

ADMINISTRATION OF ESTATES AND INHERITANCE BILL, 2024
A Bill

for

An Act to consolidate and review the law relating to inheritance, administration and distribution of estates of persons who are deceased, minors under curatorship, mentally incapacitated persons, certified ill and incapable of managing their own affairs, and persons absent from Lesotho without a lawful representative in Lesotho whose whereabouts are unknown; regulate wills and rights of beneficiaries; and provide for incidental matters.

ENACTED BY PARLIAMENT OF LESOTHO.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Administration of Estates and Inheritance Bill, 2024, and shall come into operation on the date of its publication in the Gazette.

Interpretation

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

“absentee” means a person whom the Master, after an enquiry, believes his whereabouts are unknown and has no legal representative in Lesotho;

“appraiser” means an appraiser appointed or deemed to have been appointed under section 9;

“Court” means the High Court of Lesotho having jurisdiction over the matter;

“curator” means any person who is authorised to act under letters of curatorship granted or signed and sealed by the Master;

“deed” means a written instrument other than a will that transfers holdings in an estate to another person or organisation after the death of the person who made the deed, and a deed document;

“descendant” means a person who descends directly from another person, such as a child, grandchild, great grandchild and so on;

“executor” means any person who is authorised to act under letters of administration granted by the Master, or under an endorsement made under section 34;

“letters of administration” means a document issued by the Master and includes a copy of such document duly certified by any competent authority in Lesotho under section 34;

“letters of appointment” means a document issued or a copy of any such document duly certified by Master under sections 61;

“letters of curatorship” means a document issued by the Master and copy of any such a document duly certified by any competent public authority in Lesotho by which any person named or designated in the document is authorised to act as curator of any property belonging to a minor or other person;

“letters of guardianship” means a document issued by the Master and includes a copy of any such a document duly certified by any competent public authority in Lesotho by which any person named or designated is authorized to act as guardian of a minor issued under sections 78 and 79;

“marriage with accrual” means a system where each spouse retains his independent estate, and only the growth on each spouse’s estate is shared according to the

accrual agreement;

“Master” means the Master of the High Court, and includes a person lawfully acting in that capacity;

“mental incapacity” means a state or degree of mental abnormality by reason of which a person is incapable of managing himself or his affairs;

“Minister” means the Minister responsible for Law and Justice;

“minor” means a person under the age of eighteen whom one or both parents are deceased; and

“property” means all property whether movable or immovable and includes rights and any contingent interest in the property.

Scope of application

3.(1) This Act shall apply to all-

(a) estates under customary or civil rites;

(b) estates reported after the commencement of the Administration of Estates (Amendment) Act, 2022;

[1: Act No. 11 of 2022]

wills written before the commencement of this Act;

estates of the mentally incapacitated in terms of the Mental Health Act, 1964;

[2: Act No. 7 of 1964]

estates of persons certified ill and incapable of managing their own affairs;

estates of persons certified with intellectual disability and incapable of managing their own affairs; and

estates under execution before commencement of this Act.

(2) The Children Protection and Welfare Act, 2011 shall apply to this Act to the extent that it is not inconsistent with the provisions of this Act.

[3: Act No. 7 of 2011]

PART II - ADMINISTRATION OF THE ACT

Office of the Master

4.(1) Subject to the Administration of the Judiciary Act, 2011, there is continued into existence, the office of the Master which shall consist of such public officers as may be necessary for the administration, and efficiency in the exercise of power and the discharge of the duties and functions of the office of the Master under this Act.

[4: Act No. 16 of 2011]

(2) The office of the Master shall be a public office under the judicial service.

(3) In relation to the funds and expenditure of the office of the Master, the Master shall be the Chief Accounting Officer in accordance with the Public Financial Management and Accountability, Act 2011 and any other financial laws.

[5: Act No. 12 of 2011]

(4) On matters of policy implementation, the Master shall liaise and coordinate with the Principal Secretaries and all other senior officials.

(5) Subject to subsection (3), in carrying out functions under this or any other law, the Master shall not be subject to the direction or control of any person or institution or authority, except the Chief Justice.

(6) Subject to this Act and the direction the Master may give them, the public officers referred to in subsection (1) shall perform the duties and functions of the office of the Master, as the Master may assign to them.

Powers, duties, and jurisdiction of Master

5. (1) Save as in this Act otherwise provided, all powers and rights exercisable and all duties to be performed by the Master shall continue to be so exercisable and performed by the Master and his successors in office.

(2) From the date of the coming into effect of this Act, all the property and estate of

every deceased person, a minor, mentally incapacitated persons, persons permanently absent from Lesotho without a lawful representative in this regard and whose whereabouts are unknown, or persons under curatorship, persons certified ill and incapable of managing their own affairs and persons certified with intellectual disability and incapable of managing their own affairs shall be administered under the supervision of the Master.

Master to keep register of executors, guardians, curators and sureties

6. The Master shall cause to be kept, a register containing the names of every-

(a) executor to whom letters of administration have been granted;

(b) surety for any executor;

guardian and curator to whom any letters of guardianship and curatorship have been granted;

(d) surety for such guardian or curator; and

(e) persons to whom letters of appointment have been granted.

Records of office of the Master

7.(1) The Master shall preserve a record manually and electronically in his office of all original wills, death notices, inventories, liquidation and distribution accounts lodged at his office under the provisions of this Act or any prior law under which any such documents were lodged or were required to be lodged at the office of the Master, in the district concerned, and any such other documents lodged at his office as the Master may determine.

(2) Any person may, at any time during office hours, inspect any document and make or obtain a copy of a document or an extract there from on payment of a fee prescribed under the Third Schedule.

(3) Notwithstanding subsection (1), a person holding office in the Government or a public officer may, in the course of his official duties, take a copy of the document or an extract from any such document without payment of any fee.

Master to forward duplicates to all districts

8. (1)The Master shall, as soon as may be practical, transmit a duplicate or copy certified by him of every account lodged with and accepted and filed by him, to the district in which the person to whose estate the account relates ordinarily resided at the time of his death or where deceased left some properties in different districts, the estate shall be reported where the bulk of the property is located, but copies of inventory and liquidation and distribution accounts shall be filed in all relevant districts.

(2) The Master shall file the duplicate or copy in his office, and any person may, at any time during office hours, inspect or obtain a copy of or an extract from the duplicate or copy or any other document filed with the office of the Master.

Appointment and removal of appraisers for the valuation of estate and property

9.(1)The Master may, from time to time, appoint such and so many persons residing within Lesotho as he considers fit to be appraisers for the valuation of property, and may revoke any such appointment so made by giving reasons, in writing, and after following due processes.

(2)Every appraiser shall, in respect of an appraisal by him, be entitled to demand and receive a reasonable compensation, which shall be assessed according to a tariff set out under the First Schedule.

Oath of appraiser

10. A person who is appointed as an appraiser under this Act shall take an oath before the Master which shall be in the Form A set out in Second Schedule.

Master's fees

11. (1)The Master is authorised and required to-

charge and demand, receive and retain, or recover in respect of the acts, matters or things done or caused to be done by him or in his office, the fees specified in the Third Schedule and may charge such a fee as he considers appropriate in the circumstances; and

(b)collect a fee under paragraph (a) where the Schedule so provides, in any form as

may be required to authenticate a legal document.

PART III - ESTATES OF DECEASED PERSONS

Death Notice

12. (1) Whenever a person dies, within the country, leaving any property under a will or without a will, the surviving spouse, child, parent, or person who, immediately after death has control of the premises at which the death occurs, shall, within 30 days from the date of death, cause a notice of death to be framed as set out in Form B of the Second Schedule, and shall cause the notice signed by himself, to be delivered or transmitted to the office of the Master.

(2) Where a person dies, outside the Lesotho, leaving any property in Lesotho under a will or without a will, it shall be the duty of any person in Lesotho having possession or control of any such property or will to report the death to the Master, and the Master shall take such steps as are necessary and practicable to obtain a correct death notice.

(3) A person who fails to comply with the provisions of subsection (1) shall pay a penalty as set out in the Fourth Schedule.

Executor to furnish further information, if death notice is defective

13. If the information in the death notice is defective or insufficient, the Master may put a question to the executor, at any time after appointment, that will enable the Master to obtain the information he requires, and an executor shall, within a period fixed by the Master, transmit to him, in writing, answers to each question to the best of the executor's ability.

PART IV – WILLS

Competence to make a will

14. (1) A person aged 18 years and above owning property and being mentally capable of appreciating the nature and effect of his act may make a will.

(2) A married or unmarried couple may make a mutual will.

(3) The burden of proof that the testator was mentally incapable at the time of making a will shall rest on the person alleging the incapacity.

Content and form of a will

15.(1) A will shall-

(a) be legibly hand written or typed, and signed-

(i) by a testator;

(ii) at the foot of each leaf of the will;

(iii) in the presence of two competent witnesses who are over the age of 18, and who shall append their signatures in the presence of each other and the testator.

(b) be dated;

(c) have a revocation clause;

(d) give full names, nationality, identity number, addresses and marital status of the testator; and

(e) give full names and identity number of witnesses.

(2) A testator who cannot sign his will can sign by way of a thumb print.

(3) If a thumb print is used, the will shall be certified by a commissioner of oaths indicating that he is satisfied with the identity of the testator and that it is indeed the will of the testator and that it is the testator's left or right thumb print.

Eligibility to draft a will

16. A will shall be drafted by either legal practitioner, an attorney and a notary public.

Persons making a will may disinherit any person without assigning a reason

17. A person competent to make a will shall have a full power to disinherit or omit to mention any child, parent, relative or descendant with or without assigning a reason for such disinheritance or omission, and no such will shall be set aside as invalid, either wholly or in part, by reason of the disinheritance or omission.

Persons excluded from benefiting or inheriting from a will

18. A person who-

(a) is convicted of having caused the death of a testator;

- (b) is a spouse of a person who has witnessed a will;
 - (c) has drafted, typed or handwritten a testator's will; and
 - (d) has signed a will on the testator's behalf,
- shall not be eligible to inherit from a will.

Deposit of wills with the Master

19.(1) A person may lodge with the Master, either open or enclosed, a will executed by the person, and the Master shall cause to be kept, a register of the name and address of a person so lodging a will and the date when it was so lodged.

(2) A will so lodged shall be accompanied by a duplicate or fair and true copy of the will which, together with the original, shall be kept in the custody of the Master, until the death of the person executing the will, unless the person lodging the will or his agent demands re-delivery, and when the will is re-delivered the person or agent shall sign a receipt for re-delivery.

(3) Where more than two copies are lodged, an extra copy shall be charged an extra fee as set out in the Third Schedule.

(4) A will shall be registered within the lifetime of the testator.

Duty of persons in possession of wills at the time of testator's death and thereafter

20.(1) A person other than the Master who has a will in his possession at the time of or after the death of the person executing the will shall immediately after the death, transmit or deliver the will to the Master.

(2) A person who drafted a will shall, whenever required by the Master, transmit the original minute of any will passed before him to the Master and shall at the same time file a certified copy of the will in his protocol and endorse on it that the will was drafted by him.

Eligibility to be executor

21. The following persons are eligible to be an executor:

an attorney;

a competent and authorised officer within accredited financial institution;

an officer who served in the office of the Master or Parliamentary Counsel for over a period of ten years;
a notary public;
a surviving spouse, child or parent with the assistance of an agent of one of persons listed, where the surviving spouse, child or parent is not a legal practitioner; and
a legal practitioner who has successfully wound-up not less than five estates of deceased persons to the satisfaction of the Master.

Ineligibility to be an executor

22. The following persons are ineligible to be an executor:

a minor child;
a mentally incapacitated person;
a person under curatorship;
an unrehabilitated insolvent;
a partnership;
Master or an officer in the office of the Master;
a juristic person; and
a person who has been charged or convicted of having caused the death of the testator.

PART V – INVENTORIES

Inventory of estate in community of property by surviving spouse within six weeks of the death

23. (1) When one of two spouses who have been married in community of property dies, the surviving spouse shall, within six weeks after the death, cause an inventory, which shall be in Form C as set out in the Second Schedule, of all property which, at the time of the death, formed part of or belonged to the estate possessed in community between the predeceasing and surviving spouses, to be made in the presence of two impartial witnesses being persons of good credit and repute and in the presence of such persons having an interest in the distribution of the joint estate as beneficiaries or legatees of the predeceased spouse.

(2) If any property not included in the inventory has, after the death, been registered

in the name of the surviving spouse, the surviving spouse shall, within fourteen days after the date of any such registration, lodge with the Master, a supplementary inventory of all the property.

(3)The inventory shall be subscribed by the surviving spouse, the witnesses to the subscription of the inventory, and the beneficiaries or legatees so attending.

Inventory on the death of persons married out of community

24.(1) On the death of a person, being one of the two spouses married out community of property-

the wife or husband of the deceased or in the default or absence of the wife or husband;

the child or children of the deceased or in the default or absence, or minority of the child or children;

the next-of-kin of the deceased or in the default or absence, or minority of the next-of-kin; or

the person who, at or immediately after the death, has the control of the premises, where the deceased was living or staying at the time of his death,

shall, within 30 days after the death, cause to be made, in the presence of two impartial witnesses being persons of good credit and repute, an inventory of all property known by the person making the inventory to have belonged to the deceased or to have been in his possession upon the said premises at the time of his death.

(2)An inventory shall be subscribed by the person making or causing the inventory to be made and by the witnesses to the inventory being subscribed.

Transmission of inventory to Master

25. A person making or causing an inventory to be made shall, as soon as the inventory has been made, deliver or transmit the inventory to the office of the Master.

Inventory by order of Court or Master

26. Notwithstanding anything to the contrary, the Court or Master may, on sufficient

cause appearing and at any time, order that an inventory of any property belonging to a deceased person or to the joint estate of any deceased person and the surviving spouse, be taken by a person named in the order.

Particulars required as to immovable property

27. A person required by law to frame an inventory of the property of a deceased person shall include a specified list of all immovable property, registered in the name of the deceased or in which he knew the deceased had an interest at the date of his death, and shall insert, if possible, a reference to the title under which the deceased held the property, the date of the title, and full particulars concerning the interest.

Executor to furnish certain returns to registration officers of immovable property

28. The executor shall immediately after making inventory furnish to the Registrar of Deeds or other registration officer concerned, a return-

(a) giving the name of a deceased person who, being married in community of property, had, at the date of death as shown in the inventory filed, an interest in immovable property not registered in the name of the deceased person, the date of the death of the person and a reference to the will; and

(b) embodying all material information in respect of that immovable property, and the interest of the deceased in the property, contained either in the inventory lodged with the Master, or in the will of the deceased.

PART VI- CUSTODY OF ESTATE PENDING ISSUE OF LETTERS OF ADMINISTRATION

Temporary custody of the estates

29. On the death of a person not being one of the two spouses married in community of property-

the husband or wife of the deceased, or in the default, absence of the husband or wife;

the child or children of the deceased or in the default, absence, or minority of the child or children;

the next-of-kin of the deceased or in the default, absence, or minority of the next-of-kin;

the person who at or immediately after the death has-

the control of the premises where the death occurred; and

the person who at or immediately after the death has possession of or control of any goods and effects of the deceased,

shall secure and take charge of all goods and effects of whatever description under his control which belonged to the deceased, and shall retain the goods and effects in his custody and possession until their delivery is demanded by the executor of the deceased or by any other person lawfully appointed by the Master or Court to receive delivery for the purpose of the administration of the estate.

Temporary custody of estates of persons married in community

30. Whenever one of the two spouses married in community of property dies, the assets of the joint estate shall remain under the charge of the survivor until the appointment of a curator bonis or executor to administer the assets of such estate.

Liability of persons disposing of property in estates without authority

31.(1)A person who has custody of any property of the deceased person and has been issued a letter of administration shall not dispose of the property of an estate of a deceased person without authority of the Master or the competent Court.

(2)If a person, in any way disposes of any property of an estate of a deceased

person under subsection (1), but the property is not contained in an inventory of that estate that is lodged with the Master in accordance with this Act, and as may be necessary for-

(a) the safe custody or preservation of any part of the estate;

(b) providing a suitable funeral for the deceased; or

(c) for the subsistence of the family or household of the deceased,

he shall be personally liable to pay the creditors, legatees and heirs of the deceased the full amount of their debts, legacies and inheritances, in so far as the amount received for the disposal of the property is insufficient for the payment of the creditors, legatees, and heirs of the deceased.

Duty of person in possession of assets of the estate of deceased persons

32. A person, not being the executor or curator of the estate of a deceased person duly appointed by the Master, who has in his possession or custody any property belonging to that estate, shall immediately either deliver that property to the executor or curator duly appointed and authorised to administer the estate, or report the particulars of the property to the Master, and if any such person fails to do so or part with any such property to any person not authorized by the Master by letters of administration or other direction to receive the property-

shall be liable to an administrative fee of Five Thousand Maloti; and commits an offence and is liable, on conviction, to a fine of One Thousand Maloti and above.

Appointment of curator bonis

33. (1) In all cases where the Master considers it expedient, he may appoint a curator bonis and issue letters of curatorship in a Form D set out in the Second Schedule to take the custody and charge of any estate until letters of administration granted for the due administration of the estate.

(2) A curator bonis may collect the debts and may sell or dispose of the perishable property belonging to the estate, wherever situate within the country, as the Master may specially authorise.

PART VII- LETTERS OF ADMINISTRATION

Letters of administration

34.(1) All the estates of all persons dying either testate or intestate shall be administered and distributed, in accordance with this Act, under letters of administration granted by the Master which shall be in Form E set out in the Second Schedule.

(2) The letters of administration shall be submitted to the executor testamentary duly appointed by a person so dying or to such persons as, in default of executors testamentary, are appointed as executors dative to the person so dying.

(3) Letters of administration shall authorise the executor to administer the estate wherever it is situated.

Letters of administration to executors appointed by will

35.(1) In all cases in which any deceased person has by will duly nominated a person to be his executor the Master shall, upon the written application of the person so nominated, grant letters of administration to him as soon as the estate has been reported in the office of the Master

(2) if it appears to the Master or if any person, in writing, lodged with the Master, objects that the will by virtue whereof any person claims to be the executor testamentary of any person deceased is not in law sufficient to warrant and support the claim, the Master may refuse to grant the letters of administration until-

the validity and legal effect of that will has been determined by the judgment of the Court;

the objection has been withdrawn by the person by whom it was made; or

the person objecting has had sufficient time to apply to the Court for an order restraining the issue of letters of administration.

Assumption of executors under power contained in a will

36.(1) Nothing in this Act shall prevent any executor testamentary from assuming any other person as executor of the testator under and by virtue of any power for that purpose to him committed by the testator by his will.

(2) A person shall not be entitled or qualified to act as assumed executor, unless letters of administration have, during the lifetime of the executor testamentary, been granted to him by the Master.

(3) Subject to the provisions of this Act in respect of security, the Master shall reissue letters of administration on production of-

(a) the original letters of administration granted to the executor testamentary;

(b) the will by which the assumption of the executor is authorized; and

(c) the deed by which such executor testamentary has assumed that person as executor.

(4) Any provision of this Act and of any other law applicable or relating to or affecting executors shall apply and relate to such executor so assumed.

Proceedings on failure of nomination of executors or death, incapacity or resignation or refusal to act

37.(1) Where a person-

(a) has died without having, by valid will, nominated a person to be his executor; and

duly nominated to be the executor of any deceased person has predeceased him or refuses or resigns or becomes incapacitated to act as executor or within such reasonable time as the Master may consider sufficient or refusal to act, fails to obtain letters of administration,

the Master shall cause to be published in the Gazette, and in such other manner as he thinks fit, a notice calling upon the surviving spouse, the heirs, legatees, and creditors of the deceased to attend before him, at a time and place to be specified in the notice, for the purpose of proposing a person to be appointed by the Master as an executor dative.

(2) The Master shall appoint a person as he considers fit and proper to be an

executor dative of the estate of the deceased person, and shall grant letters of administration accordingly, unless it appears to him necessary or expedient to postpone the appointment and to publish another notice under subsection (1), where a person-

(a) has died without having by any valid will nominated any person to be his executor; and

duly nominated to be the executor of any deceased person has predeceased him or refuses or becomes incapacitated to act as executor or within such reasonable time as the Master may consider sufficient, fails to obtain letters of administration.

Circumstances in which proceedings to be taken for appointment of executors

38. Where there is no executor to administer an estate, the Master shall take proceedings in a manner provided by section 37 for the appointment of an executor dative.

Suspension or removal of executor

39.(1) An executor may be suspended or removed from office by the Master, if it is proven that-

he lacks the capacity to be appointed as the executor;

he was appointed through an invalid will; or

he is guilty of a misconduct resulting in a conviction for an offence like forgery, theft or fraud with the subsequent imprisonment or a fine.

(2) An executor may be suspended or removed from his office by the Master, if the Master is satisfied that by-

(a) reason of his absence from Lesotho;

(b) other avocations;

(c) failing health; or

(d) any other sufficient cause,

the interest of the estate under his care would be furthered by his suspension or removal.

Revocation of letters of administration by Master or order of Court or by Master

40.(1) Letters of administration granted to a person as executor testamentary may be revoked and annulled by the-

(a) Master, upon production to him of a will of a later date than the will in respect of which those letters were granted, if an application is made by an executor nominated in that later will, who is then legally capable, and qualified, and consents so to act; and

(b) Court, on proof to its satisfaction that the will, in respect of which those letters had been granted to the person, is null and void or has been revoked wholly or in so far as it relates to nomination of that executor, or that such person is not legally qualified for the appointment.

(2) Letters of administration granted to a person as executor dative may be revoked and annulled by the Master on production to him of a valid will by which any other person who is legally capable, and qualified, and consents to act as an executor has been legally nominated as testamentary executor to the estate which the executor dative has been appointed to administer.

Security for due administration

41.(1) An executor dative, assumed executor, or curator dative shall, before he is permitted to commence the administration of the estate, and thereafter as the Master may require, find security to the satisfaction of the Master for the due and faithful administration of the estate to which he has been appointed.

(2) Subsection (1) shall apply to an executor testamentary, unless he-

(a) is the parent, child, or surviving spouse of the deceased testator; or

(b) has been nominated by will executed-

(i) before the commencement of this Act and has not been directed by will to find security; or

(ii) after the commencement of this Act, and the testator has in the will directed the Master to dispense with such security,

or as the Court may otherwise direct.

(3) The security shall be for such an amount as in the circumstances of each particular case as it appears to the Master reasonable.

(4) If any default is made in the administration of the estate, the Master may proceed to enforce the security and recover, from the person in default or from his sureties the actual loss to the estate.

(5) A certificate under the hand of the Master shall be prima facie evidence of the amount of any such loss.

PART VIII - DUTIES OF EXECUTOR

Executor's duty to make inventory

42. An executor shall, within 14 days of receiving letters of administration, make, subscribe and transmit to the Master, an inventory showing the value of all property belonging to the estate and, if he comes to know thereafter of any property which is not contained in any inventory lodged by him with the Master, he shall make, subscribe, and transmit to the Master an additional inventory showing the value of all the property belonging to the estate and shall find such further security as the Master may direct under section 41.

Appraisal of assets

43. If an executor fails, within such reasonable time as the Master may prescribe, to place a value upon the assets or any portion of the assets or place such a value on the assets as does not meet with the approval of the Master, the Master may cause the value of those assets to be appraised by an impartial person or persons and the value so ascertained shall be taken to be the true value of those assets for the purpose of this Act.

Notice to creditors to lodge claims

44.(1) An executor shall, within a week of being in the office of the executor cause a notice to be published-

(a) in the Gazette;

(b) in a newspaper circulating in the district in which the deceased ordinarily resided, and if he is not resident in the district at the time of his death, in a newspaper circulating in the district where the deceased owned property; or

(c) on the website of the judiciary or Master, calling upon all persons having claims against the deceased or his estate to lodge the claim with that executor within such period from the date of the latest publication of the notice not being less than thirty days or more than three months, as the executor considers it proper in the particular circumstances of each case, except as provided for in section 62.

(2) All claims which would be capable of proof in case of the insolvency of the deceased's estate shall be deemed to be claims of creditors for the purpose of this Act.

Suspension of execution against estate

45. A person who has obtained a judgment of any Court against a deceased person in his lifetime or against his executor, shall not sue or obtain any process in execution of that judgment before the expiration of the period notified in the Gazette in manner provided in section 44, and a person shall not, within six months after the grant of letters of administration, obtain any process in execution of the judgment without first obtaining an order of the Court.

Executor's duty to pay debts

46.(1) On the expiry of the period of seven days set out in section 44, the executor shall satisfy himself as to the solvency of the estate before paying any debts of the deceased other than the reasonable expenses of the funeral and last illness.

(2) If the estate is solvent, the executor shall pay the creditors as soon as the funds sufficient for that purpose have been realized out of the estate, but subject always to the provisions of section 64.

(3) If the estate is insolvent, the executor shall administer and distribute the estate in such a manner as the Master may direct, with due regard being had to the rights of creditors.

(4) If the Master is not satisfied with the value of the assets of the estate, the executor shall, immediately report, in writing, the position of the estate to the creditors, informing them that, he shall proceed to realize the estate and distribute

the assets of the estate as if he were a trustee distributing an insolvent estate, unless a majority in number and value of all the creditors instruct him, in writing, to surrender the estate.

(5) Subsections (2), (3) and (4) shall not apply, unless all the creditors instruct the executor within a reasonable time, to surrender the estate, and, if the creditors do not instruct him, he shall proceed so to realize and distribute the estate, but nothing in this section shall prevent a creditor from applying to the Court for the sequestration of the insolvent estate, and the Court may order the sequestration, if satisfied that this will be for the benefit of the creditors generally.

(6) For the purpose of this section, an insolvent estate of a deceased person, where there are secured claims or in respect of which specific security is held, shall, as nearly as is possible, be dealt with in a manner in which insolvent claims are dealt with.

(7) An executor distributing an estate pursuant to subsection (3) shall advertise his account, and-

(a) the account shall be confirmed by the Master; and

(b) the confirmation shall be given effect as if it were an account framed by a trustee of an insolvent estate.

Liability of executor

47. (1) Any executor who makes a distribution, except in accordance with the provisions of sections 46 and 64, shall be personally liable to make good to a creditor whose claim was lodged with the executor within the period set out in a notice published in the Gazette or was known to him when he made the distribution, any loss sustained by that creditor in respect of his claim through the failure of the executor to make lawful distribution, but the executor shall be entitled at his own cost to recover from any person, any amount paid to him in the course of the distribution which would not have been paid to him if a lawful distribution had been made.

(2) A creditor, whose claim was not lodged with the executor before the expiry of the period set out in the notice published in the Gazette or before a distribution of

the funds of the estate, shall not be entitled, in respect of his claim, to demand restitution from any other creditor of any moneys paid to such other creditor after the expiry of that period and in the course of such distribution on account of a valid claim against the estate.

Affidavit in support of claim

48.(1)An executor may, if he thinks fit, require a person preferring a claim as a creditor against the estate to substantiate the claim by an affidavit setting out the details of the claim with such particulars as the executor may reasonably require, or, with the consent of the Master, by examination on oath by or before him.

(2)An executor may refuse to recognize any such claim until the provisions of this section have been complied with.

(3) A Court by which a claim is adjudged in favour of a claimant may decline to grant the claimant his costs against the estate, if the Court considers that the information given by the claimant to the executor was insufficient and that the executor acted with prudence and discretion in contesting the claim.

Taking over of estate by surviving spouse

49.(1)The Master may authorise the executor to hand over the property of the deceased to the surviving spouse, instead of realizing the property, if it appears to the Master that no person having any lawful claim against the estate of the deceased spouse will be prejudiced by the hand over and there is no provision in the will to the contrary.

(2)The Master shall not authorise the handing over under subsection (1), unless the property is evaluated by a sworn appraiser or by such person as the Master may approve, and no person having any lawful claim against the estate of the deceased spouse shall be delayed or defeated in obtaining payment of that claim by reason of anything provided for in this section.

Sale of property out of hand

50. If the Master, after due enquiry, is of opinion that it will be to the advantage of persons interested in an estate to sell out of hand instead of by public auction, any

property belonging to that estate, and if no provision is made in the will of the deceased to the contrary, the Master may grant the necessary authority to the executor so to act.

Sub-division of immovable property where minor or mentally incapacitated is interested

51. If, in the opinion of the Master, it is expedient to sub-divide, or to make a division of any immovable property which is registered in the name of a minor or mentally incapacitated or in which a minor or mentally incapacitated is interested, the Master, on being satisfied after due enquiry and after inspection of the property by him or by some suitable person appointed by him that the proposed sub-division or division is fair and equitable, may, upon such terms as to costs as he thinks fit, consent to the division or subdivision on behalf of the minor or mentally incapacitated and interested person.

Disposal of mentally incapacitated or minor's portion and security bond

52.(1)The surviving spouse shall, in the absence of a provision to the contrary contained in the will of the first dying spouse, be entitled as a natural guardian to cause the executor to pay into the minor's account any sum of money due to that child from the estate of the deceased spouse.

(2)Every sum under subsection (1) shall be paid into the minor's account or into the Guardian's Fund by the executor.

(3)Subject to the provisions of subsection (1), an executor shall pay into the Guardian's Fund, any money which has become due from the estate to a-

(a)minor;

(b)mentally incapacitated;

(c)person whose address he is unable to ascertain and who has no lawful representative known to the executor within Lesotho; or

(d)person certified with intellectual disability and incapable of managing his own affairs.

(4) It shall be lawful for the Master upon consideration of a report by the executor on the matter and of the terms of the will of the deceased, to make such order exempting the executor from compliance with the provisions of this section as it may consider right.

(5) Nothing contained in this section shall limit any power possessed by the Master to order any such money to be paid by the executor to a person or institution for the benefit of persons mentioned in subsection (3).

Re-marriage of surviving spouse

53.(1) Where a person who is a widower or widow and the parent of a minor child entitled to claim from the person any inheritance from the estate of that person's deceased spouse intends to marry again, the person shall obtain a certificate in Form F set out in the Second Schedule under the hand of the Master to the effect that, if-

(a) the estate of the deceased spouse or the joint estate of the deceased spouse and the surviving parent is of the value of Ten Thousand Maloti and above, a certificate shall state that the inheritance due to the minor heirs of the deceased spouse from his estate has been paid to the Master or secured, or that there is no such inheritance due or payable; and

(b) any such estate is of less value than Ten Thousand Maloti, a certificate shall state that fact.

(2) The certificate shall be delivered to the marriage officer or minister of religion before whom the marriage is intended to be solemnized.

(3) Where the Master discovers that a widow or widower failed to obtain a certificate to remarry under subsections (1) and (2), the Master shall cause the widow or widower to forfeit his child's share from the estate of the deceased spouse and remain only with his share as a surviving spouse.

(4) The forfeited child's share under subsection (3), shall be divided among the children in equal shares.

(5) A marriage officer or any other person who by virtue of his religious inclination

has a right to solemnize a marriage, shall, unless there has first been delivered to him the certificate required by this section in respect of the parties to the marriage, in addition to any other liability, be liable to such a fine or, in default of payment, to such imprisonment as set out in the Fourth Schedule.

Survivor's rights to deal with communal property

54. A spouse married in community of property who survives the other spouse and is not an executor to whom letters of administration are duly granted by the Master, shall not transfer or mortgage any movable property belonging to the joint estate, even if the property is registered in the name of the surviving spouse, unless and until the surviving spouse has obtained a certificate from the Master authorising him to deal with the property, whether unconditionally or in the manner detailed in the certificate.

Bequests of immovable property

55.(1) Subject to the terms of the will, it shall be the duty of an executor to transfer property to the person to whom it is bequeathed, but if a usufructuary interest or other like limited interest in such property has been bequeathed to any person with a direction that, after the expiry of such an interest in the property in order that the terms of the will or a reference to the will may, subject to the payment of transfer duty, if any, be endorsed against that title deeds, the executor shall, instead of transferring the property to the person to whom it is bequeathed, transmit the title deeds to the Registrar of Deeds or other registration officer concerned for compliance with the direction.

(2) Where the Master is satisfied that it is impossible to transfer property under subsection (1) without causing undue hardship, he may authorise the executor to transmit the titles to the registrar of deeds or other registration officer concerned in order that a note may be made on the said titles that the property has been bequeathed.

(3) An executor who fails to use due diligence in complying with the provisions of this section, shall forfeit all claim to fees in respect of his administration of the estate.

Endorsement on title deeds

56. The Registrar of Deeds or other registration officer to whom the titles have been transmitted under section 55 shall make all endorsements and do all things necessary to give effect to the provisions of that section.

Penalty for refusing to deliver title deeds to executor

57.(1) A person in possession of a title deed required by an executor to comply with the provisions of section 55, who refuses to deliver or unreasonably delays the delivery of the title deed to the executor, shall be liable-

(a) to pay all reasonable costs to which the executor may incur in obtaining the order of a competent Court declaring him entitled to the possession of the deed; and

(b) such a penalty as the Court may impose,

but the legal rights or position of the person shall not be affected by his delivery of the deed in terms of this section.

(2) An executor shall, as soon as the title deed is no longer required for the purposes of complying with the provisions of section 55, return it to the person from whom it was received, if, but for this section, the person would be entitled to possession of the title deed.

Endorsement of trusts against title deeds

58.(1) Where the deceased person by his will directs that any of his property instead of being distributed amongst beneficiaries shall be administered by some other person on their behalf, the executor shall, after payment of debts, deliver the property to the trustee and lodge the trustee's acceptance of the property with the Master and the executor shall further cause the terms of the will, or a reference, in so far as those terms relate to the administration, to be endorsed by the Registrar of Deeds or other registration officer concerned against the title deeds of such immovable property and shall lodge, with the Master, the receipt of the administrator of the trustee for the titles and a certificate from the Registrar of Deeds or other registration officer that the title deeds have been endorsed as required, and the trustee shall have full power to deal, in terms of that will, with any of the deceased person's property.

(2) The Registrar of Deeds or other registration officer shall do all things necessary

to enable an executor to comply with the provisions of this section.

(3)The provisions of section 41 (2), (3), (4) and (5) shall apply to a trustee.

Transfer of immovables out of estates

59.(1)An executor who desires to effect transfer of any immovable property out of an estate in pursuance of the terms of a will, shall lodge, with the Registrar of Deeds, a copy of the will of the deceased duly certified by the Master.

(2)If a copy of the will has already been lodged, a reference to such a will is sufficient compliance with this section.

(3)An executor who desires to effect transfer of any immovable property in pursuance of a sale whether by public auction or private treaty shall lodge with such a transfer a certificate under the hand of the Master to the effect that no objection to such transfer exists.

Minor's portion if domiciled in country outside Lesotho

60.(1)If, upon the distribution of an estate under this Act, it appears that any person who is a minor is entitled to inherit an amount of money-

(a)the executor with the concurrence of the Master; or

(b)the Master, if this amount has been paid into the Guardian's Fund,

may, if satisfied that it will be in the best interest of the minor or where the minor is domiciled outside Lesotho, to remit the amount due to the minor, to the minor's account in that country.

(2)The executor shall produce proof, in due course, to the satisfaction of the Master, that he has remitted any amount in accordance with this section.

(3)Where any amount has been remitted under this section, the Master shall not be subject to any claims in respect of amount by any heir.

Summary disposal of estate by Master

61.(1)The Master may dispense with the appointment of an executor in respect of an estate of a value set out in the Fifth Schedule and may, by regulations, give directions as to the manner in which the estate shall be administered and distributed.

(2)In all cases in which it appears, from the death notice or inventory lodged in respect of the estate of a deceased person and from such other information as the Master may demand, that the value of the assets of the estate does not exceed the amount set out in the Fifth Schedule, the Master may, in the case of an intestate or testate estate, issue letters of appointment which shall be in Form D set out in Second Schedule.

Lodging of claims and accounts of small value

62.In any case in which it appears that an estate does not exceed the amount in value set out in the Fifth Schedule, the Master may, with due regard to the terms of the will, direct that the-

(a)estate be administered within a time not exceeding six months;

(b)advertisement calling upon creditors to lodge their claims be published once -

(i)in the Gazette and in a newspaper circulating in the district in which the deceased was ordinarily resident at the time of his death, or

(ii)if not resident in the Country the Master shall cause to be published in the country where the deceased was resident at the time of his death or;

(iii)in a newspaper circulating in a district where the deceased owned property and that all claims be lodged within a period not being less than thirty days or more than three months fixed by the Master and notified in the advertisement.

Survivor's rights to deal with communal property

63.Upon the death of any person who is not resident in Lesotho, and who does not own any property in Lesotho, other than shares in a company, the Master may dispense with provisions of this Act on the duties of executors under section 42 and

direct the manner in which the estate shall be administered.

Liquidation and distribution accounts

64.(1)An executor shall administer and distribute the estate in respect of which he is appointed, according to law and the provisions of any valid will relating to that estate.

(2)As soon as may be, after the expiration of the period notified in the Gazette in manner provided, and not later than six months from the day on which the letters of administration were issued to him, or within such further time as the Master may, upon sufficient cause being shown, allow, the executor to lodge with the Master an account showing the liquidation and distribution of the estate up to the date when the account was lodged, together with a true copy of that account.

(3)If the account is not the final account, the executor shall set out all debts to the estate and outstanding, and all property unrealized and the reasons why the debts have not been collected or realized.

(4)The executor shall, from time to time as the Master may direct, render periodical accounts of his administration until the estate finally wound-up

(5)An executor's account shall lie open at the office of the Master, and where the deceased resided or carried on his principal business and in any district for inspection for not less than three weeks by any person interested in the estate.

(6)The executor shall give due notice that the account lies open for inspection by advertisement in the Gazette, electronic platforms and in a newspaper circulating in the district where the deceased resided or carried on his principal business and shall state in that notice the period during which and the place at which the account will lie open for inspection.

(7)A person interested in the estate may, at any time before the expiration of the period allowed for inspection, lodge with the Master, in writing, any objection with the reasons of the objection, to that account.

(8) If the Master is of the opinion that any such objection ought to be sustained, he shall direct the executor to amend the account or shall give such other directions as he may consider fit.

(9) A person aggrieved by a direction of the Master under subsection (8) may, within thirty days after the date of the Master's direction and after giving notice to the executor and to any person affected by the direction, apply by motion to the Court, for an order to set aside the direction, and the Court may make such order as it may consider fit.

(10) Where the direction affects the interests of a person who has not lodged such an objection, the account so amended shall again lie open for inspection in the manner and with the notice under subsection (9), unless the person so affected consents in writing to the account being acted upon.

(11) When an account has been open to inspection and no objection has been lodged, or if any objection has been lodged and has not been sustained or has been withdrawn or the person objecting has not applied to the Court within the time prescribed, the executor shall proceed to pay out the creditors and heirs and shall lodge, with the Master, the vouchers in support of the account.

(12) An executor shall by notice published in the Gazette, advertisement in a newspaper with wide circulation and on the website of the judiciary call an exit meeting of the beneficiaries to be held before the Master.

(13) Upon the final winding up of the estate to the satisfaction of the Master, the executor shall be entitled to obtain his discharge from the Master as the executor.

Remuneration of executors

65.(1) An executor shall, in respect of his administration, distribution, and final settlement of any estate be entitled to receive out of the assets of the estate, or from any person who, as heir, legatee or creditor is entitled to the whole or any part of the estate, such remuneration as may have been fixed by the deceased person by will or deed.

(2) If no remuneration has been fixed, the executor shall receive a fair and reasonable compensation which shall be assessed according to a tariff set out in the First Schedule.

(3) If any executor fails to lodge the account of his administration and distribution of the estate as and when required by this Act so to do and can give no lawful and sufficient excuse for his failure, the Master may disallow the whole or any portion of the remuneration which the executor might otherwise have been entitled to receive in respect of his administration of the estate.

Indemnity for administration and officials

66.(1) The Government, Master or Registrar of Deeds or other registration officer shall not be liable for any damage sustained by person in consequence of the omission, return, transfer, mortgage acceptance, release or cancellation.

(2) If any of the officers has not acted bona fide or have not exercised reasonable care and diligence, the Government shall be liable for the damage sustained under subsection (1).

PART IX - INTESTATE SUCCESSION

Intestate succession

67.(1) The surviving spouse of every person who before and after the commencement of this Act dies, either wholly or partly, intestate is to be an intestate heir of the deceased spouse according to the following:

(a) if the spouses were married-

(i) in community of property and the deceased spouse leaves any descendant who is entitled to succeed, the surviving spouse shall after division of the joint estate succeed to the extent of a child's share;

(ii) out of community of property without accrual, and the deceased spouse leaves any descendant who is entitled to succeed the surviving spouse shall succeed to the extent of a child's share;

out of community of property with accrual, either spouse will keep his own property but when the marriage is dissolved either through death or divorce the other spouse

shall be entitled to claim half the difference between the growths of the two estates;

either in or out of community of property and the deceased spouse leaves no descendant, the surviving spouse shall be the sole heir;

where the deceased is survived by descendant but not the spouse, the descendants inherit equally to the deceased estate;

where a biological child has been legitimised by their biological father or paternal family he shall be eligible to inherit;

where a woman marries or remarries with children from previous marriage or born out of wedlock and not adopted by the spouse such children are eligible to inherit from their parent;

where the deceased leaves neither a spouse nor descendant but is survived by-

parents, they inherit the estate in equal shares;

(ii) one parent the surviving parent inherits one half of the estate and descendants of the deceased parent inherit the other half of the estate, unless there are no such descendants, in which case the surviving parents inherit the entire estate;

where the deceased leaves no spouse, no descendants, no parent-

(i) but both parents have left descendants, the estate is divided into halves, one half goes to the descendants of the deceased father by representation and the other half goes to the deceased mother by representation;

no descendants of the parents the other blood relations of the deceased in the nearest degree inherit the estate in equal shares;

where the deceased leaves no spouse or living relative, the Master shall appoint a curator bonis to look after the property, and the state shall be entitled to the estate after lapse of twenty years; and

notwithstanding the provisions of the Marriage Act 1974, a marriage out of

community of property shall be with accrual.

[6: Act No. 10 of 1974]

Inheritance of adopted children

68.(1)Notwithstanding the provisions of the Children's Protection and Welfare Act, 2011, an adopted child shall not inherit from its natural parents, unless specifically bequeathed by will.

(2)For the purposes of this Act, a relationship by adoption under the provisions of the Children's Protection and Welfare Act, 2011, shall be equivalent to a blood relationship.

Inheritance from a biological father and mother

69.A child born out of wedlock shall inherit a child's share from its biological-

(a) father upon production of evidence that the deceased biological father had considerably and consistently been maintaining his child born out of wedlock or there is a maintenance order; and

(b)mother, irrespective of its mother's marital status.

PART X – APPLICATION OF THIS ACT TO CUSTOMARY LAW

Heir

70.(1)The customary law on inheritance, and allocation of property to an heir shall no longer be applicable to an estate of a deceased person.

(2)Subject to subsection (1), all the children of the deceased person under civil or customary marriage, male or female, regardless of age shall be heirs in equal shares to the estate of their deceased parents, except where there is a will or written instructions in Form H set out in the Second Schedule.

(3)In a polygamous marriage, all the children in each house male or female regardless of age, shall inherit in equal shares, where there is no will or written instructions.

Minor heir

71.(1)When a parent dies leaving an heir who is a minor, the person appointed as a

guardian of the heir and administrator of the estate shall keep a written record of the administration of the estate, and this record shall be open to inspection by the office of the Master and the relatives.

(2)A surviving parent, guardian, closest relative or any member of the community shall seek the permission of the Master before alienating, disposing of or selling a minor's property.

(3)A person who contravenes this section commits an offence and is liable ,on conviction, to a penalty set out in the Fourth Schedule.

Appointment of a guardian

72.(1) If the heir in any house is a minor, the guardian shall be appointed by-
a will or any another deed made by a parent of the minor;
an order of the children's court;
a family resolution; or
the Master.

Inheritance by surviving spouse in a monogamous marriage

73.(1)Where a spouse dies, the property of the joint estate shall be inherited by the surviving spouse.

(2)If the surviving spouse who has minor children remarries, the property of the previous marriage shall not form part of community of property in the subsequent marriage.

(3)A surviving spouse who remarries, shall apply for a certificate to remarry from the office of the Master.

(4)The Master shall issue a certificate to remarry which shall have a condition on it to the effect that the property of the previous marriage shall not form part of the community of property in the subsequent marriage.

(5)Where the Master discovers that a widow or widower failed to obtain a certificate to remarry under subsection (4) the Master shall cause the widow, widower or divorcee to forfeit his child's share from the estate of the deceased spouse and remain only with his share as a surviving spouse.

(6)The forfeited child's share under subsection (5), shall be divided among the children in equal shares.

Inheritance by surviving spouse in a polygamous marriage

74.(1) If a surviving spouse in a polygamous marriage dies, all children male or female shall equally inherit property of that house.

(2) In a polygamous marriage, where a surviving spouse is the husband, he shall use the property of each house to maintain the children of the same house.

(3) In a polygamous marriage, where the surviving spouse is the wife, she shall inherit property of her husband and use the inherited property to maintain the children of that house.

Dispute settlement

75. Any dispute arising from an inheritance shall be taken to the court by the aggrieved party.

Inheritance of vulnerable persons

76.(1) Notwithstanding any law to the contrary, a child whose deceased parents' estate is inherited by paternal uncles on intestacy under customary law before the commencement of this Act shall be entitled to the property of its parents on the coming into operation of this Act.

(2) The paternal uncles who inherited property of the deceased parents on intestacy under customary law shall surrender such property to the children of the deceased parent, where such property still exists on coming into operation of this Act.

(3) Where the property inherited by paternal uncles on intestacy under customary law no longer exists, the children of the deceased parent shall be eligible to inherit from property of the paternal uncle on equal share with the paternal uncle's children.

(4) Where the paternal uncle dies leaving a surviving spouse, the children of the deceased parent shall be eligible to inherit from the property of the paternal uncle to the extent of child share.

PART XI - ESTATES OF MINORS, ABSENT PERSONS, GUARDIANS AND CURATORS

Appointment of guardian to minors

77.(1) It shall not be lawful for any person, except-

(a) the father of a minor; or

(b) the mother of a minor whose father is dead or has abandoned the minor; or

(c)the mother of a minor to whom the custody of such minor has been given by a competent Court, by any will or other deed, to nominate any guardian or guardians to administer and manage the estate or to take care of the property of that minor.

(2)This section shall prevent any person who gives or bequeaths any property to any person, from nominating a curator or curators to administer and manage the property during the minority or during the insanity of the done or legatee, in a like manner and as fully in all respects as might lawfully have been done prior to the commencement of this Act.

Guardian testamentary

78.(1)A guardian nominated by a father or mother in a manner provided for under section 77(1) to a minor child shall be called a guardian testamentary, whether that guardian has been nominated by will or any other deed duly executed by the father or mother.

(2)No guardian testamentary shall assume or enter upon the administration or management of estate or property of minor, except in so far as it may be necessary for the preservation and safe custody of the property, until letters of guardianship have been granted to him by the Master in Form I set out in the Second Schedule.

(3) No guardian of the minor child shall administer the estate of the minor child without the physical custody of such a minor.

(4) Notwithstanding subsection (4), the Master may appoint both a custodian and guardian for a minor child, where exceptional circumstances so permit or exist.

Letters of appointment as guardian testamentary

79.(1)The Master shall, on application, in writing made to him, grant letters of appointment as guardian testamentary to a person who has, by a valid will or deed, been lawfully nominated and appointed guardian testamentary to a minor.

(2)Where it comes to the knowledge of the Master that a person who has, by a valid will or deed, been nominated guardian testamentary to a minor possessed of

property has not applied for letters of appointment, the Master shall, require that person to inform him whether he is willing to act as a guardian testamentary and, if he consents so to act, the Master shall grant him letters of appointment accordingly.

(3)Where it appears to the Master that the guardian has neglected or used the property of the minor not for the benefit of the minor, the Master shall cause the guardian to repay or restore the value of the minor's property.

(4)Letters of guardianship granted to a guardian testamentary shall authorise him to administer the entire estate of the minor wherever situate within the country.

(5)A letter of guardianship as a guardian testamentary shall not be granted to a person who is, at the time, incapacitated or disqualified by law from holding the office of the guardian.

(6)The provisions of section 33 in respect of the appointment of a curator bonis shall apply to the appointment a guardian testamentary, subject to modification.

(7)The Master shall cause the guardian under subsection (3) to repay or restore the value of the minor's property, if the property was neglected and was not used for the best interest of the minor.

(8)The surviving parent of a minor child who has an estate or is due to receive an inheritance, shall apply for letters of guardianship or curatorship after the death of another parent.

Letters of curatorship to curator nominate

80.(1)No curator nominate shall assume or enter upon the administration or management of property or estate, except in so far as may be necessary for the preservation and safe custody of the administration or management of property or estate of persons certified-

(a)ill and incapable of managing their own affairs;

(b)mentally incapacitated; and

(c) intellectually disabled and incapable of managing their own affairs,

until letters of curatorship have been granted to him by the Master.

(2) Letters of curatorship granted to a curator nominate shall authorise him to administer all property included in the deed pursuant to which he is appointed and committed to his care, wherever within the country any such property is situate.

Security by curators and guardian by order of Court

81. The Court may, on the application of the Master or a relative of a person having an interest in the administration of the property of a minor, make an order in a case in which, prior to the commencement of this Act, any guardian testamentary might by law have been required to file security, that the letters of curatorship shall not be granted to any guardian testamentary or curator nominate until he has found security to the satisfaction of the Master.

Appointment of guardian by Master

82.(1) Where it comes to the knowledge of the Master that an estate or property within the country has devolved upon or come to any minor within the country, who is not at the time under the natural guardianship of his father or mother or under the guardianship of a guardian testamentary duly confirmed, or whose property is not under the care of a curator nominate or dative duly appointed by the Master, the Master shall, unless he grants letters of curatorship as provided by section 80, cause to be published in the Gazette and in such other manner as he considers fit, a notice calling upon the relatives of the minor to attend at his office at a time specified in the notice to see letters of curatorship granted to the person or persons appointed by him as a guardian or guardians dative of the minor.

(2) The Master may, if he considers it expedient, call upon the relatives of the minor to attend before a social worker in the office of Master, at a time and place appointed, and state the objections to any of the next-of-kin or other person being appointed guardian dative or to propose a person to be appointed by the social worker recommended to the Master as a fit and proper for appointment by him as a guardian, and the Master shall, in either event, or if there be no attendance appoint

such a person as he thinks fit and proper to be the guardian or guardian dative of the minor, and shall grant to the person appointed, letters of curatorship in the Form F set out in the Second Schedule, unless the Master considers it necessary or expedient to postpone the appointment and to call another meeting.

(3) If any such minor is not in possession of or have no claim to any property whatever or to any property, except that which he has been given or bequeathed to him by a person who has duly appointed a curator or curator nominate to administer and manage it during his minority or except money paid over to and in the hands of the Master under section 52, the Master need not, but may, take proceedings for the appointment of a guardian dative.

(4) If the property of a minor which is not already being administered by a person having authority in that behalf do not exceed One Hundred and Twenty Thousand Maloti, the Master may appoint a guardian summarily and without observing the formalities prescribed by this section.

(5) Letters of curatorship granted to a curator dative shall authorise him to administer the property of the minor wherever situate within the country.

Assumption under will by guardian testamentary and curators nominate

83.(1) Nothing in this Act contained shall prevent any guardian testamentary of any minor or curator nominate of any estate from assuming any other person as guardian of that minor or curator of that estate as the case may be by virtue of any power for that purpose committed to him by the will of, or any other deed duly executed by the person by whom the guardian testamentary or curator nominate was appointed.

(2) Subject to the provisions of this Act as to security, the Master shall grant the letters of curatorship production to him of the will or other deed by which the assumption of that guardian or curator is authorised and of the deed by which such guardian testamentary or curator nominate has assumed that person as guardian or curator, and where possible, the original letters of appointment granted to that guardian or curator.

(3)A provision of this Act and of other law applicable or relating to or affecting guardians or curators dative shall apply to such guardian or curator so assumed.

Death, incapacity, resignation or removal of guardians and curators

84.If-

(a)a guardian of any minor either testamentary or assumed or the curator of any estate either nominate or assumed, to whom letters of appointment have been granted has died or becomes incapacitated to act as such, or resigns or has been removed from his office by any competent authority, and for the guardianship of that minor or for the administration or management of that estate, no guardian or curator remains; or

any guardian, after letters of appointment have been granted to him dies or become incapacitated or be removed,

then and in such a case, proceedings for the appointment of a guardian in place of the person who died or became incapacitated or removed shall be taken by the Master in a manner provided under section 82.

Revocation of appointment of guardian testamentary and curator nominate

85.(1)Letters of appointment granted to a person as a guardian testamentary or curator nominate may, at any time, be revoked and annulled-

by the Children's Court on proof to its satisfaction that the will or deed in respect of which those letters have been granted to the person is null and void or has been revoked either wholly or in so far as related to the appointment of the person as a guardian or curator or that the person was not legally qualified for the appointment; or

the Master on production to him of-

a will or deed of a later date than the will or deed in respect of which those letters were granted, if applicable, be made by a guardian or curator nominated in that later will or deed who is capable and qualified to act; or

a valid will or deed, by which any other person who is then then legally capable and qualified, and who consents to act as a guardian has been legally nominated guardian testamentary of the minor concerned, but if the will or deed was not produced prior to the grant of letters of appointment to the guardian owing to the fault or negligence of the person appointed guardian testamentary, that person shall be personally liable for and may be compelled by the Master or any person related to the minor to pay to the minor's estate, all expenses which have been incurred in respect of and with reference to the appointment of the curator dative.

Curator dative to absent person having no legal representative

86.(1) If it comes to the knowledge of the Master that there is within the country any estate or property belonging to any person whose whereabouts are unknown and whom he believes to be permanently absent from Lesotho without having a legal representative in the country, the Master may cause to be published in the Gazette and in such other manner as he may think fit, a notice calling on all whom it may concern to attend before him, at the time and place specified in the notice, to see letters of confirmation granted to some person to be appointed by him as curator dative of the property of the absent person and the Master shall, at the time and place so specified, appoint a fit and proper person to be the curator dative by letters of appointment which shall be in Form H set out in the Second Schedule.

(2) If the only property known by the Master to belong to the person believed to be absent in Lesotho consists of money payable to him by the executor of a deceased person or trustee of an insolvent estate, the Master shall not take any proceedings as set out in subsection (1).

(3) Letters of appointment granted under this section to a curator dative shall authorise him to take custody and charge of all the person's property wherever situate within the country.

Curator ad litem and bonis

87.(1) Nothing in this section contained shall prevent the Court from appointing a curator ad litem to a person whenever and in the same manner in all respects as such an appointment might by law have been made by the Court if this Act had not commenced.

(2)Where expedient the Master may appoint a curator bonis to take custody and charge of any property wherever situate within the country, for the due administration and management of the same letters of appointment have been granted to some person as guardian testamentary or dative, or as curator nominate or dative.

Security by guardian and curators

88.(1)A guardian or assumed guardian and a curator dative or curator bonis shall, before he enters upon the administration of the estate or property concerned and thereafter as the Master may require, find security for the due and faithful administration and management of the estate or property, to the satisfaction of the Master and to such an amount as in the circumstances of each particular case appears to him reasonable.

(2)A guardian testamentary and a curator nominate shall be under the like obligation of finding security provided for under subsection (1), unless the guardian testamentary or curator nominate-

(a)is the natural or adoptive parent of the minor; or

(b)was nominated by will executed before the commencement of this Act and has not been directed by the will to find security;

(c)he has been nominated by the will executed after the commencement of this Act, and the testator has in such will directed the Master to dispense with the security; or

(d)the Court has otherwise directed.

(3)The provisions of section 41 (3), (4) and (5) in respect of security for due administration shall apply to this section.

Women as guardians or curators

89.(1)The provisions of this Act regarding the election and appointment of guardianship and curatorship shall apply to males and married and unmarried females equally.

Removal of insolvent guardian or curator

90.A guardian, either testamentary or dative, and a curator, either nominate or dative, whose estate has been placed under liquidation as insolvent or assigned

under any law shall cease to exercise or hold office as guardian or curator unless, before the final liquidation or the assignment of such estate such guardian or curator has found security to the satisfaction of the Master for due and faithful performance of the duties, and if no such security has been found such guardian or curator shall, as soon as the final order for the liquidation or assignment has been made, ipso facto be removed from office.

PART XII- DUTIES OF GUARDIANS AND CURATORS

Inventories by guardians and curators

91.A guardian and curator shall make, sign, and transmit, to the Master-

(a)within 30 days after assuming his office, an inventory of all property within the country belonging to the person under his guardianship or subject to his administration; and

(b)as soon as he has knowledge that there is any other property so owned or subject to his administration, an additional inventory of such other property, and he shall find such further security as the Master may under sections 41 and 81 require of him.

Alienation of property by guardian or curators

92.(1)No guardian and curator other than a guardian testamentary or a curator nominate duly authorised by the will or deed under which he has been appointed shall alienate or mortgage any immovable property belonging to a minor, unless the Court or Master having been satisfied that the immovable property does not exceed the value stated in the Fifth Schedule, has authorised the alienation or mortgage of such property.

(2)The Master may authorise the mortgage of immovable property belonging to a minor to an extent not exceeding the amount stated in the Fifth Schedule, if satisfied that the mortgage is necessary for the preservation or improvement of the property or for payment of expenses necessarily incurred in connection with the property, or for the maintenance or education of the minor.

Disposal of moneys not necessary for payment of debts

93. A guardian dative, a curator dative, and a curator bonis and, subject to the terms of the will or deed by which he was appointed a guardian testamentary and a curator nominee shall immediately on appointment pay over to the Master all moneys subject to his administration and not required for the immediate payment of the debts of the estate or the immediate maintenance of the person to whom the money belongs.

Account of administration by guardians and curators

94.(1) A guardian and curator shall, on or before the fifteenth day of February in every year, lodge with the Master a just, true, and exact account of his administration up to the thirty-first day of December last preceding, supported by vouchers, together with a true copy of that account.

(2) If a guardian or curator fails to lodge such an account in manner provided for under subsection (1) and has no lawful and sufficient excuse for his failure, the Master may disallow the whole or any portion of the remuneration which the defaulting guardian or curator would otherwise have been entitled to receive in respect of his administration of the estate concerned during the year ending the thirty-first day of December.

(3) A surviving spouse to whom the predeceasing spouse has by will or other lawful instrument entrusted the administration of their joint estate during the minority of their children, shall be required to lodge the annual account in a manner provided for under subsection (1) notwithstanding anything to the contrary contained in this section.

Remuneration of curators

95.(1) A curator, either nominate or dative shall, in respect of his administration and management of any estate, be entitled to claim, receive, or retain out of the assets of that estate a reasonable remuneration for his care and diligence in the administration and management.

(2) All such remuneration shall be assessed according to a tariff set out in the First Schedule and authorised by the Master.

PART XIII- THE GUARDIAN'S FUND

Guardian's Fund to continue into existence

96.(1)Section 24 of the Public Financial Management and Accountability Act, 2011 shall not apply to the Guardian's Fund.

(2)The Fund established by section 91 of the Administration of Estates Act, 1935 shall continue to exist and shall consist of moneys-

(a)in the Fund at the commencement of this Act;

(b)to be paid to the Master under –

the Administration of the Estate Act, 1935;

(ii) this Act or any other law or in pursuance of an order of Court; or

(c)accepted by the Master from a lawful source in trust for any person or persons known or unknown.

(3)Where any money is received and accepted by the Master, he shall open in the books of the Guardian's Fund an account in the name of a person to whom money or the estate to which that money forms part of, and if it be not known to whom any such money belongs, or if, in the case of minor heirs, it is more convenient, the account may be opened in the name of the person from whom that money is received, or of the estate from which that money is derived.

(4)The Guardian Fund shall be audited by the Auditor General.

(5)The Minister responsible for finance shall, by regulations and in consultation with the Minister responsible for law and justice, make further provisions as are necessary for the effective management and operation of the Guardian Fund.

Funds at disposal of Master

97. The Master may withdraw any part of the working balances which are retained at his disposal under this Act for the purpose of paying out any money amounts due and payable out of the Guardian's Fund.

Ordinary payment from Guardian's Fund

98.(1) The Master shall pay any sum of money standing to the credit of any person or estate in the books of the Guardian's Fund to the person by law entitled to receive the amount of money due.

(2) A parent of a minor child having money deposited in the Guardian's Fund shall not be entitled to receive a greater amount of the interest due in respect of the money deposited than in the opinion of the Master is reasonably necessary for the support to and advancement in the life of the minor, regard being had to the minor's circumstances and conditions in life.

Extra ordinary payment from Guardian's Fund

99.(1) If after careful enquiry, it appears to the Master to be in the interest of a minor, the Master may, apply an amount which may be standing to his credit for the maintenance, education or other benefit of the minor.

(2) Where it appears to the Master that the interest upon an amount standing in the Guardian's Fund to the credit of a mentally incapacitated beneficiary is not sufficient to provide for the maintenance and treatment of the mentally incapacitated beneficiary, the Master may apply for those purposes so much of the capital, as, regard being had to the circumstances of the mentally incapacitated beneficiary and of the persons dependent on him, it appears to the Master to be just and reasonable.

(3) The Master may, after consulting the guardian, withdraw from the Guardian Fund, working balances any sum of money belonging to a minor for the purchase of immovable property, if he is satisfied that such a purchase will be to the benefit of the minor.

(4) Nothing in this section shall authorise the Master to disregard the terms of any

valid will or other deed.

Publication of list of unclaimed moneys

100.(1)The Master shall in the month of July in each year cause to be drawn up a list of all amounts standing in the books of the Guardian's Fund which are claimable and are unclaimed, and shall cause the list to be published –

(a)by notice published in the Gazette;

(b)for a period of one year on the Judiciary website;

(c)in a local newspaper with a broad circulation or national radio for a consecutive period of one month;

(d)in a Government circular and submit copies of the circular to the District Administrators and Councilors in all the districts of Lesotho, to be displayed at a conspicuous place on their respective offices, for a period of one year; and

(e)in such manner as he considers most expedient, in any country or countries to which any person or person interested may be supposed to belong.

(2)The Master shall, in the publication of the lists under subsection (1)-

include sufficient information in respect of all amounts which remain unclaimed; and invite all persons to submit their claims to the Master, and no amount set out in the Fifth Schedule shall be advertised more often than once every five years.

Forfeiture of unclaimed moneys

101.When any money which has been placed to the credit of any person or estate in the Guardian's Fund remains unclaimed by any person having a just and lawful right to the unclaimed money for a period of fifty years from the date when the money was so placed to credit or in the case of a minor, from the date when he attains his majority, the claim shall lapse and the moneys shall be paid over to and appropriated as part of the general revenue of Lesotho.

Investment of Guardian's Funds moneys

102.(1)The Master may, subject to the regulations made under this Act in respect of the Guardian Fund, invest in any stock, debentures or other securities which may be issued by the Government of Lesotho or the Republic of South Africa, and be

charged upon the public revenue of either Government, all such moneys standing to the credit of the Guardian's Fund as shall not be required to meet the current expenditure of the Fund, in such a manner as the Minister responsible for finance may set out in the regulations.

(2)The Master shall not make an investment without the authority of the Minister responsible for justice and law in consultation with the Minister responsible for finance and approval by Cabinet.

(3)A person who is aggrieved with the decision made under this section may apply to Court for a remedy.

Provision of automated systems

103.(1)The Minister responsible for finance shall provide the Master with all systems necessary for the smooth administration of the Guardian's Fund, including automated systems suitable-

- (a)for calculation of balances after deductions and balances after deposits; and
- (b)to calculate interest on every balance in the Fund.

Payment of money to revenue

104. The Master shall on the thirty-first day of March, every year pay into the Master's account, all moneys which had remained unclaimed by rightful owners for a period of twenty years or more and which had in consequence been paid into the Guardian's Fund pursuant to and under this Part.

PART XIV - LEGAL PROCEEDINGS AGAINST EXECUTORS, GUARDIANS AND CURATORS

Suspension or removal of executors, guardians and curators by the Court

105.(1)An executor, a guardian or curator may be suspended or removed from his office by an order of Court, if the Court is satisfied that by-

- (a)reason of his absence from Lesotho;
- (b)other avocations;
- (c)failing health; or
- (d) any other sufficient cause,

the interest of the estate under his care would be furthered by his suspension or removal, and the Court may, if it issues an order of suspension, substitute a fit and

proper person to act during the suspension in the place of the person suspended, subject to such conditions as to the giving of security and the conduct and administration of the estate as the Court may consider it just to impose.

Failure to lodge administration account

106.(1)If an executor, guardian or curator fails to lodge his administration account with the Master as and when required by this Act, the Master or any person having an interest in the administration may apply to the Court for an order directing the executor, guardian or curator to lodge his account, but before so applying, shall give to the executor, guardian or curator one month's notice, in writing, of his intention so to apply.

(2)An executor, guardian or curator who receives such a notice may apply to the Master for an extension of time to lodge his account, and the Master may grant such extension as in the circumstances of the case he may think reasonable.

(3)If the Master refuses any such extension of time, and an application under subsection (1) is made to the Court, and if upon that application the Court is of opinion that an extension of time ought to have been granted by the Master, the Master or other person by whom the application was made shall nevertheless be entitled to his costs, if there was sufficient time before the notice of the application for the executor, guardian or curator in default to bring in review by the Court the refusal of the Master to extend the time.

(4)The costs adjudged to the Master or such other person under this section shall, unless otherwise ordered by the Court, be payable by the executor, guardian or curator in default, from his pocket, and he shall not be entitled, unless so authorised by the Court, to charge the costs to the estate under his administration.

Failure to make due payments

107.An executor, guardian or curator who, without sufficient excuse retains, and fails as and when required by this Act to pay over any moneys to the Master or for the benefit of a minor to any other person, shall be liable to forfeit, at the instance of the Master or such other person for the benefit of the estate or for the person to whom the money belongs, interest upon the amount of the default at the rate of 18.5

percent per annum as from the commencement of the default.

Payment of Master's costs from Guardian's Fund

108.(1)Where an executor, a guardian or curator is ordered to pay the costs of any proceedings instituted by the Master, the Master may, if he finds it impossible to recover the amount of costs from the executor, guardian or curator, pay or order payment of such costs from any property subject to the administration of the executor, guardian or curator in regard to which the proceedings were taken, or if there is no such property available, from the Guardian's Fund.

(2)All costs incurred by the Master in the ordinary course of his duties under this Act or otherwise and not recoverable by him from any other source, may be drawn by him and paid out of the credit balance of the Guardian's Fund unless the Court orders that the costs be paid by the Master.

(3)Nothing in this section contained shall be considered to limit the power of the Chief Justice specially to authorise that any costs paid and incurred by the Master shall be refunded to him or met out of the Guardian's Fund.

Procedure in civil proceedings taken by Master

109.(1)Where in this Act the Master is required or authorised to take civil proceedings against an executor, a guardian or curator, he may proceed by way of application or motion and may, when so proceeding, report to the Court, in writing, the facts upon which he relies instead of stating them in an affidavit, notwithstanding any law or rules of Court to the contrary.

(2)An executor, a guardian or curator, if resident in Lesotho, is obliged to answer the Master in any proceedings instituted under this Act in the Court.

Reports to the Court by Master

110.(1)Where in the course of his duties the Master finds it necessary to lay any facts before the Court, otherwise than upon an application made under section 109, the Master may lay those facts before the Court by a report, in writing, transmitted through the Registrar of the Court, and the Court may make such order as it considers fit.

(2)The Court may, where it considers necessary under subsection (1), refer the report back to the Master and require the report to be presented upon formal application in Court under section 109.

Statement of case to Court by Master

111.Where any difference of opinion upon a question of law arises between the executor and the Master in the distribution of an estate and a minor is interested in the decision of that question, the Master and executor may state a case, in writing, for determination by the Court or a Judge in chambers, and the determination of the Court or Judge shall be binding upon the Master and the executor, without prejudice to the rights of other persons interested in the distribution.

Review of Master's appointments

112.An appointment by the Master of an executor, a guardian or curator, and an order or decision of or taxation by the Master under this Act shall be subject to appeal to or review by the Court upon motion at the instance of any person aggrieved by the appointment, order, decision or taxation and the Court may confirm, set aside, or vary the appointment, order, decision or taxation.

PART XV - OFFENCES AND PENALTIES

Penalties

113.A person who fails to comply with a provision of which no penalty is specifically provided for under this Act is liable, on conviction, to a fine not less than Seven Thousand Maloti or imprisonment for a period not less than three years, and such punishment shall be in addition to any other punishment or penalty or forfeiture to which he may otherwise be liable, whether under this Act, any other law or under the common law.

False inventories

114.A person required by this Act to make or cause to be made an inventory of any estate, goods or effects, who willfully makes a false inventory commits an offence

and is liable, on conviction, to a penalty set out in a Fourth Schedule.

Omission by surviving spouse to make inventory

115.(1)A surviving spouse who wilfully neglects to cause an inventory of the joint estate to be made in a manner and within the period provided for in this Act, or knowingly omits to enter in that inventory, any articles of property whatsoever shall in the distribution of that estate forfeit all right to and his share in the property so omitted in the inventory. Property so omitted shall be equally distributed between the remaining beneficiaries.

(2)A loss which has been caused by the destruction or deterioration of the property omitted in the inventory, shall in the distribution of the estate fall upon and be borne by the surviving spouse solely and exclusively.

(3)The provisions of this section shall not exempt any person, who wilfully or for any fraudulent purpose makes or causes to be made any false inventory of any such joint estate from any penalty or punishment under this Act, or any other law which provides for the offence of making false inventories.

Theft, falsification, etc. of wills

116.A person who steals, wilfully destroys, conceals, falsifies or mutilates any will commits an offence and is liable on conviction to a penalty set out in the Fourth Schedule, and it shall not in any indictment or other form of charge of the offence be necessary to allege that the will is the property of another person or is of no value.

Offence to substitute or surrogate by executor or guardian

117.A person appointed as an executor of an estate or guardian to a minor, who substitutes or surrogates another person to act in his place commits an offence and is liable, on conviction, to a penalty set out in the Fourth Schedule.

PART XVI - GENERAL AND MISCELLANEOUS

Appointment of Master by will is void

118.If a person by will or deed has nominated the Master to be-

(a)an executor or administrator of an estate; or

(b)a guardian testamentary of a minor; or

(c)a curator nominate of any estate or property given or bequeathed by that person to a minor or mentally incapacitated,

the nomination shall have no effect, and proceedings shall be taken for the appointment of an executor dative, guardian dative or curator dative as if no such nomination of the Master had been made.

Reduction of security

119.When an executor, guardian or curator, having given security to the Master, has accounted to the Master by means of an account supported by vouchers, as required under this Act, for any assets the value of which was taken into consideration by the Master when the security was assessed, the Master, upon his accepting and filing that account, may, if he is satisfied that the remaining security will be sufficient to cover the value of the assets remaining to be accounted for, reduce the amount of the security by any sum not exceeding the value as it appeared to him when the security was assessed of the assets so brought to account.

Effect of massing of joint estate

120.Where two spouses, married in community of property, have by their mutual will massed the whole or any specific portion of their joint estate, and disposed of it after the death of the survivor, conferring upon the latter a fiduciary, usufructuary or other lined interest in the joint estate, then upon the death of either of such spouses, adiation and the acceptance by the survivor of benefits under the will shall have effect of conferring upon the heirs entitled to the said property after the expiry of the said limited interest the same rights in respect of the survivor's half share of such property as they may by law possess in respect of the half share which belonged to the spouse who has first died.

Estate banking account

121.(1)Unless exempted by the Master, a curator and executor shall, as soon as he

has funds of the estate over and above an amount of One Thousand Maloti in hand, open an account with a bank within Lesotho or, with the written consent of the Master, with a bank within the Lesotho, in the name of the estate and shall pay those funds and all other funds of the estate received by him into the said account not later than one day after the first day upon which it was reasonably possible for him to pay in the amount.

(2)An executor and a curator who fails to comply with the provisions of this section shall, at the instance of the Master or any person having an interest in the estate, pay, to the estate, interest at the rate of 18.5 percent per annum on the amount so retained by him as from the commencement of the default.

(3)All receipts or orders for the payment of moneys out of an account under subsection (1) shall truly express the cause of payment and the names of the persons in whose favour they are drawn.

(4)The Master may, at all times, require an executor or curator to furnish him with a bank statement or other sufficient evidence of the position of the account.

(5)Any executor or curator who fails to comply with the provisions of this section may be removed from office by the Master.

(6)If, upon the prosecution of an executor, trustee or curator for the theft or conversion of any property subject to his administration, it be proved that such property was in the possession of the executor, trustee or curator since his appointment as such, the onus shall lie upon him to prove, if the said property was a sum of money, that the money was duly deposited in an account as required and, if he fails to do so, he shall be liable, if he is convicted on the charge of theft or conversion, to a fine not exceeding double the amount of such sum or, in default of payment, to imprisonment for a period not exceeding five years, but such fine or such imprisonment shall not prevent the imposition of the penalty provided by this section.

Transitional provisions savings and repeals

122.(1)The following laws are repealed:

- (a)the Wills Ordinance 1843;
[7: Act No. 4 of 1843]
- (b)the Law of Inheritance Act, 1873;
[8: Act No. 26 of 1873]
- (c)the Administration of Estate Act, 1935;
[9: Act No. 19 of 1935]
- (d)the Renumeration of Executors, 1946; and
[10: Act No. 163 of 1946]
- (e)the Interstate Succession Act, 1953.
[11: Act No. 2 of 1953]

Regulations

123.(1) The Minister responsible for justice and law in consultation with Minister responsible for finance and on the recommendations of the Master, may make regulations not inconsistent with this Act-

- (a)for the custody and preservation of the records, securities and valuable effects in the office of the Master;
 - (b)as to the payment of money out of the working balances of the Guardian's Fund;
 - (c)for the management and good conduct of the business off and the practice and procedure to be observed in the Master's office;
 - (d)as to the remuneration to be paid to executors, curators, guardianand sworn appraisers, and generally for the better carrying out of the objects and purposes of this Act;
 - (e)amend the fees set out in the Schedule; and

 - (f)for giving effect to any other provision of this Act.
-

NOTE