

Zambia

Probates (Resealing) Act, 1936 Chapter 61

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Probates (Resealing) Act, 1936

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Zambia

Probates (Resealing) Act, 1936

Chapter 61

Commenced on 13 November 1936

[This is the version of this document at 31 December 1996.]

An Act to provide for the recognition in Zambia of probate and letters of administration granted in Her Britannic Majesty's dominions or by British courts in foreign countries; and to provide for matters incidental thereto.

1. Short title

This Act may be cited as the Probates (Resealing) Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**British court in a foreign country**" means any British court having jurisdiction out of Her Britannic Majesty's dominions in pursuance of an Order in Council, whether made under any British Act or otherwise;

"**court of probate**" means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

"**Her Britannic Majesty's dominions**" includes any British protectorate or protected state and any territory in respect of which a mandate on behalf of the League of Nations has been accepted by Her Britannic Majesty;

"**probate**" and "letters of administration" include confirmation in Scotland, and any instrument having in any other part of Her Britannic Majesty's dominions 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.

[As amended by S.I. No. 152 of 1965]

3. Sealing of probates and letters of administration granted outside Zambia

Where a court of probate in any part of Her Britannic Majesty's dominions, or a British court in a foreign country, has, either before or after the commencement 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 High 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 Zambia as if granted by that Court.

[As amended by S.I. No. 152 of 1965]

4. Conditions to be fulfilled before sealing

The High Court shall, before sealing a probate or letters of administration under this Act, be satisfied—

- (a) that probate duty has been paid in respect of so much, if any, of the estate as is liable to probate duty in Zambia; and

- (b) in the case of letters of administration, that security has been given in a sum sufficient in amount to cover the property, if any, in the territory to which the letters of administration relate;

and may require such evidence, if any, as it thinks fit, as to the domicile of the deceased person:

Provided that the security need not be given when application for the sealing of a probate or of letters of administration is made to the High Court by or on behalf of the Administrator-General.

5. Security for payment of debts

The High Court may also, if it thinks fit, on the application of any creditor, require, before sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in Zambia:

Provided that the security need not be given when application for the sealing of a probate or of letters of administration is made to the High Court by or on behalf of the Administrator-General.

6. Duplicate or copy admissible

For the purposes of this Act, a duplicate of any probate or letters of administration sealed with the seal of the court 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.

7. Rules of court

The High Court may, by statutory instrument, make rules of court for regulating the procedure and practice, including fees and costs, in the High Court, on and incidental to an application for sealing a probate or letters of administration under this Act.

[As amended by No. 41 of 1960]

8. Repeal and saving

The British and Colonial Probates Act, Chapter 17 of the 1930 Edition of the Laws, is hereby repealed:

Provided that all rules made by the High Court under the Act hereby repealed and in force at the commencement of this Act shall be deemed to have been made under this Act and shall continue in force until other rules shall be made by virtue of this Act.