ROYAL NAVY

1956 No. 1217

The Navy and Marines (Property of Deceased) Order, 1956

Made - - - -	3*rd August*, 1956
Laid before Parliament	10*th August*, 1956
Coming into Operation	17*th August*, 1956

At the Court at Arundel Castle, the 3rd day of August, 1956

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Navy and Marines (Property of Deceased) Act, 1865(**a**), it is enacted that Her Majesty in Council, may from time to time make such Orders in Council as seem meet for the better execution of any of the purposes of the said Act:

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the said Act or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I—INTERPRETATION

1. In this Order—unless the context otherwise requires—

"the Act" means the Navy and Marines (Property of Deceased) Act, 1865;

"the Inspector" means the Inspector of Seamen's Wills;

"naval assets" includes all property affected by the Act;

"Will" includes codicil;

"probate" includes letters of administration with will annexed;

and other terms and expressions have the same respective meanings as in the Act.

2. The Interpretation Act, 1889(**b**), applies to the interpretation of this Order as it applies to an Act of Parliament.

PART II—WILLS OF SEAMEN AND MARINES

(a) *Deposit of Will in Testator's Lifetime*

3. The Will of a seaman or marine may, as soon as practicable after its execution, be sent to the Secretary of the Admiralty for examination by the Inspector.

4. On receipt of any instrument purporting to be such a Will, the Inspector shall register it in books kept in his office for the purpose, specifying the date and place of execution, the name, rank or rating and official number of the testator and, so far as applicable, those of the attesting witnesses and the name and address of the person appointed executor.

(a) 28 & 29 Vict. c. 111. (b) 52 & 53 Vict. c. 63.

5. If the instrument appears to the Inspector invalid as a Will he shall so inform the intending testator and invite him to make a fresh Will. On receipt of a fresh Will, or of a request for the return of the instrument, the Inspector shall return the said instrument to the intending testator.

6. If the instrument does not appear to the Inspector invalid as a Will, he shall issue a receipt for it to the testator and shall cause it to be stamped with the official seal of the Admiralty. He shall retain it in safe custody until such time as the testator ceases to serve as a seaman or marine, or dies, when he shall return it to the testator or send it to his nominee or to a claimant as the case may be.

7. With reference to every such Will, the Inspector shall forthwith issue to the person appointed executor, if any, or if no person is appointed executor, then, with the consent in writing of the testator, to the residuary or the universal legatee or other person who appears to him to be most beneficially interested under the Will, directions as to the steps to be taken on the testator's death, but he shall not give any information regarding the testator's disposition of his property or as to any other of the contents of the Will.

(b) *Production of Will after Testator's Death*

8. On the death of a seaman or marine leaving a Will, if the Will is not already deposited with the Inspector, and representation is not required to be obtained, the executor or other person having possession of it may send it to the Secretary of the Admiralty to be examined by the Inspector.

9. On receipt of any instrument purporting to be such a Will, the Inspector shall register it in the manner described in Article 4 hereof.

10. If the Inspector doubts the authenticity of the alleged Will, or if the instrument appears to him invalid as a Will, he shall forthwith give notice in writing to the person appointed executor or, if none, to the residuary or the universal legatee or other person appearing to be most beneficially interested under the alleged Will, or to the person producing the same, informing him that the alleged Will is not considered to be authentic or, as the case may be, to be valid, and stating the reason therefor.

11. If the Inspector does not doubt the authenticity of the Will, and the instrument does not appear to him invalid as a Will, he shall issue to the person appointed executor or, if none, to the residuary or the universal legatee or other person appearing to be most beneficially interested under the Will or the person producing the same, directions as to the steps to be taken in consequence of the testator's death.

(c) *Procedure on Testator's Death*

12. Where a seaman or marine dies leaving a Will, and the Inspector after preliminary enquiries is satisfied of the right of a claimant, the Inspector shall proceed as follows :—

(*a*) In case representation is required or intended to be taken out by the claimant, he shall deliver the Will to the claimant with a certificate (hereinafter called " a Will certificate ") that no later Will is held by him and that he has no objection to representation being granted ; and a grant of representation being thereafter obtained and produced to the Inspector and registered, and being indorsed by him as available for receipt of naval assets, shall be so available.

(*b*) In case representation is not required or intended to be taken out, the Inspector shall require the claimant to make a declaration suited to the circumstances of the case before a Magistrate or a Minister of Religion, and, in those cases where it is considered to be necessary, to obtain a

certificate from two householders certifying to the claimant's identity. The Inspector shall then deliver the Will to the claimant with a certificate admitting title which shall be available for receipt of naval assets, without grant of representation.

13. If the Inspector is not satisfied of the right of the claimant he may inform the claimant to that effect and either

(*a*) if the Will had been lodged with the Inspector for custody, that he declines to deliver the Will or to issue a Will certificate but that he will lodge the Will in any competent Court on being requested to do so; or

(*b*) if the Will had not been lodged with the Inspector for safe custody, that he declines to issue a Will certificate but that on a grant of representation being produced to the Inspector the same will be available for the receipt of naval assets.

PART III—INTESTACY OF SEAMEN AND MARINES

14. Where a seaman or marine dies wholly intestate leaving naval assets, the Inspector after making such preliminary enquiries as may be necessary to satisfy himself as to the right of a claimant as the next of kin or other person entitled to a grant of representation of the deceased shall proceed as follows:—

(*a*) in case representation is required or intended to be taken out, he shall notify the claimant that on a grant of representation being produced to the Inspector, the same will be available for the receipt of naval assets; and

(*b*) in case representation is not required or intended to be taken out, he shall require the claimant to make a declaration suited to the circumstances of the case before a Magistrate or a Minister of Religion, and, in those cases where it is considered to be necessary, to obtain a certificate from two householders certifying to the claimant's identity. The Inspector shall then issue to the claimant his certificate admitting title which shall be available for the receipt of naval assets, without representation.

15. If the Inspector is not satisfied of the right of the claimant, he shall inform the claimant to that effect and that he declines to give his certificate admitting title but that on a grant of representation being produced to the Inspector the same will be available for the receipt of naval assets.

PART IV—OFFICERS, PENSIONERS, CIVIL SERVANTS AND OTHERS

16. Where an officer or any person described in section 4 of the Act dies, testate or intestate, leaving naval assets not exceeding £100 and representation is not required or intended to be taken out, the Inspector on production to him of any Will or other testamentary disposition made by the deceased and after making such preliminary enquiries as seem to him requisite, shall proceed as follows:—

(*a*) he shall require the claimant to make a declaration suited to the circumstances of the case before a Magistrate or a Minister of Religion, and in those cases in which it is considered to be necessary, to obtain a certificate from two householders certifying to the claimant's identity; or

(*b*) he may, in any case where the foregoing provisions are impracticable, accept such other evidence in support of the claim as seems to him sufficient.

17. On the return to the Inspector of the completed declaration and, where required, the certificate of the householders, or after the production of such

other evidence as he thinks fit under the authority of the last foregoing provision of this Order to accept, he shall, when suited to the circumstances of the case, issue to the claimant his certificate admitting title which shall be available for the receipt of naval assets, without a grant of representation.

18. The provisions of the Act with respect to the payment of debts out of the residue, shall apply, mutatis mutandis, to the naval assets of officers and persons described in Section 4 of the Act except that on the claim of a creditor not being entertained or allowed, the creditor may take out representation.

Part V—Special Disposal of Residue by Admiralty

19. With respect to any case provided for by paragraph (3) of section 8 of the Act the ground of the non-applicability of paragraphs (1) and (2) of that section being the absence of proof of the death of some person, proof of whose death is requisite to make those paragraphs applicable, then and in every such case, if it appears to the Inspector that those paragraphs would have been applicable but for the desertion or misconduct of the person, proof of whose death is wanting, the Inspector shall proceed as if the death of that person were proved.

Part VI—General Provisions

20. Where representation is taken out in any Court other than the High Court of Justice in England, the Inspector may admit the act or instrument of representation as authority for receipt of naval assets by endorsement thereon, and the same shall be available accordingly without the seal of the said High Court of Justice.

21. In appropriate cases and when requested to do so, the Inspector shall issue a certificate (in such form as he thinks fit) that he holds no Will in his custody.

22. Notwithstanding anything in this Order contained, the Inspector may make such investigations as seem to him expedient into any statements submitted to him and into the facts and circumstances of the case (*a*) in any case whatever, in addition to the investigations prescribed by this Order and (*b*) in any case where the provisions of this Order are not applicable, or the naval assets do not exceed £1 in substitution for the investigations prescribed by this Order, or any of them.

23. The provisions of this Order shall have effect without prejudice to the rules and practice for the time being in force and observed under the Act with respect to the discharge of the claims of creditors.

Part VII—Medals and Decorations

24. Any medal to which an officer, seaman, or marine is entitled but which is not issued at the time of his death, shall be disposed of as follows:—

(*a*) When bequeathed by Will, the medal shall be sent to the legatee.

(*b*) When not bequeathed by Will, the medal shall be sent to the person standing nearest in the following order of relationship:—

1. Widow
2. Eldest surviving son
3. Eldest surviving daughter
4. Father
5. Mother
6. Eldest surviving brother
7. Eldest surviving sister
8. Eldest surviving half-brother
9. Eldest surviving half-sister

(*c*) When the medal cannot be disposed of as above, it may be sent to some other relative or interested party at the discretion of the Lords Commissioners of the Admiralty.

25. The same procedure shall be followed in the case of decorations issued posthumously, except where specific direction as to their disposal is contained in the statutes or rules of the various Orders of Chivalry.

26. Any medal or decoration belonging to an officer, seaman, or marine issued before his death shall, on coming into the custody of the Admiralty, be delivered to his representative, unless representation has been taken out by a creditor as such, in which case it shall be disposed of as if it had not been issued.

PART VIII—CITATION, COMMENCEMENT AND REVOCATION

27.—(1) This Order may be cited as the Navy and Marines (Property of Deceased) Order, 1956, and shall come into operation on the seventeenth day of August, 1956.

(2) The Orders in Council specified in the Schedule to this Order are hereby revoked without prejudice to anything duly done or suffered or to any rights, privilege, obligation or liability acquired, accrued or incurred thereunder.

And The Lords Commissioners of the Admiralty are to give the necessary directions herein.

W. G. Agnew.

SCHEDULE

Order in Council for the Execution of Provisions of the Navy and Marines (Property of Deceased) Act, 1865, dated the 28th day of December, 1865(**a**).

Order in Council under the Navy and Marines (Property of Deceased) Act, 1865, amending Order in Council of December 28th, 1865, so far as regards Duties of Inspector of Seamen's Wills, dated the 14th day of September, 1915(**b**).

Order in Council under Section 17 of the Navy and Marines (Property of Deceased) Act, 1865, as to disposal of Medals not issued before Death of Officer, Seaman or Marine entitled thereto, dated the 15th day of February, 1916(**c**).

Order in Council under Section 17 of the Navy and Marines (Property of Deceased) Act, 1865, amending Order in Council of December 28th, 1865, so far as regards Bastards, dated the 7th day of September, 1916(**d**).

Order in Council under the Navy and Marines (Property of Deceased) Act, 1865, amending Order in Council of December 28th, 1865, so far as regards Duties of Inspector of Seamen's Wills, dated the 11th day of March, 1943(**e**).

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order is made under the Navy and Marines (Property of Deceased) Act, 1865.

It consolidates the previous Order of 28th December, 1865, and subsequent amending Orders, and sets out the current regulations for:—

(*a*) the deposit with the Admiralty of wills of seamen and marines;

(*b*) the disposal by the Admiralty of the naval assets of deceased officers, seamen, marines, pensioners, civil servants and other persons; and

(*c*) the disposal by the Admiralty of medals and decorations of deceased officers, seamen and marines.

(**a**) Rev. XVI, p. 801.
(**b**) S.R. & O. 1915/930 (1915 III, p. 24).
(**c**) S.R. & O. 1916/132 (Rev. XVI, p. 801: 1916 III, p. 1).
(**d**) S.R. & O. 1916/627 (Rev. XVI, p. 801: 1916 III, p. 2).
(**e**) S.R. & O. 1943/385 (Rev. XVI, p. 809: 1943 I, p. 688).