

CHAPTER 62

THE ADMINISTRATION OF ESTATES (TRUST CORPORATIONS) ACT

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CHAPTER 62

ADMINISTRATION OF ESTATES (TRUST CORPORATIONS)

27 of 1956

13 of 1994

An Act to enable bodies corporate to act as executors and administrators; and to provide for matters incidental to or connected therewith.

Statutory

Instrument

72 of 1964

[*17th August, 1956*]

1. This Act may be cited as the Administration of Estates (Trust

Short title

Corporations) Act.

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

Interpretation

"trust corporation" means-

(a) any incorporated banking or insurance or guarantee or trust company which has a capital (in stock or shares) for the time being issued of not less than five hundred thousand kwacha, of which not less than two hundred thousand kwacha shall have been paid up in cash; or

(b) any body corporate which has a capital (in stock or shares) for the time being issued of not less than five hundred thousand kwacha, of which not less than two hundred thousand kwacha shall have been paid up in cash, and which is for the time being empowered (by the British Act, Act, charter, memorandum of association, deed of settlement or other instrument constituting it or defining its powers) to undertake trust business, but for so long a time only as such body corporate shall not, by any prospectus, circular, advertisement or other document issued by it or on its behalf, state or hold out that any liability attaches to the general revenues of the Republic in respect of any act or omission of such body corporate when acting as an executor or administrator.

(As amended by S.I. No. 72 of 1964)

3. Notwithstanding anything contained in the definition of "trust corporation" in section *two*, a company or body corporate which would be a trust corporation but for the fact that it does not for the time being fulfil the requirements as to capital in paragraph (a) or (b) of the said definition may act as executor or administrator in any particular case with the leave of the High Court and on giving such security as the High Court may determine and, thereupon, for the purpose of so acting as executor or administrator, such company or body corporate shall be deemed to be and to have the rights, powers and duties of a trust corporation under this Act.

Special cases

4. (1) The High Court may-

Power to grant representation to a trust corporation

(a) where a trust corporation is named in a will as executor, whether

alone or jointly with another person, grant probate to the corporation either solely or jointly with another person, as the case may require;

(b) grant administration to a trust corporation, either solely or jointly with another person;

and the corporation may act accordingly as executor or administrator, as the case may be.

(2) Probate or administration shall not be granted to a syndic, nominee or attorney on behalf of a trust corporation.

5. Any officer authorised for the purpose by a trust corporation, or the directors or governing body thereof, may, on behalf of the corporation, swear affidavits, give security and do any other act or thing which the court may require with a view to the grant to the corporation of probate or administration, and the acts of an officer so authorised shall be binding on the corporation. Affidavits

6. Where a trust corporation is appointed attorney for sealing a grant of probate or administration under the Probates (Resealing) Act, any officer authorised for the purpose by the trust corporation, or the directors or governing body thereof, may, on behalf of the trust corporation, swear affidavits, give security and do any other act or thing which the court may require with a view to the sealing of the grant, and the acts of an officer so authorised shall be binding on the corporation. Sealing of grant of probate. Cap. 61

7. (1) Where, at the commencement of this Act, any interest in any estate is vested in a syndic, nominee or attorney on behalf of a trust corporation acting as the personal representative of a deceased person, the said interest shall, by virtue of this Act, vest in the corporation, and the syndic, nominee or attorney shall be kept indemnified by the corporation in respect of the said interest. Vesting in the corporation

(2) This section shall not apply to securities registered or inscribed in the name of a syndic, nominee or attorney or to land or a charge affected or created by an instrument registered under the Lands and Deeds Registry Act, in the name of the syndic, nominee or attorney but any such securities, land or charge shall be transferred by the syndic, nominee or attorney to the corporation, or as the corporation may direct. Cap. 185

8. This Act shall have effect whether the testator or intestate died before or after the commencement of this Act, and no such vesting or transfer shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture. Effect

9. Where any corporation, in the exercise of any power conferred by this Act, commits any such act, or is in such default, as would render an individual liable to attachment and imprisonment, such corporation may be ordered by the court to pay a fine not exceeding fifteen thousand penalty units. Penalties

(As amended by Act No. 13 of 1994)