

CURATELLE BILL, 2018

(Bill No. 15 of 2018)

OBJECTS AND REASONS

The purpose of this Bill is to align the present law relating to Curatelle with the provisions in the revised Civil Code which relate to the role of executors. The Bill gives more express guidance to executors for the performance of their duties and gives the Curator the power to supervise executors. The Bill also provides expressly for the situation where there may be a conflict of interest between the Curator and those whose interests he or she is to protect.

Dated this 13th day of July, 2018.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

CURATELLE BILL, 2018*(Bill No. 15 of 2018)***ARRANGEMENT OF SECTIONS****Sections**

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CURATELLE BILL, 2018

(Bill No. 15 of 2018)



A BILL

OF

AN ACT to amend and update the law relating to Curatelle.

ENACTED by the President and the National Assembly.

1. This is the Curatelle Act, 2018.

Short title and
commencement

Interpretation

2. In this Act —

“absentee” means a person absent from and not legally represented in Seychelles who there is reason to believe is entitled to property in Seychelles;

“Court” means the Supreme Court; “Curator” means the Curator appointed under this Act;

“Minister” means the Minister to whom responsibility for finance has been assigned;

“Registrar” means the Registrar of the Court and includes “Assistant Registrar” and any person authorised to act in place of the Registrar;

“unclaimed property” means any property in Seychelles whose owner cannot be ascertained;

“vacant estate” means a vacant succession and includes unclaimed property;

“vacant succession” means the succession of a deceased in respect of whom there is reason to believe that he or she died possessed of property in Seychelles, whether the property is ascertained or not, and that the deceased died intestate and without heirs in Seychelles;

“vesting order” includes any judgment, order or decree of any court, tribunal, Magistrate or Judge by which the Curator has been sent or put in possession of or been vested with, any succession, property or right.

3.(1) The Curator shall be appointed by the President after consultation with the Chief Justice.

Appointment
of Curator

(2) The Curator shall be a legal practitioner qualified to practise in Seychelles who is also qualified for judicial appointment.

(3) The Curator shall be under the direction of the Minister.

(4) The Curator shall receive such salary as may be fixed by the President with the consent of the National Assembly.

(5) The Curator shall be entitled to a pension under the pension laws in respect of such salary.

(6) The Curator shall, as soon as possible after being appointed, take the oath of office.

(7) The Minister may appoint any person to act for the Curator whenever the latter is unable to act, and such person shall, as soon as possible after being appointed, take the oath of office.

4.(1) The Curator shall —

- (a) take charge of and administer any vacant estate;
- (b) take charge of and administer the property of absentees;
- (c) represent absentees;
- (d) appoint fiduciaries for the purpose of the Civil Code;
- (e) monitor the performance of fiduciaries and the fulfilment of their fiduciary duties;
- (f) partition co-owned property with the agreement of the co-owners;

Functions of
the Curator

- (g) conduct sales among co-owners for the purposes of article 821 of the Civil Code;
- (h) appoint executors for the administration of successions under the Civil Code;
- (i) monitor the performance of executors and the fulfilment of their fiduciary duties; and
- (j) generally perform and discharge such functions and duties as may devolve on the Curator by this or any other Act.

(2) The Curator shall, in the exercise of the functions under this Act, do all the Curator considers necessary to protect the interests of absentees, co-owners, and persons with succession rights.

Vesting
Order

5.(1) Whenever the Curator has reason to believe that there is a vacant succession, unclaimed property, or any property belonging or accruing to an absentee, the Curator shall apply to a Judge for an order to vest that vacant succession, unclaimed property or property of the absentee in the Curator.

(2) The order shall be granted as of course, upon the ex parte application of the Curator supported by affidavit that diligent inquiry has been made and that the Curator or other deponent believes that the succession or property for which the order is claimed is vacant or unclaimed or belongs to an absentee as the case may be.

(3) The Curator shall, if the succession has sufficient funds, notify the order by advertisement in two consecutive numbers of the *Gazette*.

Request for
Curator to
act

6.(1) Failing application by the Curator under section 5 any person may apply, after reasonable notice has been given in writing calling upon the Curator to make an application

under section 5, for an order vesting in the Curator any vacant estate, unclaimed property or the right of any absentee.

(2) Such order may be made by a Judge on a summons calling on the Curator to show cause why it should not be made, and on satisfactory proof being adduced that such order is necessary for the protection of the rights of the applicant.

7.(1) Where the property believed to be unclaimed is immovable, the Curator shall insert advertisements in the *Gazette* and shall cause notices to be posted at the Central Police Station and the Court House, containing a description of the property with abutments, and requiring all persons who claim to be entitled to such property to notify the Curator of their claims within one month from the date of the last notice.

Notice for
immovable
property

(2) No vesting order shall be applied for by the Curator in respect of such property until one month after the publication and giving of notice under subsection (1).

(3) Any person who claims the property shall be made a defendant to the application for a vesting order.

(4) If issue is joined before a Judge, the Judge shall refer the application to the Court and shall try the question of ownership, and if it is found that the claimant is the owner of the property by title or prescription, the application shall be dismissed, otherwise the Court shall make a vesting order.

8.(1) Subject to this Act a vesting order shall vest in the Curator—

Vesting order
consequences

- (a) in the case of a vacant succession, all property accruing to, or depending from, such succession, to the same extent as if the Curator were the sole heir and representative of the succession;
- (b) in the case of unclaimed property, all rights of ownership in such property;

(c) in the case of an absentee, all rights and property of the absentee in Seychelles.

(2) A vesting order shall remain in force until an order is made divesting the Curator.

Administration
of Vacant
Estates

9.(1) As soon as a vesting order has been made the Curator shall take possession of the property affected by the order, and communicate in writing to all persons known or believed by the Curator to be interested in such property.

(2) The Curator shall also, as occasion may arise, endeavour by advertisement or otherwise to ascertain the persons so interested.

(3) If the Curator represents an absentee who is an alien or the vacant succession of an alien, the Curator shall also communicate with the consul of the State of which such alien is or was a subject, if there is such a consul in Seychelles.

(4) As soon as possible after entering into possession the Curator shall, in two consecutive numbers of the *Gazette* and by advertisement posted up at the Court House, the Customs House and the Central Police Station, call in all claims outstanding against the estate.

(5) The Curator shall carefully examine the claims put forward and may require the claimants to verify their claims by affidavit or may require the claimants to bring their action before the competent court.

(6) When the claim of a person alleged to be a creditor has been admitted and paid by the Curator with the authority above required, the Curator or the Government shall not be liable to any person by reason of such payment having been made.

(7) Nothing in subsection (6) shall prevent the Curator

or any person interested in the property from recovering from the alleged creditor anything unduly paid.

10.(1) The Curator shall, immediately on any vesting order being made, proceed to make an inventory of the movable property thereby vested in the Curator.

Vesting of
movable
property

(2) Such inventory shall be made in the presence of two witnesses, and shall be signed by the Curator and the witnesses, and shall have the same validity and authenticity as if made by a notary.

11.(1) All money found among effects taken possession of by the Curator shall within two clear days be paid by the Curator to the Principal Secretary of the Ministry Finance.

Accounting

(2) No sums due to any person represented by the Curator, or on account of any property vested in or of any sale by the Curator shall be paid to the Curator but they shall be paid to the Principal Secretary of the Ministry of Finance and to the account of that particular estate.

(3) The receipt in writing of the Curator, countersigned be the Principal Secretary of the Ministry of Finance is necessary to constitute a valid receipt and discharge.

(4) No interest shall be payable by the Government on any sum vested in the Curator.

12. Movable property may be sold by the Curator —

Sale of
movable
property

(a) when such sale is necessary in order to pay the debts of any succession or absentee, or the charges upon any property;

(b) when the property is of a perishable nature, or likely to diminish in value, or when its custody would entail expense;

- (c) by order of the Court.

Division of
property
among
co-owners

13.(1) A court may make, in respect of co-owned property, an order —

- (a) for the sale of the property and the division of the proceeds among the co-owners; or
- (b) for the division of the property in kind among the co-owners; or
- (c) requiring one or more co-owners to purchase the share in the property of one or more other co-owners at a fair and reasonable price;
- (d) directing how the expenses of any sale or division of the property are to be borne;
- (e) directing how the proceeds of any sale of the property, and any interest on the purchase amount, are to be divided or applied;
- (f) allowing a co-owner, on a sale of the property, to make an offer for it, on any terms the court considers reasonable concerning —
 - (i) the non-payment of a deposit; or
 - (ii) the setting-off or accounting for all or part of the purchase price instead of paying it in cash.
- (g) requiring the payment by any person of a fair occupation rent for all or any part of the property;
- (h) providing for, or requiring, any other matters or steps the court considers necessary or

desirable as a consequence of the making of the order under this section.

(2) Before determining whether to make an order under this section, the court may order the property to be valued and may direct how the cost of the valuation is to be borne.

(3) No order may subdivide immovable property in a manner that is contrary to any rule relating to the subdivision of land or to the requirements of the building laws.

14.(1) For the sale of immovable property the Curator shall apply to the Judge for an order by way of a petition setting forth the circumstances under which the sale is to take place.

Sale of
immovable
property

(2) The petition shall be accompanied by an appraisal made by an appraiser appointed by the Judge and a memorandum of the charges and conditions of sale setting forth —

- (a) the name of the deceased or absent owner of the property;
- (b) a reference to the title deeds of the property;
- (c) a description of the property;
- (d) the mise à prix, the conditions of sale, and the terms of payment;
- (e) the sums, being not less than one-tenth of the purchase price, which must be paid in cash at the time of adjudication.

(4) The Judge may make the order for sale —

- (a) when the movable property of any vacant succession or absentee is insufficient to pay the debts of such succession or absentee;

- (b) when the annual revenue of any particular property is insufficient to pay the annual charges on it;
 - (c) when for the due preservation of property, it is necessary to repair or construct buildings on it at a cost exceeding two years' revenue of such property;
 - (d) when the value of the immovable property belonging to any succession or absentee, or of any unclaimed immovable property, does not exceed R3000;
 - (e) whenever the immovable property, whatever be its value, has remained vested in the Curator for five years and the Judge considers that sufficient cause has been shown for its sale.
- (4) (a) The Judge's order of sale shall specify the day on which the sale is to take place.
- (b) Twenty clear days shall intervene between the order and the day of sale.
- (5) (a) Where an order is made under subsection (3), the Curator shall cause advertisements to be inserted in the *Gazette* and in one local newspaper and to be posted up at the Court House, the Central Post Office and the police station nearest to the property in question two weeks before the day on which the sale is to take place.
- (b) The advertisements shall describe the property to be sold, and state the place and time of sale.
- (6) (a) The Curator shall forward by registered post, two weeks before the day on which the sale is to take place, a

copy of such advertisements to every inscribed creditor (including any holding a vendor's privilege) whose inscription was taken before the deposit of the memorandum of charges.

(b) Any inscribed creditor may apply at least eight days before the day of the sale by way of petition to the Judge for a change in or modification of the memorandum of charges and conditions of sale.

(c) The Judge shall thereupon make his order on the petition appointing a day for hearing, and a copy of the petition and order shall be served upon the Curator and other parties required to show cause at least two clear days before the day of hearing.

(d) The Judge may after hearing the petitioner, the Curator and other parties modify the memorandum and conditions and if necessary adjourn the sale under subsection (7).

(e) The costs of the petition shall be borne by the unsuccessful party.

(7) (a) The sale shall take place by public auction before the Judge on the day fixed, unless the Judge shall think proper for some sufficient cause to adjourn the same, or unless the Curator applies for an adjournment sine die, or to a definite date, in which case the Judge shall make an order for such adjournment.

(b) No sale shall take place unless it appears to the Judge that the advertisements and notices required by subsection (5) have been published and forwarded, both as regards the original date fixed as well as regards any adjourned date fixed for the sale unless such adjournment was ordered in open court on a date fixed.

15.(1) If not already a party to the proceeding on an application under section 14, a copy of the application must be served on—

- (a) a co-owner of the property;
- (b) a person who has an estate or interest in the property that may be affected by the granting of the application;
- (c) a person claiming to be a party to, or entitled to a benefit under, an instrument relating to the property.

(2) The court to which the application is made may, by order made on an application for the purpose, change, or dispense with service on those who must be served under subsection (1).

(3) A court considering whether to make an order under section 14 must have regard to the following—

- (a) the nature and location of the property;
- (b) the number of other co-owners and the extent of their shares;
- (c) the hardship that would be caused to the applicant by refusal of the order, in comparison with the hardship that would be caused to any other person by the making of the order;
- (d) the value of any contribution made by any co-owner to the cost of improvements to, or the maintenance of, the property;
- (e) any other matters the court considers relevant.

16.(1) (a) On the day of the sale the Registrar shall read aloud the conditions of the sale in the presence of the Judge, and the property shall then be put up for sale.

(b) If the biddings do not reach the upset price, the Judge may, upon application then and there made by the Curator, order that the property shall be sold below the upset price, and shall in such case fix a day when the property shall again be put up for sale, which day shall be at least two weeks from the date of such order.

(2) The purchase money or so much of it as is paid down shall be paid to the Registrar, and any balance shall be paid to the Principal Secretary of the Ministry of Finance, within the time specified in the conditions of sale.

(3) (a) Upon payment of such deposit or of the whole sale price when the whole is paid down at the time of the adjudication, the Judge shall finally award the property to the purchaser, and shall endorse upon the memorandum of conditions a certificate of adjudication, which shall also be subscribed by the Curator and the purchaser.

(b) Such memorandum shall constitute a deed of sale, and shall be registered and transcribed as if the sale had taken place under the Immovable Property (Judicial Sales) Act.

(4) A purchaser may, at the time of the sale, pay the whole of the purchase money and may pay at any time by anticipation into the hands of the Principal Secretary of the Ministry of Finance, any balance due on the purchase price.

(5) Where an adjudicatee fails to execute the conditions of sale the property shall be resold by folle enchère at the request of the Curator subject to the formalities and conditions set out in sections 141 to 144 both inclusive of the Immovable Property (Judicial Sales) Act.

(6) The final price of adjudication shall for all purposes be deemed to be the final and definitive value of the property, and the adjudicatee shall be exonerated and liberated from all privileged and mortgage claims thereon by paying the price conformably to law.

Property of
low value

17. Notwithstanding sections 14 and 16 when the value of the immovable property as fixed by an appraiser appointed by the Judge does not exceed R 3000, the Judge may order that the sale of such property shall be effected in such manner, at such price, and subject to such conditions as the Judge shall direct.

Leases of
Curator

18.(1) (a) The Curator may grant a lease of immovable property, provided that notice is published in the *Gazette* and posted up at the Court House, the Customs House and the Central Police Station calling for tenders or provided the lease is put up to auction.

(b) No lease shall be granted by the Curator unless the terms and conditions have been approved by the President and in no case shall such property be let for more than seven years.

(2) Where the Curator is satisfied that the costs of advertisements calling for tenders would exceed one year's rent, the Curator may grant a lease without having previously called for tenders.

(3) The Curator may at any time let any property by the month.

Conflict of
interest

19. In no case shall the Curator have any interest direct or indirect in any sale or lease of property under the charge of the Curator.

Leases

20.(1) The Curator shall see to the due execution of the conditions of the leases, and shall take care that all the property in curatelle is kept in good order.

(2) The Curator shall enforce payment by all debtors of the estate.

Fixing of
seals

21.(1) Where a person dies leaving movable property apparently liable to be administered by the Curator, the

Registrar shall, unless the property has already been taken into possession by the Curator, affix seals on all the effects and papers of the deceased, immediately on information being given of the existence of such property, and shall give notice to the Curator of the fact and of the day when the seals will be broken.

(2) The Curator may attend at any affixing or removal of seals, if there is reason to believe that the property affected may be such as the Curator ought to administer, although, at the time of such affixing or removal, the Curator may not have obtained a vesting order in respect of such property.

22.(1) Where the Curator knows or has reason to believe that a will in any succession in which absent heirs are interested, is invalid or contains provisions infringing the legal rights of any absent party not duly represented in Seychelles, the Curator may move the Supreme Court for a rule calling upon the executors and all parties interested to show cause why the execution of the will should not be stayed, wholly or partly for a reasonable time, so that the Curator may obtain special instructions from such absent heir or heirs, or that such absent heir or heirs may appear personally or by some duly authorised agent.

(2) The Court may allow the executor or universal legatees, or next of kin, as the case may be, to take any measures which may prevent loss or injury to any portion of the property.

23.(1) In case of the sale by licitation of property a co-owner of which is represented by the Curator, the Curator may on an order of a Judge bid for or purchase the property for the benefit of that co-owner.

(2) The Curator may, on the order of a Judge, borrow money upon mortgage on any immovable property vested in the Curator.

Wills affecting
the rights of
absenteesSale by
licitation

(3) No order under this section shall be made unless the Judge is satisfied that it is advisable in the interests of the succession or absentees, to which or to whom such property belongs or necessary for the improvement or preservation of such property, that the property should be so purchased, or that the money should be so borrowed.

Payments

24.(1) No money shall be paid on account of any vacant estate except by means of an order of the Curator upon the Principal Secretary of the Ministry of Finance, nor shall any property be given up except upon an order of a Judge.

(2) Where there are no funds in the hands of the Principal Secretary of the Ministry of Finance to meet the necessary expenses of the administration of any vacant estate, or to protect the rights of a succession or of absentees, the Minister responsible for Finance may authorise the Principal Secretary to advance a sum from the Consolidated Fund for the purpose to be repaid to the Consolidated Fund out of the first available funds accruing to the estate.

(3) No money due by any vacant estate shall be paid either as an advance or otherwise by another vacant estate, but each and every vacant estate shall have its account, unconnected with that of any other vacant estate.

Appointment
of Executors

25.(1) The appointment of testamentary executors shall be confirmed by the Curator.

(2) (a) If the succession consists of immovable property, or of both immovable and movable property, and if the testator has not appointed a testamentary executor or if an executor so appointed has died or if the deceased has left no will, the Curator shall appoint an executor, at the instance of any person having a lawful interest.

(b) A legal person may be appointed to act as an executor.

(c) A person who is subject to a legal incapacity may not be so appointed.

(3) A person who seeks the confirmation of the appointment of a testamentary executor under subsection (1) or the appointment of an executor under subsection (2) shall submit to the Curator—

- (a) a petition seeking confirmation of the appointment, or the making of an appointment;
- (b) in the case of testamentary succession, a copy of the will of appointment;
- (c) the death certificate of the deceased;
- (d) any conveyance, deed of title or other document showing the entitlement of the deceased to ownership of the property in the succession;
- (e) the marriage certificate of any surviving spouse of the deceased;
- (f) the death certificate of the deceased's spouse, if any;
- (g) the birth certificates of all heirs; and
- (h) affidavits of alias where necessary in order to explain or reconcile any differences or discrepancies in names which appear in the supporting documents.

26.(1) An executor shall fulfil the role within 2 years from the date of the death of the deceased.

Time limits
on executor

(2) The Court may approve an extension of the time under subsection (1).

(3) Approval shall not be given without cause nor for a period of more than one year at a time.

Supervision of
Executors

27.(1) The Curator shall superintend the administration of executors.

(2) The Curator may from time to time require from an executor, a party with the seisin of a succession, or any fiduciary, a summary statement of the administration of the property and that person shall furnish the statement within the period fixed by the Curator in the notice of request.

(3) Any person to whom subsection (2) refers who fails to deliver the statement requested within the period designated shall be personally liable in damages to the succession or to the co-owners represented by the fiduciary for that failure.

Divesting
Order

28.(1) A person who claims to be entitled to administer any succession vested in the Curator, or to represent absentees represented by the Curator, or to be entitled to property vested in the Curator as unclaimed, or who having been an absentee has returned to Seychelles, may apply to the Court for an order divesting the Curator of such succession, or of the representation of such absentee or former absentees, or of the ownership of such property, as the case may be.

(2) An order under subsection (1) may be made upon a summons calling upon the Curator to show cause why it should not be made.

(3) Where a person represented by the Curator is represented by any other person in Seychelles, the Curator may apply for a divesting order.

(4) An order under subsection (3) may be made by a

Judge upon a summons calling upon such person or representative to show cause why it should not be made.

(5) In no case shall any divesting order be made, except after payment or tender by the person in whose favour it is made of all charges due to the Curator or the Government, in respect of the property or rights involved or unless the Curator holds sufficient funds to meet all such charges, in which case the order shall be made subject to the condition that all charges shall be deducted from such funds.

29.(1) Where property has been handed over under a divesting order, neither the Government nor the Curator shall be liable to any person subsequently in respect of that property.

Non-
liability of
Government
or Curator

(2) Nothing in subsection (1) prevents a person from claiming from the person to whom the property has been delivered, anything that person received unduly from the Curator.

30.(1) The Curator may agree that any suit, action or claim in which he is or may be a plaintiff or defendant, be referred to the arbitration of one or more arbitrators, and if need be also, to the award of an umpire with or without conditions.

Compromise
and arbitration

(2) The Curator may compromise any claim, debt or right either before or after action brought by or against him and such compromise as well as the reference to arbitration mentioned in subsection (1), shall be to all intents and purposes binding upon all persons having any interest whatsoever in the estate of which the Curator has charge as well as upon all creditors of such estate:

(3) The compromise shall be homologated and confirmed by a Judge.

31.(1) The Registrar shall send to the Minister a monthly return of all orders which put the Curator in charge of vacant estates or of the property or rights of absentees.

Monthly
accounting

(2) Where in any month no property has been vested in the Curator, blank returns shall be forwarded.

Courts

32. The Court may, upon the application of the Curator, stay any legal proceedings, or any sale of immovable property, or the execution of any will, or generally any proceeding, judicial or extrajudicial, by which the rights of persons represented by the Curator may be affected, for such time and upon such terms as to the Court may seem just.

Fees

33. A fee according to the scale set out in the Schedule shall be payable to Government in respect of any succession or property vested in the Curator or in respect of any procedure involving the Curator under this Act.

Vesting order
consequences

34.(1) (a) The Curator shall keep books and accounts in accordance with such directions as are given by the Minister.

(b) The Curator shall make such returns as are required by the Minister or by legislation.

(2) The books and accounts of the Curator shall be audited by the Auditor General at least once a year.

(3) The Curator shall annually report to the Minister listing all the property in the charge of the Curator and the balance due to or by each estate and shall contain as clearly as possible, the names, profession, countries, places of birth and last places of residence of the deceased or absent parties, to whom they respectively apply so far as the same can be ascertained and the number of successions under the supervision of the Curator.

Curator ad
litem

35. Where the Curator is the plaintiff in an action on account of a vacant estate, and has been made a defendant in the same action, on account of another vacant estate, the Court shall appoint a Curator ad litem for the defendant.

36.(1) When the Curator needs to employ counsel for any legal proceedings concerning the estate or absentee represented by the Curator, the Curator shall notify the Attorney-General who shall appoint a lawyer for the purpose.

Employment
of legal
counsel

(2) Counsel appointed under subsection (1) shall receive such fees as shall be fixed by the Minister.

(3) Counsel who prosecutes a sale on behalf of the Curator under section 14 has the right to claim—

(a) disbursements as taxed by the Registrar;

(b) a percentage of the sale price according to the scale laid down in section 73 of the Immovable Property (Judicial Sales) Act.

(4) Such claim shall be paid by the purchaser over and above the purchase price.

37. Whenever the Curator is in charge of immovable property, the Curator may give notice of the fact to the Senior Lands Officer, whose duty it shall then be to keep, watch, superintend and protect such property on behalf and at the expense of the vacant estate concerned.

Report on
immovable
property

38.(1) Where the Curator certifies in writing that the value of any property for which a vesting order is claimed or which is in curatelle does not exceed R 500, all proceedings under this Act relative to such property shall be free of all dues and court fees.

Small estates

(2) Where, on a subsequent inventory or sale of such property, its value is found to exceed R500, the Curator shall pay the Government out of the property the dues and fees which would otherwise have been charged.

(3) Where a ward is entitled to recover any property from the Curator and the value of the property is less than

R200, the Curator may pay deliver the property to the guardian of the ward without other formality.

Appeal

39. Any party aggrieved by the decision of a Curator may appeal to a Judge of the Court within 14 days of the Curator's decision.

Rule making power

40. The Curator may make rules to regulate the practices and procedures of the Curator in the exercise of the Curator's functions under this Act.

Transitional

41.(1) The Curator shall remain in charge and shall continue to administer, subject to the provisions of this Act, all vacant estates or property belonging to absentees which have been vested in the Curator before the commencement of this Act.

(2) The Curatelle Office in existence at the commencement of this Act shall continue as if established under this Act.

Repeal

42. The Curatelle Act (Cap 55) is repealed.

SCHEDULE

FEES

(1) The commission payable to the government under section 33 is—

10 percent on the first R1,000 or fraction thereof.

8 percent on the second R1,000 or fraction thereof.

5 percent on the next R3,000 or fraction thereof.

3 percent on the remainder above R5,000.

(2) The commission shall be paid on the gross amount of all sums of money received by Curator either as principal, revenue, or rent and, in case of a divesting order granted under this Act, before any part of the succession or property has been realised into cash, on the gross value of such part of the succession or property.

(3) For the appointment of an executor or of a fiduciary: R500.