



ST. HELENA

CHAPTER 34

IMPERIAL PROBATES ORDINANCE

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

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Ordinance 4 of 1899 .. in force 14 December 1899	
Amended by Ordinance 5 of 1937	

No Subsidiary Legislation has been made under this Ordinance

¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

CHAPTER 34

IMPERIAL PROBATES ORDINANCE²

(Ordinances 4 of 1899 and 5 of 1937)

AN ORDINANCE TO PROVIDE FOR THE RECOGNITION IN ST. HELENA OF PROBATES AND LETTERS OF ADMINISTRATION GRANTED IN THE UNITED KINGDOM AND OTHER BRITISH POSSESSIONS AND COURTS.

Commencement

[14 December 1899]

Short title

1. This Ordinance may be cited as the Imperial Probates Ordinance.

Interpretation

2. In this Ordinance, unless the context otherwise requires—

“British court in a foreign country” means any British court having jurisdiction out of Her Majesty’s dominions in pursuance of an Order-in-Council, whether made under any Act or otherwise;

“Court of Probate” means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

“Her Majesty’s dominions” includes any British Dependent Territory, British protectorate or protected state and any territory in respect of which a mandate or trusteeship is being exercised by her Majesty’s Government in the United Kingdom or the Government of any part of Her Majesty’s dominions;

“probate” and **“letters of administration”** include confirmation in Scotland, and any instrument having in any other part of Her Majesty’s dominions the same effect which under English law is given to probate and letters of administration, respectively;

“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.

Recording probates granted in the United Kingdom or British possessions

3. (1) Where a Court of Probate in any part of Her Majesty’s dominions or a British court in a foreign country has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to and a copy thereof deposited with the Supreme Court of St. Helena, be sealed with the Seal of the Supreme Court, and thereupon shall be of the like force and effect, and have the same operation in St. Helena, as if granted by the Supreme Court:

Provided that the Supreme Court shall before sealing a probate or letters of administration under this section be satisfied, in the case of letters of administration, that security has been given in a sum sufficient in amount to recover the property, if any, in

² NOTE.—The Colonial Probates Act, 1892 (of United Kingdom), was applied to St. Helena by UK S.I. 1965 No. 1530; the 1892 Act provides for the recognition by UK courts of Probates and Letters of Administration granted by courts in certain Commonwealth Countries, including the Supreme Court of St. Helena.

St. Helena to which the letters of administration relate; and may require such evidence, if any, as it thinks fit as to the domicile of the deceased person.

(2) The Court may also, if it thinks fit, on the application of any creditor, require before sealing that adequate security be given for the payment of debts due from the estate to creditors residing in St. Helena.

(3) For the purpose 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 correct by or under the authority of the Court granting the same, shall have the same effect as the original.

Power of Supreme Court to make rules

4. Rules of court may be made by the Chief Justice for regulating the procedure and practice, including fees and costs, in the Supreme Court, on and incidental to an application under this Ordinance.

Schedules to be deemed part of this Ordinance

5. The Schedules hereto shall be deemed and taken to be part of this Ordinance.

FIRST SCHEDULE

(Section 5)

SUPREME COURT (PROBATE SIDE)

*Rules of Court made under the provisions
of the "Imperial Probates Ordinance St. Helena."*

Application

1. Application to seal a grant of probate or letters of administration or copy thereof under the Imperial Probates Ordinance, may be made to the Chief Justice of the Supreme Court by the Executor or Administrator, or the attorney (lawfully authorised for the purpose) of such Executor or Administrator, either in person or through a solicitor.

Affidavit

2. Such application must be accompanied by an affidavit of such Executor, Administrator, or attorney as aforesaid in the form set forth in the Second Schedule to the Imperial Probates Ordinance, or as near thereto as the circumstances of the case will allow.

Copies

3. The grant (or copy grant) to be sealed and the copy to be deposited in the Registry must include copies of all testamentary papers admitted to probate.

Notice

4. Notice of such application as aforesaid shall be duly advertised in the manner in which citations relating to grants of probate in St. Helena have been hitherto advertised and shall be returned and filed in like manner.

Bond

5. On an application to seal letters of administration, the Administrator or his attorney shall give bond (in the form set forth in the Second Schedule to the Imperial Probates Ordinance, to cover the personal estate of the deceased within the jurisdiction of this Court. The same practice as to sureties and the amount of penalty in this bond is to be observed as on an application for letters of administration to be issued from this Court.

Creditors' applications

6. Application by a creditor under the Imperial Probates Ordinance is to be made to the Chief Justice on summons supported by an affidavit setting forth particulars of the claim.

Further evidence

7. In any case the Chief Justice, if he thinks it requisite, may require further evidence of domicile and also evidence to explain any delay in the making of the application.

Notice of re-sealing

8. Notice of the re-sealing in St. Helena of a grant is to be sent to the court from which the original grant issued.

Notice of revocation, etc

9. When intimation has been received of the re-sealing of a St. Helena grant, notice of the revocation of or any alteration in such grant is to be sent to the court by whose authority such grant was re-sealed.

Court fees

10. The court fees, costs and charges set forth in the Third Schedule to the Imperial Probates Ordinance, shall be the court fees, costs and charges to be paid and taken in proceedings under the Imperial Probates Ordinance.

SECOND SCHEDULE

(Section 5)

(1) AFFIDAVIT

In the Supreme Court of St. Helena (Probate Side)

In the goods of A.B. deceased I, C.D., (or E.F.) of
make oath and say—

1. That a grant of probate of the will (*or letters of administration of the personal estate*) of A.B. late of, deceased was granted to me (*or C.D.*) by the Court at, on, the day of

2. That the said deceased was at the time of his death domiciled at (*the following words to be struck out if inapplicable*) within the jurisdiction of the said Court.

3. That the advertisement hereunto annexed was posted at the Court House door the day of, 20....., to the day of, 20....., and the return thereon has been duly endorsed by the Registrar of the Supreme Court.

4. That I am the attorney lawfully appointed of C.D. under his hand and seal, and am duly authorised to apply to this Court for the sealing of said grant (*this paragraph to be struck out if inapplicable*).

5. That the value of the personal estate in St. Helena amounts to the sum of and no more, to the best of my knowledge, information and belief, Sworn etc.

This affidavit is filed on behalf of

(2) ADVERTISEMENT

A.B. Deceased

Notice is hereby given that after the expiration of 10 days, application will be made in the Supreme Court of St. Helena for the sealing of the probate of the will (*or letters of administration of the personal estate*) of A.B., late of, deceased, granted by the Court at, on the day of, 20.....

Registrar, Supreme Court.

(3) ADMINISTRATION BOND (WITH OR WITHOUT WILL).

Know all Men by these Presents,

That we, A.B. of, C.D. of
and E.F. of are jointly and severally bound unto G.H.

This e-version of the text is not authoritative for use in court.

the Chief Justice of His Majesty’s Supreme Court of St. Helena in the sum of £ of good and lawful money of St. Helena to be paid to the said G.H. or to the Chief Justice of the said Court for the time being for which payment well and truly to be made we bind ourselves and each of us for the whole, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals dated the day of, Two thousand and

The condition of this obligation is such that if the above named A.B. the administrator (with the will dated the day of, annexed) by authority of the Court at, acting under letters of administration granted to on the day of, and now about to be sealed in St. Helena under the Imperial Probates Ordinance, of the personal estate of K.L. late of, deceased who died on the day of, 20....., do, when lawfully called on in that behalf, make, or cause to be made a true and perfect inventory of the personal estate of the said deceased in St. Helena which has or shall come to hands, possession or knowledge, or unto the hands and possession of any other person for and the same so made to exhibit or cause to be exhibited into the Registry of Her Majesty’s Supreme Court of St. Helena, whenever required by law so to do, and the same personal estate do well and truly administer according to law; and further do make or cause to be made a true and just account of said administration, whenever required by law so to do, then this obligation to be void and of none effect or else to remain in full force and virtue.

Signed sealed and delivered by the within named, in the presence of

(4) ADMINISTRATION BOND (WITH OR WITHOUT WILL).

On application by Attorney

Know all Men by these Presents,

That we, A.B., of, C.D. of, and E.F. of, are jointly and severally bound unto G.H. the Chief Justice of Her Majesty’s Supreme Court of St. Helena, in the sum of £ of good and lawful money of St. Helena to be paid to the said G.H. or to the Chief Justice of the said Court for the time being for which payment well and truly to be made we bind ourselves and each of us, for the whole, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals dated the day of, Two thousand and

The condition of this obligation is such that if K.L., of, the administrator with the will dated the day of, annexed by authority of the Court at, acting under letters of administration granted to on the day of, and now about to be sealed in

St. Helena under the Imperial Probates Ordinance of the personal estate of M.N. late of, deceased, who died on the day of, 20....., do when lawfully called on in that behalf make or cause to be made, a true and perfect inventory of the personal estate of the said deceased in St. Helena which has or shall come to hands and possession or knowledge or into the hands and possession of any other person for And the same so made do exhibit or cause to be exhibited into the Registry of Her Majesty's Supreme Court of St. Helena, whenever required by law so to do and the same personal estate do well and truly administer according to law: And further do make or cause to be made a true and just account of said administration whenever required by law so to do, then this obligation to be void and of none effect, or else to remain in full force and virtue.

Signed Sealed and Delivered by the within named, in the presence of

THIRD SCHEDULE

(Section 5)

COURT FEES	<i>s.</i>	<i>d.</i>
For every motion	4	0
On swearing every affidavit.....	2	0
On making every exhibit	1	0
On filing any document (other than documents deposited in court under Rule 3)	2	0
On depositing in court any documents under Rule 3 and filing same.....	4	0
On sealing a summons	2	0
On drawing any security	12	0
On entering any order	4	0
On sealing any grant	7	6
On sealing any document other than a grant.....	2	0

In all cases where the value of the estate in St. Helena does not exceed £50 only half of the above fees are to be taken.

INTERPRETER'S FEES	<i>s.</i>	<i>d.</i>
For interpreting in any language per day or part of a day	8	0
For translations or perusing and certifying same per folio	1	0

Counsel's and Solicitor's costs to be those allowed in the Supreme Court on motions and summonses in chambers.