

## CHAPTER 299

## Probate Fees Act

- Title.**           **1.** This Act may be cited as the *Probate Fees Act*. R.S. 1948, c. 266, s. 1.
- Interpre-  
tation.**       **2.** In this Act, unless the context otherwise requires,
- “child” includes an illegitimate child of a deceased mother, a person to whom during his infancy the deceased stood in loco parentis for a period of not less than ten years, and a child or grandchild of any child;
  - “leviable value” means the fair market value of the property of the deceased passing to any person after the allowances authorized by section 4 are deducted therefrom;
  - “Minister” means the Minister of Finance;
  - “passing” or “passing on death” means passing under a will or intestacy either on the death of a person or on the expiration of an interval thereafter, either absolutely or contingently and either originally or by way of substitutive limitation, and “passes” shall have a corresponding meaning;
  - “probate” includes letters probate, letters of administration, letters with the will annexed, and sealing under *Probate Recognition Act*;
  - “property” includes real and personal property of every description and every estate or interest therein capable of being devised or bequeathed by will, or of passing on the death of the owner, and the following property shall be deemed to be property of the deceased and to be property passing on his death: Notwithstanding any provision of the *Insurance Act*, money received or payable under a policy of insurance effected on the life of the deceased where the policy was wholly kept up by the deceased or paid for out of his moneys for the benefit of an existing or future donee, whether nominee or assignee, or for the benefit of any person who may become a donee, or a part of the money so received or payable in proportion to the premiums paid by the deceased or out of his moneys where the policy was partially kept up by him or partially paid for out of his moneys for such benefit; provided that money received or payable under the following policies shall not be deemed to be property of the deceased, nor to be property passing on his death, for the purposes of this Act, that is to say,
    - (a) policies in which the beneficiaries (other than the estate, executors, or administrators of the deceased) have been named in the policies or have been subsequently designated as

beneficiaries by any means other than by the last will of the deceased;

(b) policies under which moneys are payable to beneficiaries or assignees for value. R.S. 1948, c. 266, s. 2; 1958, c. 41, s. 2.

Method of  
deducting  
probate fee.

3. (1) In addition to the fees payable under Rules of Court, there shall be paid to the Minister as a fee for the issuance of letters probate an amount calculated

- (a) by ascertaining the leviable value of the property of the deceased within the Province in accordance with section 4;
- (b) in the case of an estate passing in whole or in part to a wife, or child, by deducting from the leviable value of all the property within the Province the leviable value of the property within the Province which passes to such persons, up to a maximum deduction of twenty thousand dollars;
- (c) by further deducting from the result obtained in clause (b) the leviable value of property within the Province which passes to any person for religious, charitable, or educational purposes, to be carried out within the Province, the resulting amount being called the probate fee value;
- (d) by applying the scale of fees set out herein to the probate-fee value in the following manner:—

Where such value is over \$1,000 and does not exceed \$2,000, a fee of .....	\$10.00
Is over \$2,000 and does not exceed \$3,000, a fee of .....	15.00
Is over \$3,000 and does not exceed \$4,000, a fee of .....	20.00
Is over \$4,000 and does not exceed \$5,000, a fee of .....	25.00
And where such value exceeds \$5,000, the fee shall be \$25 on the first \$5,000, and an additional fee of \$3 shall be charged on each \$1,000 or fraction thereof in excess of \$5,000.	

(2) Except in the case of a specific legacy or bequest, property within and without the Province shall be deemed to pass to a person entitled under a will or intestacy in the same proportion that the leviable value of all the property of the deceased within the Province bears to the leviable value of all the property of the deceased wherever situate. R.S. 1948, c. 266, s. 3; 1950, c. 59, s. 2; 1958, c. 41, s. 3.

Allowances in  
determining  
leviable value.

4. (1) In determining the leviable value of the property of the deceased, the fair market value shall be taken as at the date of the death of the deceased, and a deduction or allowance shall be made as provided in this section for reasonable funeral expenses (not to exceed five hundred dollars), debts, and encumbrances, but an allowance shall not be made

- (a) for debts incurred by the deceased, or encumbrances created by a disposition made by the deceased, unless such debts or encumbrances were incurred or created bona fide for full consideration in money or money's worth wholly for the

deceased's own use and benefit, and take effect out of his interest; nor

- (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained; nor
- (c) more than once for the same debt or encumbrance charged upon different portions of the estate; nor
- (d) shall any allowance or reduction be made for the expense of administration of the estate or the execution of any trust created by the will of a testator.

Deduction of allowances.

(2) The allowances made under subsection (1) in determining the leviable value shall be deducted from the value of only those portions of the property out of which the funeral expenses, debts, and encumbrances are payable respectively, and where the property situate within the Province forms only part of the property of a deceased, the allowances shall be deducted from the value of the property within the Province to the extent only of an amount which bears the same ratio to the value of the property within the Province as the value of that property bears to the gross value of all the property of the deceased, wherever situate, both within and without the Province. R.S. 1948, c. 266, s. 4.

Due date and interest.

5. The fee levied under this Act is payable upon the issuance of letters probate, and if not paid within six months from such issuance, interest at the rate of four and one-half per centum per annum shall be charged and collected from the date of such issuance. R.S. 1948, c. 266, s. 5.

Liability for payment of fee.

6. (1) Fees payable under this Act shall be deducted from the share of each person entitled to share in the estate in an amount which bears the same ratio to the total fee as the value of property passing to such person included in the probate fee value bears to the total probate fee value of the estate.

(2) Every person domiciled or resident in the Province is personally liable to pay the fee apportioned to that part of the estate passing to him. R.S. 1948, c. 266, s. 6.

Duty of applicant for probate or letters of administration to file affidavits of value and relationship.

7. (1) On all applications for probate made to any Court in the Province, the applicant, or one of the applicants, shall make and file with the Registrar of the Court, at the time of filing the papers required by the practice of the Court on such application, two duplicate original affidavits of value and relationship with inventories annexed in Form No. 1 in Schedule A, and such affidavits shall be made and filed in all cases irrespective of the nature, situation, or value of the property of the deceased.

(2) Where an applicant resides outside the Province, such affidavits may be made by an agent with a knowledge of the facts to be deposed to,

and, if accepted by the Minister, may be filed by such agent with the Registrar of the Court.

(3) No affidavit of value and relationship which sets forth any real estate of the deceased is sufficient unless the description therein would be sufficient for the purpose of the registration of the title to the parcel under the *Land Registry Act* if it were contained in a conveyance of the parcel.

(4) No order for the granting of probate shall be made by the Court in any case until the affidavits required by this section have been filed with the Registrar of the Court.

(5) On receipt of the duplicate affidavits of value and relationship, the Registrar of the Court shall forward one duplicate thereof to the Minister, together with the name of the applicant's solicitor and the date of issue of probate or letters of administration. R.S. 1948, c. 266, s. 7; 1958, c. 41, s. 4.

Power to  
Minister to  
obtain  
necessary  
information.

8. (1) The Minister may at any time require from any person such information on oath or otherwise as in the Minister's opinion is necessary to enable him to determine the amount of the fee payable.

(2) The Minister may, whenever he thinks fit, by writing signed by him, authorize any person to inspect any property disclosed in the inventory annexed to the affidavit of value and relationship or any property which the Minister considers to have been improperly omitted therefrom, and to report to him the value thereof for the purposes of this Act; and every person having the custody or control of that property shall permit the person so authorized to inspect it at such reasonable times as the person so authorized considers necessary.

(3) Every person who wilfully refuses or neglects to furnish to the Minister any information required pursuant to this section, or who wilfully furnishes to the Minister for the purposes of this section any incorrect or misleading information, and every person who in contravention of any provision of this section refuses to permit the inspection of property by any person, is liable, on summary conviction, to a fine not exceeding one hundred dollars. R.S. 1948, c. 266, s. 8.

Penalty for  
making in-  
correct or  
misleading  
statements to  
Minister.

9. Every person who, without reasonable excuse, the proof of which lies on him, fails to include in the inventory attached to any affidavit made by him in Form No. 1 in Schedule A any property of the deceased person, or who, with intent to deceive or mislead the Minister, makes in any affidavit or inventory or in any writing signed by him any incorrect statement with respect to the value or mode of passing of any property, or with respect to the degree of relationship of a beneficiary to the deceased, is, in addition to all other penalties, liable to pay to the Minister as for a debt due to the Crown an amount equal to twice the amount of the fee payable properly under this Act. R.S. 1948, c. 266, s. 9.

Inquiry by  
Commissioner  
regarding  
property of  
deceased and  
its value.

**10.** (1) In case the Minister is not satisfied that the affidavit of value and relationship filed under section 7 discloses all the property of the deceased, or is not satisfied with the value sworn to, or is not satisfied that the affidavit discloses all the persons to whom the property of the deceased passes and states correctly their relationship to the deceased, the Lieutenant-Governor in Council may appoint a Commissioner under the *Public Inquiries Act*, to inquire into and report what property of the deceased should be taken into consideration in the computation of the fee and what is the value thereof or of any part thereof.

Notice of  
inquiry.

(2) Instead of the notice prescribed by section 6 of the *Public Inquiries Act*, the Commissioner shall give one week's written notice of such inquiry to the persons applying for probate of the time and place at which he shall make the inquiry and of the nature of the inquiry. The notice shall be duly given if served upon the solicitors for said applicants. The Commissioner shall also give such written notice of the inquiry to such other persons as he considers necessary.

Appraisalment  
and report.

(3) The Commissioner shall ascertain and appraise the property of the deceased at its fair market value, and shall ascertain the name of each person to whom property of the deceased passes, what property of the deceased should be taken into consideration in the computation of the fee under this Act, and he shall make his report in writing, in duplicate, one copy to be sent to the Lieutenant-Governor in Council, pursuant to the provisions of the *Public Inquiries Act*, the other copy to be sent to the executor or administrator or other person by whom the affidavit of value and relationship was filed, as the case may be, or to his solicitor.

Appeal.

(4) Any person dissatisfied with the report, or any portion of the report, of the Commissioner may appeal therefrom to the Court of Appeal within thirty days after the making and receipt of the report by the Lieutenant-Governor in Council. The notice of the appeal to the Court of Appeal and the procedure generally in connection with the appeal, except as altered hereby, and the powers of the Court of Appeal in respect of the appeal are the same as in the case of an ordinary appeal to the Court of Appeal from any judgment of a Judge of the Supreme Court. R.S. 1948, c. 266, s. 10.

Determina-  
tion of fee  
payable.

**11.** (1) On receipt by the Minister of the affidavit of value and relationship filed pursuant to any provision of this Act, or on receipt by the Lieutenant-Governor in Council of the report of the Commissioner under section 10, the Minister may determine the amount of fee payable under this Act and the person liable therefor, and may review, vary, or rescind any determination made by him.

Statement  
of fee.

(2) On the determination of the fee payable in any case, the Minister shall send a statement thereof to the person by whom the affidavit of value and relationship (if any) was filed, or his solicitor; and, in the case of a determination based on the report of a Commissioner, shall also send a statement thereof by registered letter to every person to whom notice

of the inquiry was given by the Commissioner under section 10. R.S. 1948, c. 266, s. 11.

Determina-  
tion of value  
of future or  
contingent  
interest.

**12.** (1) For the purpose of this Act every future or contingent or limited estate, income, or interest shall be reduced to its present value as at the date of death of the deceased, and such present value shall be determined by using Schedule B; the rate of interest to be used in computing the present value of all limited and future interests and contingencies shall be four and one-half per centum per annum; and, subject to subsection (2), the Minister shall determine the present value upon the facts ascertained by him or as contained in the report of a Commissioner.

"Net annual  
income" for  
purposes of  
this section.

(2) For the purposes of this section, the net annual income of any property shall be deemed to be four and one-half per centum of the leviable value of the property, notwithstanding the fact that the net annual income actually arising therefrom is either more or less than four and one-half per centum per annum. R.S. 1948, c. 266, s. 12.

Security for  
payment of  
fee.

**13.** (1) The Minister may accept security from any person tendering the same for securing the payment of the fee payable to the Minister imposed by this Act in any case, or of any part of that fee.

(2) The security, if by way of a bond or guarantee, shall be in such form, for such sum, and with such sureties or otherwise as the Minister may approve, and, if by way of the deposit of securities, shall be of such character and valuation and subject to such terms as he may approve; and the security shall be deposited in the Treasury at Victoria.

(3) Subject to any certificate of discharge given by the Minister under section 32, the giving or acceptance of security under this Act for the payment of fee payable to the Minister does not affect the right of the Minister to require and enforce payment of the fee by any person or out of any property by any means otherwise available therefor. R.S. 1948, c. 266, s. 13.

Liens for  
fee on  
property.

**14.** (1) The fee imposed by this Act payable to the Minister, together with interest thereon, is and constitutes a lien and charge in favour of Her Majesty in right of the Province on and against all the property of the deceased within the Province until the fee and interest payable to the Minister in respect thereof have been fully paid, and having priority over all other claims of any person except claims secured by liens, charges, or encumbrances thereon duly registered under the laws of the Province prior to or at the time of the death of the deceased or existing at that time and valid without registration.

(2) Any Judge of the Supreme Court has jurisdiction in an action or on a summary application brought or made to enforce a lien existing under this Act to order a sale of the property against which the lien is claimed, or any part thereof, and to make such other order or give such directions as may be necessary to enable the Minister effectually to enforce the lien. R.S. 1948, c. 266, s. 14.

Registration  
of caveat  
that property  
subject to  
Crown lien.

**15.** In case it is claimed that any land or money secured by any mortgage or charge upon land is subject to a lien for fees payable to the Minister, the Minister or anyone appointed by him may at any time within six months after the issuance of letters probate in the Province cause to be lodged in the proper Land Registry Office a caveat stating that a lien for probate fees is claimed by the Minister in respect of the land, mortgage, or charge on account of the death of the deceased, naming him, and all subsequent dealing with that land, mortgage, or charge shall be subject to the lien in favour of the Crown for the amount of the fee and interest thereon; no lien for fees against real property or any interest therein is enforceable by the Crown as against a bona fide purchaser or encumbrancer for value who has acquired title without notice of such lien. No notice shall be imputed to any purchaser or encumbrancer because of failure to inquire into the existence of any lien for fees not evidenced by a caveat lodged as provided in this section, except in the case of any person who acquires title directly from the personal representative of the deceased person. R.S. 1948, c. 266, s. 15.

Preservation  
of Crown  
lien, and  
right of sub-  
rogation.

**16.** Subject to any certificate of discharge given by the Minister pursuant to section 31, the giving or acceptance of security pursuant to this Act for the payment of probate fees shall not affect any lien under this Act in favour of the Crown; and upon the payment of the probate fee to the Crown pursuant to security so given, the person making the payment shall be subrogated to all rights, liens, powers, and privileges in respect of the probate fee so paid to which the Crown was entitled by virtue of this Act prior to the payment, and may enforce the same by action in his own name. R.S. 1948, c. 266, s. 16.

Duty of  
executors and  
administra-  
tors to deduct  
or collect fees.

**17.** No executor or administrator shall, without the consent of the Minister, pay over or deliver property to any beneficiary without making the deduction required by section 6. Every executor or administrator who pays over or delivers any property in contravention of this subsection shall be liable, on summary conviction, to a fine of not less than the amount of the fee and interest payable. R.S. 1948, c. 266, s. 17.

Power of  
sale to  
pay fees.

**18.** Every executor, administrator, or trustee shall have power, with the consent of the Minister, to sell, pledge, mortgage, lease, or otherwise dispose of the whole or a part of the share or interest of any person in the property of the deceased situate within the Province for the payment of the fee payable to the Minister imposed by this Act, and interest thereon, for which the person to whom the property passes is liable, or to which the property is subject. R.S. 1948, c. 266, s. 18.

Extent of  
executor  
liability  
for fee.

**19.** No executor, administrator, or trustee is personally liable for the fees payable to the Minister imposed by this Act; but an executor, administrator, or trustee of the deceased may be sued in his representative capacity for the amount of the fee, and any judgment recovered

against him in that capacity shall be executed only against the property so in his possession or charge. R.S. 1948, c. 266, s. 19.

Where  
property  
of deceased  
is under  
\$1,000.

**20.** (1) Where the fair market value of the property of the deceased situate within the Province is under one thousand dollars, any person who has or seeks to obtain custody or control of the property may, without making application for probate or letters of administration, file with the Minister the affidavit of value and relationship with inventories annexed in Form No. 1 in Schedule A, with such variations as may be necessary to set out the facts, and the Minister, if satisfied that no fee is payable, may grant a certificate stating that the property is not subject to any claim for probate fees.

(2) The certificate may be in Form No. 2 in Schedule A, with such variations as may be necessary.

(3) The certificate given under this section does not discharge any person from any fee in case of fraud or failure to disclose material facts, but does, in respect of the property covered by the certificate, exonerate from probate fee any person who bona fide allows a transfer of or purchases or deals in such property without notice, notwithstanding any such fraud or failure. R.S. 1948, c. 266, s. 20.

Certificate  
of discharge  
without  
resealing.

**21.** Where any Court without the Province having jurisdiction in probate has granted probate or letters of administration in respect of the estate of a deceased person, and the property of the deceased situate within the Province consists wholly of stocks, debentures, or shares, then on the filing with the Minister of affidavits of value and relationship with inventories annexed in Form No. 1 of Schedule A with such variation as may be necessary to set out the facts correctly, together with an affidavit by the executor or administrator or his solicitor or agent setting out the fact that no application is to be made for resealing of such probate or letters of administration, and upon payment of such probate fees as would have been payable if such application had been made, the Minister may grant a certificate showing the payment of such fees, and any corporation, upon production of the certificate, is at liberty to enter in its registers a transfer of the stocks, debentures, or shares to the persons entitled thereto. 1950, c. 59, s. 4.

Information  
from execu-  
tors respecting  
adminis-  
tration.

**22.** (1) The Minister may from time to time require from any executor, administrator, or trustee information respecting the administration of the estate.

Action  
to enforce  
adminis-  
tration.

(2) If the Minister considers that any executor, administrator, or trustee who, not having paid the fee payable under this Act, is not exercising sufficient diligence in the administration of any property or any trust in relation to property situate within the Province, the Attorney-General may, on the request of the Minister, and in addition to all other remedies provided by this Act, bring and maintain an action in the Supreme Court on behalf of the Crown in right of the Province, and may obtain an order for any or all of the following:—



- (a) For the administration of the personal property of the deceased situate within the Province:
- (b) For the administration of the real property of the deceased situate within the Province:
- (c) For the administration of any trust in relation to property situate within the Province:
- (d) For the sale of the property of the deceased situate within the Province or such part thereof as is necessary to satisfy the probate fees, and interest thereon. R.S. 1948, c. 266, s. 21.

Notice of  
passing of  
executor's  
accounts.

**23.** (1) At least fourteen days' notice of any appointment for the passing of the accounts of an executor or administrator shall be served on the Minister by the executor or administrator, or his solicitor, together with a copy of the accounts; and no Court shall proceed with the examination or passing of the accounts of an executor or administrator unless proof is furnished to the Court that a notice has been served under this section.

(2) The provisions of subsection (1) do not apply where the full amount of all the fees and interest payable in respect of all property passing on the death of the deceased has been paid to the Minister, and a certificate of discharge therefor has been granted under section 32. R.S. 1948, c. 266, s. 22.

Repayment  
of fee paid  
on property  
refunded by  
next of kin  
to pay debts..

**24.** Where any debts are proven against the estate of a deceased person after the payment of legacies or distribution of property from which the fee has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir, or next of kin, a proportion of the fee so deducted or paid shall be repaid to him by the executor, administrator, trustee, or other person who deducted or collected it, if the fee has not been paid to the Minister, or by the Minister if it has so been paid. R.S. 1948, c. 266, s. 23.

Minister may  
apply to Judge  
for order  
enforcing  
payment of  
probate fee.

**25.** A Judge of the Supreme Court may at any time after the death of the deceased, upon the application of the Minister, issue a summons directing any executor or administrator to appear before a Judge of the Court on a day certain to be therein named, and show cause why the fee should not be paid forthwith, or on a day to be fixed by the Judge. Upon the return of the summons, a Judge may order payment of the fee forthwith, or to fix a day upon which the fee shall be paid. The procedure applicable to the application, including the enforcement of any order made, shall be the procedure of the Court governing applications to and orders made by Judges in Chambers. R.S. 1948, c. 266, s. 24.

Judge may  
make order  
as to time  
for payment  
of fees and  
interest.

**26.** (1) A Judge of the Supreme Court may make an order, upon the application of an executor or administrator or the person entitled to apply for probate, for extending the time fixed by law for payment of fees payable under this Act, and also the date when interest shall be

chargeable, where it appears to the Judge that payment within the time prescribed by this Act is impossible, owing to some cause over which the person liable has no control; but it shall not be considered or adjudicated as impossible, within the meaning of this section, for a person to make payment of the fee merely because of the fact that the Minister or any other person has not made a determination of the fee payable, or has not made or sent to any person any statement thereof.

Extension  
of time by  
Order in  
Council.

(2) The Lieutenant-Governor in Council, upon proof to his satisfaction that payment of the fee to the Minister within the time limited by this Act would be unduly onerous, may extend the time for the payment thereof to such date and on such terms as to interest or otherwise as may be considered proper. R.S. 1948, c. 266, s. 25.

Judge may  
determine  
what prop-  
erty liable  
to fees.

**27.** Except where a Commissioner has determined what property should be taken into consideration in the computation of the fee pursuant to the provisions of section 10 or by the Minister on receipt of the report of a Commissioner pursuant to section 11, a Judge of the Supreme Court shall have jurisdiction, upon motion or petition, to determine what property should be taken into consideration in the computation of the fee under this Act, and the amount thereof, and may himself or through any reference exercise any of the powers which by section 10 are conferred upon a Commissioner. R.S. 1948, c. 266, s. 26.

Appeal.

**28.** (1) An appeal shall lie in an action or proceeding brought under this Act wherever an appeal would lie if the action were between subject and subject, and to the like tribunal.

Costs.

(2) The costs of all actions and proceedings in the Supreme Court or any County Court brought under this Act and of all appeals to the Court of Appeal shall be in the discretion of the Court, and the Court may make an order as to the costs thereof in favour of or against the Crown. R.S. 1948, c. 266, s. 27.

Allocation  
of fines.

**29.** All fines recovered under this Act shall, notwithstanding anything in any other Act, be paid to the Minister of Finance. R.S. 1948, c. 266, s. 28.

Concurrent  
exercise of  
powers of  
recovery  
of fees.

**30.** The powers conferred by this Act for the collection and recovery of probate fees may be exercised separately, or concurrently, or cumulatively. R.S. 1948, c. 266, s. 29.

Application of  
money paid  
on account of  
fees payable to  
the Minister.

**31.** All moneys received by the Minister in payment or on account of probate fees shall, irrespective of any direction given by the person making the payment, be applied first towards satisfaction of any interest which may be due on the fee, and the remainder of the moneys, after satisfaction of interest, shall be applied towards the satisfaction of the fee. R.S. 1948, c. 266, s. 30.

Certificate  
of discharge  
of fee.

**32.** (1) Where the full amount of all the fees and interest payable in respect of the probate of any estate comprised of property passing on the death of the deceased person has been paid to the satisfaction of the Minister, he shall, upon the request of any person interested, grant a certificate to that effect which shall discharge any lien for fees against the property of the deceased.

(2) The certificate of discharge granted in any case under this section may be in Form No. 2 in Schedule A, and shall state that it is granted under the terms and subject to the conditions of this section, and it shall not discharge any person or property in case of fraud or failure to disclose material facts; but, notwithstanding any fraud or failure to disclose material facts, a certificate purporting to be a discharge of the full amount of the fee payable in respect of any property comprised in the certificate shall exonerate from any fee or penalty any person who in good faith and without knowledge of the fraud or failure allows a transfer of the property, and shall discharge any property in the hands of a bona fide purchaser for valuable consideration and without notice. R.S. 1948, c. 266, s. 31.

Consent of  
Minister to  
the opening  
of safety-  
deposit boxes.

**33.** (1) Unless the consent thereto in writing of the Minister or his authorized representative is obtained, no person in control of premises where safety-deposit boxes are leased or rented shall permit the opening of any safety-deposit box in the Province or the removal thereof from the Province if the safety-deposit box was leased or held in the name of a deceased person, either solely or jointly with another person, until fourteen clear days after he has mailed to the Minister a detailed list of the contents of said box, certified to be correct by himself and the representative of the deceased person.

(2) Every person who contravenes any provision of this section is liable, on summary conviction, to a fine not exceeding one thousand dollars, and is in addition liable to a fine not exceeding the amount of the fee payable to the Minister and interest (if any) imposed by this Act in respect of the issuance of probate of the estate of the deceased person comprising property dealt with in contravention of this section; but the penalties prescribed by this subsection shall not apply when the Minister is satisfied that the contravention was not wilful and occurred through ignorance of the death of the deceased person or of the fact that the safety-deposit box contained property of the deceased. R.S. 1948, c. 266, s. 32.

Regulations.

**34.** The Lieutenant-Governor in Council may make regulations for carrying into effect the provisions of this Act, and, without limiting the generality of the foregoing, may make regulations

(a) for the amendment, repeal, or re-enactment of any form set out in Schedule A, and for providing such other forms as may be necessary;

- (b) for providing that all or any of the powers and functions exercisable by the Minister under this Act may be exercised, subject to the control of the Minister, by any officer designated in the regulations;
- (c) for supplementing the provisions of this Act with regard to the opening of safety-deposit boxes;
- (d) for designating any place or places in the Province at which and the persons to whom the fees payable to the Minister under this Act may be paid;
- (e) for fixing fees to be payable for certificates granted by the Minister under this Act. R.S. 1948, c. 266, s. 33.

Commence-  
ment.

**35.** This Act applies in respect of the estates of persons who have died after the thirty-first day of March, 1947. R.S. 1948, c. 266, s. 34.

Repeal.

**36.** This Act may be repealed by the Lieutenant-Governor by his Proclamation. R.S. 1948, c. 266, s. 35.

## SCHEDULES

### SCHEDULE A

#### FORM No. 1

#### AFFIDAVIT OF VALUE AND RELATIONSHIP

(This affidavit is to be made by the applicant, or one of the applicants.)

#### *Probate Fees Act* (Section 7)

#### IN THE

In the Matter of the Estate of \_\_\_\_\_, Deceased

I, \_\_\_\_\_, make oath and say:—

That \_\_\_\_\_ the applicant for letters \_\_\_\_\_ to the estate of \_\_\_\_\_, who died on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, domiciled in \_\_\_\_\_.

That \_\_\_\_\_ have caused application to be made in the office of the Registrar of the above-named Court that letters \_\_\_\_\_ be granted to the estate of the said \_\_\_\_\_ by the said Court.

That \_\_\_\_\_ have made full, careful, and searching inquiry for the purpose of ascertaining what real and personal property and effects the said \_\_\_\_\_ was possessed of, or entitled to, at the time of his death, together with the fair market value thereof respectively.

That \_\_\_\_\_ have, according to the best of \_\_\_\_\_ knowledge, information, and belief, set forth in the Inventory herewith exhibited, marked "X," a full, true, and particular account of all the real and personal estate of the said \_\_\_\_\_, or of which the said \_\_\_\_\_ was possessed, or to which \_\_\_\_\_ he was entitled at the time of his death, together with the fair market value as at the date of death of each and every asset forming part of the said real and personal estate. The gross value of the said estate as at date of deceased's death was \$ \_\_\_\_\_.

That have included in said Inventory every security, debt, and sum of money outstanding due or payable to or standing to the credit of the said deceased at the time of h death, and in estimating the value thereof have included all the interest due, payable, chargeable, and accruing due thereon up to the death of the said deceased.

That, save and except what is set forth in the said Inventory, the said was not, to the best of knowledge, information, and belief, at the time of h death possessed of or entitled to any debt or sum of money, or any security, pledge, or undertaking for the payment of any money to h on any account whatsoever, or to any leasehold or other personal estate, goods, chattels, or effects in possession or reversion absolutely or contingently or otherwise howsoever.

That in the said Inventory is included all the property of the said situate within and without the Province.

That, save and except what is set forth in the said Inventory, the said was not, to the best of knowledge, information, and belief, at the time of h death seised of or entitled to any real estate in possession, remainder, and reversion absolutely or contingently or otherwise howsoever.

That, to the best of knowledge, information, and belief, no policy of insurance payable to the estate of the deceased had been purchased or provided by the said deceased, either by h self alone or in concert or by arrangement with any other person, save and except what is set forth in the said Inventory.

That have in the Inventories respectively marked "X" and "Y," hereto annexed, set forth the assets, debts, and liabilities of the deceased and the names of the several persons to whom the property of the said deceased will pass and the degree of relationship (if any) in which they stand to the deceased and the nature and value of the property passing to each of these persons respectively.

Sworn before me at ,  
 in the of ,  
 this day of , 19 .  
 -----  
 A Commissioner, etc.

Inventory X.

*Probate Fees Act*

IN THE

In the Matter of the Estate of , Deceased

1. Real Estate (Give full value of property, setting out encumbrances (if any) in detail separately.)		Total	
2. Moneys Secured by Mortgage or Agreement of Sale	Principal	Interest	Total

3.	Cash and Gross Amount of Life Insurance, with Names of Beneficiaries and whether Named in the Policy, by Endorsement or Otherwise	Principal	Interest	Total
4.	Book Debts and Promissory Notes, etc., Including Interest to Date of Death	Principal	Interest	Total
5.	Securities for Money, Bonds, Stocks, and Shares (State where bonds were found at date of death and whether shares in bearer form, and where stocks and shares are transferable if not in bearer form.)	Principal	Interest	Total
6.	Other Property			Total
	Household goods and furniture .....			
	Pictures, plate, and jewellery .....			
	Farming implements .....			
	Horses .....			
	Horned cattle .....			
	Sheep, swine, and other domestic animals and birds .....			
	Farm produce of all kinds .....			
	Stock-in-trade, including goodwill of business .....			
	Other personal property not before mentioned .....			
	Summary of Foregoing Numbered Items (State values of parts within and without British Columbia.)	Within British Columbia	Without British Columbia	Total
	Item 1 .....			
	Item 2 .....			
	Item 3 .....			
	Item 4 .....			
	Item 5 .....			
	Item 6 .....			
	Totals			
	Details of Debts and Liabilities for Which Allowance May Be Made under Section 4 of Probate Fees Act, 1947			

This is Inventory "X" referred to in the Affidavit of Value and Relationship of .

Sworn to at on the day of , 19 .

\_\_\_\_\_  
A Commissioner, etc.

Inventory Y.

*Probate Fees Act*

IN THE

In the Matter of the Estate of , Deceased

Name	Relationship	Date of Birth of Life Tenants and Annuitants	Property Passing	Value

This is Inventory "Y" referred to in the Affidavit of Value and Relationship of

Sworn to at on the day of , 19 .

A Commissioner, etc.

## FORM No. 2

## CERTIFICATE OF DISCHARGE

*Probate Fees Act*  
(Section 32)

In the Matter of the Estate of , Deceased

This is to certify that the full amount of probate fees payable in respect of the probate of the estate of the said deceased which is comprised of the property or beneficial interest in property of the herein set forth has been paid or secured, and the property or interest is therefore discharged from any further claim to probate fees.

The property or interest comprised in this certificate is as follows:—

This certificate is given under the terms and subject to the conditions of section 31 of the *Probate Fees Act*.

Dated at Victoria this day of , 19 .

Minister of Finance.

## SCHEDULE B

## (Section 12)

Age	Expectation Years	Age	Expectation Years	Age	Expectation Years	Age	Expectation Years
0	57.64	25	38.44	50	20.51	75	6.56
1	56.64	26	37.65	51	19.84	76	6.17
2	55.64	27	36.93	52	19.17	77	5.85
3	55.09	28	36.18	53	18.50	78	5.48
4	54.83	29	35.47	54	17.81	79	5.22
5	53.83	30	34.75	55	17.14	80	4.93
6	53.08	31	34.04	56	16.53	81	4.61
7	52.67	32	33.30	57	15.90	82	4.36
8	52.17	33	32.59	58	15.26	83	4.04
9	50.80	34	31.86	59	14.64	84	3.84
10	49.89	35	31.15	60	13.99	85	3.58
11	49.38	36	30.41	61	13.42	86	3.44
12	48.38	37	29.69	62	12.83	87	3.26
13	47.50	38	28.97	63	12.26	88	3.05
14	46.60	39	28.27	64	11.72	89	2.94
15	45.90	40	27.57	65	11.17	90	2.68
16	45.14	41	26.85	66	10.65	91	2.46
17	44.23	42	26.14	67	10.12	92	2.25
18	43.39	43	25.42	68	9.61	93	2.15
19	42.64	44	24.69	69	9.13	94	2.09
20	41.98	45	24.27	70	8.68	95	1.90
21	41.23	46	23.98	71	8.16	96	1.06
22	40.51	47	22.57	72	7.65	97	1.00
23	39.84	48	21.89	73	7.24	98	0.50
24	39.15	49	21.20	74	6.83		

R.S. 1948, c. 266, Sch.; 1958, c. 41, s. 5.

Printed by DON MCDIARMID, Printer to the Queen's Most Excellent Majesty  
in right of the Province of British Columbia.

1960