ACTS
SUPPLEMENT No. 3 **31st May, 2022**

ACTS SUPPLEMENT

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Act 3 *Succession (Amendment) Act* **2022**

THE SUCCESSION (AMENDMENT) ACT, 2022

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THE SUCCESSION (AMENDMENT) ACT, 2022

An Act to amend the Succession Act, Cap. 162, to bring it in conformity with the Constitution; to provide for gender equality in accordance with Articles 21 and 33 of the Constitution; to repeal sections that were declared unconstitutional by the Constitutional Court; to refine the definition of customary heir or heiress to remove discrimination; to provide for the protection of the principal residential property for the benefit of the surviving spouse and lineal descendants; to revise the percentages of distribution of the estate of an intestate; to provide for the appointment of a guardian for a child by either parent; to provide for the powers and duties of a guardian; to introduce modern terminologies and definitions of persons who suffer from mental illness and repeal repugnant terms such as "lunatics" and "insane"; to provide for the duration of probate and letters of administration and execution of wills of deceased persons; to enhance penalties for certain offences and to prescribe penalties for contravention of the Act; and to provide for related matters.

DATE OF ASSENT: 10th April, 2022

Date of Commencement: 31st May, 2022

BE IT ENACTED by Parliament as follows—

1. Amendment of section 2 of the Succession Act

The Succession Act, in this Act referred to as the principal Act, is amended in section 2—

(a) by repealing the words "legitimate, illegitimate and" appearing in paragraph (b);

(b) by inserting a new paragraph immediately after paragraph (d) as follows—

"(da) "currency point" has the value assigned to it in Schedule 1 to this Act;";

(c) by substituting for paragraph (e) the following—

"(e) "customary heir or heiress" means a person recognised under the rites and customs of a particular tribe or community of a deceased person as being the customary successor of that person;";

(d) by substituting for paragraph (f), the following—

"(f) "daughter" includes a daughter adopted in a manner recognised under the laws of Uganda;";

(e) by substituting for paragraph (g), the following—

"(g) "dependent relative" includes a parent, a brother or sister, a niece or nephew, a grandparent or grandchild who, on the date of the deceased's death, was wholly dependent on the deceased for the provision of the ordinary necessities of life suitable to a person of his or her station;";

(f) by inserting immediately after paragraph (g), the following—

"(ga) "disability" has the meaning assigned to it under the Persons with Disabilities Act, 2020;";

(g) by inserting immediately after paragraph (j), the following—

"(ja) "guardian" means a person having legal and parental responsibility for a child and includes a customary guardian;";

(h) by substituting for paragraph (k) (ii) the following—

"(ii) married to the deceased in another country by a marriage recognised as valid under the laws of Uganda;";

(i) by repealing paragraph (l);

(j) by inserting immediately after paragraph (m), the following—

"(ma)"lineal descendant" means a person who is descended in a direct line from the deceased and includes a child, a grandchild of the deceased and any person related to the deceased in a direct descending line up to six degrees downwards;"

(k) by repealing paragraph (n);

(l) by substituting for the words "twenty-one years" appearing in paragraph (o), the words "eighteen years;";

(m) by repealing paragraph (t);

(n) by repealing paragraph (u);

(o) by substituting for paragraph (v) the following—

"(v) "son" includes a son adopted in a manner recognised under the laws of Uganda;";

(p) by inserting immediately after paragraph (v), the following—

"(va) "spouse" means a husband or wife married in accordance with the laws of Uganda or in accordance with the laws of another country and recognised in Uganda as a valid marriage;"; and

(q) by substituting for paragraph (w) (ii) the following—

"(ii) married to the deceased in another country by a marriage recognised as valid under the laws of Uganda."

2. Repeal of section 3 of principal Act

Section 3 of the principal Act is repealed.

3. Repeal of section 6 of principal Act

Section 6 of the principal Act is repealed.

4. Repeal of section 7 of principal Act

Section 7 of the principal Act is repealed.

5. Amendment of section 9 of principal Act

The principal Act is amended in section 9—

(a) by substituting for the word "man" the word "person"; and

(b) by inserting immediately after the word "his" wherever it appears, the word "or her".

6. Replacement of section 13 of principal Act

The principal Act is amended by substituting for section 13, the following—

"**13. Domicile of origin of child**

(1) The domicile of a child follows the domicile of the parent of the child or the guardian of the child from whom the child derives his or her domicile of origin.

(2) Where the parents of a child have different domicile, the domicile of the child shall follow the domicile of the parent who has custody of the child."

7. Replacement of section 14 of principal Act

The principal Act is amended by substituting for section 14, the following—

"14. Domicile of choice

(1) A person may, upon marriage, acquire the domicile of his or her spouse.

(2) A spouse may, upon dissolution of a marriage or upon judicial separation or any other separation recognised under the laws of Uganda, acquire any other domicile."

8. Repeal of section 15 of principal Act

Section 15 of the principal Act is repealed.

9. Replacement of section 18 of principal Act

The principal Act is amended by substituting for section 18, the following—

"18. Succession to movable property in Uganda

Where a person dies leaving movable property in Uganda, succession to the property shall, in the absence of proof of any domicile elsewhere, be regulated by the laws of Uganda."

10. Replacement of section 20 of principal Act

The principal Act is amended by substituting for section 20, the following—

"20. Lineal consanguinity

(1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other.

(2) For avoidance of doubt, every generation constitutes a degree, either ascending or descending."

11. Amendment of section 22 of principal Act

The principal Act is amended in section 22 by inserting immediately after paragraph (b), the following—

"(c) male or female relatives of the deceased person."

12. Amendment of section 23 of principal Act

The principal Act is amended in section 23—

(a) in subsection (2), by inserting immediately after the word—

(i) "father", the words "or mother";

(ii) "grandfather" the words "or grandmother"; and

(iii) "uncle" the words "or aunt";

(b) in subsection (3), by inserting immediately after—

(i) the word "grandson" the words "or granddaughter";

(ii) the word "brother" the words "or sister";

(iii) the word "son" the words "or daughter";

(iv) the word "uncle" the words "or aunt"; and

(v) the words "great nephew" the words "great niece";

(c) in subsection (4), by inserting immediately after—

(i) the word "grandson" the words "or granddaughter"; and

(ii) "great uncle" the words "or great aunt."

13. Amendment of section 26 of principal Act

Section 26 of the principal Act is amended—

(a) in subsection (1), by substituting for the words "legal heir" the words "spouse and lineal descendants";

(b) by inserting immediately after subsection (2), the following—

"(2a) Upon the death of a surviving spouse, the residential holding or any other residential holding shall devolve to the lineal descendants equally, who shall occupy it subject to terms and conditions set out in the Second Schedule to this Act.

(2b) A person who evicts or attempts to evict a surviving spouse, lineal descendant or dependent relative who is entitled to occupy the residential holding or any other residential holding commits an offence and is liable, on conviction, to a fine not exceeding one hundred and sixty eight currency points or imprisonment not exceeding seven years or both.

(2c) Where the residential holding or any other residential holding devolves to the lineal descendants under subsection (2a), the lineal descendants shall be deemed to be entitled to the residential holding or any other residential holding as tenants in common."; and

(c) in subsection (4), by substituting for the word "a magistrate" the word "a court of competent jurisdiction."

14. Replacement of section 27 of principal Act

The principal Act is amended by substituting for section 27, the following—

"27. Distribution on death of intestate

(1) Subject to sections 29 and 30, the estate of an intestate, except for his or her residential holding or other residential holding, shall be divided among the following classes in the following manner—

(a) where the intestate is survived by a spouse, a lineal descendant, a dependent relative and a customary heir—

(i) the spouse shall receive 20 percent;

(ii) the dependent relatives shall receive 4 percent;

(iii) the lineal descendants shall receive 75 percent; and

(iv) the customary heir shall receive 1 per cent;

of the whole of the property of the intestate.

(b) where the intestate leaves no surviving spouse or dependent relative under paragraph (a) (i) or (ii) capable of taking a proportion of his or her property the—

(i) lineal descendants shall receive 99 percent; and

(ii) customary heir shall receive 1 percent;"

(c) where the intestate is survived by a spouse, a dependent relative and a customary heir but no lineal descendant—

(i) the spouse shall receive 50 percent;

(ii) the dependent relative shall receive 49 percent; and

(iii) the customary heir shall receive 1 percent;

of the whole of the property of the intestate;

(d) where the intestate is survived by a customary heir, a spouse or a dependent relative but no lineal descendant—

(i) the customary heir shall receive 1 percent; and

(ii) the surviving spouse or the dependent relative, as the case may be, shall receive 99 percent,

of the whole of the property of the intestate;

(e) where the intestate leaves no person surviving him or her other than a customary heir capable of taking a proportion of his or her property under paragraph (a), (b), (c) or (d), the estate shall be divided equally between the relatives nearest in kinship to the intestate.

(2) Notwithstanding subsection (1), twenty percent of the estate shall not be distributed, but shall be held in trust for the education, maintenance and welfare of the following categories of lineal descendants until they cease to qualify as such—

(a) a minor child of the intestate and where he or she attains eighteen years of age, until he or she ceases to qualify under paragraph (b) or (c);

(b) a lineal descendant of the deceased who is above eighteen years of age but below twenty five years of age if, at the time of the death of the intestate, was undertaking studies and was not married; and

(c) a lineal descendant of the intestate, who has a disability if, at the time of the death of the intestate was not married and was wholly dependent on the intestate for his or her livelihood.

(3) Where an estate produces an income by way of periodical payments, the percentage referred to in subsection (2) shall be derived from that income.

(4) For the avoidance of doubt, the percentage specified in subsection (2) shall be deducted from the gross estate before the distribution of the estate under subsection (1).

(5) Where the lineal descendants specified in subsection (2) do not require all the twenty percent that is held in trust for their education, maintenance and welfare, the balance of that percentage that is not required, shall form part of the estate to be distributed to all the beneficiaries under subsection (1).

(6) A lump sum settlement may be made for the maintenance and welfare of a lineal descendant who has a disability, specified in subsection (2) (c).

(7) A spouse who remarries before the estate of the deceased is distributed shall be entitled to the share he or she would be entitled to under subsection (1).

(8) Where the customary heir is at the same time a lineal descendant of the intestate, the customary heir shall in addition to his or her share as a customary heir, be entitled to share as a lineal descendant."

15. Replacement of section 28 of principal Act

The principal Act is amended by substituting for section 28, the following—

"28. Distribution of property between members of same class

(1) All lineal descendants, spouses and dependent relatives of an intestate shall share their proportion of a deceased intestate's property referred to in section 27 (1), in equal share.

(2) Where a lineal descendant entitled to benefit under the estate of a deceased intestate predeceased the intestate person, the portion of the estate that would have accrued to the deceased lineal descendant shall be granted to the lineal descendant of the deceased lineal descendant, if any.

(3) A person aggrieved by the distribution of property under this section may challenge the decision of the administrator in a court of competent jurisdiction."

16. Replacement of section 29 of principal Act

The principal Act is amended by substituting for section 29, the following—

"29. Reservation of principal and other residential property

A spouse or lineal descendant of an intestate occupying a principal residential property or any other residential property under section 26 shall not be required to bring that occupation into account in assessing any share in the property of an intestate to which the spouse, lineal descendant or child may be entitled under section 27."

17. Replacement of section 30 of principal Act

The principal Act is amended by substituting for section 30, the following—

"30. Separation of spouses

(1) A surviving spouse of an intestate shall not take any interest in the estate of the intestate if, at the death of the

intestate the surviving spouse was separated from the intestate as a member of the same household.

(2) Subsection (1) shall not apply where—

(a) the surviving spouse has been absent on an approved course of study in an educational institution;

(b) the intestate was, at the time of his or her death, the one who had separated from the surviving spouse as a member of the same household; or

(c) the intestate is the one who caused the separation.

(3) Notwithstanding subsection (1), a court may for good cause, on application made within six months after the death of the intestate, by or on behalf of a surviving spouse, declare that subsection (1) shall not apply to the surviving spouse.

(4) The declaration made under subsection (3) shall authorise the surviving spouse to take no more than—

(a) a proportion of the property of the intestate that he or she is entitled to under section 27; or

(b) a proportion of the property that was acquired before the surviving spouse separated from the intestate as a member of the same household.

(5) For the avoidance of doubt, a child or lineal descendant sired by the surviving spouse and the intestate shall be entitled to benefit from the estate of the intestate, notwithstanding the separation of the surviving spouse from the intestate as a member of the same household."

18. Repeal of section 31 of principal Act
Section 31 of the principal Act is repealed.

19. Repeal of section 34 of principal Act
Section 34 of the principal Act is repealed.

20. Repeal of section 35 of principal Act
Section 35 of the principal Act is repealed.

21. Amendment of section 36 of principal Act
Section 36 of the principal Act is amended—

(a) by substituting for subsection (2), the following—

"(2) A spouse may during the subsistence of a marriage hold property in his or her name and may by will, dispose of such property."

(b) by substituting for subsection (3), the following—

"(3) A person who has a hearing impairment, physical impairment, speech impairment or visual impairment is capable of making a will if he or she is able to do so."

(c) by substituting for subsection (4), the following—

"(4) A person who ordinarily has a mental illness may make a will during an interval in which he or she does not have the mental illness."; and

(d) by inserting immediately after subsection (5), the following—

"(6) Notwithstanding subsection (2), where a person making a will is married or has children, the residential holding normally occupied by that person as a principal residence or owned by him or her as a principal residential

holding or any other residential holding possessed by that person, including the chattels therein, shall not form part of the property to be disposed of in the will and shall be held by his or her personal representative upon trust for his or her spouses and lineal descendants subject to the rights of occupation and terms and conditions set out in the Second Schedule to this Act.

(7) A person who evicts or attempts to evict a surviving spouse, lineal descendant or dependent relative who is entitled to occupy the residential holding or any other residential holding commits an offence and is liable, on conviction, to a fine not exceeding one hundred and sixty eight currency points or imprisonment not exceeding seven years or both.

(8) Where the residential holding or any other residential holding devolves to the lineal descendants under this section, the lineal descendants shall be deemed to be entitled to the residential holding or any other residential holding as tenants in common.

(9) Subsection (6) shall not apply where the testator has made reasonable provision for the accommodation of the surviving spouse, lineal descendants or dependent relatives who are entitled to occupy his or her residential holding."

22. Replacement of section 37 of principal Act

The principal Act is amended by substituting for section 37, the following—

"37. Maintenance of spouse, children, lineal descendants and dependent relatives to be made in a will

(1) A testator shall make reasonable provision for the maintenance of his or her spouse, lineal descendants and dependent relatives.

(2) Subsection (1) shall apply to a spouse, a child and—

(a) a lineal descendant, who is suffering a mental or physical disability; and

(b) a dependent relative.

(3) Section 38 shall apply where a testator, by his or her will, disposes of all his or her property without making reasonable provision for the maintenance of his or her spouse, lineal descendant or dependent relative."

23. Amendment of section 38 of principal Act

Section 38 of the principal Act is amended—

(a) by substituting for the head note, the following—

"38. Power of court to order maintenance

(b) by substituting for subsection (1), the following—

"(1) Where a person dies domiciled in Uganda and by his or her will, disposes of all his or her property without making reasonable provision for the maintenance of his or her spouse, lineal descendant or dependent relative, court may on application, order that such reasonable provision be made out of the estate of the deceased person for the maintenance of the spouse, lineal descendant or dependent relative."

(c) by substituting for subsection (2), the following—

"(2) The provision for maintenance to be made by an order under subsection (1) shall—

(a) where the estate of the deceased person produces an income by way of periodical payments, provide for their termination not later than—

(i) in case of a spouse, until he or she remarries;

(ii) in case of a child, until the child completes his or her education or attains the age of twenty five years, whichever occurs first;

(iii) in the case of a lineal descendant who is, by reason of mental or physical disability, incapable of maintaining himself or herself, upon the cessation of the disability or marriage of that lineal descendant whichever occurs first; or

(iv) in the case of any other dependent relative, as the court may determine.; and

(b) where the estate of the deceased person does not produce any income, authorise the spouse or lineal descendant to receive such share as he or she would be entitled to in the distribution of the estate of an intestate under section 27.";

(d) by substituting for the words "dependents" appearing in subsection (4), the words "spouse, lineal descendant or dependent relatives"; and

(e) by substituting for the words "dependents" appearing in subsection (5) the words "spouse, lineal descendants or dependent relatives."

24. Replacement of section 43 of principal Act

The principal Act is amended by substituting for section 43, the following—

"43. Testamentary guardian

(1) A parent may by will appoint a guardian for his or her child.

(2) A person shall not, by will, deprive another person of parental rights, except where the parental rights where removed by court."

25. Replacement of section 44 of principal Act

The principal Act is amended by substituting for section 44, the following—

"44. Statutory guardian

(1) Upon the death of either a father, a mother or both parents of a minor, where no guardian has been appointed by the will of the father or mother of the minor or if the guardian appointed by the will of either the mother or father is dead or refuses to act, the following persons shall, in the following order of priority, be the guardian or guardians of the minor of the deceased person—

(a) the father or mother of the deceased parent of the minor;

(b) the brothers and sisters of the deceased; or

(c) the brothers and sisters of the father or mother of the deceased person.

(2) Where there is no person willing or entitled to be a guardian under subsection (1) (a), (b) or (c), the court may, on the application of any person interested in the welfare of the minor, appoint a guardian.

(3) For avoidance of doubt, a person shall not be eligible for appointment as a guardian under this section unless that person is a citizen of Uganda."

26. Insertion of sections 44A and 44B in principal Act

The principal Act is amended by inserting immediately after section 44, the following—

"44A. Customary guardian

(1) The family members of a minor may appoint a guardian for the minor in accordance with their customs, culture or tradition where—

(a) both parents of the minor are dead or cannot be found;

(b) the surviving parent of the minor is incapable of being a guardian or is not eligible to be appointed as a guardian; or

(c) the minor has no guardian or other person having parental responsibility over him or her.

(2) For the purpose of this section, "customary guardianship" means having parental responsibility of a Ugandan minor by a Ugandan citizen, resident in Uganda, in accordance with the customs, culture or tradition of an indigenous community in Uganda."

"44B. Relationship between surviving parent and appointed guardian

(1) A guardian shall act jointly with the surviving parent of the minor unless the court directs otherwise.

(2) A guardian of a minor may, by will, appoint another person as the guardian of the minor upon his or her death.

(3) A person is eligible for appointment as a guardian in subsection (2) if he or she is above eighteen years of age and is a citizen of Uganda.

(4) A person appointed under subsection (2) shall, before taking up the guardianship of the minor, apply to court to confirm or reject the guardianship.

(5) Where more than one guardian is appointed or different guardians are appointed by both parents, the guardians appointed shall act jointly, after the death of the last surviving parent.

(6) Where the surviving parent objects to joint guardianship, or where the appointed guardian considers that the surviving parent is not fit to act as a guardian of the minor, the guardian or the parent of the minor may apply to court and court may—

(a) reject the application and direct both the parent and guardian to continue acting jointly; or

(b) order that the parent or guardian is not fit to act as a guardian and appoint a relative of the minor or a person who is willing to act as a guardian of the minor to act jointly with the parent or guardian or both of them."

27. Replacement of section 45 of principal Act

The principal Act is amended by substituting for section 45, the following—

"45. Power of court to remove guardian

(1) A person may apply to the High Court to remove a guardian appointed under this Act.

(2) The court may only remove a guardian where court is satisfied that—

(a) the guardian has failed, refused or neglected to act as guardian;

(b) the guardian has neglected his or her responsibilities as a guardian;

(c) the guardian has not complied with the conditions of the guardianship order;

(d) the guardianship order was obtained by fraud or misrepresentation; or

(e) it is in the best interest of the minor to remove the guardian.

(3) The court shall, upon issuing an order for the removal of a guardian, appoint another person to act as a guardian of the minor."

28. Replacement of section 46 of principal Act

The principal Act is amended by substituting for section 46, the following—

"46. Powers and duties of guardian

(1) A guardian appointed under this Act shall be the personal representative of the minor for purposes of managing the share of the minor in the estate of a deceased person.

(2) A guardian shall apply to court to exercise any of the following powers and duties—

(a) to have custody of the minor; or

(b) to dispose of the property of the minor.

(3) A guardian shall take all reasonable steps to safeguard the property of the minor from loss or damage and shall annually account, in respect of the property of the minor, to the surviving parent, court or custodian of the minor or to any other person as the court may direct.

(4) A guardian who misappropriates the property of a minor commits an offence and is liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred and fifty currency points.

(5) A guardian who misappropriates the property of a minor shall, in addition to the punishment in subsection (4), make good the loss occasioned to the minor."

29. Insertion of sections 46A and 46B in principal Act

The principal Act is amended by inserting immediately after section 46, the following—

"46A. Termination of guardianship

(1) The guardianship of a minor shall automatically terminate upon the occurrence of any of the following circumstances, whichever occurs first—

(a) the death of the minor;

(b) the death of the guardian; or

(c) upon the minor attaining eighteen years of age.

(2) Where the guardianship of a minor terminates, all the property which the guardian managed on behalf of the minor shall—

(a) in case of termination under subsection (1) (a), vest in the surviving parent of the minor, if any, or in the administrator of the estate of the deceased minor;

(b) in case of termination under subsection (1) (b), the property shall vest in the surviving parent of the minor, if any, or the minor until a new guardian is appointed for the minor; or

(c) in the case of termination under subsection (1) (c), the property shall vest in the child upon attaining eighteen years of age."

"46B. Application of Cap. 59 to guardianship under Act

(1) Part VIA of the Children Act shall apply to the grant, revocation and exercise of the powers of a guardian appointed under this Act.

(2) Where a provision of this Act conflicts with a provision in the Children Act in regard to the appointment, revocation or exercise of powers of a guardian under this Act, the provision of the Children Act shall take precedence over the provision of this Act."

30. Replacement of section 47 of principal Act

The principal Act is amended by substituting for section 47, the following—

"47. Will obtained by fraud, undue influence, duress, coercion, mistake of fact or abuse of position of trust or vulnerability

A will or any part of a will, the making of which has been caused by fraud, undue influence, duress, coercion, mistake of fact or by abuse of position of trust or vulnerability, which takes away the free will of the testator, is void."

31. Amendment of section 50 of principal Act

The principal Act is amended in section 50—

(a) in paragraph (c), by substituting for all the words appearing after the words "each of the witnesses must", the words, "in the presence of the testator, sign and write his or her

name and address on every page of the will except that it shall not be necessary that more than one witness be present at the same time; and

(b) by numbering the existing provision as subsection (1) and inserting immediately after, the following—

"(2) Where a person attesting a will does not write his or her name or address on a page of a will as required in subsection (1) (c), the will shall be valid except that the page of the will which does not bear the name or address of the testator shall, unless otherwise directed by court, be void."

32. Replacement of section 55 of principal Act

The principal Act is amended by substituting for section 55, the following—

"55. Witness not disqualified by interest or by being executor

(1) A person shall not by reason of interest in, or by his or her being an executor of a will be disqualified as a witness to prove the execution of a will or to prove the validity or invalidity of a will.

(2) Except in the case of an advocate, subsection (1) shall not apply to a person who participated in the writing or preparation of the will."

33. Replacement of section 86 of principal Act

The principal Act is amended by substituting for section 86, the following—

"86. Construction of terms

(1) In a will—

(a) "child" applies only to a son or daughter of a deceased person;

(b) "grandchild" applies only to the child of the lineal descendant;

(c) "descendants" applies to all lineal descendants of the person whose descendants are spoken of; and

(d) "nephew" and "niece" apply only to a child of a brother or a sister.

(2) Words in a will expressive of a relationship shall be taken to include—

(a) a person who is related to the deceased by full blood or half-blood;

(b) a person born during the lifetime of the deceased person and one who is already conceived in the womb on the date of death of the deceased person and subsequently born alive; and

(c) male and female relatives of the deceased person."

34. Repeal of section 87 of principal Act

Section 87 of the principal Act is repealed.

35. Replacement of section 179 of principal Act

The principal Act is amended by substituting for section 179, the following—

"179. Property transferable by gift made in contemplation of death

(1) Subject to sections 26, 29 and 36 (6), a person may dispose, by gift made in contemplation of death, any movable property which he or she could dispose of by will.

(2) A gift is said to be made in contemplation of death where a person who is ill and expects to die shortly of his or her

illness delivers to another person the possession of any movable property to keep as a gift in case the donor dies.

(3) A gift made in contemplation of death may, within six months of recovery of the donor, be repossessed by the donor.

(4) Notwithstanding subsection (1), every donation of a gift made under this section, the value of which exceeds twenty-five currency points, shall be in writing."

36. Amendment of section 183 of principal Act

Section 183 of the principal Act is amended by—

(a) numbering the existing provision as subsection (1); and

(b) inserting immediately after subsection (1), the following—

"(2) Where a testator is survived by a child only and does not expressly appoint an executor or executrix but appoints a guardian for the child, the guardian so appointed shall be the executor or executrix of the will of the deceased person."

37. Amendment of section 184 of principal Act

Section 184 of principal Act is amended by—

(a) numbering the existing provision as subsection (l);

(b) substituting for the words "is of unsound mind" appearing in the provision, the words "who has a mental illness"; and

(c) inserting immediately after subsection (1), the following—

"(2) Notwithstanding anything in this Act, court shall have the discretion to determine whether a person

who is otherwise qualified to be granted probate, is fit and proper and court may defer the appointment of an executor or executrix to a later date or refuse to grant probate where an applicant is not fit and proper."

38. Amendment of section 189 of principal Act

Section 189 of the principal Act is amended by—

(a) numbering the existing provision as subsection (1) and inserting immediately after the words "executor" the words "or executrix" appearing in the subsection; and

(b) inserting immediately after subsection (1), the following—

"(2) An executor or executrix who, before the grant of probate, misapplies the estate of the deceased person or subjects it to loss or damage, is guilty of an offence and is, on conviction, liable to imprisonment for a term of two years or to a fine not exceeding forty eight currency points, or both.

(3) In addition to the penalty prescribed under subsection (2), the person convicted under the subsection shall be liable to make good, to the estate and the beneficiaries of the estate, the loss or damage so occasioned."

39. Amendment of section 190 of principal Act

Section 190 of the principal Act is amended by—

(a) numbering the existing provision as subsection (l);

(b) substituting for the words "is of unsound mind" appearing in the provision, the words "who has a mental illness"; and

(c) inserting immediately after subsection (1) the following—

"(2) Notwithstanding anything in this Act, court shall have the discretion to determine whether a person who is otherwise qualified to administer an estate under this Act, is fit and proper to do so and the court may defer the appointment of an administrator to a later date or refuse to grant letters of administration where an applicant is not suitable."

40. Amendment of section 192 of principal Act

Section 192 of the principal Act is amended by—

(a) numbering the existing provision as subsection (l); and

(b) inserting immediately after subsection (1), the following—

"(2) A person who, before the grant of letters of administration, misapplies the estate of the deceased or subjects it to loss or damage shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of two years or to a fine not exceeding forty eight currency points, or both.

(3) In addition to the penalty prescribed under subsection (2), the person convicted shall be liable to make good, to the estate and the beneficiaries of the estate, the loss or damage so occasioned."

41. Amendment of section 200 of principal Act

Section 200 of the principal Act is amended by substituting for "next of kin" the words "the spouse and lineal descendants of the deceased person".

42. Insertion of section 201A in principal Act

The principal Act is amended by inserting immediately after section 201, the following—

"**201A. Preference of surviving spouse to administer estate of deceased spouse**

(1) The surviving spouse shall have preference over any other person in the administration of the estate of a deceased intestate.

(2) The preference of the surviving spouse under subsection (1) may be disregarded by the Administrator General where—

(a) the surviving spouse is not a fit and proper person to administer the estate of the deceased spouse; or

(b) the Administrator General finds it necessary, in the circumstances of the estate, to grant the administration of the estate to another person."

43. Amendment of section 202 of principal Act

The principal Act is amended in section 202, by inserting immediately after the word "Act", the words "and section 201A of this Act".

44. Replacement of section 204 of principal Act

The principal Act is amended by substituting for section 204, the following—

"204. Entitlement between members of same class

Where two or more persons are entitled to the same proportion of the estate, they shall be equally entitled to administration, and a grant may be made to one or some of them jointly after a citation has been issued and published in the manner prescribed in this Act."

45. Replacement of section 215 of principal Act

The principal Act is amended by substituting for section 215, the following—

"215. Administration where child is sole beneficiary or residuary legatee

(1) Where a child is the sole beneficiary or sole residuary legatee, letters of administration with the will annexed may be granted to the guardian of the child or to such other person as court determines appropriate, until the child attains the age of majority.

(2) Notwithstanding subsection (1), where the sole beneficiary or sole residuary legatee is eighteen years and above, court may on the application of the sole beneficiary or sole residuary legatee grant the sole beneficiary or sole residuary legatee letters of administration or probate where court considers the sole beneficiary or sole residuary legatee a fit and proper person."

46. Repeal of section 216 of principal Act

Section 216 of the principal Act is repealed.

47. Amendment of section 234 of principal Act

Section 234 of the principal Act is amended—

(a) in subsection (2), by inserting immediately after paragraph (e) the following—

"(f) the person to whom the grant was made has mismanaged the estate."

(b) by inserting immediately after subsection (2), the following—

"(3) Where a grant of probate or letters of administration is revoked under subsection (2) (b) or (f) of this section, the executor, executrix or person to whom letters of administration were granted, as the case may be, commits an offence and is liable on conviction, to imprisonment for a term of three years or to a fine not exceeding seventy two currency points, or both.

(4) In addition to the penalty prescribed under subsection (3), a person convicted under subsection (3) shall be liable to make good to the estate and the beneficiaries of the estate, the loss or damage so occasioned.

(5) Court may, in the same process for revocation of letters of administration, grant letters of administration to another person where court determines that such a person is a fit and proper person to be granted letters of administration under this Act."

48. Amendment of section 235 of principal Act

Section 235 of the principal Act is amended by repealing subsection (2).

49. Amendment of section 236 of principal Act

Section 236 of the principal Act is amended by substituting the term "district delegate" for "chief magistrate and a magistrate."

50. Amendment of section 244 of principal Act

Section 244 of the principal Act is amended by—

(a) numbering the existing provision as subsection (1); and

(b) inserting immediately after, the following—

"(2) The application referred to in subsection (1) shall be made within one year from the date of death of the testator.

(3) Where a person named as executor in a will does not apply for probate within the time prescribed in subsection (2), a beneficiary under the will may, with the will annexed, apply for letters of administration."

51. Replacement of section 249 of principal Act

The principal Act is amended by substituting for section 249, the following—

"249. Punishment for false statement in petition or declaration

Where any petition or declaration which is required to be verified contains any statement which the person making the statement, or the verification knows or believes to be false, that person commits an offence and is liable, on conviction, to imprisonment not exceeding seven years or a fine not exceeding one hundred sixty eight currency points, or both."

52. Replacement of section 255 of principal Act

The principal Act is amended by substituting for section 255, the following—

"255. Proceedings suspended if caveat is received

(1) A person who lodges a caveat under section 253 shall, within fourteen days of lodging the caveat, serve a copy of the caveat to the petitioner for probate or letters of administration.

(2) Where a caveat is lodged in respect of a petition for probate or letters of administration, court shall suspend the proceedings in the matter until the caveat has been withdrawn, lapsed or a suit for the removal of the caveat has been filed and determined by court."

53. Insertion of section 255A in principal Act

The principal Act is amended by inserting immediately after section 255, the following—

"255A. Caveat and petition to lapse

(1) A petitioner for probate or letters of administration in respect of which a caveat has been lodged shall, within six months from the date the caveat was lodged, file a suit for removal of the caveat.

(2) Notwithstanding subsection (1), a person who lodges a caveat in respect of a petition for probate or letters of administration shall, within six months from the date the caveat was lodged, commence proceedings to prove the objections contained in the caveat.

(3) Where a person who lodges a caveat or a petitioner for probate or letters of administration does not comply with the provisions of subsection (1) or (2), the caveat and the petition for probate or letters of administration shall lapse.

(4) Where a caveat lodged under subsection (2) lapses, the person who lodged the caveat shall not lodge another caveat in respect of the same estate."

54. Amendment of section 258 of principal Act

Section 258 of the principal Act is amended by—

(a) renumbering the existing provision as subsection (1); and

(b) inserting immediately after subsection (1), the following—

"(2) A person to whom probate is granted under subsection (1) shall carryout the duties and functions authorised by the grant of probate for a period not exceeding two years.

(3) Notwithstanding subsection (2), court may on application extend the period prescribed in subsection (2) for a further period of two years or any other reasonable time as determined by court if it is satisfied that—

(a) it is in the best interest of the beneficiaries to extend the period; and

(b) the person to whom the grant of probate was made has—

(i) complied with the provisions of this Act or any condition on which probate was granted; and

(ii) obtained the consent of all the beneficiaries in the estate for which probate was made.

(4) Subsections (2) and (3) shall not apply to—

(a) letters of administration granted to a guardian under section 215 except that for cases falling under section 215, letters of administration shall terminate automatically as provided under section 215 of this Act; or

(b) an executor of the estate of a deceased person whose estate is entitled to receive pension until the pension has been fully paid."

55. Amendment of section 259 of principal Act

Section 259 of the principal Act is amended by—

(a) renumbering the existing provision as subsection (1); and

(b) inserting immediately after subsection (1), the following—

"(2) A person to whom letters of administration are granted under subsection (1) shall administer the estate for a period not exceeding two years.

(3) The court may on application extend the period prescribed in subsection (2) for a further period of two years or any other reasonable time as determined by court where the court is satisfied that—

(a) it is in the best interest of the beneficiaries to extend the period; and

(b) the person to whom letters of administration were granted has—

(i) complied with the provisions of this Act or any condition to which the grant of letters of administration is subject to; and

(ii) obtained the consent to apply for the extension of the letters of administration from all the beneficiaries of the estate to which the letters of administration apply.

(4) Subsections (2) and (3) shall not apply to letters of administration granted to—

(a) a guardian under section 215 except that for cases falling under section 215, letters of administration shall terminate automatically as provided under section 215 of this Act;

(b) an administrator in respect of an estate to which section 27 (2) applies except that for cases falling under Section 27 (2), letters of administration shall remain valid only in respect of the trust created under Section 27 (2); or

(c) an administrator of the estate of a deceased person whose estate is entitled to receive pension until the pension has been fully paid."

56. Amendment of section 265 of principal Act

Section 265 of the principal Act is amended—

(a) by numbering the existing provision as subsection (l) and deleting all the words appearing after the words "civil procedure"; and

(b) inserting immediately after subsection (l), the following—

"(2) The High Court may refer the parties to a suit under this section to the Administrator General, where the party whose application is the cause of the suit was not required to, and therefore, did not give the Administrator General notice of the application for a grant under section 5 of the Administrator General's Act.

(3) The High Court shall in all matters before the court under this section, issue summons to all the persons mentioned in the application for probate or letters of administration to appear before the court as witnesses."

57. Replacement of section 268 of principal Act

The principal Act is amended by substituting for section 268, the following—

"268. Intermeddling and other acts

(1) A person who intermeddles with the estate of a deceased person commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or imprisonment not exceeding ten years, or both.

(2) A person is taken to intermeddle with the estate of a deceased person where that person, while not being the Administrator General, an agent of the Administrator General or a person to whom probate or letters of administration have been granted to by court—

(a) takes possession or disposes of the property of a deceased person; or

(b) does any other act which belongs to the office of executor or administrator.

(3) Notwithstanding subsection (1), a person may, before grant of letters of administration or probate, take possession of the property of the deceased person for the purpose of—

(a) preserving the estate of a deceased person;

(b) providing for the funeral of the deceased person;

(c) providing immediate necessities of the family of the deceased person;

(d) preserving and prudent management of the business of the deceased person, including preserving the goods of trade of the deceased person; or

(e) receiving money or other funds belonging to the deceased person.

(4) The duration for which a person referred to in subsection (3) may take possession of the estate of the deceased

person, is three months from the date of death of the deceased person or until the grant of letters of administration or probate, whichever occurs first.

(5) A person who takes possession of the estate of the deceased person pursuant to subsection (3) shall immediately report particulars of the property and the steps taken to the Administrator General or his or her agent.

(6) A person may seek redress from the Administrator General or his or her agent if that person has reason to believe that the person who has taken possession of the estate of a deceased person pursuant to subsection (3) has caused loss or damage to the estate.

(7) A person who intermeddles with the estate of a deceased person or takes possession of the property of the deceased person shall be personally liable for any loss occasioned to the estate and shall make good the loss occasioned to the estate.

(8) A person who takes possession of property of a deceased person beyond the time prescribed under subsection (4) commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or imprisonment not exceeding ten years, or both."

58. Replacement of section 270 of principal Act

The principal Act is amended by substituting for section 270, the following—

"270. Disposal of property

(1) Subject to sections 27 and 36 (6), an executor, executrix or administrator may, with the written consent of the surviving spouse and all the lineal descendants of the deceased person, dispose of the property of the deceased either wholly or in part.

(2) Where a beneficiary of the estate is a minor, the consent required in subsection (1) shall be given by the guardian of the minor and where the guardian of the minor is the executor or administrator, the consent shall be granted by court.

(3) Where a surviving spouse, lineal descendant or a guardian of a minor withholds his or her consent to the disposal of the property belonging to a deceased person, the executor or administrator, as the case may be, may apply to a court of competent jurisdiction for redress.

(4) Where the surviving spouse, lineal descendant or the guardian of a minor has withheld his or her consent, court may, if satisfied that the disposal of the property is beneficial to the estate or to a beneficiary of the estate, authorise the sale of the property, with or without conditions.

(5) The executor, executrix or administrator shall account for the proceeds of sale—

(a) in the case of a sale under subsection (1), to the beneficiaries; and

(b) in the case of a sale under subsection (2), to the court that granted the consent.

(6) In disposing of property under this section, the first option shall be given to a beneficiary of the estate to purchase the property.

(7) An executor, executrix or administrator shall not be eligible to purchase property of the estate, except were such executor, executrix or administrator is a surviving spouse or lineal descendant, and has obtained the consent to purchase the property from the spouse or lineal descendant as the case may be.

(8) Any disposal of the property belonging to the estate of a deceased person in contravention of this section shall be void."

59. Repeal of section 271 of principal Act

Section 271 of the principal Act is repealed.

60. Amendment of section 272 of principal Act

The principal Act in section 272 by—

(a) renumbering the current provision as subsection (1); and

(b) inserting immediately after, the following—

"(2) Notwithstanding subsection (1), where there is more than one executor, probate may, with the consent of all the other executors, be granted to a sole executor or any other number of executors as the case may be.

(3) Where in an estate with more than one executor or administrator, a dispute arises between the executors or administrators or between the executor or an administrator and a beneficiary of the estate, the dispute shall be referred for arbitration to the Registrar of the High Court or a Chief Magistrate.

(4) A person aggrieved by the decision of the Registrar or Chief Magistrate under this section may appeal against the decision in accordance with the law.

(5) The Chief Justice shall issue practice directives to regulate arbitration proceedings undertaken by a Registrar or Chief Magistrate under this section."

61. Repeal of section 276 of principal Act

Section 276 of the principal Act is repealed.

62. Replacement of section 279 of principal Act

The principal Act is amended by substituting for section 279, the following—

"279. Property of deceased

(1) An executor or administrator shall manage, with reasonable diligence, the property of the deceased, and collect the debts that were due to the deceased at the time of his or her death.

(2) Debts incurred by the deceased against the principal residential property or any other residential property during marriage without the written consent of the spouse who, prior to the death of the deceased person shared that principal residential property or any other residential property with the deceased, shall be void and excluded from payment from the estate of the deceased person."

63. Replacement of section 311 of principal Act

The principal Act is amended by substituting for section 311, the following—

"311. Procedure in respect of share of minor in intestacy

(1) Where a person entitled to a share in the distribution of the estate of a deceased person is a minor, the executor or administrator shall deliver the share of the minor to the guardian of the minor.

(2) The guardian of the minor shall manage the property delivered to him or her under subsection (1) in a prudent manner and shall—

(a) apply the property for the benefit of the minor;

(b) take steps to safeguard the property of the minor from loss or damage; and

(c) annually account in respect of the property of the minor to the surviving parent if any, court or any other person as court may direct.

(3) Except where there is an order of court to the contrary, the guardian shall within six months of the minor attaining the age of eighteen years, transfer all the property in his or her custody to him or her.

(4) Notwithstanding subsection (3), a guardian or any other person who considers that a person to whom property will be transferred to pursuant to subsection (3) is not fit to administer his or her property, the guardian or such other person may apply to court to determine the suitability of the person to manage his or her property."

64. Amendment of section 331 of principal Act

Section 331 of the principal Act is amended—

(a) by substituting the reference to "Tanzania or Kenya" appearing in the head note and in the section with "a country other than Uganda" and

(b) by substituting for "the Supreme Court of Kenya or a High Court of Tanzania and" appearing in subsection (3) with "a court of a country other than Uganda".

65. Replacement of section 332 of principal Act

The principal Act is amended by substituting for section 332, the following—

"332. Liability of executor, executrix, administrator or administratrix for damage or loss to estate

(1) An executor, executrix, administrator or administratrix who—

(a) misapplies the estate of the deceased person;

(b) misappropriates or fails to account for the proceeds accruing to the estate of a deceased person or to a beneficiary of the estate; or

(c) subjects the estate or a beneficiary to loss or damage,

commits an offence and is liable, on conviction, to imprisonment for a term of three years or to a fine not exceeding one thousand currency points, or both.

(2) The court shall in addition to the penalty under subsection (1) order the person to make good the loss or damage occasioned to the estate or beneficiary."

66. Replacement of section 333 of principal Act

The principal Act is amended by substituting for section 333, the following—

"333. Liability of executor or administrator for neglect

(1) An executor, executrix or administrator who occasions loss to the estate by neglecting to do an act or omission which causes loss to the estate of a deceased person or to a beneficiary under the estate of a deceased person commits an offence and is liable, on conviction, to imprisonment for a term of three years or to a fine not exceeding one thousand currency points, or both.

(2) The court may in addition to any penalty imposed under subsection (1), order the person to make good the loss or damage occasioned to the estate or beneficiaries."

67. Insertion of section 333A in principal Act

The principal Act is amended by inserting immediately after section 333, the following—

"333A. Beneficiary's estate not to form part of payment

(1) A person who acts on behalf of a beneficiary of an estate in any matter shall not acquire any part of the interest of the beneficiary in the estate as payment for the services rendered.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred twenty currency points or imprisonment not exceeding five years, or both."

68. Amendment of section 335 of principal Act

Section 335 of the principal Act is amended by substituting for subsection (2), the following—

"(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term of three years or a fine not exceeding seventy two currency points, or both and the court may in addition to any penalty imposed, order the person to make good the loss or damage occasioned to the estate or to the beneficiary."

69. Miscellaneous amendments to principal Act

The principal Act is amended—

(a) by substituting, wherever it appears, for reference—

(i) "husband" a reference to "spouse";

(ii) "wife" a reference to "spouse";

(iii) "father" a reference to "parent";

(iv) "insane" a reference to the words "mentally impaired person";

(v) "man" a reference to "person";

(vi) "wives" a reference to "spouses"; and

(vii) "son" a reference to "child";

(b) by inserting wherever the following words appear, the following—

(i) "heir" insert "or heiress";

(ii) "his" insert "or hers";

(iii) "him" insert "or her";

(iv) "executor" insert "or executrix"; and

(v) "testator" insert "or testatrix";

(c) by substituting for the word—

(i) "district delegate" appearing in Part XXXI of the Act and in any other part of the Act, the words, "Chief Magistrate or Magistrate";

(ii) "lunatic" wherever it appears in the Act, the words "person with mental illness";

(iii) "Minister" wherever it appears in the Act, the words "Attorney General" and

(iv) "First Schedule", "Second Schedule" "Third Schedule" and "Fourth Schedule" wherever it appears in the Act, the word "Schedule 1", "Schedule 2", "Schedule 3", "Schedule 4" and "Schedule 5" respectively."

70. Insertion of sections 340, 341 and 342 in principal Act
The principal Act is amended by inserting immediately after section 339, the following—

"340. Amendment of Schedule 1 of this Act

(1) The Minister may with the approval of the Cabinet, and by statutory instrument, amend Schedule 1.

(2) The statutory instrument referred to in subsection (1) shall, upon its publication in the Gazette, be laid before Parliament.

341. Savings and transitional

(1) Sections 6, 7 and 46 of this Act shall apply to the estate of a deceased person who died on or after 5th April 2007, where the estate of that deceased person is not distributed at the date of commencement of this Act.

(2) A grant of probate or letters of administration issued by a court of competent jurisdiction before the coming into force of this Act, shall remain valid for a period of three years after the coming into force of this Act.

(3) A grant of probate or letters of administration issued to the Administrator General before the coming into force of this Act, shall remain valid for a period of five years after the coming into force of this Act.

(4) A grant of probate or letters of administration referred to in subsections (2) and (3) may, on application to court by the executor or an administrator of an estate, be extended for a reasonable period determined by court.

(5) A will made before the coming into force of this Act shall not be affected by the provisions of section 50(c)."

342. Insertion of Schedule 1 in principal Act

The principal Act is amended by inserting the following Schedule appropriately—

"**Schedule 1**

Section 2

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings."

71. Amendment of First Schedule to principal Act

The First Schedule to the principal Act is amended by renumbering the Schedule as Schedule 2.

72. Amendment of Second Schedule to principal Act

The Second Schedule is amended—

(a) by renumbering the Schedule as Schedule 3;

(b) in paragraph 1, by substituting for subparagraph (1), the following—

"(1) In the case of a residential holding occupied by an intestate prior to his or her death as his or her principal residence, the following categories of persons, who were normally resident in the residential holding shall be entitled to occupy it—

(a) the spouse of the intestate person;

(b) a minor child of the intestate person, and where the child attains eighteen years of age, he or she shall be eligible under paragraphs (c), as may be applicable;

(c) a lineal descendant who is above eighteen years of age, who is undertaking studies; and

(d) a lineal descendant who is, by reason of mental or physical disability, incapable of maintaining himself or herself, upon the cessation of the disability, whichever comes first."

(c) in paragraph 8, by—

(i) numbering the provision as subparagraph (1);

(ii) substituting for subparagraph (1) (a), the following—

"(a) where the occupant is a spouse, upon remarriage or upon the spouse voluntarily leaving the principal residence or misusing it and putting it in disrepute;";

(iii) substituting for subparagraph (1) (c), the following—

"(c) where the occupant is a minor of the intestate person, upon the attainment of eighteen years of age and on attainment of eighteen years of age, where applicable, subparagraph (l) (ca) or paragraph 8 (2) shall apply, as the case may be;";

(iv) inserting immediately after subparagraph (1) (c), the following—

"(ca) where the occupant is a lineal descendant of the intestate person and is above eighteen years of age but below twenty five years of age at the time of the death of the intestate person, upon

the attainment of twenty five years of age, ceasing to undertake studies or on becoming married, whichever occurs first;";

(v) inserting subparagraph (2) as follows—

"(2) Where the intestate person is survived by a lineal descendant who has a disability specified in paragraph 1(1) (d), and who is dependent on the intestate person for his or her livelihood, the lineal descendant who has a disability shall be entitled to occupy the principal residential holding for the duration of his or her lifetime, except where provision for the accommodation of that lineal descendant, at the same station in life, is made.";

(d) in paragraph 10, by substituting the words "not exceeding six months or a fine not exceeding one thousand shillings or both" with "not exceeding three years or a fine not exceeding seventy two currency points, or both."

73. Amendment of Third Schedule to principal Act

The Third Schedule to the principal Act is amended by renumbering the Schedule as Schedule 4 and repealing Form A.

74. Amendment of Fourth Schedule to principal Act

The Fourth Schedule to the principal Act is amended by renumbering the Schedule as Schedule 5.

Cross References
Administrator Generals Act, Cap. 157
Children Act, Cap. 59.
Penal Code Act, Cap. 120
Public Finance Management Act, 2015, Act 3 of 2015.
Persons with Disabilities Act, 2020, Act 3 of 2020.