



ANNO PRIMO

# GEORGI VI REGIS.

A.D. 1937.

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No. 2368.

An Act to amend the Administration and Probate Act, 1919-1936, and for other purposes.

[Assented to 8th December, 1937.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Administration and Probate Act Amendment Act, 1937".

(2) The Administration and Probate Act, 1919-1936, as amended by this Act, may be cited as the "Administration and Probate Act, 1919-1937".

(3) The Administration and Probate Act, 1919-1936, is hereinafter referred to as "the principal Act".

Amendment of  
principal Act,  
s. 61—  
Administration  
of insolvent  
estates.

2. (1) Section 61 of the principal Act is amended by inserting after the passage "section 60" in the fifth line thereof the words "and in any administration by the Court of the assets of any deceased person whose estate is insufficient for the payment in full of the debts and liabilities of the deceased".

(2) Section 5 of the Statute Law Revision Act, 1937, is repealed.

Amendment of  
principal Act—

3. Sections 112 and 113 of the principal Act are repealed and the following section is enacted in lieu thereof :—

Charges of  
Public  
Trustee.

112. (1) In order to defray the expenses incidental to the establishment and maintenance of the office of the Public Trustee, there shall be charged on any property which becomes vested in him, or which comes into his possession or under his management or control, in addition to the amount of his proper expenses in connection with such money or property, a commission in respect of his services in connection therewith according to the scale for

the time being in force under rules made under section 122 : Provided that, until a scale is prescribed by rule so made and in force, the scale in force at the commencement of the Administration and Probate Act Amendment Act, 1937, shall apply.

(2) In any case, such commission and the money so expended may be deducted by the Public Trustee from the money received by him as aforesaid, or from any moneys in the same-estate or trust or fund which are so received ; or, with the approval of a Judge, such commission and the moneys so expended, together with the costs and expenses of raising the same, may be raised by sale or mortgage of, or other charge on, any property of the estate or trust or fund in respect of which the services were rendered.

(3) The Court or a Judge may direct what part or parts of an estate or trust shall bear the burden of any commission or expense provided for by this section, and in what proportions (if any) such burden is so to be borne.

(4) All moneys so deducted or raised shall be paid by the Public Trustee, together with any fines which have been received by him, to the Treasurer, who shall carry the same to a separate account, to which shall be charged the expenses of or incidental to the establishment and maintenance of the said office.

(5) Notwithstanding anything in this section, the Court or a Judge may in any case, upon application by the Public Trustee or any person interested, if it or he considers that there are special circumstances which warrant so doing—

(a) fix the commission to be charged at a higher or a lower rate than that prescribed and applicable to the particular case ; or

(b) direct that no commission be charged.

4. Section 122 of the principal Act is amended by inserting therein after paragraph (e) of subsection (1) thereof the following paragraph :—

Amendment of  
principal Act,  
s. 122—  
Rules.

(e1) for prescribing the scale of commission to be charged pursuant to section 112, and how and when such commission is to be calculated and collected or retained :

5. The second schedule to the principal Act is repealed.

Repeal of  
second  
schedule.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Lieutenant-Governor.