



Estates of Missing Persons (Management) Act 1973

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CHAPTER 159

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CHAPTER 159

THE ESTATES OF MISSING PERSONS (MANAGEMENT) ACT.

Commencement: 1 October, 1973.

An Act to make provision for the management of estates of missing persons and for other purposes connected therewith.

1. Interpretation.

(1) In this Act, unless the context otherwise requires—

“Administrator General” includes a deputy and assistant administrator general;

“dependent relative” includes— (i) a wife, a husband, a son or daughter under eighteen years

of age or daughter of or above eighteen years of age who is wholly or substantially dependent on the missing person; (ii) a parent, a brother or sister, a grandparent or grandchild who, on the date when a

missing person disappeared, was wholly or substantially dependent on the missing person for the provision of the ordinary necessities of life suitable to a person of his or her station;

“family” includes a parent, grandparent, uncle, first cousin, child, grandchild, wife or husband of a missing person;

“manager” means any person to whom an order to manage an estate of a missing person is granted under this Act;

“Minister” means the Minister to whom functions under this Act are assigned;

“missing person” means a person who disappears from Uganda without making provision for the administration of his or her estate and investigations have shown that his or her whereabouts are not known;

“order” means an order for the management of an estate of a missing person granted under section 7;

(h) “prescribed” means prescribed by regulations made under this Act;

(i) “property” includes immovable and movable property, any estate, share, interest in any property immovable or movable, any debt, thing in action and any other right or interest whether in

possession or not.

(2) For the purpose of this Act, an order for the management of an estate of a missing person shall not be granted to any person under the age of twenty-one years.

2. Management of the estate of a missing person.

Where a person, in this Act referred to as a “missing person”, disappears without making provision for the administration of his or her estate, or the maintenance of his or her dependent relatives, if any, and is not heard of within six months, any relative of the missing person may, with the concurrence of the family of the missing person, apply to the court to be granted an order to manage his or her estate; but the court may, if it considers it necessary or desirable, grant an order to more than one relative to manage the estate jointly.

Any person authorised in writing by the missing person to manage his or her estate during his or her absence may, in like manner, apply for the grant of an order before he or she assumes the office of the manager.

Where the person authorised under subsection (2) holds registered powers of attorney, that person may assume the office of manager without first applying to the court for an order, and thereafter he or she shall manage the estate in accordance with this Act.

Notwithstanding subsection (6), the relatives of the missing person may, with the concurrence of the family of the missing person, appoint the Administrator General to manage the estate of the missing person.

Where the relatives of the missing person, after consultation with the family of the missing person, are of the opinion that the estate of the missing person would be best administered by a person with expert knowledge of management, they may apply to the court and the court may grant an order to that person to manage the estate.

Where, after a period of twelve months next following the date of the disappearance of the missing person, no relative of the missing person applies for a grant, the Administrator General may, if it is in the public interest so to do, apply for an order to manage the estate.

3. Jurisdiction to make a grant.

by—

(1) Jurisdiction to make grant orders under this Act shall be exercised

a magistrate grade II, where the total value of the estate does not exceed ten thousand shillings;

a magistrate grade I, where the total value of the estate exceeds ten thousand shillings but does not exceed fifty thousand shillings;

a chief magistrate, where the total value of the estate exceeds fifty thousand shillings but does not exceed one hundred thousand shillings; or

the High Court, where the value of the estate exceeds one hundred thousand shillings.

(2) A grant made under this Act—

shall be in the prescribed form and under the seal of the court;

shall have effect over all the property of the missing person, movable and immovable, in all parts of Uganda; and

shall be conclusive evidence as to the representative title against all persons holding property which belongs to the missing person.

No grant shall be made by any court in any case where there is contention until the contention is disposed of.

A grant made under this Act may be revoked, altered or annulled for just cause, and any errors appearing in the grant may be rectified by the court.

4.

Form of application.

An application for a grant of an order under this Act shall be made, subject to such modification as may be necessary, in the same form as an application for the grant of letters of administration.

5.

Duty of court on receiving application for a grant.

(1) On receiving an application for a grant under this Act, the court may make all inquiries which it may deem fit to make, and for that purpose the court may—

examine the applicant in person upon oath or solemn affirmation on any matter relating to the missing person and his or her estate;

require further evidence of facts relating to the disappearance of the missing person;

issue summons calling upon all persons appearing in the application to have any interest in the estate of the missing person to appear before the court on the day and time appointed in the summons.

(2) Except for special reasons to be stated on the record, no grant shall issue from the court within thirty days of the date of the filing of the application.

6. Objection.

Any person who is likely to be adversely affected by the grant of an order under section 7 may lodge a memorandum of objection in writing to the court, at any time before the hearing of the application, giving a copy of the memorandum of objection to the applicant, on any one or all of the following grounds—

that the person named in the notice as missing is known to be living at a place to be stated in the memorandum of objection;

that the person named in the notice as missing authorised in writing some other person named in the memorandum of objection to manage his or her estate during his or her absence;

that, although the person named in the notice is missing, neither his or her interest nor the interests of his or her family, dependent relatives or any other person will suffer by the nonmanagement of the estate of the missing person for the reasons stated in the memorandum;

that by family arrangement, a person stated in the memorandum (other than the applicant) nominated by the relatives of the missing person is about to apply or has applied for the grant of an order to manage the estate.

7.

Grant of an order.

(1) Where an application for the grant of an order is contested, the court may, subject to subsection (2), after hearing both parties and their witnesses, if any, grant an order appointing any applicant who, in the opinion of the court, will manage the estate in the best interest of all concerned.

The court shall not make any grant under this section unless it is satisfied that the missing person is unlikely to reappear within a reasonable time.

The court may, subject to such conditions as it may impose, for good cause, the proof of which lies on the applicant, on application in that behalf by any other person interested in the estate of the missing person, revoke or vary an order granted under this section.

Any person aggrieved by the revocation or variation of an order under subsection (3), may appeal to the chief magistrate or the High Court, as the case may be.

8. Power of manager in respect of estate.

Where a manager is appointed, the court may direct in the order of appointment, or any subsequent order, that the manager shall have such general or special powers for the management of the estate of the missing person as appear to the court to be necessary.

No manager shall without the permission of the court—

mortgage, charge or transfer by will, sale or gift, inter vivos, surrender, exchange or otherwise, any immovable property of the missing person;

lease any such property for a term exceeding three years; or

invest any property of the missing person in any securities other than those authorised by the Trustees Act.

(3) If a person appointed manager of an estate of a missing person is unwilling to act gratuitously, the court may authorise him or her to be paid such fees or allowances as may be prescribed out of the estate as in the circumstances of the case the court thinks fit.

9. Intermeddling with property of the missing person.

(1) Any person who whether before or after an order under section 7 is granted and without the permission of the manager, as the case may be—

(a) takes possession of or in any way intermeddles with the property

of the missing person, except insofar as may be urgently

necessary for its preservation; or

(b) unlawfully refuses or neglects to deliver to the manager any property in his or her possession belonging to the estate of the missing person, commits an offence.

Any person taking any urgent action in regard to any property of a missing person for its preservation shall forthwith report the particulars of the property and the steps taken to preserve such property to the manager and, if he or she fails so to report, he or she commits an offence.

Without prejudice to any civil liability which any person taking any urgent action in regard to any property of a missing person may have incurred, any person who commits an offence under this section is liable to imprisonment for a term not exceeding one year or to a fine not exceeding five thousand shillings or to both.

10. Remaining partner to furnish sworn statement.

When a member of a partnership carrying on business in Uganda disappears in the circumstances described in section 2, the remaining partner or partners shall, not later than two months after the grant of an order, furnish to the manager a full and true statement of the affairs of the partnership.

A statement made under subsection (1) shall be verified by affidavit and shall contain—

particulars including values of the freehold and leasehold property of the partnership;

particulars of cash of the partnership at hand and in the bank;

particulars of the book and other debts of the partnership showing the names and addresses of the debtors;

particulars of the stock-in-trade, plant, machinery, fittings and all other personal estate whatsoever of the partnership not included under paragraphs (a), (b) and (c) of this subsection;

particulars of the liabilities of the partnership with the names and addresses of the creditors; and

such other particulars as the manager may require.

(3) The remaining partner or partners shall, if called upon to do so by the manager, produce to the manager for inspection, all books, papers and documents of whatever kind belonging to the partnership and shall, if so required, allow the manager to take a full and unhindered inspection of any of the partnership premises and property.

(4) Any person who fails to comply with this section commits an offence and is liable to imprisonment for a period not exceeding six months or to a fine not exceeding two thousand five hundred shillings or to both.

11. Power to call for sworn statement as to wages due to the estate of the missing person.

If the manager has reason to believe that there is due and owing to the estate of the missing person (which he or she is managing) by any person, any salary, wages, remuneration or commission, he or she may call upon that person, by notice in writing to furnish him or her, within a period stated in the notice, with a statement verified by affidavit showing the amount due and giving full details as to how such amount is arrived at.

Any person who fails to comply with the terms of a notice issued under this section commits an offence and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding five hundred shillings or to both.

12. Insurance policies.

(1) The payment of the insurance premiums in any policy due—

- (a) from the time a missing person disappears up to the time a manager is appointed under section 7; and
- (b) for three months after the appointment of the manager, shall be deemed to have been suspended.

The suspension of payment of the insurance premiums under subsection (1), shall not affect, in any way, the validity of the policy to cover the risks in the policy.

If the manager does not clear the outstanding insurance premiums and pay a regular premium within three months from the date of his or her appointment, the policy shall lapse.

Where a policy lapses under subsection (3) and it is subsequently proved that the policyholder died or has not been heard of for three years and is presumed dead under section 20—

- (a) the policy shall be deemed not to have lapsed;
- (b) the benefits accruing under the policy shall become due and payable.

For the purposes of paying the money due under the policy, the policyholder shall be deemed to have died on the last day he or she was seen alive.

Any premium which shall have been paid from the date a missing person is proved dead or presumed dead under section 20 shall be refunded to the estate of the deceased or presumed dead person.

The period of limitation for the purposes of any matter connected with any insurance policy held by the deceased or missing person shall not begin to run until—

in the case of a person whose estate has not been administered, the manager has been appointed;

where he or she is proved dead, from the date of the appointment of the administrator or executor of his or her estate; or

where he or she is presumed dead under section 20, from the date of the appointment of the administrator or executor of his or her estate.

13. Appointment of agents, etc.

For efficient and economical management of any estate or any part of an estate in respect of which an order has been granted, the manager may appoint any fit person on such terms and remuneration as he or she considers reasonable in the circumstances to be his or her agent for any particular estate or for any matter arising out of any estate.

The manager may, at his or her discretion, delegate to an agent any or all of the powers and duties conferred or imposed upon him or her by this Act.

An agent shall, in all respects, act under the direction of the manager and shall not be answerable for any act or omission on the part which happens through the fault or neglect of the manager.

A person appointed an agent under this section shall, before he or she enters upon his or her duties, find security to the satisfaction of the court and may be remunerated either by salary or such fees as the court may authorise.

(5) A manager shall not be liable for any act or omission except if the act or omission is through willful default or negligence.

14. Function of the Administrator General.

Where credible information is received that a minor's interest (not being an interest under the management of the public trustee) is faced with peril through neglect, fraud, mismanagement or any other cause, the Administrator General may, on his or her own motion or if so required by the court or by any person, act as guardian ad litem.

When an objection is made by a trustee, guardian, relative of the minor or other person in relation to the powers of the Administrator General under subsection (1), the Administrator General shall, nevertheless, pending the determination of the dispute by the court, take such steps as are necessary to preserve the minor's interest and shall, as soon as practicable, state the case to the court in the prescribed form for determination and directions.

Where the Administrator General manages an estate which the public trustee is not prohibited from accepting, he or she shall, if he or she is of the opinion that the interest of the minor will be better protected by the public trustee, pass the estate to the public trustee.

15. Managers to furnish inventory and annual accounts.

(1) Every person appointed to be manager of an estate of a missing person—

shall within six months of the date of his or her appointment or such other time as the court may order, deliver to the court an inventory of the property belonging to the missing person and of all such

sums of money, goods and effects as he or she shall receive on account of the estate together with a statement of all debts due to or owed by that person; and

shall furnish to the court annually or at such other periods as the court may order within three months of the close of the year or such other period, an account of the property in his or her charge, showing the sums received and disbursed on account of the estate during that year and the balance then remaining in his or her hands.

The accounts referred to in subsection (1)(b) shall be furnished in such form as the court may order.

Any person may, on payment of such fee as may be prescribed, inspect and obtain a copy of any inventory, statement or account delivered to the court under subsection (1).

Where any person, by petition to the court, impugns the accuracy of any inventory or statement, or of any account prepared under this section, the court may summon the manager and inquire summarily into the matter, and may make such order as it thinks proper.

16. Deposit of documents for safe custody.

The manager may deposit any documents held by him or her relating to the estate of a missing person with any bank or other company operating in Uganda whose business includes the undertaking of the safe custody of documents; and any sum payable in respect of the deposit shall be a charge on the estate.

17. Receipt from manager or his or her agent.

The receipt in writing of the manager or his or her agent for any money, securities, or other movable property or effects shall be a sufficient discharge to the person paying, transferring or delivering the money, securities or other movable property or effects and shall exonerate him or her from being answerable for any loss or misapplication of them.

18. Professional advice.

The manager may take and use professional advice with respect to any matter relating to any estate administered by him or her under this Act.

19. Reappearance of the missing person.

Where the missing person reappears, the court shall, on application made in that behalf by the missing person, make an order revesting the property in the estate in him or her in such manner and subject to such conditions as may be prescribed.

20. Presumption of death of the missing person.

Notwithstanding section 108 of the Evidence Act, or any other law to the contrary, where a period of three years beginning with the date of the disappearance of the missing person elapses, the missing person shall be presumed dead.

21. Death of the missing person.

Where the missing person is presumed dead or where credible information is received that the missing person is dead, the manager shall, within one month of the presumption or, as the case may be, the receipt of the information, report in writing the death to the Administrator General and thereafter shall cease to administer the estate.

A report made under this section shall be accompanied by all accounts and any other documents relating to the estate of the missing person.

22. Actions against the manager.

If any suit is brought by a creditor or any other claimant against the manager, the creditor or claimant shall be liable to pay the costs of the suit unless he or she proves that not less than three months immediately preceding the institution of the suit he or she applied in writing to the manager stating the amount and other particulars of his or her claim, and gave such evidence in support of the claim, as in the circumstances of the case the manager was reasonably entitled to require.

23. Power to apply to court for directions.

The court may, on application made to it, by or on behalf of the manager or any person who has an interest in the estate, give to the manager any general or special directions relating to the management of the estate.

24. Appointment of manager by the court.

(1) For the purposes of preservation of the estate, the maintenance of the dependent relatives of the missing person or for any other good cause, the court may appoint any person to be manager of the estate of the missing person pending the grant of an order under this Act.

(2) A manager appointed under this section—

shall be subject to the immediate control of the court and shall act under its direction;

shall perform all the functions and exercise all powers conferred upon the manager by this Act as if a grant or an order has been made to him or her except that he or she shall not have the power to dispose wholly of the estate of the missing person.

25. Regulations.

The Minister may make regulations—

prescribing the accounts to be kept by the manager;

prescribing the forms to be used, the fees, charges or other remuneration payable to a manager or agent appointed under this Act;

prescribing anything to be prescribed under this Act.

26. Application of Act.

This Act shall not apply to any property held in trust for the missing person under the Trustees Act.

History: Decree 20/1973; S.I. 113/1973.

Cross References

Evidence Act, Cap. 6. Trustees Act, Cap. 164.

