



ST HELENA

REVISED EDITION OF THE LAWS, 2017

COURTS AND JUSTICE

IMPERIAL PROBATES ORDINANCE, 1899¹

*Ordinance 4 of 1899
In force 14 December 1899*

Amended by Ordinance 5 of 1937

No subsidiary legislation to 1 November 2017

IMPERIAL PROBATES ORDINANCE, 1899

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation
3. Recording probates granted in the United Kingdom or Her Majesty's dominions
4. Power of Supreme Court to make rules
5. Schedules part of the Ordinance

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.

Short title

1. This Ordinance may be cited as the Imperial Probates Ordinance, 1899.

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 pursuant to 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 Overseas Territory;
“**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;

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

“**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 Her Majesty’s dominions

3. (1) If 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 of them deposited with the Supreme Court of St Helena, be sealed with the Seal of the Supreme Court, and thereupon are of the like force and effect, and have the same operation in St Helena, as if granted by the Supreme Court, subject to subsection (1A).

(1A) The Supreme Court must 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 any property in St Helena to which the letters of administration relate; and may require any evidence it thinks fit as to the domicile of the deceased person.

(2) The Court may also, 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 of any such document certified as correct by or under the authority of the court granting the same, has 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 part of the Ordinance

5. The Schedules are part of this Ordinance.

FIRST SCHEDULE

(Section 5)

RULES OF COURT MADE UNDER THE IMPERIAL PROBATES ORDINANCE, 1899

TABLE OF CONTENTS

1. Application
2. Affidavit
3. Copies
4. Notice

5. Bond
6. Creditors' applications
7. Further evidence
8. Notice of re-sealing
9. Notice of revocation, etc.
10. Court fees

Application

1. Application to seal a grant of probate or letters of administration or a copy thereof under the Imperial Probates Ordinance, 1899 may be made to the Chief Justice by the Executor or Administrator, or the legal representative (lawfully authorised for the purpose) of such Executor or Administrator, either in person or through a solicitor.

Affidavit

2. An application under rule 1 must be accompanied by an affidavit of the Executor, Administrator, or legal representative in the form set out in the Second Schedule to the Imperial Probates Ordinance, 1899, or as near thereto as the circumstances of the case 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 an application under rule 1 must be advertised in the manner in which citations relating to grants of probate in St Helena have been hitherto advertised and must be returned and filed in like manner.

Bond

5. On an application to seal letters of administration, the Administrator or his or her legal representative must give bond (in the form set out in the Second Schedule to the Imperial Probates Ordinance, 1899, 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, 1899 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 or she 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 out in the Third Schedule to the Ordinance are the court fees, costs and charges to be paid and taken in proceedings under the 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 death domiciled at (the following words to be struck out if inapplicable) within the jurisdiction of the said Court.

3. That the advertisement annexed hereto was posted at the Court House door from 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 legal representative lawfully appointed of C.D. under his/her 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 WILL)

Know all people by this Bond

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

Sealed with our seals dated the day of, 20.....

The condition of this bond is 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, 1899 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 do well and truly administer the same personal estate according to law; and further do make or cause to be made a true and just account of the 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 effect.

Signed sealed and delivered by, in the presence of

(4) ADMINISTRATION BOND (WITHOUT WILL)

Know all people by this Bond,

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

Sealed with our seals dated the day of20..... .

The condition of this bond is that if K.L., of, the administrator, 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, 1899 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 do well and truly administer the same personal estate according to law: And further do make or cause to be made a true and just account of the 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 effect.

Signed Sealed and Delivered by, in the presence of

THIRD SCHEDULE
(Section 5)

COURT FEES

| | |
|---|-------|
| For every motion | 20p |
| On swearing an affidavit | 10p |
| On making an exhibit | 5p |
| On filing a document (other than documents deposited in court under Rule 3) | 10p |
| On depositing in court any documents under Rule 3 and filing same | 20p |
| On sealing a summons | 10 |
| On drawing a security | 30 |
| On entering an order | 20 |
| On sealing a grant | 37.5p |
| On sealing a document other than a grant | 10p |
| 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

| | |
|--|-----|
| For interpreting in any language per day or part of a day | 40p |
| For translations or perusing and certifying same per folio | 5p |

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