

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 878.

Dated 27th Apr 1895.

INDEXED.

[Despatch Abstract.]

PROBATES AND LETTERS OF ADMINISTRATION.

Communicating for the opinion of the Honourable the Judges of the High Court, the Advocate-General and the Government Solicitor letter from the Government of India forwarding a draft Bill to provide for the recognition in British India of---granted by Courts in the United Kingdom.

and:

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2774		95				
	3777		95				

CURRENT No 1896.

From, The Govt of India
Home Dept (Ind)

Order 27 April 1895, No 878.
mis

Communicated to the Honble

the Chief Justice and Judges of the High Court
the Advocate General & the Govt Secy
with the request that they will favour
for favor of ~~marks~~ expression of opinion
Govt with their opinion on the
on the draft bill.

No. 4
525

Dated 18th
Recd 16th } apl's
Ryd 17th }
Encs: 2 H. 75c of each Enc. & of tract

2614/95 25-4-95

To
The Hon. the Judges of the H.C. 1st C. & C.
The Hon. Secy. 1st C. & C.
The Hon. the Adv. Genl. 1st C. & C.
Note for order.

Perhaps the opinions of the Adv. Genl.
& the Govt Secy may also be invited altho Govt
of India does not require them?

MR
23-4-95.

Subreil
Forwarding for an expression of
opinion of the Governor in Council,
a draft Bill to provide for the
recognition in British India of
Probates and Letters of Administration
granted by Courts in the United
Kingdom.

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26/4

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Order
file 18/4
26/4

A
BILL
TO

Provide for the recognition in British India of probates and Letters of Administration granted by Courts in the United Kingdom.

WHEREAS it is expedient to provide for the recognition in British India of probates and letters of administration granted by the Courts in the United Kingdom; It is hereby enacted as follows:—

1. (1) This Act may be called the United Kingdom Probates Act, 1895.
Title, extent and commencement.

(2) It extends to the whole of British India and

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

(a) the expression "Court of Probate" means any Court or authority, by whatever name designated, having jurisdiction in matters of probate, and in Scotland means the Sheriff Court of the County of Edinburgh:

(b) the expression "probate" and "letters of administration" include confirmation in Scotland and any instruments having in the United Kingdom the same effect as under the law of British India is given to probate and letters of administration respectively:

(c) the expression "probate duty" includes any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted:

(d) the expression "High Court" has the same meaning as it has in the Indian Succession Act, 1865.

3. (1) Where a Court of Probate in the United Kingdom has granted probate of the will or letters of administration of the estate of a deceased person, the probate or letters so granted may, on being produced, and a copy thereof deposited, in a High Court, be sealed with the seal of such High Court, and thereupon shall be of the like
Sealing in British India of probates and letters of administration granted in the United Kingdom.

X of 1865.

force and effect and have the same operation in British India as if granted by such High Court:

(2) Provided that, before any such probate or letters of administration is or are sealed under the section, the High Court—

VII of 1870.

(a) shall be satisfied that the court-fees payable under article 11, Schedule I of the Court-fees Act, 1870, and all other probate duty (if any) payable in respect of so much (if any) of the estate as is liable to probate duty in British India in the case of probates and letters of administration granted by such High Court, have been duly paid, and

X of 1855.

(b) shall, in the case of letters of administration, require that an administration-bond be given in accordance with the provisions of section 256 of the Indian Succession Act, 1865, in a sum sufficient in amount to cover the property (if any) in British India to which the letters of administration relate;

and may require such evidence (if any) as it or he thinks fit as to the domicile of the deceased person and as to the place where such deceased person resided or carried on business in the twelve months immediately preceding his death.

(3) The High Court may also, if it shall think fit, on the application of any creditor or, if the deceased has resided or carried on business in British India within twelve months before his death, of its own motion, require, before such probate or letters of administration is or are sealed as aforesaid, that adequate security be given for the payment of debts due from the state of creditors residing in British India.

(4) For the purposes of this section a duplicate of any probate or letters of administration sealed with the seal of the Court granting the same, or a copy thereof certified as true by, or under the authority of, the Court granting the same, shall have the same effect as the original.

(5) The power to make rules as to procedure given to a High Court by any enactment for the time being in force shall extend to the making of rules for regulating the procedure and practice, including fees and costs on, or incidental to, an application for the sealing under this section of a probate or letters of administration granted in the United Kingdom. Such rules may also provide for the hearing of all or any of such applications by the Registrars of such Courts.

(6) The provisions of the Court-fees Act, VII of 1870, and of every other enactment for the time being in force relating to probate duty (including the penal provisions thereof) shall apply as if the person applying for sealing under this section were a person applying for probate or letters of administration under the law for the time being in force in British India.

4. Every person applying to a High Court Address for service to have a probate or letters of notices, etc. of administration sealed under the last preceding section shall, on making such application, file in the Court an address for service within the local limits of the ordinary original civil jurisdiction of such Court where notices and other documents relating to the estate of the deceased person may be left, and every such notice or other document left at such address shall be deemed to have been duly served upon the executor or administrator, as the case may be, by or on behalf of whom such application is made.

5. This Act shall apply to probates and letters of administration granted in the United Kingdom either before or after the passing thereof.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL
[TO

Provide for the recognition in British
India of Probates and Letters of Ad-
ministration granted by Courts in the
United Kingdom.

STATEMENT OF OBJECTS AND REASONS.

THE Statute 55 Vict., c. 6, provides for the recognition in the United Kingdom of probates and letters of administration granted in any British possession in which the legislature has made adequate provision for the recognition of probates and letters of administration granted by the Courts of England and Ireland and of confirmation granted by the Courts of Scotland. The object of this Bill is to make such provision in British India and so to pave the way for the reciprocity contemplated by the English Statute.

The February, 1895.

1895
<i>Fud</i>
Bu. No. <i>1</i>
Do
O. No. <i>1896</i>

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom.

(Statement of Objects and Reasons.)

CURRENT NO 1896

No. *4 fwd*
525.

FROM

C. H. A. HILL, ESQ.,

Offg. Under-Secretary to the Government of India.

TO

The Chief Secretary to the Government of Madras

Home Department.
Judicial.

Simla, the 10th April 1895.

SIR,

WITH reference to the correspondence ending with *the letter from the Government of Madras No. 103 dated 27th June 1889.*

I am directed to forward a draft Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom. The enactment of such a measure is necessary before the Colonial Probates Act, 1892 (55 Vict., Cap. 6), can be extended to India by order in Council under section 1 thereof.

2. I am to request that you will *move the Governor in Council after consulting the Honble the Chief Justice and Judges of the Madras High Court* favour the Government of India with an expression of *his* opinion on the draft Bill.

I have the honour to be,

SIR,

Your most obedient Servant,

C. Hill

Offg. Under-Secretary to the Government of India.

When given for copying _____
When copied _____
When examined _____
When signed _____

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

No.

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C. H. A. HILL, ESQ.,
Offg. Under-Secretary to the Government of India.

TO

Home Department.
Judicial.

Simla, the April 1895.

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3. The
on the subject.

been separately addressed

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C. H. A. HILL,
Offg. Under-Secretary to the Government of India.

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1. (1) This Act may be called the United
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(2) It extends to the whole of British India
and

(3) It shall come into force at once.

2. In this Act, unless there is anything
Definitions. repugnant in the subject or
context,—

(a) the expression "Court of Probate" means
any Court or authority, by whatever
name designated, having jurisdiction
in matters of probate, and in Scotland
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(b) the expression "probate" and "letters
of administration" include confirmation
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ing in the United Kingdom the same
effect as under the law of British India
is given to probate and letters of ad-
ministration respectively:

(c) the expression "probate duty" in-
cludes any duty payable on the value
of the estate and effects for which
probate or letters of administration is
or are granted:

(d) the expression "High Court" has the
same meaning as it has in the Indian
Succession Act, 1865.

X of 1865.

3. (1) Where a Court of Probate in the
United Kingdom has granted
Sealing in British probate of the will or letters
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letters of administra- of a deceased person, the pro-
tion granted in the bate or letters so granted may,
United Kingdom. on being produced, and a copy thereof deposited,
in a High Court, be sealed with the seal of such
High Court, and thereupon shall be of the like

by S.C. of Ind. Cms. 1896 of 1895.

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(2) Provided that, before any such probate or letters of administration is or are sealed under the section, the High Court—

VII of 1870.

(a) shall be satisfied that the court-fees payable under article 11, Schedule I of the Court-fees Act, 1870, and all other probate duty (if any) payable in respect of so much (if any) of the estate as is liable to probate duty in British India in the case of probates and letters of administration granted by such High Court, have been duly paid, and

X of 1875.

(b) shall, in the case of letters of administration, require that an administration-bond be given in accordance with the provisions of section 256 of the Indian Succession Act, 1865, in a sum sufficient in amount to cover the property (if any) in British India to which the letters of administration relate;

and may require such evidence (if any) as it or he thinks fit as to the domicile of the deceased person and as to the place where such deceased person resided or carried on business in the twelve months immediately preceding his death.

(3) The High Court may also, if it shall think fit, on the application of any creditor or, if the deceased has resided or carried on business in British India within twelve months before his death, of its own motion, require, before such probate or letters of administration is or are sealed as aforesaid, that adequate security be given for the payment of debts due from the estate of creditors residing in British India.

(4) For the purposes of this section a duplicate of any probate or letters of administration sealed with the seal of the Court granting the same, or a copy thereof certified as true by, or under the authority of, the Court granting the same, shall have the same effect as the original.

(5) The power to make rules as to procedure given to a High Court by any enactment for the time being in force shall extend to the making of rules for regulating the procedure and practice, including fees and costs on, or incidental to, an application for the sealing under this section of a probate or letters of administration granted in the United Kingdom. Such rules may also provide for the hearing of all or any of such applications by the Registrars of such Courts.

(6) The provisions of the Court-fees Act, VII of 1870, and of every other enactment for the time being in force relating to probate duty (including the penal provisions thereof) shall apply as if the person applying for sealing under this section were a person applying for probate or letters of administration under the law for the time being in force in British India.

4. Every person applying to a High Court Address for service to have a probate or letters of notices, etc. of administration sealed under the last preceding section shall, on making such application, file in the Court an address for service within the local limits of the ordinary original civil jurisdiction of such Court where notices and other documents relating to the estate of the deceased person may be left, and every such notice or other document left at such address shall be deemed to have been duly served upon the executor or administrator, as the case may be, by or on behalf of whom such application is made.

5. This Act shall apply to probates and Application of Act to letters of administration probates, etc., already granted in the United Kingdom either before or after the passing thereof.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

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BILL

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Provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom.

G. C. Press, Simla.—No. 10 H. D.—8-4-95.—300.

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Provide for the recognition in British
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Ind. p. 872 h. b.
27-4-95

7 S.C. of Ind. No. 1 to Ind. p. 872 h. b.
of 1895.