesty's dominions in pursuance of an Order in Council, whether made under any Act 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 a British possession 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.

Sealing of probates and letters of administration granted in the United Kingdom or a British possession or by British courts in foreign countries.

3.(1) Where a court of probate in the United Kingdom or in a British possession or a British court in a foreign country has 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, be sealed with the seal of the Supreme Court and thereupon shall be of the like force and effect, and have the same operation in Gibraltar as if granted by the Supreme Court.

(2) The Supreme Court shall, before sealing a probate or letters of administration under this Act, be satisfied that probate duty has been paid in respect of so much (if any) of the estate as is liable to probate duty in Gibraltar.

(3) A person to whom letters of administration have been granted in a country or territory to which this Act applies shall, on their being sealed by the Supreme Court, have the like duties with respect to the estate of the deceased which is situated in Gibraltar and the debts of the deceased which fall to be paid in Gibraltar as are imposed by section 27(a) and (b) of the

Administration of Estates Act on a person to whom a grant of administration has been made by that court.

(3A) As a condition of sealing letters of administration under this section the Supreme Court may, subject to the following provision of this section and subject to and in accordance with probate rules and orders, require one or more sureties in such amount as the court thinks fit, to guarantee that they will make good, within any limit imposed by the court on the total liability of the surety or sureties, any loss which any person interested in the administration of the estate of the deceased in Gibraltar may suffer in consequence of a breach by the administrator of his duties in administering it in Gibraltar.

(3B) A guarantee given in pursuance of any such requirement shall enure for the benefit of any person interested in the administration of the estate in Gibraltar as if contained in a contract under seal made by the surety or sureties with every such person and, where there are two or more sureties as if they had bound themselves jointly or severally.

(3C) No action shall be brought on any such guarantee without the leave of the Supreme Court.

(3D) Stamp duty shall not be chargeable on any such guarantee.

(4) For the purposes of this Act, a duplicate of any probate or letters of administration sealed with the seal of the court of probate granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

(5) Rules of court may be made by the Chief Justice for regulating the procedure and practice, including fees and costs, in the Supreme Court, on and incidental to an application for sealing a probate or letters of administration under the provisions of this Act.