



MONTSERRAT

CHAPTER 3.06

ADMINISTRATION OF ESTATES and Related Legislation

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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CHAPTER 3.06

**ADMINISTRATION OF ESTATES
BY CONSULAR OFFICERS ACT**

(Acts 11 of 1941 and 24 of 1956)

Commencement

[20 January 1941]

Short title

1. This Act may be cited as the Administration of Estates by Consular Officers Act.

Administration of Estates by Consular Officers

2. Whenever any subject or citizen of any State mentioned in the first column of the Schedule—

(a) dies within Montserrat; or

(b) dies outside Montserrat, leaving property within Montserrat;

and no person is present in Montserrat at the time of his death who is rightfully entitled to administer the estate of such deceased person, the Consul, Vice-Consul, or Consular Agent of such State within Montserrat may take possession and have the custody of the property of such deceased person, and may apply the same in payment of his debts and funeral expenses, and may retain the surplus for the benefit of the persons entitled thereto; but such Consul, Vice-Consul, or Consular Agent shall immediately apply for, and shall be entitled to obtain from the Court, Letters of Administration of the property of such deceased person, limited in such manner and for such time as to the Court shall seem fit.

Variation of Schedule

3. It shall be lawful for the Governor by order to vary the Schedule—

(a) by deleting therefrom any State when the provision of the Treaty with that State mentioned in the Schedule shall have ceased to have effect; or

(b) by adding thereto any State with whom Her Majesty shall make a Treaty of Commerce and Navigation containing provision similar to any of the provisions mentioned in the Schedule.

SCHEDULE

<i>Name of State.</i>	<i>Title of Treaty.</i>	<i>Date of Treaty.</i>	<i>Provision.</i>
Estonia	Treaty of Commerce and Navigation between the United Kingdom and Estonia.	18th January, 1926.	Article 22.
Finland	Treaty of Commerce and Navigation between the United Kingdom and Finland.	14th December, 1923.	Article 19.
Greece	Treaty of Commerce and Navigation between the United Kingdom and Greece.	16th July, 1926.	Article 23.
Hungary	Treaty of Commerce and Navigation between the United Kingdom and Hungary.	23rd July, 1926.	Article 14.
Japan	Treaty of Commerce and Navigation between the United Kingdom and Japan.	3rd April, 1911.	Article 5.
Thailand	Treaty of Commerce and Navigation between the United Kingdom and Siam (Thailand).	23rd November, 1937.	Article 19.
Turkey	Treaty of Commerce and Navigation between the United Kingdom and Turkey.	1st March, 1930.	Article 28.
Yugoslavia	Treaty of Commerce and Navigation between the United Kingdom and the Kingdom of the Serbs, Croats and Slovenes.	12th May, 1927.	Article 24.

CHAPTER 3.06

ADMINISTRATION OF INSOLVENT ESTATES ACT

(Acts 7 of 1887 and 24 of 1956)

Commencement

[31 December 1887]

Short title

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

Specialty and simple contract debts of deceased persons to stand in equal degree

2. In the administration of the estate of every person who shall die on or after the first day of July, 1888, no debt or liability of such person shall be entitled to any priority or preference by reason, merely that the same is secured by or arises under a bond, deed, or other instrument under seal, or is otherwise made or constituted a specialty debt; but all the creditors of such person, as well specialty as simple contract, shall be treated as standing in equal degree, and be paid accordingly out of the assets of such deceased person, whether such assets are legal or equitable, any statute or other law to the contrary notwithstanding: Provided that this Act shall not prejudice or affect any lien, charge, or other security which any creditor may hold or be entitled to for the payment of his debt.

The law of bankruptcy in certain matters to apply in administration of deceased's insolvent estate

3. In the administration by the Court of the assets of any person who may die after the commencement of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of bankruptcy, with respect to the estates of persons adjudged bankrupt; and all persons who, in any such case, would be entitled to prove for and receive dividends out of the estate of any such deceased person may come in under the decree or order for the administration of such estate, and make such claims against the same as they may respectively be entitled to by virtue of this Act.

CHAPTER 3.06**ADMINISTRATION OF SMALL ESTATES ACT**

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
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8. Offence

CHAPTER 3.06**ADMINISTRATION OF SMALL ESTATES ACT**

(Acts 13 of 1944, 24 of 1956 and 12 of 1972)

Commencement

[29 July 1944]

Short title

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

Interpretation

2. In this Act—

“letters of administration” comprehends 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;

“small estate” means all the property, real and personal, of a deceased person which does not exceed \$2,400 in value. *(Amended by Act 12 of 1972)*

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 of the High Court 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 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 to fill 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 a statement and give such other proof, as he may consider necessary, of the value of the estate, of the identity of the applicant and, where necessary, of his relationship to the deceased:

Provided that there shall not be required—

- (a) any bond;
- (b) any declaration on oath as to the value of the estate; or
- (c) any administrator's or executor's oath.

Investigation and report by Registrar

6. After investigation of the application the Registrar shall prepare a report and shall lay it before a Judge and the Judge shall, if he is satisfied that the application ought to be granted, give a direction accordingly.

Special fee for grant

7. Anything in any Act to the contrary notwithstanding, the fee to be paid in respect of a grant of letters of administration or of probate (including any application therefor) under the provisions of this Act shall be a sum equivalent to one percentum of the value of the estate and there shall not be payable any other duties, fees or charges of any description whatsoever. (*Amended by Act 12 of 1972*)

Offence

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 shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding \$120 or to imprisonment for a term not exceeding six months.

CHAPTER 3.06

REAL REPRESENTATIVE ACT

(Acts 7 of 1928 and 24 of 1956)

Commencement

[14 May 1928]

Short title

1. This Act may be cited as the Real Representative Act.

Devolution of legal interest in real estate on death

2. (1) Where real estate is vested in any person without a right in any other person to take by survivorship it shall, on his death, notwithstanding any testamentary disposition devolve to and become vested in his personal representatives or representative from time to time as if it were a chattel real vesting in them or him.

(2) This section shall apply to any real estate over which a person executes by will a general power of appointment as if it were real estate vested in him.

(3) Probate and letters of administration may be granted in respect of real estate only, although there is no personal estate.

(4) This section applies only in cases of death after commencement of this Act.

Provisions as to administration

3. (1) Subject to the powers, rights, duties, and liabilities hereinafter mentioned, the personal representatives of a deceased person shall hold the real estate as trustees for the persons by law beneficially entitled thereto, and those persons shall have the same power of requiring a transfer of real estate as persons beneficially entitled to personal estate have of requiring a transfer of such personal estate.

(2) All enactments and rules of law relating to the effect of probate or letters of administration as respects chattels real, and as respects the dealing with chattels real before probate or administration, and as respects the payment of costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties and liabilities of personal representatives in respect of personal estate, shall apply to real estate so far as the same are applicable, as if that real estate were a chattel real vesting in them or him, save that it shall not be lawful for some or one only of several joint personal representatives without the authority of a Judge of the High Court, to sell or transfer real estate.

(3) In the administration of the assets of a person dying after the commencement of this Act, his real estate shall be administered in the same manner, subject to the same liabilities for debt, costs and expenses, and with the same incidents, as if it were personal estate: Provided that nothing herein contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses, debts or legacies, or the liability of real estate to be charged with the payment of legacies.

(4) Where a person dies possessed of real estate, the Court shall, in granting letters of administration, have regard to the rights and interests of persons interested in his real estate, and his heir-at-law, if not one of the next of kin, shall be equally entitled to the grant with the next-of-kin, and provision shall be made by rules of Court for adapting the procedure and practice in the grant of letters of administration to the case of real estate.

Provision for transfer to heir or devisee

4. (1) At any time after the death of the owner of any land, his personal representatives may assent to any devise contained in his will, or may convey the land to any person entitled thereto as heir, devisee or otherwise, and may make the assent or conveyance, either subject to a charge for the payment of any money which the personal representatives are liable to pay, or without any such charge, and on such assent or conveyance, subject to a charge for all moneys (if any) which the personal representatives are liable to pay, all liabilities of the personal representatives in respect of the land shall cease, except as to any acts done or contracts entered into by them before such assent or conveyance.

(2) At any time after the expiration of one year from the death of the owner of any land, if his personal representatives have failed at the request of the person entitled to the land to convey land to that person, the Court may, if it thinks fit, on the application of that person, and after notice to the personal representatives, order that the conveyance be made, or, in the case of land held under the Title by Registration Act, that the person so entitled be registered as proprietor of the land, either solely or jointly with the personal representatives.

(3) Where the personal representatives of a deceased person are registered as proprietors of land on his death, the provisions of any Act notwithstanding, no fees shall be chargeable on any transfer of the land by them unless the transfer is for valuable consideration: Provided that this subsection shall not be deemed to affect the fees payable to solicitors in accordance with the scale set forth in the Fifth Schedule to the Title by Registration Act.

(4) The production of a memorandum of transfer in the prescribed form by the personal representatives of a deceased registered proprietor of land held under the Title by Registration Act, shall authorize the Registrar to register the person named in the memorandum of transfer as proprietor of the land.

Liability for duty

5. Nothing in this Act shall affect any duty payable in respect of real estate or impose on real estate any other duty than is now payable in respect thereof.

CHAPTER 3.06**UNREPRESENTED ESTATES ACT****ARRANGEMENT OF SECTIONS**

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CHAPTER 3.06**UNREPRESENTED ESTATES ACT**

(Acts 2 of 1884, 5 of 1932, 3 of 1946, 21 of 1953 and S.R.O. 15/1956)

Commencement

[10 December 1884]

Short title

1. This Act may be cited as the Unrepresented Estates Act.

Interpretation

2. In this Act—

“**Court**” means the High Court or any Judge thereof;

“**property**” means goods, things in action, land, and every kind of property, whether real or personal, and every kind of estate and interest, present or future, vested or contingent.

Appointment of Administrator of Estates

3. It shall be lawful for Her Majesty the Queen or for the Governor provisionally on Her behalf, to appoint an officer in Montserrat, to be called the Administrator of Estates.

Bailiff to be Administrator until appointment made

4. Until such appointment is made, the Bailiff shall be *ex officio* Administrator of Estates under this Act.

Administrator to be an officer of the Supreme Court

5. Every duly appointed and every *ex officio* Administrator of Estates shall be an officer of the Supreme Court.

Administrator to take oath

6. The Administrator of Estates, previously to his entering upon the duties of his office, shall take and subscribe the following oath before a Judge—

“I do swear that I will faithfully, honestly and diligently perform the duties of the office of Administrator of Estates, without fear, favour, or partiality. So help me God.”

Administrator responsible for acts of his clerks, etc.

7. The Administrator of Estates shall be personally responsible for the honesty and fidelity of every clerk, servant, or other person, whom he may deem it necessary to employ in the execution of the duties of his office.

Administrator not to act as agent, etc.

8. The Administrator of Estates shall not act as the attorney or agent of any person, nor act as the executor or administrator of any deceased person, save and except such deceased person shall have been his wife, or shall have been related to him not more remotely than in the fourth degree according to the computation of the civil law.

Court on petition of Administrator, to grant order to collect unrepresented estate

9. Subject to the provisions of section 36 the Administrator of Estates shall, so often as he shall find any estate which he shall consider unrepresented, present a petition to the Court stating the particulars of such estate, and praying for an order to collect and receive the same, and the Court is hereby required upon being satisfied that such estate is unrepresented, to grant such order accordingly.

Definition of unrepresented estate

10. (1) Such unrepresented estate shall be defined to mean as follows—

- (a) the estate of every person who shall die intestate, where the widow or next of kin of such person shall be unknown, or shall have refused to take out letters of administration, or shall be absent from Montserrat without having an agent therein;
- (b) the estate of every person who shall die leaving a will, and, owing to any cause, it shall be necessary to appoint administrators *cum testamento annexo, or de bonis non*, of such estate, and the person entitled to such letters of administration shall be unknown, or shall refuse to take out such letters of administration, or shall be absent from Montserrat without having an agent therein;
- (c) every estate whereof the executors or administrator shall be absent from Montserrat without having an agent therein;
- (d) the estate of every person who shall die intestate and without leaving next of kin him surviving.

(2) In this section, the expression “**next of kin**” means those persons who are entitled to take beneficially on an intestacy under the provisions of the Intestates Estates Act.

Letters of administration not to be granted to creditor

11. No letters of administration of any estate shall be granted to any person in the character of a creditor thereof, but in every case where, but for this Act, letters of administration of any estate would be granted to a creditor thereof, such estate shall be considered as unrepresented within the meaning of this Act.

Administrator to take possession of estate and make inventory

12. After receiving such order as aforesaid, the Administrator of Estates shall forthwith take possession and cause an inventory of the estate mentioned in such order to be made, and shall file the same in Court.

Court may revoke order

13. Upon the petition of any person claiming to be lawfully entitled to the administration or management of any estate in respect of which any such order shall have been made as aforesaid, it shall be lawful for the Court, if it shall see fit, to revoke such order, and to direct the said Administrator to desist from interfering with such estate: Provided that all matters and things which shall have been *bonâ fide* done or performed by the Administrator, previously to the presenting of such petition, shall be valid and effectual to all intents and purposes whatsoever.

On death of Administrator estates to vest in his successor

14. Upon the death, or removal from office, of any Administrator of Estates for the time being; all real and personal estates and effects which shall have been vested in such Administrator, by virtue of this Act, at the time of his death or removal, shall become vested in the succeeding Administrator of Estates without the necessity of any act or deed whatsoever.

Administrator to collect debts, etc.

15. The Administrator of Estates shall, as soon as possible after the receiving of any order to collect any estate, get in and collect all debts due to the same, and institute, if necessary, all and every legal process requisite for compelling payment thereof.

Process to be in name of Administrator

16. The Administrator of Estates shall carry on such process in any Court of law in the name of the Administrator of Estates, and no such process shall abate or be prejudiced by the death or removal of any such Administrator, but the same may be continued and carried on by his successor.

Interest to be paid on money belonging to unrepresented estate retained by any person

17. If any person shall retain in his hands or employ for his own benefit or knowingly permit any person so to retain or employ, any sum of money or other effects, part of any unrepresented estate, after a demand thereof shall have been made by the Administrator of Estates, every such person shall be charged and pay interest, at the rate of one per cent. for the month, on such money, or on the value of such effects, for the time during which he shall have retained or employed the same, or permitted the same to be retained or employed as aforesaid; and the Administrator of Estates is hereby authorized and required to demand and sue for such interest, either together with the principal money or effects, or separately, as may be more convenient.

Administrator to report to Attorney General on taking possession of estates and to publish notice to creditors

18. The Administrator of Estates shall, immediately after the taking possession of the Estate of any deceased person as aforesaid, notify the fact in writing to the Attorney General, and affix and put up in the Court House notice in writing calling upon the creditors of the estate mentioned in such notice to come in and prove their debts on or before a certain day to be therein named, or in default thereof to be excluded from any benefit arising from such estate; and shall cause a copy of such notice to be inserted in the *Gazette*, and in at least one newspaper (if any) of Montserrat, and also, if ordered by the Court, twice in one or more leading London, foreign, or colonial newspapers, allowing two months to intervene between such insertions; and creditors residing within Montserrat shall be bound to file their claims, at the office of the Administrator of Estates, within four months from the time of the putting up such notice, as aforesaid, and the creditors residing out of Montserrat shall be bound to file their claims, as aforesaid, within eight months from the time of putting up such notice, on pain, in default thereof, of being excluded from any benefit arising from such estate.

Particulars to be furnished of creditor's claims

19. Such creditor's claim shall express the name and place of abode of the creditor, the origin of the debt, the degree or class of such debt, and the particulars and exact amount thereof, verified by declaration, and there shall also be annexed to such claim the document or documents which shall be considered evidence thereof.

Court to settle disputes as to validity of claims

20. Where any creditor shall dispute the validity of any claim, the contending parties shall forthwith draw up and settle claims, a statement in writing of the grounds upon which such dispute shall have arisen, and submit the same to the Court, and where such parties, or either of them,

shall refuse to draw up and settle such statement and submit the same to the Court, or where the Administrator of Estates shall himself entertain doubts of the validity of any claim, he shall forthwith draw up a statement of the grounds upon which such dispute or doubts shall have arisen, and submit the same to the Court, which shall, in every case, make such order thereon as the circumstances of the case may require.

Court may order immediate sale of perishable part of estate

21. It shall be lawful for the Court, at any time, to make an order for the immediate sale by the Administrator of Estates of such part of any estate as shall be of a perishable nature.

Sale of personal property

22. The Administrator of Estates shall, within two months after the taking possession of the estate of any deceased person, sell and dispose of all the personal property belonging to the said estate, by public auction (one month's public notice in the *Gazette*, and one at least of the newspapers (if any) of Montserrat, of such intended sale having been previously given):

Provided that the Court may, if it sees fit, by any order, or orders, extend the time within which such sale shall be made, or direct the said estate to be sold by private contract:

And provided further that the Court may, in its discretion, order the Administrator of Estates to refrain from such sale either as to the whole, or any part, of the personal property of any testator which shall have come to his hands under the provisions of this Act, and to carry into effect the intention of such testator in respect thereof, or otherwise to deal with and administer the same in such manner as the Court shall direct, and this notwithstanding anything in this Act.

Sale of real estate

23. In case it shall be made to appear to the satisfaction of the Court that the money arising from the sale of personal property belonging to the estate of any deceased person will be insufficient to discharge the debts and liabilities thereof, it shall be lawful for the Court to grant an order directing the Administrator of Estates to sell the whole or such part of the real property belonging to any such estate as the Court may deem necessary for the purpose aforesaid; and such order shall be a sufficient authority to the Administrator of Estates to sell any property therein mentioned, and a sufficient protection to the purchaser thereof: Provided that nothing herein shall be taken or construed to give any such purchaser any other or better title to such property than shall have been possessed by the last owner thereof.

Distribution of proceeds of estates

24. At the expiration of twelve months from the date of the order for taking possession of the estate of any deceased person, the Administrator of

Estates, out of the money which shall have been received on account thereof, shall, in the first place, reimburse himself all costs and charges which he shall reasonably have incurred in collecting and settling such estate (such costs and charges having been first allowed by the Court), and also shall deduct, and pay into the Treasury ten per cent. upon the gross amount of such money, to be applied as hereinbefore mentioned; and, in the next place, shall pay the creditors of the said estate in the order prescribed by law, if sufficient money shall remain for the payment thereof in full, and the balance, if any, which shall remain after such payment shall be paid into, or remain in, the Treasury in trust for the next of kin, heir at law, legatee, or devisee of such deceased person, as the case may be; but if sufficient money shall not remain for the payment of all the said creditors in full, then the same shall be divided rateably among the said creditors:

Provided that in the case of an estate which is unrepresented by reason of a person dying in the circumstances described in paragraph (d) of section 10, the balance of any money remaining after the creditors of the estate have been paid in full, shall be paid by the Administrator of Estates into the Treasury.

Application of ten per cent deducted by Administrator

25. The ten per cent upon the gross amount of such money payable into the Treasury under the provisions of section 24 shall be applied as follows—

- (a) seven and one half per cent shall be paid by the Accountant General in respect of the services which the Administrator of Estates is required by the Act to perform, to the credit of the revenue of Montserrat; and
- (b) two and one half per cent shall be applied to providing a reserve fund for defraying the incidental expenses of carrying this Act into effect.

Administrator to submit his accounts monthly to the Court

26. It shall be the duty of the Administrator of Estates to submit his accounts, once at least in every month, to the Court for inspection and allowance, and as often as the Court shall direct, and generally to abide by the directions of the Court as to the management of any property which may, from time to time, be subject to his administration.

No fees to be paid on application of Administrator to the Court

27. No fees of Court shall be payable or taken in respect of applications made to the Court, to which the Administrator of Estates is the only party, concerning unrepresented estates or the management thereof, nor in respect of the filing of affidavits or other documents in Court by the said Administrator, and it shall be sufficient for the Court to write upon the face of any document in the above cases, which otherwise should bear a stamp,

and in the place where such stamp would be, the word “Exempt,” with the chapter number of this Act.

Expenses of legal process to be paid from reserve fund where estate insufficient

28. The expenses of every legal process and other matter which it shall be necessary to institute or perform on behalf of any estate, the assets whereof shall be insufficient to defray such expenses, shall be paid out of the said reserve fund on order of the Court.

No action to be brought against Administrator for debts of estate, but Court may order payment

29. No action or suit shall be brought against the Administrator of Estates on account of any debt due from any such estate as aforesaid, but if the Administrator of Estates shall refuse to admit any such debt or claim, it shall be lawful for the Court, upon petition supported by affidavit of the party aggrieved to make such order touching the admission and payment of such debt, and the costs of the application, as the circumstances may require.

Persons claiming balance of estate to apply to Court

30. Any person who shall claim in any other character than that of a creditor thereof, any estate or any balance which shall be in the hands of the Administrator of Estates, or of the Accountant General, shall apply to the Court by petition to have the same delivered over to him; and it shall be lawful for the Court, upon being satisfied of the validity of such claim to make such order or orders as shall be necessary for the delivery over of such estate or balance, according to the prayer of the petition; and, where two or more persons shall lay claim to any estate or balance, it shall be lawful for the Court, with the consent of both or all such persons, their counsel or solicitors, to dispose of the merits of their claims, and determine the same in a summary manner, and to make such order therein touching the costs and all other matters, as the circumstances may require; but, where such consent as aforesaid shall not be given, such persons shall proceed to try the merits of their claims according to the usual course of law, and the Accountant General or the Administrator of Estates, as the case may be, shall, if necessary, take the proper steps for compelling such persons to interplead either at law or in equity.

Audit of Administrator’s accounts

31. The Administrator of Estates shall, weekly, exhibit a statement of his accounts to the Auditor-General, or Administrator who shall forthwith ascertain the balance, and allow such accounts if they shall be found correct; and the Administrator of Estates shall, within forty-eight hours next after the allowance of such accounts, pay the balance so ascertained into the

hands of the Accountant General to the credit of the estate, or respective estates, on account of which the same shall have been received.

List of unrepresented estates to be published annually

32. It shall be the duty of the Administrator of Estates, once in every year before the last day of the month of February, to cause to be advertised in the *Gazette*, and in such one or more leading London, foreign, or colonial newspapers as the Court shall direct, a list of such unrepresented estates to the credit of which there are any funds, as the Court, in its discretion, shall direct to be placed in such list; and a proportionate part of the cost of such advertisement shall be charged to each of the several estates comprised in such list, and may lawfully, on order of the Court, be paid from the funds to the credit of such estate.

Books and accounts to be kept by Administrator

33. The Administrator of Estates shall keep a separate account of and for each estate which he shall receive into his hands under this Act, and shall also keep such accounts and books as the Court shall direct.

Books and accounts may be searched

34. Any person shall be at liberty to inspect the books and accounts of the Administrator of Estates, during his office hours, on payment of a fee of 24 cents.

Forms

35. The forms contained in the Schedule shall be adhered to, as nearly as the circumstances of each case shall permit.

Special provisions as to citizens of U.S.A.

36. (1) Notwithstanding anything hereinbefore contained, in case of the death in Montserrat of any person, known to the Administrator of Estates to be a citizen of the United States, having real or personal property situate in any part of Montserrat, and without having therein any known heirs or testamentary executors by him appointed, it shall be the duty of such Administrator, so soon as he shall become aware of the fact, to inform the United States Consul in whose Consular District Montserrat is of the circumstance, in order that the information may be immediately forwarded by him to the persons interested, if he knows or can ascertain who the same may be.

(2) Any Consul, so informed as in the preceding subsection hereof mentioned, shall have the right to appear, either in person or by delegate in all legal or other proceedings taken in Montserrat, in respect of such property as aforesaid, on behalf of any absent heirs or creditors of the deceased, until such heirs or creditors are otherwise duly represented.

SCHEDULE

FORMS

(Section 35)

FORM 1

PETITION TO COLLECT AN ESTATE

To the Honourable , a Judge of the High Court.

The petition of , Administrator of Estates,

Humbly Showeth—

That your petitioner has been informed and believes that C.D., late of , died on the.....day of , (intestate, and that he has left no widow or next of kin residing in Montserrat, or having an agent therein, or leaving a will, but without appointing any executor thereof, and that there is no person residing within Montserrat, or having an agent therein, entitled to letters of administration *cum testamento annexo* of the said C.D., or that C.D., the executor of the will of E.F., deceased, died on the day of , intestate, leaving a part of the estate of the said E.F., deceased, unadministered, and that there is no person residing within Montserrat, or having an agent therein, entitled to letters of administration *de bonis non* of the estate of the said E.F., deceased, or that C.D. executor or administrator of the estate of G., deceased, is absent from Montserrat, without having any agent therein or intestate and without leaving next of kin him surviving).

And that the said C.D. died (*or is*) possessed of property within Montserrat.

Your petitioner, therefore, prays that your Honour will be pleased to grant him an order to get in and collect the estate of the said C.D. deceased.

Dated

A. B.

FORM 2

ORDER TO COLLECT AN ESTATE

It having been made to appear to the Court, by the petition of A.B., Administrator of Estates, that the estate of, deceased is unrepresented, it is ordered that the said A.B., do, with all convenient speed, get in and collect the said estate.

Given under my hand at, the day of,
20

C.D.

Judge.

FORM 3

**ORDER TO SELL REAL ESTATE IN THE
EASTERN CARIBBEAN SUPREME COURT**

In the matter of the Estate of, deceased.

It having been made to appear to the Court that the personal property belonging to the estate of, deceased, is insufficient to discharge the debts and liabilities thereof, it is ordered that the Administrator of Estates do sell by public auction on the day ofnext, all that (*describe the property to be sold*), and for so doing this shall be his warrant.

Given under my hand at, the day of,
20

C.D.

Judge.

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