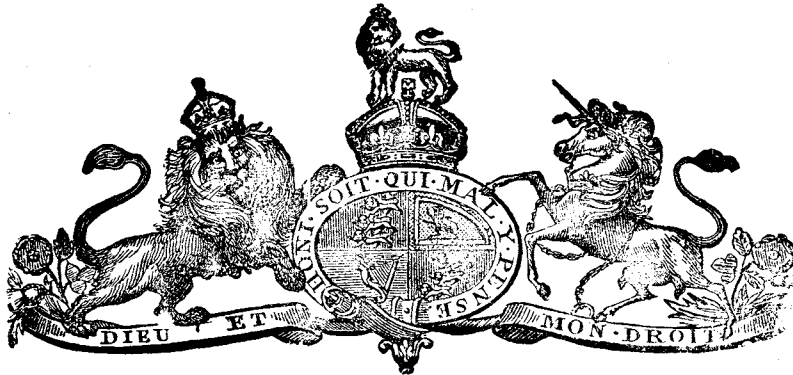


TASMANIA.



1913.

ANNO QUARTO

GEORGII V. REGIS.

No. 7.

ANALYSIS.

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| <p>1. Short title and incorporation.</p> <p>2. Repeal and re-enactment of Section 12 of Principal Act.</p> <p style="padding-left: 20px;">Real estate to be assets for the payment of debts.</p> <p style="padding-left: 20px;">Executor or administrator to have full and unrestricted power to sell and mortgage real estate.</p> | <p>But executor or administrator (with will annexed) not to sell or mortgage except to pay debts, &c., nor without sanction of a judge.</p> <p>Notwithstanding sale, &c., valid as between executor and purchaser, &c., executor to be liable to account to beneficiary.</p> <p>3. Judge may give leave to postpone realisation or carry on business.</p> |
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AN ACT to further amend "The Deceased Persons' Estates Act, 1874." A.D. 1913.
[5 December, 1913.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited for all purposes as "The Deceased Persons' Estates Act, 1913." and shall be read and construed with "The Deceased Persons' Estates Act, 1874," (hereinafter referred to as "the Principal Act"), and every amendment thereof.

Deceased Persons' Estates.

A.D. 19 3.

Repeal and re-enactment of Section 12 of Principal Act.

Real estate to be assets for the payment of debts.

Executor or administrator to have full and unrestricted power to sell and mortgage real estate.

But executor or administrator (with will annexed) not to sell or mortgage except to pay debts, &c., nor without sanction of a judge.

Notwithstanding sale, &c., valid as between executor and purchaser, &c., executor to be liable to account to beneficiary.

Judge may give leave to postpone realisation or carry on business. Cf. 54 & 55 Vict. No. 537, s. 81 (S.A.)

2 Section Twelve of the Principal Act is hereby repealed, and the following section is hereby substituted therefor, and the Principal Act shall be read and construed as if the substituted section had been inserted in the Principal Act as Section Twelve thereof, at the commencement thereof:—

“**12**—(1) The real estate of every deceased person shall in all cases be assets in the hands of his executor or administrator for the payment of all duties and fees payable under any Act making or charging any duties or fees on the estates of deceased persons, and for the payment of his debts in the ordinary course of administration, and of funeral and testamentary expenses.

(2) Every such executor or administrator shall at all times have full and unrestricted power and authority, without the consent of any person beneficially entitled or interested under the will or in the estate, to sell, or to mortgage with or without a power of sale, the real estate of such deceased person or any part thereof, and to convey, assign, or transfer the same to a purchaser or mortgagee in as full, ample, and effectual a manner as such deceased person could have done in his lifetime.

(3) The powers conferred by Subsection (2) shall not be exercised by any executor or by any administrator under letters of administration granted with a will annexed, contrary to the provisions of the will of the deceased person, except for the purpose of making all or any of the payments referred to in Subsection (1), and then only with the sanction of a judge, which sanction it shall be lawful for but not incumbent upon a judge to give, upon application to be made in chambers upon a petition or summons, in such manner and form as may be prescribed or as a judge may deem sufficient, and upon such notice and terms as a judge may deem sufficient or direct.

(4) Any sale, mortgage, conveyance, assignment, or transfer of any real estate of any deceased person made under the power hereinbefore conferred upon an executor or administrator, though perfectly valid as between the executor or administrator and the person to whom such sale, mortgage, conveyance, assignment, or transfer shall have been made, shall not be necessarily justified as between such executor or administrator and any person beneficially entitled or interested under the will or in the estate; but such executor or administrator shall be liable to answer and account to any person so beneficially entitled or interested as aforesaid for the making of any such sale, mortgage, conveyance, assignment, or transfer as aforesaid.”

3 After Section Twelve of the Principal Act the following section is inserted:—

“**12a**—(1) A judge may, if he thinks it beneficial so to do, give leave to an executor or administrator of a deceased person—

- i. To postpone, for such period as the judge may think expedient, the realisation of the estate or any part thereof:
- ii. To carry on, for such period or periods as the judge may from time to time think expedient, the business or affairs of the

Deceased Persons' Estates.

testator or intestate, and for that purpose to use his-estate A.D. 1913.
or such part thereof as the judge directs.

(2) An executor or administrator acting in pursuance of leave given under this section shall not be answerable for consequent loss, except in case of breach of trust, negligence, or wilful default.

(3) An order under this section may be made upon application to be made in chambers upon a petition or summons in such manner and form as may be prescribed or a judge deem sufficient, and upon such notice and terms as the judge may think proper; and any such order may be varied from time to time as the judge may think fit."

