

PROCLAMATION.

BY

HIS EXCELLENCY THE HIGH COMMISSIONER.

No. 2, 1906.—DATED 12th MAY, 1906.

Preamble.

WHEREAS it is expedient that the provisions of Act No. 27 of 1895 of the Colony of the Cape of Good Hope should have effect in the Bechuanaland Protectorate:

Now, therefore, under and by virtue of the powers in me vested, I do hereby proclaim, declare and make known as follows:—

Applying Act No. 27 of 1895 of the Cape Colony.

1. The provisions of Act No. 27 of 1895 of the Colony of the Cape of Good Hope commonly called "The Estates Administration Act, 1895," shall be in force and have effect within the limits of the Bechuanaland Protectorate.

Provisions of Sections 2 and 3 of Proclamation of 19th November 1891 to apply.

2. The provisions of Sections 2 and 3 of the Proclamation of the High Commissioner dated the 19th day of November, 1891, shall *mutatis mutandis* apply for the purposes of the carrying out of the said Act, within the said limits.

Commencement of Proclamation.

3. This Proclamation shall take effect from the date of its publication in the "Gazette."

SCHEDULE.

Act No. 27 of 1895.

TO AMEND THE LAW RELATING TO THE ADMINISTRATION OF THE ESTATES OF DECEASED PERSONS, MINORS AND OTHERS LABOURING UNDER CERTAIN DISABILITIES.

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

1. The thirty-fourth section of Ordinance No. 104 of 1833, the seventh section of Act 14 of 1864, and so much of any other laws as may be repugnant to or inconsistent with the provisions of this Act are hereby repealed.

2. There shall be expunged from the twenty-first section of Ordinance No. 104 of 1833, the words "not being less than six weeks from the day of publication."

3. Notwithstanding anything contained in sections fourteen and sixteen of Ordinance 104 of 1833, if one or two spouses shall have lawfully appointed the survivor of them to be his or her sole heir and the sole executrix of his or her will, then such survivor shall not be required to frame or to lodge with the Master an inventory of the goods, assets, and effects of the estate of the predeceasing spouse.

4. Notices of death shall, in addition to the particulars mentioned in the tenth section of Ordinance No. 104 of 1833, contain and set forth the following particulars, in so far as the same shall be known to the person giving notice:—

- (a) The name of the surviving spouse, if any, of the deceased.
- (b) The name and approximate date of death of any predeceased spouse of the deceased.
- (c) Whether the deceased left a will or not.

5. Any person who is required by law to deliver or transmit to the Master or any Resident Magistrate, or Field-cornet, as the case may be, any such notice of death, or any will or inventory, and who fails to do so without any reasonable excuse, shall, in addition to any other liability which he may incur through such default, be subject to a fine not exceeding five pounds sterling.

6. Every person not being the executor of the estate of a deceased person duly appointed in the Colony who shall at the taking effect of this Act or thereafter have or come into the possession or custody of any property or asset belonging to such estate shall forthwith either deliver such property or assets to the duly appointed executor if any then be in the Colony or report the particulars thereof to the Master; and if such first mentioned person shall fail to do so or shall part with any such property or asset to any person not authorised by the Master by letters of administration or other direction to receive the same he shall, apart from any other liability he may incur thereby, be liable for all dues payable to the Government in respect of such property or asset.

7. Meetings for the election of executors or tutors dative shall be held at such time and place and before such officer as the Master shall appoint.

8. The Master may summarily appoint an executor dative to administer any unrepresented estate of which the value appears to him after inquiry not to exceed one hundred pounds sterling.

9. Any executor, testamentary or dative, may if he think fit require any person preferring any claim as a creditor against the estate of which he is the executor to substantiate such claim by a solemn declaration setting forth the details of such claim with such particularity as the executor may reasonably require, and may refuse to recognise such claim until such declaration has been delivered to him, and it shall be competent for any court by which any such claim shall be adjudged in favour of any claimant to decline to grant such claimant his costs against the estate in case such court shall deem that the information given by the claimant to the executor was insufficient, and that the executor acted with prudence and discretion in contesting such claim.

10. If any sum of money paid into the Guardian's Fund be less than ten pounds, or if the Master of the Supreme Court is unable after careful inquiry to trace the person entitled to claim any sum of money received by him he may transfer such sum to a dormant account to be kept in such manner and in such books as the Governor shall prescribe, instead of dealing with it as directed by the twenty-seventh section of Ordinance No. 104 of 1833, and the second section of Act No. 22 of 1887.

11. In any case in which the total amount standing to the credit of any minor in the Guardian's Fund does not exceed one hundred pounds, it shall be competent for the Master of the Supreme Court if after careful inquiry it shall appear to him to be for the interest of such minor to do so, to pay and apply the whole or any part of such amount for the maintenance, education or other benefit of such minor: Provided always that nothing herein contained shall authorise the said Master to disregard or act contrary to the terms of any will or other deed under the provisions of which such amount shall have been received, or to any order of any competent court regarding such amount or any part thereof.

12. No interest shall be allowed on any moneys paid into the Guardian's Fund after the taking effect of this Act under the provisions of the thirteenth section of Ordinance No. 105 of 1833, or the one hundred and fifteenth section of Ordinance No. 6 of 1843, save in respect of moneys to which minors or lunatics shall be found to be entitled, and then only for the period during which minority or insanity shall continue and the money shall remain in the Guardian's Fund.

13. The word "Master" in this Act where it is not specially defined, shall be taken to mean the Master of the Supreme Court, save and except in relation to:—

(a) Deaths occurring in the districts of Kimberley, Barkly West, Herbert and Hay, notices of which may by law be required to be transmitted to the Master of the High Court; and

(b) Estates administered by executors, tutors or curators appointed by the Master of the High Court;

in which relations it shall mean the Master of the High Court.

14. This Act may be cited for all purposes as "The Estates Administration Act, 1895."