



British Probates Act 1898

Current as at 1 March 2002—revised version

Reprint note

Powers under the Reprints Act 1992 have been used in this reprint to bring the legislation into line with current drafting practice or to make minor editorial changes.

© State of Queensland 2021



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

British Probates Act 1898

Contents

		Page
1	Short title	3
2	Definitions	3
3	Application of Act by regulation	3
4	Sealing in Queensland of British probates and letters of administration 4	
5	Application of Act to British courts in foreign countries	4
6	Regulation-making power	5

British Probates Act 1898

An Act to provide for the recognition of probates and letters of administration granted in other parts of Her Majesty's dominions

1 Short title

This Act may be cited as the *British Probates Act 1898*.

2 Definitions

In this Act—

British court in a foreign country means any British court having jurisdiction out of Her Majesty's dominions.

court of probate means any court or authority, by whatever name designated, having jurisdiction in matters of probate.

probate and *letters of administration* include confirmation in Scotland, and any instrument having in any part of Her Majesty's dominions the same effect which under the law of Queensland is given to probate and letters of administration respectively.

the Supreme Court means the Supreme Court of Queensland or a judge thereof.

3 Application of Act by regulation

When the Governor in Council is satisfied that the legislature of any part of Her Majesty's dominions has made adequate provision for the recognition in that part of probates and letters of administration granted by the Supreme Court, the Governor in Council may declare by regulation that this Act shall, subject to any stated changes, apply to that part of Her Majesty's dominions.

4 Sealing in Queensland of British probates and letters of administration

- (1) When a court of probate in a part of Her Majesty's dominions to which this Act applies has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy thereof deposited with, the Supreme Court, be sealed with the seal of that court, and thereupon shall be of the like force and effect and have the same operation in Queensland as if granted by that court.
- (2) Provided that no probate or letters of administration shall be sealed under this section until there has been filed in the Supreme Court a certificate under the hand of the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001* to the effect that adequate security has been given for payment of all probate and succession duty in respect of so much (if any) of the estate as is liable to duty in Queensland.
- (3) The Supreme Court may, if it thinks fit, upon the application of any creditor, require, before sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in Queensland, and also, if it thinks fit, upon the application of any beneficiary or next of kin, require that adequate security be given for the protection of the interests of such beneficiary or next of kin.
- (4) For the purposes of this section a duplicate of any probate or letters of administration sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

5 Application of Act to British courts in foreign countries

This Act shall extend to authorise the sealing in Queensland of any probate or letters of administration granted by a British court in a foreign country, in like manner as it authorises the sealing of a probate or letters of administration granted in a part of Her Majesty's dominions to which this Act applies,

and the provisions of this Act shall apply accordingly with the necessary modifications.

6 Regulation-making power

The Governor in Council may make regulations under this Act.