



I assent.

[L.S.]

P. K. GANILAU

Governor-General

4th July 1985

AN ACT

TO AMEND THE SUCCESSION, PROBATE AND ADMINISTRATION ACT

ENACTED by the Parliament of Fiji—

[]

Short title, etc

1.—(1) This Act may be cited as the Succession, Probate and Administration (Amendment) Act, 1985.

(2) The Succession, Probate and Administration Act is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into force on a date to be notified by the Minister in the *Gazette* and different dates may be so notified for the purpose of different provisions of this Act.

Definitions

3. Section 2 of the Principal Act is amended by inserting the following definitions in subsection (1)—

(a) immediately after the definition of "administration", the following—

""administrator" includes the Public Trustee and any other person to whom administration is granted;

"bond" or "administration bond" includes, where the context requires, any guarantee or other security accepted by the court in accordance with section 21;"

- (b) immediately after the definition of "intestate", the following—
"net value", in respect of the estate of a deceased person, means the value of all the property of which a deceased person, had power to dispose by his will (otherwise than by virtue of a special power of appointment), less the amount of his funeral, testamentary and administration expenses, debts and liabilities payable out of his estate at his death;
- (c) immediately after the definition of "Registrar", the following—
"surety" includes, where the context requires, a person providing a guarantee or other security accepted by the court in accordance with section 21;"

Intestacy provisions amended

4. Section 6 of the Principal Act is amended—

- (a) by substituting for the words "two thousand dollars" in subparagraph 6(1)(a)(i) the expression "\$6,000 or such larger sum, not exceeding \$10,000, as may be prescribed";
- (b) by repealing subparagraph 6(i)(a)(ii) and substituting the following—
"(ii) if the net value of the residuary estate exceeds \$6,000, or such other sum as may be prescribed in accordance with subparagraph (i), that sum absolutely.";
- (c) by repealing subsection 6(2) and substituting the following—
"(2) For the purposes of subsection (1), any income derived from the property of a deceased person shall be distributed among the persons entitled in distribution to that property in the same respective proportions to which they are entitled to share in the distribution of that property."

Increased power of court to deal with interest of infants

5. Section 15 of the Principal Act is amended by substituting for the words "ten thousand dollars" the expression "\$30,000 or such larger sum not exceeding \$50,000, as may be prescribed".

Administration guarantees

6. Section 21 of the Principal Act is amended by deleting the full stop at the end of the section and substituting the expression, "or such guarantee or other security as may be prescribed."

Section 39 replaced

7. Section 39 of the Principal Act is repealed and replaced by the following section—

"Duties of personal representatives"

39.—(1) Subject to paragraph (2)(b), a person who applies for a grant of probate or administration shall, in such manner as may be prescribed or as the court may order, disclose to the court an inventory of the real and personal estate.

(2) A personal representative shall be under a duty to—

(a) collect and get in the real and personal estate and administer it according to law; and

(b) disclose to the court—

(i) a full inventory of every part of that estate not previously disclosed in accordance with subsection (1), showing the net value of the estate; and

(ii) an account of the administration of that estate

within such time, and from time to time, and in such manner as may be prescribed or as the court may order; and

(c) when required to do so by the court, deliver up the grant of probate or administration to the court.

(3) The court may make an order allowing any inventory or account disclosed to it in accordance with this section and any such order shall be *prima facie* evidence of the correctness of such inventory or account, and shall, after the expiration of three years from the date of such order, operate as a release to the person filing the inventory or account, except so far as it is shown by some person interested therein that a wilful or fraudulent omission or false entry has been made in it.

(4) A personal representative who disposes of any property of the deceased other than property which been disclosed in accordance with this section and in respect of which a certificate showing the property so disclosed has been issued in such form and in such manner as may be prescribed or as the court may order commits an offence and is liable to a fine of \$1,000."

Section 40 replaced

8. Section 40 of the Principal Act is repealed and replaced by the following section—

"Effect of neglect to make disclosure"

40.—(1) If any person neglects to comply with any requirement of subsection (1) or paragraph (b) of subsection (2) of section 39 within one month after the expiration of the time fixed for compliance, the Registrar shall cause that person to be notified of his neglect.

(2) Where, on the expiration of one month after having been notified in accordance with subsection (1) of his neglect, a person further neglects to comply with the requirement in respect of which the notification under that subsection was given, the court may, of its own motion, order that person to show cause before the court why he should not be ordered to comply and may thereafter make such order as may be required.

(3) A person to whom subsection (2) applies shall, unless the court otherwise orders, be personally liable for the cost and expenses of any proceedings pursuant to this section, and no such proceedings shall affect the liability of that person to be proceeded against for an account and administration, or prevent the court from ordering the assignment of any bond to any person with a view to enforcing the penalty thereof."

Section 49 amended

9. Section 49 of the Principal Act is amended as follows—

- (a) by deleting the symbols and figure "--(1)" which immediately follows the figure "49.";
- (b) by deleting the symbol and figure "\$400" and the words "four hundred dollars" where they appear respectively in the heading and in subsection (1), and substituting in each case the symbol and figure "\$1,200".
- (c) by deleting subsection (2).

Passed by the House of Representatives this twenty-second day of May, in the year of our Lord one thousand, nine hundred and eighty-five.

Passed by the Senate this twenty-sixth day of June, in the year of our Lord one thousand, nine hundred and eighty-five.