

ADMINISTRATION BONDS.

By any Party to such Suit, thinking himself relievable in Equity, may proceed in Chancery. 1718, *ch. 5*, §. 2, and 3.

2. No Creditor shall prosecute any Administration or Testamentary Bond, for any Debt or Damage due from or recovered against any deceased Person's Effects, before a *Non-est* on a *Capias ad respondendum*, be returned against the Executors or Administrators, or a *Fieri facias* returned *Nulla Bona* by the Sheriff; or such other apparent Insolvency in the Person or Effects of such Executor, &c. as shall (in the Judgment of the Provincial-Court) render such Creditor remediless by any other Means than suing the Bonds: On Penalty of being condemned in full Costs. And the Defendants may give this Act, &c. in Evidence, without special Pleading. 1720, *ch. 24*.

3. All Actions, upon Administration and Testamentary Bonds, shall be commenced within Twelve Years after passing the Bond, and not after. Saving to Infants, *Femme-Couvert*, *Non Compos*, Imprisoned, or beyond Sea, a Right of bringing such Actions within Five Years after the Disability removed. 1729, *ch. 24*, §. 21, 22.

4. No Judgment shall be obtained in any Suit, brought on a Sheriff's or Testamentary Bond, till the Creditor clearly make appear to the Court what the Debt is. And, upon Notice given the Defendant, or left at his House, Twenty Days before Court, with a Copy of the Nature of the Demand, the Court may assess Damages, or appoint Auditors to adjust the same, and give Judgment thereon. But Execution shall issue for no more than the Sum appearing to be due. 1729, *ch. 25*, §. 3.

5. Unless a Writ of Enquiry be prayed for by either Party; which shall then be issued by the Court, and proceeded in according to the *English* Statute of 8 and 9 *W. III. ch. 11*. And Execution shall issue, for no more than found by the Jury, with Costs and Interest. *Ibid.*

6. And no other Creditor (on such Judgment obtained) shall come in for any Part of the Penalty, without serving a *Scire-facias*, which shall be sued within Eighteen Months after such Recovery, and not after; and shall also contain the Nature of the Demand, and the Sum due. *Ibid.*

See *Limitation of Actions*, 7.

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1. The Commissary-General shall call all Executors and Administrators to exhibit Inventories within Three Months, and to render Accounts within Twelve Months after Administration granted, of the Personal Estates of Persons deceased. 1715, *ch. 39*, §. 3.

2. Administrators failing herein, when thereunto legally cited, the Judge may issue Attachment against them to compel the Performance, as well as to answer for the Contempt. *Ibid.*

3. And in Case of Failure herein, after Two Attachments returned to Two separate Courts, the Judge may revoke the first Administration, and grant Administration *de Bonis non*, to the Person having the next Right: Which Persons shall qualify and give Security, as usual, and then may either sue the former Administrator in the Commissary's Court for exhibiting an Inventory, &c. or apply to the Commissary for Assignment of his Bond, and put the same in Suit, (if Need be) for any Neglect, Mal-Administration, &c. *Ibid.*

4. The Rules in this Act shall be observed, by the Commissary-General, in passing the Accounts of Administrators and Executors. *Ibid.* §. 6.

5. No Allowance shall be made, in the Accounts of Administrators, but for Debts *bonâ fide* owing by the deceased; and really paid, or secured to be paid, by such Administrator: And necessary Charges. *Ibid.*

6. No Negro, or other Slave, shall be sold by any Executor or Administrator, or reserved for his or her own Use, for Payment of any Debt owing to such Executor, &c. Nor shall any Slave be taken in Execu-

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tion for any Debt due from the Deceased, so long as there shall be other Goods sufficient to satisfy such Execution: The Executor or Administrator shewing such other Goods, which the Sheriff, &c. is required to demand. *Ibid.* §. 8; and, 1729, *ch. 24*, §. 2.

7. But such Slaves shall be kept upon Hazard of the Estate, and employed in finishing the Crop begun in the Life-time of the Deceased; *viz.* to the last of *January* ensuing. And such Crop shall be Assessed to the Creditors, or dividable among the Widow and Children, and Relations, if there be no Creditors. And the Administrator shall be allowed his reasonable Charges expended in finishing such Crop, on passing his Accounts with the Commissary. 1715, *ch. 39*, §. 8.

8. The Commissary-General shall allow 10 per Cent for their Trouble, to Executors or Administrators, for all Money, Tobacco, or other Goods or Chattels, by them *bonâ fide* paid. *Ibid.* §. 23. (See below, Art. 10 and 11.)

9. And 10 per Cent on the whole Residue; where the Residuary Legatees of Persons making Wills, or Kindred of Intestates to whom due, are Non-Residents: And where the Residue of the Real and Personal Estates is turned into Money, &c. for their Advantage, and transmitted to them by the Executors or Administrators. *Ibid.* §. 24.

10. In case of considerable Trouble in settling Accounts, riding about with Books, &c. the Commissary-General may allow something in the whole for the Executor's or Administrator's extraordinary Toil and Charge, not exceeding 5 per Cent. *Ibid.* §. 25.

11. But no Allowance shall be made for any Part of the Residue (See above, Art. 9,) which is paid in Specie, (without converting it into Money or Tobacco for that Purpose) to the Residuary Legatees, or next of Kindred. *Ibid.* §. 26.

12. The Commissary-General shall take Security of all Executors and Administrators, to the Use of Orphans in any Will mentioned, for the true Performance of such Will according to Law, and the Intent of the Testator; and transmit an Account of the Legacies left to any Infant-Orphans to the County-Court, to be by the Justices secured in the same Manner as the Balances of Intestates Estates. Which Courts shall enquire, by a Jury, of these Orphans, as well as of the Orphans of Intestates: And, if they find the Security like to be insolvent, or the Orphans ill used, shall act as in the Case of Intestates Estates. But nothing shall be done herein which shall seem repugnant to the Will of the Testator. *Ibid.* §. 39.

13. On appraising the Estate of the Deceased, the Executor or Administrator shall give Notice to Two of the next of Kin, and Two of the Creditors (if any be) of the Deceased, who shall be present at the same, with the sworn Appraisers, and shall certify to the Commissary that they were present and do approve of the Appraisal. And without such Certificate, or Proof of Notice given, and their Refusal or Neglect to appear, the Commissary shall not receive the Inventory. *Ibid.* §. 41.

14. Country Debts shall have the Preference in all Payments made by Executors or Administrators (Respect being had to the Quality of the Debts) except Debts due to the Crown: (See below, Art. 22,) unless Cognizance be proved of Debts of a higher Quality due to Non-Residents. In which Case, if the Executor or Administrator shall, notwithstanding such Cognizance, have paid Debts of an inferior Nature, without any Recovery by Law; or have neglected to plead such foreign Debt, in Stay of Judgment, in Suits for Debts of an inferior Nature, Judgment shall pass against such Executor or Administrator (in Defect of Assets) *de Bonis propriis*. *Ibid.* §. 42.

15. Any Legatee or Other, having Right to any Legacy or Residue of any deceased Person's Estate, after 12 Months from the Date of the Letters Testamentary or of Administration, may demand and sue for